



ROLE OF COURT MANAGERS IN INDIAN JUDICIARY

Past, Present, and the Way Ahead

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ABSTRACT

To ensure that judges channel their complete attention on adjudicating disputes, the post of Court Manager was created in 2010 to assist judges with the administrative tasks. It has been a decade since the post was introduced and till date, Court Managers have not been fully absorbed into the system in several states and face several issues. The paper brings to fore the challenges that Court Managers face and highlights the need to enhance their role in the judicial system. In doing so, the paper addresses two main questions – why do we need court managers? and what should be their roles? To gain an in-depth insight into their functioning, interviews with Court Managers were conducted from different states. Based on the interviews and a comparative examination of Court Managers functioning in different countries, the paper recommends steps to expand their roles and strengthen their position in the Indian judicial system.

I

INTRODUCTION

Imagine a system where one set of people are responsible for managing nearly all the processes. From handling core functions to overseeing different administrative functions, the same set of people are given various responsibilities. Would not one wonder as to why the core functions and administrative functions are not being segregated so as to allow individuals to focus on their core duties? Wouldn't such an approach result in improving the efficiency of the system? A similar situation arises even in the Indian judicial system. Judges are entrusted with various responsibilities in addition to their core duties of adjudicating disputes. From staff recruitment to looking after infrastructure, judges are given varied responsibilities. In India, judges are seen as the centre of all the roles and responsibilities in the judiciary. While there are certain demarcations in roles, a majority of functions are either directly carried out by judges or performed under their supervision. A simple example of this is the recruitment process that takes place in district courts. It is a common practice that the Principal District and Session Judge (an administrative head amongst judges at a district level) and certain other judges are responsible for hiring and conducting interviews for nearly all the court staff.¹ This administrative duty is in addition to their regular work in the court.

Hence, one may ask, with the increasing backlog and shortage of judges in the country, shouldn't the judicial duties and administrative duties be divided to allow judges to focus on their judicial tasks? This issue was addressed when the post of Court Managers was introduced by the 13th Finance Commission in 2010.² MBA graduates with profound work experience were taken on board as Court Managers and were required to assist judges in handling administrative tasks. They had the technical skills in the management sphere which was much-needed expertise required in the judicial system and which no one from within the system could offer. They were employed both at the high court and district courts in the country. While it has been a decade since the post was introduced, Court Managers today face a variety of issues, the most critical one being, lack of a permanent position in the system.

¹ See DAKSH-Vidhi. 2019. 'Litigation Landscape of Bengaluru: Series 1, Bengaluru Rural Courts', DAKSH and Vidhi Centre for Legal Policy, pp. 76-77, available online at <https://dakshindia.org/wp-content/uploads/2019/08/litigation-landscape-bengaluru-rural-full-report-july-2019.pdf> (accessed on 30 May 2020).

² 13th Finance Commission Report, Government of India, Ministry of Finance, No. F 32(30) FCD/2010, p. 6, available online at https://doj.gov.in/sites/default/files/Annexure_A-Part-I.pdf (accessed on 30 May 2020).

Countries such as Australia, United States, South Africa, Canada etc. have introduced Court Managers/Administrators that take care of the administrative functioning of the court.

India is not the only country to have introduced the post of a Court Manager. Countries such as Australia, United States, South Africa, Canada etc. have undertaken radical measures to tackle the issue of pendency and have introduced Court Managers/Administrators that take care of the administrative functioning of the court. Introducing the Court Managers post was a challenging task even in some of these countries. But with the slow passage of time, Court Managers have taken an important place in their systems and work hand-in-hand with members of the judiciary. The reform measures brought through the introduction of Court Managers in these different countries stand testimony to the fact that they have the capacity to bring change. We can use the experiences and learnings from these countries and implement the post of Court Managers in a better manner in India.



2 OBJECTIVE OF THE PAPER

There were two revolutions that took place in the 20th century which impacted both the private and the government sector, these were, the management revolution and the information communication revolution.³ It can be said that even the Indian judiciary has undergone these two revolutions over the past few decades. The infusion of information technology (IT) through digitization of cases on e-courts and introduction of Court Managers for management purposes have been important changes to which judiciary has attempted to transition. However, while several aspects of IT have found a permanent place in the judicial system, Court Managers are yet to find the same permanence. The current need is to understand their position in the judicial system and the impact they can create. Hence, the primary objective of this paper is to analyse the post of Court Managers, their history, functioning, and explore how their position can be strengthened in India. In doing so, the paper addresses the key question that has been asked by many i.e. why do Indian courts need Court Managers, and what duties should they perform? To get an in-depth view of the ground reality, Court Managers from different states were interviewed to get a sense of their prevailing problems.⁴ The paper also provides several recommendations which can help in concretizing the post of Court Managers which in-turn can result in creating a long-lasting impact on the judicial system.

³ National Judicial Academy. 2015. Conference of Judicial Administration, p. 13, available online at http://www.nja.nic.in/Concluded_Programmes_2015-16/P-937%20Report.pdf (1 June 2020).

⁴ 5 court managers from different parts of the country were interviewed for the paper. The interviews were conducted between December 2019 and May 2020.

3 A NEED TO INTRODUCE COURT MANAGERS IN INDIAN COURTS - HISTORICAL OVERVIEW

I PRE-2015 POSITION

Judges in India are involved in overseeing various administrative tasks. From managing recruitments to looking after infrastructure and organizing various functions and ceremonies, judges in the high court and district courts are entrusted with various responsibilities. Undoubtedly, judges are overburdened as they need to take out the time to manage both administrative as well as judicial tasks. In a bid to improve justice delivery in the country, the 13th Finance Commission in 2010 provided grants to improve judicial outcomes. One such measure related to setting up the post of Court Managers. The primary objective of introducing the post was to assist judges in carrying out the administrative duties in different districts and high courts, thus, allowing judges to focus on their judicial functions. Posts of managers with MBA degrees were created to assist the high court and the Principal District and Sessions Judges at the district level. For this purpose, two posts at the high court level (including one for each bench) and one post in each of the district courts was recommended. The Finance Commission set aside Rs 300 crore for setting up the posts across the country between 2010 and 2015. The Finance Commission also set out the roles and responsibilities of the Court Managers, which included:

- a. **Setting up policies and standards:** look after the quality of court performance, timeliness, efficiency, and access to justice. Further, identify deficiencies and deviations in courts through a compliance evaluation process and annual updates.
- b. **Carrying out planning processes:** consult with stakeholders such as bar, staff, police etc. and prepare a Court Development Plan (CDP) for the next five years.
- c. **Compiling statistics:** ensure that all aspects relating to the functioning of the court and data are compiled properly.

⁵ 13th Finance Commission Report, p. 3.

⁶ 13th Finance Commission Report.

⁷ 13th Finance Commission Report, p. 6

⁸ 13th Finance Commission Report, p. 6

⁹ 13th Finance Commission Report, p. 6

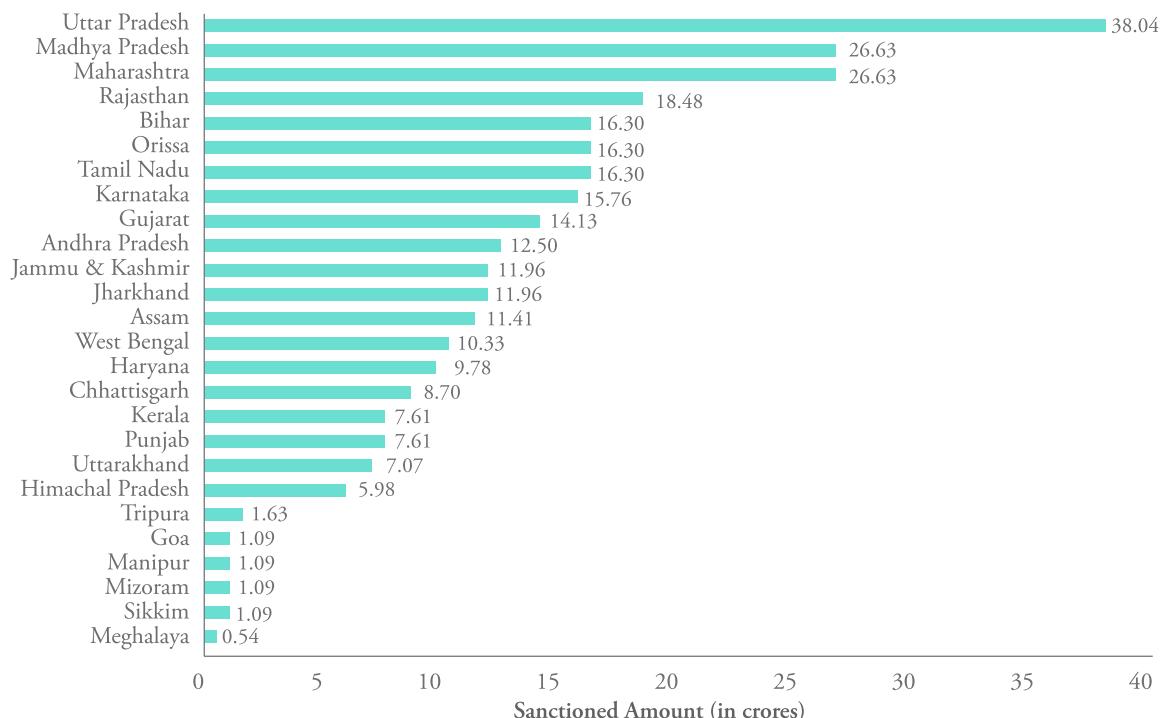
¹⁰ 13th Finance Commission Report, p. 11

- d. **Court management work:** ensure that court processes are in compliance with the directions of the high court. These tasks involve ensuring timeliness, efficiency, access to justice and reducing the cost to litigants.
- e. **Case management work:** ensure that cases are managed in compliance with the directions of the high court.
- f. **Ensuring responsiveness management:** make sure that courts meet the standards laid down by high courts in terms of access to justice, user-friendliness, and legal aid.
- g. **Ensuring quality management:** make sure that courts meet quality adjudication standards laid down by the high court.
- h. **Ensuring human resource management:** make sure that the management of court staff is in compliance with the high court.
- i. **Ensuring core systems management:** manage the core systems of courts that include infrastructure, finance, facilities etc.
- j. **Ensuring IT systems management:** make sure that the IT infrastructure works efficiently.

Each of the states was sanctioned a certain amount by the 13th Finance Commission. Figure 1 below highlights the amount granted to different states.

Figure 1: Sanctioned amount given to states

Source: 13th Finance Commission Report



Uttar Pradesh received the highest amount with 38.04 crores, followed by Madhya Pradesh and Maharashtra that received 26.63 crores each. Interestingly, the funds were released only for the states, hence, Delhi being a Union Territory was not included in the list.

Post the allocation of the funds, various states issued notifications calling for the recruitment of Court Managers. The need to introduce the post of Court Managers was emphasized even by the National Court Management Systems Committee of the Supreme Court in 2012.

II POST-2015 POSITION

After laying the groundwork for the position of Court Managers in the country, the central government requested state governments and high courts to review the impact of Court Managers.¹² Consequently, the central government decided that it will not be supporting the position post 31 March 2015.¹³ It was left to the discretion of state governments and high courts to decide whether the Court Managers position should be continued or not.¹⁴ Even the responsibility of funding the position vested with respective state governments. This led to several issues in the long run. Not all states and high courts regularized the position. While a few states such as Assam,¹⁵ Tripura,¹⁶ Kerala,¹⁷ Madhya Pradesh,¹⁸ Chhattisgarh,¹⁹ High Court of Jharkhand,²⁰ High Court of Punjab and Haryana,²¹ etc. have incorporated the post of Court Manager position, several others have not passed any rules regarding regularization. Discontinuation of funds also severely affected the prospects of Court Managers in different states. Termination of services was even challenged in certain courts. For instance, in a Writ Petition filed in the Punjab and Haryana High Court in 2015,²² Court Managers sought from the court, *inter alia*, to regularize the post. In the Telangana High Court too, a similar petition was filed in 2016 and is still pending.²³ While the Punjab and

¹¹ Supreme Court of India. Policy and Action Plan by National Court Management Systems (NCMS), p. 35, available online at <https://main.sci.gov.in/pdf/NCMSP/ncmsspap.pdf> (accessed on 22 February 2020).

¹² Nishant Rana and Ors. v. Union of India and Ors., CWP No.5582 of 2015 and Preet Inder Singh Nagi v. Union of India and Ors., CWP No. 6612 of 2015 (Punjab and Haryana High Court, judgment dated 12 September 2019), para 14 (Rana and Nagi).

¹³ Rana and Nagi, para 14.

¹⁴ Rana and Nagi, para 14.

¹⁵ Appointment and Conditions of Service of Court Managers for the State of Assam Rules, 2018, available online at <http://ghconline.gov.in/General/Notification-15-10-2018.pdf> (accessed on 16 January 2020).

¹⁶ High Court of Tripura Services (Appointment, Conditions of Service and Conduct) Rules 2014, available online at <http://thc.nic.in/pdfs/High%20Court%20of%20Tripura%20Services%20Amended.pdf> (accessed on 18 January 2020).

¹⁷ High Court of Kerala, Notification No. A5-96002/2015/A9 dated 9 August 2019, available online at http://highcourtofkerala.nic.in/sMatters/not_a5_96002_2015_a9dtd09082019.pdf (accessed on 7 June 2020).

¹⁸ Advertisement No. 176 of 2019, High Court of Madhya Pradesh, available online at https://mphc.gov.in/PDF/web_pdf/RE/SCAN20190925_19211543_0012.pdf (accessed on 27 January 2020).

¹⁹ Order No. 51 (App.)/II-14-1/2017 dated 18th May 2018, High Court of Chhattisgarh.

²⁰ See Amit Kumar and Ors. v. State of Jharkhand and Ors., W.P.(S) 1421 of 2015 (High Court of Jharkhand, order dated September 2019).

²¹ Rana and Nagi, para 43.

²² Rana and Nagi.

²³ K. Saritharani Sangareddy v. Union of India, WP/41256/2016, High Court of Telangana.

Haryana High Court has now passed full-fledged rules regularizing the post,²⁴ the petition in the Telangana High Court is still pending and no rules could be found to have been framed. A case was also filed in the Jammu and Kashmir High Court wherein the manner of appointment of Court Managers was questioned²⁵ and since then no new recruitments could be found to have taken place.

The story of Court Managers has a certain resemblance to that of the Fast Track Courts Scheme. To expedite the disposal of cases, the central government had launched the Fast Track Courts Scheme in 2000.²⁶ The Scheme was supported by the central government up till 2011.²⁷ Post-2011, the central government discontinued financing the scheme, and the discretion to continue the scheme, including the financial liability, was shifted to the states.²⁸ As a result, several states discontinued Fast Track Courts. As of March 2019, 56% of state and union territories did not have any fast track courts.²⁹ Today, several Fast Track Courts in the country suffer from a shortage of staff and poor infrastructure.³⁰ These courts in fact function much slower and hence, have not been able to create the intended result.³¹ The story of Court Managers is no different. The Court Managers' post and the Fast Track Courts scheme were introduced by the central government and then left eventually, shifting the financial onus on to the states. While the Fast Track Courts scheme was supported for at least ten years, the Court Managers' post was financed by the central government only for five years. In the long run, the financial implications and unenthusiastic approach of the states had a huge impact on these two initiatives of the centre which did not allow these initiatives to create the intended impact.

²⁴ Rana and Nagi, para 43.

²⁵ Mohd. Azhar Suharwardi and Ors. v. State of J&K and Ors., 2016 (3) JKJ 311.

²⁶ Lok Sabha, Starred Question No. 74, available online at <http://164.100.24.220/loksabhaquestions/annex/171/AS74.pdf> (accessed on 12 January 2020).

²⁷ Department of Justice, Ministry of Law and Justice. Fast Track Courts, available at <https://doj.gov.in/sites/default/files/FTC%20for%20DoJ%20website.pdf> (accessed on 05 January 2020).

²⁸ Department of Justice, Fast Track Courts.

²⁹ Lok Sabha, Starred Question No. 74.

³⁰ Arunav Kaul. 2019. 'The hard realities of India's fast-track courts', The Hindu, 07 August, available online at <https://www.thehindu.com/opinion/op-ed/the-hard-realities-of-indias-fast-track-courts/article28838795.ece> (accessed on 12 February 2020).

³¹ See Vijdan Mohammad Kawaosa. 2020. 'Trials in fast-track courts last longer than regular ones: Data', Hindustan Times, 10 January, available online at <https://www.hindustantimes.com/india-news/trials-in-fast-track-courts-last-longer-than-regular-ones-data/story-dB87FaFdowfcv1rD4HN10I.html> (accessed on 4 June 2020); GS Bajpai and Smriti KP. 2019. 'Slow fast-track courts', Deccan Herald, 24 April, available online at <https://www.deccanherald.com/opinion/main-article/slow-fast-track-courts-730501.html> (accessed on 5 March 2020).

Since the discontinuation of funds, both judges and Court Managers have been sceptical of the future of the post. Whether Court Managers are of any importance in the judiciary, was the question many were raising. This was sufficiently answered by the Supreme Court in an order passed in August 2018. While passing a host of directions to improve the functioning of trial courts, the Supreme Court stressed upon the need to have qualified Court Managers that can assist in managing the court administration and identify weaknesses in the system.³² The apex court stated that these posts must be created in every judicial district and the post should be regularized by the state government.³³ The Bombay High Court also took the same view in a later judgment.³⁴ It is more than clear now that Court Managers are needed in the judicial system. Their help can be immensely useful in streamlining the administrative process which can not only result in helping judges but can also result in improving the overall judicial system.



³² All India Judges' Association v. Union of India, 2018(9)SCALE393, para 12 (All India Judges' Association).

³³ All India Judges' Association, para 12.

³⁴ Ahmad M. Abdi vs. State of Maharashtra and Ors., PIL 57 of 2012 (High Court of Bombay, judgment dated 22 January 2019), para 25.

4 EXAMINING THE CURRENT POSITION OF COURT MANAGERS IN INDIA - INSIGHTS FROM INTERVIEWS

It has been nearly a decade since the introduction of the post of Court Managers. To what extent have the courts been able to utilize the potential of Court Managers in their day to day functioning, is a question that needs thorough examination. To get a comprehensive view of their functioning it was important to take a deeper look at the working of Court Managers in different states. Hence, five Court Managers were telephonically interviewed from different parts of the country to understand the issues they have been facing and the work they have been doing over the past few years. The interviews were conducted between December 2019 and May 2020. These interviews have been extremely enlightening as they threw light on some of the various problems that Court Managers face. Hence, using the insight from interviews and previously published literature, these issues have been categorized into various heads as below:

a. Lack of clarity on their role in the system

The 13th Finance Commission had laid down certain roles and functioning that Court Managers would be performing. Different high courts while issuing notifications for the recruitment, reproduced the same roles and responsibilities as provided by the Finance Commission. The primary issue with these roles was that either they were too broad or were not practically feasible for Court Managers to perform. For instance, one of the responsibilities identified for Court Managers was to ‘ensure that the court meets quality of adjudication of the standards established by the High Court’. Such a task seems outrightly vague given the lack of training in law and prior experience. Another role highlighted for Court Managers was to prepare a five year ‘Court Development Plan’. For a person to prepare such a plan, he/she needs to not only spend a considerable amount of time in the system but also needs the necessary support and resources. However, for Court Managers who had been newly inducted into an age-old institution with barely any resources at their disposal, such a task seemed difficult to achieve.³⁵ Also with continuous hiring and re-hiring, the task became even more difficult.

³⁵ Geeta Oberoi. 2017. ‘The Curious Case of Court Manager in India: From its Creation to its Desertion’, International Journal of Court Administration, 9(1): 1-9, p. 3, available online at <https://www.iacajournal.org/articles/abstract/10.18352/ijca.245/> (accessed on 5 June 2020).

In certain states, the interviews revealed that Court Managers are presently carrying out functions in their own capacity with little support from the system. Even in places where they are being actively engaged, they are working merely in the background and have no concrete authority in the system. The notifications issued by high courts outline various roles and responsibilities of Court Managers. However, many of these are not being implemented at the ground level. While on paper their roles are broad, in reality, their roles are restricted to only a few areas of administration that by no means does any justice to their post. Court Managers have expertise in administrative and management skills that no other staff within the judiciary offers. However, these skills are not being used to full capacity. Due to these challenges, Court Managers over the years have not been able to contribute towards policy-making decisions in the judiciary.³⁶

b. Delay in the absorption of the post

At the initial stage, the post of Court Managers was mostly contractual. Perhaps the intention of the 13th Finance Commission was to introduce and finance the position during the initial years, after which states could independently support these positions. Finance Commission agreed to financially support the scheme up till 2015. However, to date, Court Managers are functioning on a contractual basis in several states. Contracts are subject to renewal based on their performance. Only a handful of states and high courts have made the position permanent, such as Assam, Madhya Pradesh, Tripura, Kerala, Chhattisgarh, Jharkhand, Punjab and Haryana etc. have permanently absorbed the position of courts managers. The Odisha state cabinet in September 2019 agreed to draft new rules for the appointment and regularization of the post.³⁷

The continuous contractual and ad hoc nature of the Court Manager's post has posed doubts on the future prospects of Court Managers in the minds of many. With no certainty, Court Managers have been working on an ad-hoc basis in several states and in such a difficult condition even the staff members are not willing to go an extra mile in transferring their knowledge.³⁸

³⁶ Oberoi, 'The Curious Case of Court Manager in India: From its Creation to its Desertion', p. 3.

³⁷ The Pioneer. 2019. 'Govt nod for new rules for court managers' appointment', The Pioneer, 27 September, available online at <https://www.dailypioneer.com/2019/state-editions/govt-nod-for-new-rules-for-court-managers---appointment.html> (accessed on 5 June 2020).

³⁸ Oberoi, 'The Curious Case of Court Manager in India: From its Creation to its Desertion', p. 7.

c. Lack of promotional structure

A promotional structure in any system provides an added incentive to an employee. In every sector be it private or government, promotions form an integral part of the system. Even in the judiciary, court staff and judges have a well-defined promotional structure which includes increased remuneration and greater control as one goes up the ladder. However, no such promotional structure is extended to Court Managers in the majority of the states. Since most of the states have kept the position contractual, Court Managers enjoy no added incentive in the form of promotions. Only a handful of states have come up with a hierarchy and promotional framework for Court Managers.

d. Dependence on the Principal District and Sessions Judge

One of the main issues highlighted by the Court Managers in the interviews was that the roles and responsibilities carved out in the rules and circulars are not being implemented at the ground level. Due to this, Court Managers are entirely dependent on the directions and instructions of the Principal District and Session Judges. Court Managers need to build a close rapport with the Principal District and Session Judge as they are responsible for monitoring their day to day activities including the allocation of work. However, Principal District and Session Judges are subject to transfer and with every new transfer, Court Managers need to build a new rapport altogether as it is up to the newly appointed Judge to determine the amount of work that needs to be given to them. Hence, their tasks and their roles vary with different Principal District and Session Judges and it is not necessary that all of them would equally engage with Court Managers. While it is true that Court Managers' primary responsibility is to support these Judges, it is necessary that those roles be concretized so it remains unaffected even with them getting transferred.

e. Overlap in roles and responsibilities

Another issue highlighted in the interviews was that the roles of Court Managers oftentimes overlap with other court staff. Due to lateral appointment and lack of a set hierarchy in the judicial system Court Managers are often seen as outsiders, thus, leading to an environment of resentment.³⁹ In states that have delayed the absorption of the position, Court Managers don't have a clear place in the hierarchical structure which creates confusion amongst other staff members.

³⁹ Deepika Kinhal and Arunav Kaul. 2018. 'Revisit Policy on Court Managers'. Deccan Herald, 24 August, available online at <https://www.deccanherald.com/opinion/perspective/revisit-policy-court-managers-689069.html> (accessed on 20 April 2020); See DAKSH-Vidhi, 'Litigation Landscape of Bengaluru: Series 1, Bengaluru Rural Courts', p. 82.

5 INTERNATIONAL VIEWPOINT ON COURT MANAGERS

It is quite certain that in India the post of Court Managers is still at its infancy, given all the issues that Court Managers face. Unfortunately, Court Managers have not been able to get the attention and duties that they deserve. While Indian courts are struggling with these issues, internationally, countries have far back realized the importance of Court Managers and have made them an integral part of the system. A glance at the post of Court Managers across the globe would provide a deeper perspective on how they have been supporting their respective judicial systems.

a. United States:

In the US, Court Managers, also referred to as Court Administrators, have been functioning for over 50 years. As far back as in August 1969, the Chief Justice of the United States Supreme Court, Warren E. Burger noted, ‘the courts of this country need management, which busy and overworked judges, with drastically increased caseloads, cannot give. We need a corps of trained administrators or managers to manage and direct the machinery so that judges can concentrate on their primary duty of judging...’⁴⁰ Consequently, Court Administrators were recruited at the federal, state, and the local judicial level, thus forming an important part of the system. The idea behind adopting Court Administrators in the US was simple yet profound. Just as how city authorities, hospital administrators, or school superintendents needed managerial support, the judiciary too needed managers that could take care of court administration - this led to the creation of Court Administrators.⁴¹ Court Administrators are given different roles and responsibilities in different states, however, some of the common management functions that they are entrusted with involve - personnel management which include selecting, training and disciplining non-judicial administrative staff;⁴² preparation of court budgets and overall fiscal management;⁴³ analysing pendency of cases in courts with the aim of recommending efficient calendar management;⁴⁴ assisting judges with

⁴⁰ NCJRS. 1980. ‘The Trial Court Administrator’, p. 5, available online at <https://www.ncjrs.gov/pdffiles1/Digitization/68572NCJRS.pdf> (accessed on 5 June 2020).

⁴¹ NCJRS, ‘The Trial Court Administrator’, p. 6.

⁴² NCJRS, ‘The Trial Court Administrator’, p. 7.

⁴³ NCJRS, ‘The Trial Court Administrator’, p. 7.

⁴⁴ NCJRS, ‘The Trial Court Administrator’, p. 7.

the implementation of caseflow management practices;⁴⁵ data-processing management;⁴⁶ court space and equipment management;⁴⁷ records management which involves managing and creating uniform record-keeping system;⁴⁸ and taking care of intergovernmental relations.⁴⁹ To further advance the scope of Court Administrators, several agencies have been created that provide resources in the form of books, research papers, and webinars to promote the interest of court management professionals.⁵⁰ For instance, the National Association for Court Management has been created with the objective of educating court professionals and providing the necessary support for strengthening the court management system.⁵¹ Undoubtedly, over the years, Court Administrators have helped the judiciary tremendously in the advancement of justice⁵² and have therefore become an integral part of the system.

“ Although in the beginning, there was resistance, over time, Court Administrators/Managers have been accepted by the members of the judiciary in Australia.”

⁴⁵ Wayne Martin. 2014. ‘Court Administrators and the Judiciary - Partners in the Delivery of Justice’, International Journal for Court Administration, 6 (2): 3-18, p. 11, available online at <https://www.iacajournal.org/articles/abstract/10.18352/ijca.158/> (accessed on 5 June 2020).

⁴⁶ NCJRS, ‘The Trial Court Administrator’, p. 7.

⁴⁷ NCJRS, ‘The Trial Court Administrator’, p. 7.

⁴⁸ NCJRS, ‘The Trial Court Administrator’, p. 7.

⁴⁹ NCJRS, ‘The Trial Court Administrator’, p. 8.

⁵⁰ Pamela Ryder-Lahey and Peter H. Solomon. 2008. ‘The Development and Role of the Court Administrator in Canada’, International Journal for Court Administration, 1(1): 31-37, p. 32, available online at <https://www.iacajournal.org/articles/abstract/10.18352/ijca.125/> (accessed on 4 June 2020).

⁵¹ See National Association for Court Management, available online at <https://nacmnet.org/who-we-are/> (accessed on 6 June 2020).

⁵² Sue K. Dosal, Mary C. McQueen and Russell R. Wheeler. 2007. ‘Administration of Justice is Archaic-The Rise of Modern Court Administration: Assessing Roscoe Pound’s Court Administration Prescriptions’, Indiana Law Journal, 82(5): 1293-1305, p. 1302, available online at <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1527&context=ilj> (accessed on 6 June 2020).

b. Canada:

In early 1970's Canadian courts were facing severe criticisms given the archaic methods of court administration and caseload pressure.⁵³ To reform the system, the offices of Court Administrators were set up for the first time in the 1970s. However, it was only in the next decade that the post of Court Administrators was completely absorbed and accepted by judges.⁵⁴ The process expanded and by the end of 1980, nearly every court in Canada had a Court Administrator.⁵⁵ In 2003, the Court Administration Service Act was passed that established an administrative service in the Federal Court of Appeal, the Court Martial Appeal Court, the Federal Court and the Tax Court.⁵⁶ The concept behind introducing Court Administrators in Canada was similar to that of the US i.e. helping judges in efficiently managing the administrative functions. The Ontario Law Reform Commission had identified some of the key duties of Court Administrators way back in 1973. These responsibilities included looking after the administrative requirements, assessing judicial manpower requirements, taking care of courtrooms and facilities, overseeing the development of statistical reporting system and preparing reports, looking after budgetary requirements, developing a public information facility, and overseeing the hiring process.⁵⁷ Court allocation and scheduling of cases under the supervision of the judge are some of the additional tasks that Court Administrators perform.⁵⁸ At an overall level, Court Administrators in Canada enjoy a good deal of discretion and form an important nexus between judges, court staff, lawyers, and the public.⁵⁹ Additionally, there are certain universities that offer diplomas in the justice system administration.⁶⁰ These courses help provide a much deeper and robust perspective on the administrative functioning of courts.

⁵³ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', p. 34.

⁵⁴ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', p. 31.

⁵⁵ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', p. 34.

⁵⁶ NALSAR University of Law. 'A Study on Court Management Techniques for Improving the Efficiency of Subordinate Courts', Department of Justice, Ministry of Law and Justice, Government of India, p. 38, available online at https://doj.gov.in/sites/default/files/Final%20DOJ%20Report_Revised%20%281%29.pdf (accessed on 6 June 2020); See Courts Administration Service Act, 2002, Government of Canada, available online at <https://laws.justice.gc.ca/eng/acts/C-45.5/page-1.html> (accessed on 6 June 2020).

⁵⁷ Ontario Law Reform Commission. 1973. Report on Administration of Ontario Courts. Ministry of the Attorney General, pp. 30-31, available online at <http://www.ontla.on.ca/library/repository/mon/27010/22200-1.pdf> (accessed on 6 June 2020).

⁵⁸ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', p. 35.

⁵⁹ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', pp. 35-36.

⁶⁰ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', p. 34.

c. South Africa:

The post of Court Managers was a result of a series of judicial reform measures undertaken in South Africa.⁶¹ The post was first piloted and then introduced nation-wide in 2004. The primary goal of creating the post was to ensure that judges dedicate more time towards judicial processes while Court Managers take care of administrative processes. This bifurcation of tasks over the years has led to better access to the public and improved supervision over the administrative staff.⁶² The main tasks of Court Managers are to coordinate the strategic planning, manage financial and human resources, manage physical resources including information and communication, compile and analyse court statistics, provide case tracking services for the prosecuting authorities and the judiciary, and develop customer service strategies.⁶³ Court Managers play a crucial role in the administration of courts as they provide support to various stakeholders connected with the judiciary and ensure a proper flow of communication.⁶⁴

d. Chile:

Criminal procedural law in Chile underwent substantial changes in 2000. With the reforms came the post of Court Managers (Administrators), a trained professional belonging from a management field.⁶⁵ The introduction of Court Managers brought a division of work between judicial tasks and managerial tasks. A Court Manager was made in-charge of court administration and was deemed to be a chief of court staff. In Chile, Court Managers and judges work together to create techniques that help in improving the efficiency of litigation and advancement of judicial proceedings.⁶⁶ As per the Supreme Court's Act 91-2007, Court Managers have been given the duty to schedule hearings after consulting with the presiding judge.⁶⁷ Presently, Court Managers in Chile are also given the responsibility to come up with innovative techniques that can further strengthen the caseload management process in courts.⁶⁸ The creation

⁶¹ Twenty Year Review, South Africa 1994-2014, Background Paper: Judiciary, p. 20, available online at <https://www.dpme.gov.za/publications/20%20Years%20Review/20%20Year%20Review%20Documents/20YR%20Judiciary.pdf> (accessed on 6 June 2020).

⁶² Background Paper: Judiciary, p. 20.

⁶³ Department of Justice and Constitutional Development. 'Legal and Related Careers in the Justice System', Republic of South Africa, p. 8, available online at <https://www.justice.gov.za/brochure/careers-in-justice.pdf> (accessed on 2 June 2020).

⁶⁴ 'Legal and Related Careers in the Justice System', p. 8.

⁶⁵ Emmanuel Jeuland. 2018. 'Towards a New Court Management?', General Report. [Research Report] Université Paris 1 - Panthéon Sorbonne, p. 14, available online at <https://hal.archives-ouvertes.fr/hal-01680418/document> (accessed on 6 June 2020).

⁶⁶ Ramón García Odgers and Pablo Bravo-Hurtado. 2017. 'Reforms on Court Management in Chile'. Paper presented at the International Conference of the Association of Procedural Law, Tianjin, China, November, pp. 6-7. Available online at https://www.academia.edu/35348103/REFORMS_ON_COURT_MANAGEMENT_IN_CHILE (accessed on 6 June 2020).

⁶⁷ Odgers and Hurtado, 'Reforms on Court Management in Chile', p. 4.

⁶⁸ Odgers and Hurtado, 'Reforms on Court Management in Chile', p. 15.

of the post of Court Managers has been beneficial in the dispensation of justice. While in the beginning judges and Court Managers had a difficult relationship, over the years this system proved advantageous for the judiciary and has also been extended to family and labour courts.⁶⁹

e. United Kingdom:

Her Majesty's Courts and Tribunals Service (HMCTS) is responsible for managing the administrative functions in criminal, civil, family courts and tribunals in England and Wales.⁷⁰ They also take care of the administration part for non-developed tribunals in Scotland and Northern Ireland.⁷¹ HMCTS as a unified entity was formed in 2011 as a result of the merger of Her Majesty's Court Service and the Tribunal Service.⁷² HMCTS is an executive agency which is sponsored by the Ministry of Justice.⁷³ They are primarily involved in driving improvement measures across all courts and tribunals; hiring staff and providing a proper support system to the judiciary; collaborating with various other justice agencies to improve access to justice; working with various government departments with the goal of improving the quality and timeliness of their decision making process, thus, resulting in lesser cases coming to the court.⁷⁴ Further, the HMCTS also work towards reform programs that are aimed at improving and modernizing the judicial system.⁷⁵

f. Australia:

The emergence of Court Administrators in Australia is an interesting case study that can be of immense help in understanding the gradual absorption of Court Managers/Administrators in the judicial system. With rising caseload and unacceptable time and financial implications on the citizens, Australian judiciary was under pressure to bring reform measures that can

⁶⁹ Odgers and Hurtado, 'Reforms on Court Management in Chile', p. 3.

⁷⁰ See HM Courts and Tribunal Service, available online at <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about> (accessed on 6 June 2020).

⁷¹ HM Courts and Tribunal Service.

⁷² Piotr Mikuli and Natalie Fox. 2017. 'Court Administration in the United Kingdom', in Piotr Mikuli (ed.), Current Challenges in Court Administration, p. 11. Eleven International Publishing. Available online at https://www.academia.edu/32338893/Court_Administration_in_the_United_Kingdom_in_P._Mikuli_Ed._Current_Challenges_in_Court_Administration_Eleven_International_Publishing_The_Hague_2017_forthcoming_ (accessed on 6 June 2020).

⁷³ See HM Court and Tribunal Service, available online at <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service> (accessed on 20 May 2020).

⁷⁴ HM Courts and Tribunal Service.

⁷⁵ See Ministry of Justice. 2016. 'Transforming Our Justice System', available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf (accessed on 18 April 2020); See also HM Courts and Tribunals Service. 2017. 'Justice matters', available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/598611/Justice_matters_10_March_2017.pdf (accessed on 20 April 2020).

streamline the judicial process.⁷⁶ Hence, in the 1980s there emerged a need to strengthen court management processes with the help of individuals that had professional management skills.⁷⁷ Court management has a huge bearing on the judicial process. Court Administrators with their managerial skills became an important component for bringing major judicial reform in Australian courts. Although in the beginning, there was resistance against such reform, over time, the change has been accepted by the members of the judiciary.⁷⁸ Court Administrators shared their knowledge and ideas through conferences and events and within a few years, their network gradually expanded to different jurisdictions, states and even to the national level.⁷⁹ Court Administrators needed a broader range of skill sets that included not only an understanding of court processes but also knowledge of corporate management. Hence, Court Administrators fostered relationships with academic institutions to ‘establish university level qualifications in management in a justice environment.’⁸⁰ Court Administrators are required to manage staff and oversee fiscal requirements including implementation of a proper case management system.⁸¹ Court Administrators today have adapted to the need of the judiciary and brought tremendous changes to the Australian judicial system.⁸²

‘It is important that the high courts and the state governments regularize the post of the Court Managers and permanently absorb them in the judicial system.

The comparative analysis of Court Managers’ positions in different countries helps in understanding how these positions were envisaged and incorporated in judicial systems. Not everywhere was this process smooth. In certain countries, Court Managers did face resistance, however, over a period of time, their importance was recognized, and their position was fully absorbed. These countries stand as an example for India. The learnings and experiences should be taken into account for expanding and strengthening the role of Court Managers in the Indian judicial system.

⁷⁶ Richard Foster. 2013. ‘Towards Leadership: The Emergence of Contemporary Court Administration in Australia’, International Journal for Court Administration, 5(1): 4-14, p. 1, available online at <https://www.iacajournal.org/articles/abstract/10.18352/ijca.3/> (accessed on 6 June 2020).

⁷⁷ Foster, The Emergence of Contemporary Court Administration in Australia’, p. 2.

⁷⁸ Foster, The Emergence of Contemporary Court Administration in Australia’, p. 2.

⁷⁹ Foster, The Emergence of Contemporary Court Administration in Australia’, p. 3.

⁸⁰ Foster, The Emergence of Contemporary Court Administration in Australia’, p. 3.

⁸¹ Foster, The Emergence of Contemporary Court Administration in Australia’, pp. 3-5.

⁸² Foster, The Emergence of Contemporary Court Administration in Australia’, p. 9.

6

EXPANDING THE ROLES OF COURT MANAGERS IN INDIAN COURTS

Providing a pervasive role to Court Managers within the judicial system is a necessary step towards a better court management system in courts. A recent survey of Court Managers conducted in Maharashtra revealed that 53.4% of Court Managers felt that they are not being involved in the administration of court while 83.3% of the Court Managers felt that their services are not being used to the fullest.⁸³ 80% of Court Managers were of the opinion that they are not involved in designing case management programs.⁸⁴ The role of Court Managers should not be seen from a narrow perspective, their skills and experience should be used to bring concrete administrative changes. So far this has not happened. Even though Court Managers have been functioning for the past several years in various states, they have neither been used to their full optimal level nor given the task for which they were originally recruited. The below-mentioned points provide some of the roles that need to be entrusted upon Court Managers so they can streamline administrative functions in courts. A lot of these duties are already being performed by Court Managers/Administrators in different countries and it is time that these duties be extended to the Court Managers in India too.

a. **Implementing caseload management system:**

One of the cardinal duties of Court Managers should be the implementation of caseload management system in courts. In the landmark case of *Salem Advocate Bar Association v. Union of India*,⁸⁵ the Supreme Court had directed all the states to implement caseload management systems. In a nutshell, the system mandates courts to classify cases into different tracks with each track having an upper time limit. Further, as per the rules, cases in procedural stages should be dealt by a registrar while cases in substantive stages should be dealt by a judge. However, to date these rules have hardly been implemented.⁸⁶ Courts around the globe have realized the importance

⁸³ W.K. Sarwade and Zartaj Kasmi. 2019. ‘Rejuvenating Court Management by Professionally Qualified Court Managers’. Paper presented at the National Conference on Backlog of Cases and Court Management, Gujarat National Law University, Gandhinagar, Gujarat, 22 February, p. 20. Available online at <http://courtmanagement.in/paper-upload/34-19.%20Vandana.pdf> (accessed on 22 March 2020).

⁸⁴ Sarwade and Kasmi, ‘Rejuvenating Court Management by Professionally Qualified Court Managers’, p. 20.
⁸⁵ (2005) 6 SCC 344.

⁸⁶ Bibek Debroy. 2017. ‘Managing case flows’, The Indian Express, 16 November, available online at <https://indianexpress.com/article/opinion/columns/indian-legal-system-supreme-court-pending-court-cases-law-commission-managing-case-flows-4939176/> (accessed on 20 May 2020); See Case Flow Management Rules in India. 2015. DAKSH, available online at <https://dakshindia.org/wp-content/uploads/2015/11/Case-Flow-Management-Rules-in-India-by-DAKSH.pdf> (accessed on 20 August 2020)

of caseload management and to this effect, Court Managers should be made an important medium through which the system can be implemented in India.

b. Active participation in recruitment processes:

Staff recruitment in district courts is often supervised by the Principal District and Session Judge, an administrative head in a district. Apart from administrative work, the Principal District and Session Judge also presides over a court. It is often seen that the Principal District and Sessions Judge along with certain other judges conduct interviews for recruiting various staff.⁸⁷ Hence, there is a lot of administrative work concentrated in the hands of the Principal District and Session Judge which increases their burden. To ease the workflow, Court Managers should be actively involved in carrying out the recruitment drive. From assessing the number of court staff to be recruited to managing the interview, the entire recruitment process should gradually be passed over to the Court Managers, albeit under the supervision of the Principal District and Session Judge. This would greatly benefit judges as it would enable them to spend more time on the day to day court proceedings.

c. Setting up performance appraisal processes:

Apart from active involvement in the recruitment process, Court Managers should also be given the task to establish a performance appraisal system. Nearly every firm or a corporate institution undertakes a performance appraisal process, to assess the performance of its employees and understand the issues they have been facing on the job. A similar approach also needs to be adopted in the judicial system. The appraisal system would help in assessing the court staff's skillsets and help in understanding the difficulties they have been facing on a day to day basis. The appraisal system would also be helpful in taking an informed decision while ordering transfers of staff from one district to another or from one department to another.

d. Organizing training programs for staff:

A training program for the court staff, especially for the new entrants is essential for a smooth managerial process. While there exist certain practical issues in providing training to the staff, a lot of these issues can be addressed if Court Managers are made to be actively involved in the training process. As per our previous research, it was pointed out that, due to the shortage of resources and paucity of time, not all staff members receive training.⁸⁸ A lot of new entrants learn their tasks and role on the job by taking guidance from their peers. Therefore, Court Managers should be given the

⁸⁷ See DAKSH-Vidhi, 'Litigation Landscape of Bengaluru: Series 1, Bengaluru Rural Courts', pp. 76-77

⁸⁸ DAKSH-Vidhi, 'Litigation Landscape of Bengaluru: Series 1, Bengaluru Rural Courts', p. 79.

responsibility to coordinate training programs for staff members in different districts, especially for data entry processes on e-courts. While talking to a Court Manager in one of the states in northern India, we were told that Court Managers have been given the task of managing training programs for the staff. Hence, there are instances of Court Managers being involved in organizing the training program. It is important that such a practice be carried even by the rest of the states.

e. Interpreting trends and carrying out data analysis:

The roles and responsibilities identified for Court Managers by the 13th Finance Commission and adopted by several states required them to be involved in compiling statistics. However, Court Managers need to be utilized for much more than a mere compilation of statistics. Internationally, Court Managers are involved in analysing trends and interpreting data to help courts function efficiently. A similar role needs to be given to Court Managers in India too. Courts record and maintain various kinds of data points such as pendency of cases, cases filed and disposed, vacancy of staff and judges etc. With proper compilation, Court Managers can analyse trends across a period of time and work closely with judges to provide them with necessary insights. Collaborations with civil society organizations and academic institutions can also be done for analysing data periodically.

f. Helping judges with assigning cases:

In several countries, one of the important tasks being performed by Court Managers relates to the assignment of cases. Since Court Managers carry out periodical analyses of court data, they are best informed on the backlog and pendency of cases with each judge. Currently, assigning cases to a district judge is the prerogative of the Principal District and Sessions Judge.⁸⁹ Many times cases are assigned to different judges consecutively without taking into account prior considerations such as existing number of cases pending per judge or the speed of disposal of cases by a judge.⁹⁰ With the help of Court Managers, such a system can be set up wherein cases are allocated based on certain prior data analysis. Court Managers can provide strategic inputs from data to the Principal District and Session Judge which can form the basis for allocating cases to different judges in an establishment.

⁸⁹ DAKSH-Vidhi, 'Litigation Landscape of Bengaluru: Series 1, Bengaluru Rural Courts', p. 91.

⁹⁰ DAKSH-Vidhi, 'Litigation Landscape of Bengaluru: Series 1, Bengaluru Rural Courts', p. 91.

A promotional structure for Court Managers in the system would help in attracting more candidates.

Expanding the use of Court Managers in high courts

Judges, particularly registrars, perform different kinds of administrative tasks on a daily basis. In high courts, there are various registrars who are district judges, appointed on a deputation. The different registrars are involved in carrying out various duties which range from managing Information and Technology (IT) to formulating rules. While there are certain duties for which technical legal background is required, there are several other duties which do not require legal knowledge. Bifurcating these duties between legal and non-legal administrative tasks would be beneficial in identifying tasks for which prior legal knowledge may not be necessary. For instance, amendment and interpretation of rules, transfer of cases, complaints against judicial officers, promotion or grant of additional charge to judicial officers etc. require judicial expertise and hence, must be carried out by registrars/judges. However, matters related to recruitment of ministerial staff, supervision over technical facilities such as computer, fax machines etc., compilation of statistics, supervision of court infrastructure, managing ceremonial functions in courts etc. are administrative tasks that are being carried out by registrar in various states⁹¹ and do not necessarily require judicial expertise. The non-legal administrative tasks can be delegated to Court Managers. Delegating these tasks to Court Managers can help in reducing the workload of registrars and can to a certain extent reduce the number of registrars in high courts. In the past, it has also been suggested that the status of Court Managers should not be lesser than the Registrar General.⁹² Taking the help of Court Managers can streamline the administrative sphere. The additional registrars or judicial officers can instead be transferred to district courts for regular court work i.e. adjudication of disputes.

⁹¹ See Duties and Responsibilities of Officers and Staff Members Roles and Responsibilities, High Court of Madras, available at <http://www.hcmadras.tn.nic.in/duties-responsibility.pdf> (accessed on 28 January 2020); Distribution of work of Registrars of this Court, High Court of Punjab and Haryana, available at https://highcourtchd.gov.in/sub_pages/top_menu/administration/responsibilites.pdf (accessed on 28 January 2020); Power and Duties of Officers, High Court of Allahabad, available at http://www.allahabadhighcourt.in/rti/powers_duties_03-05-12.pdf (accessed on 28 January 2020); Meghalaya High Court, available at <http://meghalayahighcourt.nic.in/sites/default/files//order1112a.pdf> (accessed on 28 January 2020).

⁹² National Judicial Academy, Conference of Judicial Administration, p. 15.

In furtherance of these duties, there are also committees in the high courts that are headed by different high court judges. A cursory glance at these committees would show that a lot of high court judges are involved in these committees. For instance, there were approximately 80 committees in the Allahabad High Court distributed amongst 80 high court judges.⁹³ In the Himachal Pradesh High Court, there were 15 committees involving three judges each. Similarly, in the Madhya Pradesh High Court, there were around 43 committees with some of the committees having as many as six judges.⁹⁴ While there are several important administrative tasks that these committees oversee, there are certain tasks that do not require prior legal knowledge and can be delegated. These may include, infrastructure such as building and construction, construction of residential quarters, matters relating to protocol and hospitality, matters relating to transportation/ vehicles, organizing functions etc. Currently, these duties are overseen by high court judges as a part of different committees. Delegating these tasks to Court Managers can reduce the burden of work on different high court judges too.



⁹³ Shruthi Naik. 2019. 'Judges in India's high courts waste precious time heading committees on furnishings, cars', The Print, 4 November, available online at <https://theprint.in/opinion/india-high-court-judges-waste-time-heading-committees-on-furnishings-cars/315258/> (accessed on 6 June 2020).

⁹⁴ Naik, 'Judges in India's high courts waste precious time heading committees on furnishings, cars'.

7

PATH TO REFORM

It is an undoubted fact that Court Managers can have a huge positive impact on the judicial system. Their skills and expertise in management can bring waves of change in the judiciary that can help not only the judges but also various other stakeholders such as litigants, advocates, government agencies etc. The need for judges to be allowed to spend more time on the adjudication of cases and lesser time on administrative functions is a fact that has been echoed by the government, the Supreme Court and high courts.

Hence, the next step required is to concretize the position of Court Managers in the system and introduce necessary long-awaited reforms. Certainly, this is not going to be an easy task, which could also be seen in different countries that decided to introduce the post of Court Managers. However, with steady efforts and general consensus, Court Managers in these countries have established for themselves a permanent place in the system. There is a lot that India can learn from these countries, in its path to incorporating Court Managers in the system. Hence, keeping in view the interviews with Court Managers and the journey of Court Administrators/Managers in different countries, the following recommendations have been sequenced based on their importance which could help in concretizing the roles of Court Managers in the judiciary.

a. Need to make Court Managers' post permanent:

Only a few states have regularized the position of Court Managers. In a lot of states even now Court Managers work in a contractual position with no guarantee of their future course. Working in such a sceptical and doubtful scenario has created impediments in the day to day functioning of Court Managers. Judges, court staff, advocates etc. are not clear on the prospects of Court Managers. Court Managers are often seen as an outsider to the system.⁹⁵ This approach needs to be changed. Hence, it is important that the high courts and the state governments forthwith regularize the post of the Court Managers and permanently absorb them in the judicial system, both at the high court and at the district court level.

⁹⁵ Kinhal and Kaul, 'Revisit Policy on Court Managers'.

b. Implementing duties through high courts:

In the Indian judicial hierarchy, high courts have a strong influence on the district courts within its jurisdiction. Under Article 227 of the Constitution, high courts have the power of superintendence over all the district courts. The procedures and regulations issued by the high courts are followed to the letter in the district courts within a given state. Therefore, individual high courts need to take the responsibility of making sure that the roles and responsibilities issued in the circular/statutes are implemented at the ground level. Court Managers should not be working in the background, instead, their position needs to be strengthened to give them more discretion and duties. Court staff, judges, advocates, litigants, government agencies should be apprised of the role and duties of Court Managers so there is no overlap in their roles with other ministerial staff. Their position in the judicial system needs to be more well defined. These steps would only be possible if high courts in the country take up the reform measures and ensure that the Court Managers' post is given due consideration not only in paper but also in practice.

c. Delineating different roles for Court Managers in high courts and district courts:

Court Managers' responsibilities should differ in high courts and district courts. In the high courts, Court Managers must have a policy-making role, working towards strategies that need to be adopted at the district courts. While in the district courts, Court Managers must aim at implementing these policies. Further, there should be a clear demarcation between work experience and roles and responsibilities of Court Managers being appointed at high courts and district courts.

d. Devising proper curriculum for the training of Court Managers:

It is important that judicial academies create a proper curriculum comprising of administrative techniques and solutions that are a synthesis of both judicial and administrative knowledge. Court Managers work at the cross-section of judiciary and management, therefore they need to be well equipped with both these concepts. For instance, in Canada, there are certain universities that impart lessons on justice system administration.⁹⁶ Similarly, a dedicated and robust curriculum needs to be created for Court Managers that can provide them with deeper perspectives of the system and enable them to come up with innovative techniques. Also, training should not be a one-time exercise but a continuous process similar to how

⁹⁶ Lahey and Solomon, 'The Development and Role of the Court Administrator in Canada', p. 34.

judicial officers are called for seminars in judicial academies from time to time. Further, training programs in judicial academies should also enlighten judges about the roles and responsibilities of Court Managers in the judicial system. Combined training of Court Managers and judges at the academy can also be undertaken to make discussions more informed and the training more robust.

e. Creating reasonable pay scales:

Unlike other court staff, Court Managers come from a corporate background. Most of the Court Managers we interviewed had prior experience in prestigious corporate groups such as ICICI, HDFC, Larsen and Toubro etc. Some of the Court Managers also possess Ph. D degrees. Leaving these jobs and starting a new position in the judiciary is certainly a radical change for them. To make the post more desirable, the remuneration provided to Court Managers should commensurate to their past experiences. As per the circulars put out by high courts, the pay scale determined for Court Managers varies to a huge extent in different states. For instance, before 2015, states such as Manipur, Karnataka, West Bengal, Chhattisgarh etc. provided Rs 50,000 fixed remuneration per month to Court Managers. However, in Tamil Nadu the pay scale prior to 2015 was Rs.15,600-39,100 plus Grade Pay of Rs.6,600. Further, in Sikkim, as of a 2017 circular, Court Managers at the High Court level were provided a consolidated salary of Rs 20,000 per month, while in Tripura Court Managers in the High Court received a salary of Rs 64,800 per month. In Gujarat as of 2017, Court Manager's remuneration was fixed at 7 lakh per annum with 10% incentive for effective work. Annexure A provides a state-wise variation of remuneration for Court Managers in the country.

Further, while certain high courts have created proper pay scales and allowances for the position of Court Managers, several other high courts have only provided a fixed and a flat pay scale. The question that arises

⁹⁷ See High Court of Manipur, Advertisement No. HCM/A-69/2014-Estt/1098 dated 19 July 2014, available online at https://hcmimphal.nic.in/Documents/Advertisement_CM.pdf (accessed on 6 June 2020); High Court of Karnataka, Order No. LCA-II-74/2011 dated 12 June 2014, available online at <http://karnatakajudiciary.kar.nic.in/recruitmentNotifications/cm-appointment-12062014.pdf> (accessed on 29 March 2020); High Court of Calcutta, Employment Notice No. 2125-RG dated 6 June 2013, available online at <https://www.calcuttahighcourt.gov.in/Notice-Files/recruitment-notice/995> (accessed on 3 June 2020); High Court of Chhattisgarh, Advertisement No. 01/S & A Cell/2013 dated 10 May 2013, available online at http://highcourt.cg.gov.in/rec/courtmanager_adv.htm (accessed on 2 June 2020).

⁹⁸ Madras High Court Adhoc Rules for Court Managers – 2012, available online at <http://www.hcmadras.tn.nic.in/rules17of2012.pdf> (accessed on 6 June 2020).

⁹⁹ High Court of Sikkim, Employment Notice, No. 6594/Estt./HCS dated 25 September 2019.

¹⁰⁰ High Court of Tripura, Advertisement, No. F.84(4)(b)-HC/2019/14113 dated 26 August 2019, available online at http://thc.nic.in/notification/14113_recruit_26-08-2019.pdf (accessed on 6 June 2020).

¹⁰¹ High Court of Gujarat, Advertisement No. RC/B/1304/2017 dated 27 April 2018, available online at https://hc-ojas.guj.nic.in/AdvtDetailFiles/Detail_Advertisement_CM_201819.pdf (accessed on 6 June 2020).

is, what should be the remuneration provided to Court Managers? Given their prior work experience and the work they are expected to perform, it is imperative that high courts set a reasonable pay scale. To this end, the pay scale adopted by the Patna High Court comparatively seems to be most appropriate. As per the circular issued by the Patna High Court in 2015, the salary of Court Managers in the High Court was set at Rs. 37400- 67000 with Grade Pay of Rs. 8700.¹⁰² In the civil court, the salary was Rs. 27700-770-33090.¹⁰³ Dearness Allowance was also provided from time-to-time. Hence, not only has the Patna High Court created a much-needed separate salary structure for Court Managers in the high court and district courts, the overall salary is also seen to be commensurate with the prior work experience and the current job profile of Court Managers.¹⁰⁴ Therefore, Patna High Court's pay scales can form the model pay structure that can be adopted by other high courts in the country.

f. Providing hierarchical tiers with scope for promotion:

Another important aspect that needs to be focussed upon is the need to set up hierarchical tiers within the post of Court Managers. Promotions can act as an incentive for current as well as prospective Court Managers. While there are only a handful of states that have established promotional structure, other states also need to make a provision regarding promotions. Further, even the work experience with regard to the appointment must differ for high courts and district courts. Only a handful of states have come up with a hierarchy and promotional framework for Court Managers. For instance, Punjab and Haryana have established three different tiers that comprise of Court Managers Grade-II, Court Managers and Senior Court Managers.¹⁰⁵ Each of these three tiers has a different pay scale. Further, in Punjab and Haryana, Court Manager Grade-II is entitled to be promoted as a Court Manager based on performance, merit and completion of five years of service.¹⁰⁶ Accordingly, Court Managers are entitled to be promoted as Senior Court Manager after completion of 12 years in service.¹⁰⁷ A similar hierarchy can also be seen to be established by the Madhya Pradesh High Court. As per the Rules, in district courts, two posts have been created, one of the Court Managers and another of Senior Court Managers. In the High Court, four posts have been created that comprise of the Court Manager, Senior Court Manager, Additional Principal Court Manager and Principal Court Manager.¹⁰⁸

¹⁰² High Court of Patna, Advertisement No. 3/2015, dated 10 November 2015, available online at <http://patnahighcourt.gov.in/exam/dstcm/cm.pdf> (accessed on 28 May 2020).

¹⁰³ High Court of Patna, Advertisement No. 3/2015.

¹⁰⁴ Based on interviews.

¹⁰⁵ Rana and Nagi, para 42.

¹⁰⁶ Rana and Nagi, para 42.

¹⁰⁷ Rana and Nagi, para 42.

¹⁰⁸ High Court of Madhya Pradesh, No. B/4661 dated 13 September 2019, available online at https://mphc.gov.in/PDF/web_pdf/CI/B-4661%20dated%2013-09-2019.PDF (accessed on 6 June 2020).

The structure established by these two high courts can form the model for different states too. A promotional structure for Court Managers in the system would help in attracting more candidates and can constitute an added incentive which they can aspire to achieve.

g. Creation of a separate administrative set up:

Court Managers can become the centre for an administrative set up in courts. With the integration of various technological platforms in the judiciary, Court Managers can become the nexus between technology and courts. DAKSH has been advocating the use of a next-generation technological platform for the justice system.¹⁰⁹ Even the Supreme Court recently has indicated the regularization of the use of technology in terms of e-filing and video conferencing in courts.¹¹⁰ With the infusion of technology, Court Managers can act as a first in a series of steps for a separate administrative set-up and use of technology.

h. Providing support staff:

Court Managers cannot function alone in the system. For them to perform their tasks efficiently, it will be important to provide them with appropriate support staff such as stenographers, clerks etc.

i. Setting up a court management platform:

In certain countries such as the United States and Australia, there are court management associations that include a wide-network of Court Managers, judges, and certain other stakeholders. These organizations are responsible for promoting research, publishing reports, circulating newsletters and holding conferences with the objective of improving court administration techniques. These platforms form a repository of knowledge for all those who want to understand court management concepts. Such a platform can be of immense help in India too. Currently, in India, there already exists a website called ‘courtmanagement.in’¹¹¹ that provides research papers and government notifications relating to Court Managers. To make the platform more robust, it would be necessary that all the Court Managers come together to promote research and design conferences that can open discussions on effective and innovative court management solutions.

¹⁰⁹ See DAKSH, Next Generation Justice Platform, available online at <https://dakshindia.org/next-generation-justice-platform/> (accessed on 28 May 2020).

¹¹⁰ See Supreme Court of India, ‘Standard Operating Procedure for Ld. Advocate/Party-inperson for Mentioning, e-Filing and Video Conferencing Hearing’, available online at https://main.sci.gov.in/pdf/LU/15042020_134922.pdf (accessed on 6 June 2020); See also Bar and Bench. 2020. ‘Functioning of Courts via Video-Conference, High Courts to use own modalities for hearings during lockdown, “Technology here to stay”, SC’, Bar and Bench, 6 April, available online at <https://www.barandbench.com/news/litigation/functioning-of-courts-via-video-conference-technology-here-to-stay-sc-says-hcs-to-use-own-modalities-for-hearings-during-lockdown> (accessed on 2 June 2020).

¹¹¹ See Court Management in India, available online at <http://courtmanagement.in/> (accessed on 5 June 2020).

8

CONCLUSION

The introduction of the post of Court Managers was expected to revolutionize management in the judiciary. Their role was created to bring a positive change in the system. However, the past decade has proved to be difficult for Court Managers as they faced and continue to face several issues in their functioning as highlighted in this paper. They have been working in a sphere which has failed to recognize their importance and has been unable to fully absorb them into the system. Due to these issues, Court Managers have not been used to their optimal level. This has been the story of Court Managers so far in the country. Despite higher courts emphasizing their position, Court Managers have not been the subject of focus. A change in the judicial system cannot be brought externally but by forces working within the system. To optimize their functioning, judges will have to accept them into the system and maximize their capabilities. While Court Managers have been functioning in different capacities in various district courts and high courts, their role needs to be expanded and clarified. The Supreme Court can also lead from the front by creating a post of Court Managers in its own establishment and entrust them with various administrative duties. The Supreme Court in its 2018 judgment had stated that Court Managers can improve the efficiency of the system and their position needs to be regularized, it, however, did not explore the possibility of creating this post in Supreme Court itself. Perhaps, the apex court can implement the post to set an example for courts in the country to follow. After all, there are a lot of administrative duties that can be streamlined even in the Supreme Court. This can pave the way for several Court Managers in the rest of the country too. While India moves into a new decade, one can only wish that Court Managers receive their due place within the system. Unless the authorities take up the necessary steps to make Court Managers an integral part of the judiciary, the issues they face will continue to persist. These changes are long overdue and need to be brought about at the earliest.

ANNEXURE

STATE	REMUNERATION	SOURCE	DATE
Uttar Pradesh	Rs. 50,000 per month	Notification by Allahabad High Court	14-08-2018
West Bengal	Rs. 45,000 per month	The Calcutta High Court Service (Conditions of Service and Recruitment of Court Manager) Rules, 2012.	03-01-2013
Assam	Rs. 30,000 - Rs 1,10,000 (PB4) with Grade Pay of Rs. 14,500	Gauhati High Court (Appointment and Conditions of Service of Court Managers for the State of Assam) Rules, 2018	15-10-2018
Gujarat	Rs. 7,00,000 per annum	Advertisement No. RC/B/1304/2017	27-04-2018
Himachal Pradesh	Rs. 40,000 per month	Notification No. HHC/Estt.7(35) 2005	22-07-2013
Jharkhand	Rs. 50,000 per month for High Court and Rs. 40,000 per month for District Courts	Notification No. 36/A	02-02-2012
Karnataka	Rs. 50,000 per month for District Courts	Order No. LCA-II-74/2011	12-06-2014
Kerala	Rs. 11,910 to 19,350 per month for District Courts	Order No. Bi-66563/2014	25-08-2014
Maharashtra	General Manager (High Court)-Rs. 76,600 per month, Sr. Court Manager (District Courts)- Rs. 66,400 per month and Court Manager (District Courts)- Rs. 52,900 per month	Maharashtra Court Manager Recruitment and Conditions of Service Rules, 2011	2011

STATE	REMUNERATION	SOURCE	DATE
Tamil Nadu	Rs.15,600-39,100 plus Grade Pay of Rs. 6,600	Madras High Court Ad hoc Rules for Court Managers – 2012	01-02-2012
Manipur	Rs. 50,000 per month	Advertisement No. HCM/A-69/2014-Estt/1098	19-07-2014
Madhya Pradesh	Rs. 15,600 to 39,100 with Rs. 5,400 Grade pay in District Courts	Advertisement No. 176	25-09-2019
Odisha	Rs. 45,000 per month	No. 2045 XIX-18/2010	06-03-2012
Haryana (District Courts)	i) Court Managers Grade II-Rs. 9,300 - 34,800 with grade pay of Rs. 5,400 ii) Court Managers-Rs. 15,600 - 39,100/ with grade pay of Rs. 5,400 iii) Senior Court Managers - Rs. 15,600 - 39,100 with grade pay of Rs. 6,600	Punjab and Haryana High Court: CWP No. 6612 of 2015 (judgment dated 12th September 2019)	12-09-2019
Punjab (District Courts)	i) Court Managers Grade II-Rs. 10,300 - 34,800 with grade pay of Rs. 4,800 ii) Court Managers-Rs. 10,300 - 34,800 with grade pay of Rs. 5,400 iii) Senior Court Managers - Rs. 15,600 - 39,100 with grade pay of Rs. 6,600	Punjab and Haryana High Court: CWP No. 6612 of 2015 (judgment dated 12th September 2019)	12-09-2019
Punjab and Haryana High Court and Chandigarh District Court	i) Court Managers Grade II-Rs. 10,300 - 34,800 with grade pay of Rs. 4,800 ii) Court Managers-Rs. 10,300 - 34,800 with grade pay of Rs. 5,400 iii) Senior Court Managers - Rs. 15,600 - 39,100 with grade pay of Rs. 6,600	Punjab and Haryana High Court: CWP No. 6612 of 2015 (judgment dated 12th September 2019)	12-09-2019

STATE	REMUNERATION	SOURCE	DATE
Bihar	i) Court Managers for High Court PB-4 (Rs. 37400-67000) + GP Rs. 8700 ii) Court Managers for Civil Court Rs. 27700-770-33090	Advertisement No. 03/2015	10-11-2015
Rajasthan	Rs. 60,500 per month	Rajasthan High Court Staff Service Rules 2002	01-11-2019
Sikkim	Rs. 20,000 per month for High Court	Employment Notice No. 6594/Estt./HCS	25-09-2017
Tripura	Rs. 64,800 in the pay matrix level 15 of Tripura State Civil Services (Revised Pay) (First Amendment) Rules, 2018	Advertisement No. F.84(4)(b)-HC/2019/14113	26-08-2019
Uttarakhand	Rs. 75,000 per month High Court and District Courts	Advertisement No. – /Court Managers/2014	11-08-2014
Chhattisgarh	Rs. 50,000 per month	Chhattisgarh High Court (Appointment and Conditions of Service of Court Managers) (Chhattisgarh) Rules, 2012	2012

*Note: The list is compiled based on the notifications available online.



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