Summary

Chapter I  Introduction

Since long common man has faith and confidence in judiciary. Present judicial system was adopted from British system. After independence no vast changes were made in the judicature. It is said that ‘Delay defeats justice’ and ‘Justice delayed is justice denied’. The quality of judicature depends upon persons involved in it such as legal practitioners, judicial officers, police officers, ministerial staff of the courts and litigants.

So far as criminal cases are concerned in the year 1978 the Hon’ble Supreme Court, held that speedy trial is the fundamental right of accused. Since then, time and again the Apex Court, has given directions that the criminal cases be tried speedily as early as possible i.e. speedy trial. Researcher was working as Civil Judge Junior Division and Judicial Magistrate First Class, since 1990. He was on deputation for training at Judicial Officers Training Institute, Nagpur, in the year 1995. In the second week of February, 1995 Annual General Meeting of Judicial Officers Association, was held at District Court, Nagpur. Hon’ble the Chief Justice of India, was chaired in the meeting. While addressing the meeting, His Lordship put up a question.

"Can anybody show me any redundant provision in C.P.C. or Cr.P.C. ?"

His Lordship remarked that every body is saying that procedural laws are become out dated but no body is coming forward to give solution to tackle the problem of arrears of pending cases and their increasing trend. His Lordship also remarked that whether we need an expert in management to tackle the problem? The view of the Hon’ble the Chief Justice, was seems to be that a judge should not act only as a judge but he must act as a manager also. The Researcher is having post graduate degree in Business Management and Administration. The question put up by His Lordship
struck to the heart of researcher. Researcher accepted the task to study the situation of arrears of pendency of cases.

Thereafter, researcher sought permission of the Hon'ble Bombay High Court, to register himself as research student in the faculty of Management [Commerce] at Amravati University. On getting permission from the Hon'ble High Court, the researcher started his research.

The researcher studied various reports, those were submitted to the State Government, Central Government, Hon'ble Supreme Court and Hon'ble Bombay High Court since 1904. They are:

- Report of Mr. Joseph [Bokaro Committee] 1904
- Report of Organisation Committee [Thomos Committee], 1932.
- Report of Shri. V.A. Naik [Special Officer then District and Sessions Judge Pune] 1957.
• Report of Justice Mallimath Committee 1990.

Manudhan Study Group, studied various activities of ministerial staff, pendency, institutions and disposal of civil and criminal cases. The study group came to conclusion that as staff was in adequate therefore there was no efficiency. Hence it suggested that ministerial staff be increased. It provided category wise courts based on grades. Though the staff was increased after the year 1986 the rate of disposal is not increased. It seems that the problem of arrears could not be solved by the solution provided by Manudhane Study Group.

In the year 1987, the conference of Chief Justices was held. A committee was formed of three Chief Justices under chairmanship of Chief Justice Shri. V.S. Mallimath. The committee submitted its report in the year 1990. On going through the Mallimath Committee report, the researcher found that most of the suggestions made by it applicable to the cases pending in the Hon Supreme Court and High Courts. It suggested amendment in criminal laws. The recommendations made by Justice Mallimath committee are as follows.

• Resolution of conflict decisions amongst High Courts.
• Judges punctuality in attendance.
• Cases contribute the loss of judicial time.
• Strike, act defer in appearance of lawyers.
• Convention to be established.
• Increase in working hours/days.
• Proper choice of counsel for the State and other authorities.
• Closing of courts on the death of dignitaries and other occassions.
• Relation of Chief Justice with pusine judges.
• Appointment of judges as commission under the Commission of Inquity Act.

• Inadequancy of staff.

• Utilisation of computer and other modern technology.

• Paucity of funds and need of Central assistance.

• Avoidance of hasty and imperfect legislations.

• Training to Govt. Officers in general number of laws relating statutes.

• Need to provide alternative machinery for grievances.

On going through Code of Civil Procedure, Code of Criminal Procedure, Civil Manual, Criminal Manual, Evidence Act and other procedural laws there are many useful provisions for speedy trial of civil and criminal cases but these provisions are not followed by judicial officers, advocates, public prosecutors, police and litigants and that might be one of the reason for arrears of pendency of cases. Similarly if there is a proper management of witnesses, files, cases and duties of ministerial staff, the problem of arrears would be solved. Presently whether manpower is utilised efficiently and economically? Whether by following procedural laws strictly at the relevant stages of proceedings problem of arrears can be solved? Present study is undertaken to find out factors for arrears of pendency and to provide a solution to it without seeking financial assistance from the Government.
Chapter II  
Objectives of Research and Methodology.

- To study the extent and causes of pendency of cases in courts of C.J.J.D and J.M.F.C in the State of Maharashtra.
- To study the existing system, organisation and procedure at lower courts i.e. C.J.J.D and J.M.F.C.
- To suggest method for evaluation of work (efficiency) of judicial officers and to provide a mode for improvement in judicial work.
- To analyse duties of ministerial staff to suggest administration reforms.
- To suggest measures for regularity and economy in respect of expert witnesses and police witnesses in criminal cases.
- To suggest measures for attendance of under trial prisoners regularly and economically.
- To critically examine the provisions of law regarding appointment of counsel for victims in criminal cases and its impact on disposal of cases.

Scope of Study

The study covers C.J.J.D and J.M.F.C courts only. The detail analysis of cases pertaining to the year 1980 and 2000 has been made.

Nature and type of data required.

To study objectives of research data was required on the following points
• Total number of various categories of civil and criminal cases pending on 31.12.2000 in the courts of C.J.J.D and J.M.F.C in the State.

• Number of advocates (Senior and Junior) available in each court at every station.

• Total number of staff provided to each court.

• Total number of typewriters available in each court and their conditions.

• Whether advocates and parties followed provisions of C.P C., Cr.P.C. and Evidence Act, properly at relevant stages in the trial of civil and criminal proceedings?

• Whether assistant public prosecutors followed provisions of section 294 of Cr.P.C. in the trial criminal cases?

• How many civil, criminal and other cases received by each court per day?

• How much time required by a judicial officer for administrative work?

• How much time required by each judicial officer for remand work and other judicial work?

• Furniture provided to each court and its condition.

• How judicial officers are getting typewriters serviced or repaired? Privately or through Govt. agency.

• How many cases are kept on daily board by each judicial officer?

• Availability of public prosecutor in each court.
• Total number of pending cases relating to bodily injuries as on 31.12.2000.

• Total number of summary cases pending on 31.12.2000.

• Total number of cases put up on dormant file during period 1.1.2000 to 31.12.2000

• Total number of cases disposed of during period 1.1.2000 to 31.12.2000 in view of Common Cause Society case judgement.

• Procedure adopted by judicial officers for procuring attendance of witness/medical officer/l.O. to record their evidence in court.

• Procedure adopted by each judicial officer for doing daily judicial work.

• Atmosphere available at work place.

• Facilities available to staff such as lunch room, drinking water, urinals and etc.

• Service of summons in criminal cases in Rural and Urban areas.

Sources of Data.

Primary data was collected through questionnaires from all judicial officers who were working as C.J.J.D and J.M.F.C and assistant superintendents of taluka courts, by sending questionnaires A, B and C respectively.

Secondary data was collected from reports and books. The data relating to pending cases in the year 1980 and staff provided to various courts in the year 1980 was made available from the report of Manudhane Study Group.
The collected data was presented in tabular forms in four tables, Table No.1 T-1, Table No.2 T-2, Table No.3 T-3, and Table No.4 T-4. No information was received from Amravati and Chandrapur districts.

The collected data was analysed and interpreted by determining percentage method to show in how many courts procedure laid down in C.P.C. and Cr.P.C. Evidence Act, Civil Manual and Criminal Manual were followed strictly. In how many courts directions given in Common Cause Society case judgement by Apex Court has been followed continuously? What was the impact of increased staff on the disposal of cases? The relation between pendency of cases and number of legal practitioners available in courts.

Limitations of study

Involvement of legal practitioners is inseparable part of the judicial system. No reform is possible without their cooperation.

Though the questionnaires were sent to 642 judicial officers in the year 2000. All did not respond to the request. Out of 642 courts responses were received from 211 courts. This a fair representation.

It is assumed that responses given by the Judicial Officers are reliable. However researcher at certain stages had doubts of information. This fact has been mentioned in the report at appropriate places.

Organisation of Report

- Chapter-I Introduction.

In chapter first introduction of research subject is given. Similarly terms of references and findings of previous reports are given in brief. The importance of present research to overcome the problem of arrears is discussed.
Chapter II Objectives of Research and Methodology.

Chapter two contains introduction to problem of arrears. It describes research objectives, the nature and type of data required, method for collection of data and sources of secondary data. Organisation of the report and limitation of study are also discussed in this chapter.

Chapter III Review of Judicial System.

This chapter contains history of Indian judicial system. From where it was brought. How and when changes took place in it. Reasons for independence of judiciary. Appointment of judges and jury. Method of administration of justice past and present.

Chapter IV Organisational set up and procedural aspects of judicature

This chapter contains organisational set up and its three tier judicature system. It contains procedure which is followed for trial of civil as well as criminal cases. Duties of ministerial staff of various branches are also listed in this chapter.

Chapter V Pendency of Civil and Criminal cases

This chapter discusses pendency of civil and criminal cases in the year 1980 and 2000 district and taluka wise. It contains rank wise pendency. Lowest number of pendency was given rank first. The rank wise pendency shows relation between number of pending cases and staff provided. It also contains various category wise pendency of civil and criminal cases.

Chapter VI Analysis and interpretation of data.

This chapter contains analysis of data relating to provisions of C.P.C and Cr.P.C. followed by courts, advocates, litigants, public prosecutors
and police. There were 642 courts of C.J.J.D and J.M.F.C in the State in the year 2000. Out of these 247 were principal taluka courts. The questionnaires A and B were sent to all judicial officers through Hon'ble High Court and their respective District judges. Questionnaire C was sent to assistant superintendents of taluka courts. Information received only from 211 judicial officers [courts]. No information was received from Amravati and Chandrapur districts. The data was analysed and interpreted by using percentage method. This chapter also contains micro analysis of work judicial officers. How judicial officers managed their daily judicial work optimum.

- Chapter VII Conclusions and Recommendations.

This chapter contains conclusions and recommendations made for the implementation of this report.

- Chapter VIII Administration Reforms.

This chapter contains various administration reforms suggested by researcher for efficiency, improvement and economy. Maintenance of equipment's. Management of human resources efficiently and economically. If victims are given liberty to conduct their [cases] prosecution by the pleaders of their own choice and its impact on the disposal of criminal cases. At last summary of the report is given.
Chapter III  Review of Judicial System.

In 1600\textsuperscript{th} century East India Company, was administering justice. The company was empowered to make laws for administering civil and criminal justice. The judges were civil servants of East India Company. In superior courts trials were by jury. Some restrictions were put by the company for trial of suit between Indians. Recorder's court was established in the year 1798. Appeal lay from the decision of Recorder's court to the King in council. In the year 1824 Supreme Court was established in Bombay. This court consisted of Chief Justice and two judges. Since then clashes developed between executives and judiciary. A struggle was started for independence of judiciary.

At the same time civil and criminal courts called Suddar Divani and Fouzdar Adalat was established in Bombay. Suddur Divani Adalat was invested with civil jurisdiction to hear and determine appeals against the decrees and orders passed by Zilla Courts, where European judges were presided might avail itself assistance of respectable, Indians by referring the suit or any point to panchayat of such persons who were to carry on their enquiry apart from the court and report the result. Supreme Court generally applies English law to its proceedings except in suit where in defendant was Hindu or Mohameden. The courts in Mofussil did not follow English law and procedure. They followed principle of equity, justice and good conscience.

In 1861 Supreme Court, Suddur Divani and Fouzdar Adalat, were abolished. Three benches of High Court were established at Bombay, Bengal and Madras vested with original and appellate jurisdiction of Supreme Court and Suddur Divani and Fouzdar Adalat.

After commencement of Constitution India on 26\textsuperscript{th} January 1950, it provided independent judiciary, establishment of superior courts, appointment of
judges of Supreme Court and High Courts. The courts which were established before commencement of the Constitution, were continued to function thereafter also. Independence of the judiciary is a main feature of our judicial system.

Chapter IV Organisational set up and procedural aspects of judicature.

There is a three-tier system of courts in the State.

- Court of District and Sessions Judge.
- Court of Chief Judicial Magistrate.
- Court Civil Judge Senior Division.
- Court of Civil Judge Junior Division.
- Court of Judicial Magistrate First Class.

Powers of Criminal Courts.

- Sessions Judge, has power to pass a sentence of imprisonment for a life or capital punishment.
- Chief Judicial Magistrate, may pass any sentence authorised by law except sentence of death or imprisonment for life or imprisonment for a term exceeding 10 years or unlimited amount of fine or both.
- J.M.F.C has power to award sentence of imprisonment, not exceeding three years or fine not more than Rs. 5000 or both. He has appellate jurisdiction under Maharashtra Municipalities Act.

Powers of Civil Courts.
• District Judge is empowered to try civil suits of special jurisdiction similarly he has power to hear appeals of having monetary valuation to the extend Rs.2 lakh.

• Civil Judge Senior Division, has a jurisdiction to try suits of any valuation. He has appellate jurisdiction such as reference under Land Acquisition Act.

• Civil Judge Junior Division has a jurisdiction to try suits of monetary valuation to the extent of Rs.1 lakh.

Following Categories of Criminal cases which are filed in the court of J.M.F.C.

• Warrant cases I.P.C.

• Warrant cases under other Acts.

• Summary cases (Indian Penal Code)

• Summary cases under other Acts.

• Summary cases under Bombay Prevention of Prohibition Act.

• Presentation of complaint by private parties.

• Cases under section 125 of Cr.P.C.

• Miscellaneous cases under Cr.P.C.

Following categories of Civil cases are filed in the court of Civil Judge Junior Division

• Suits

• Darkhasts (Execution of decrees) various type
• Other Miscellaneous proceedings as prescribed in chapter 19 & 20 of Civil Manual.

Procedure for trial of a suit by a C.J.J.D.

• Presentation of plaint by plaintiff.
• Service of summons on defendant.
• Filing of written statement by defendant.
• Production of documents by parties.
• Framing of issues by Court.
• Filing of list of witness by parties.
• Recording of evidence of parties and witness by court.
• Argument.
• Judgement.

Procedure for disposal of execution cases

• Presentation of execution application.
• Issue of notices to J.D. U/o 21 Rule 22, 34 and 37, of C.P.C.
• Filing of reply by J.D.
• Passing further orders by court for progress of execution u/o 21 Rule 43, 54, 66, 38 and 35 of C.P.C.

Procedure for trial of criminal cases (warrant state case) by a JMFC
• Presentation of charge sheet by police.

• Issuance of process. Taking cognizance by a magistrate.

• Appearance of accused.

• Releasing accused on bail.

• Framing of charge.

• Evidence of prosecution.

• Statement of accused u/s.313 of Cr.P.C.

• Evidence for defence Argument and judgement.

Procedure for trial of summons case state or private complaint by J.M.F.C.

• Presentation of charge sheet/complaint.

• Issuance of process/taking cognizance.

• Appearance of accused.

• Releasing accused on bail.

• Explaining particulars of offence to accused.

• Evidence of prosecution.

• Statement of accused u/s.313 of Cr.P.C.

• Defence evidence.

• Argument and judgement.

Procedure for trial of warrant complaint case by a JMFC.

• Presentation of complaint.
- Issuance of process/taking cognizance.
- Supply of copies of documents to accused.
- Releasing accused on bail.
- Evidence of prosecution [complainant and his witness before charge].
- Argument of both sides on the point of framing charge.
- Framing charge.
- Evidence of complainant / prosecution.
- Statement of accused u/s.313 of Cr.P.C.
- Evidence of defence.
- Argument
- Judgement.

Other judicial work performs by a Magistrate.

- Remand work.
- Committal proceedings.
- Calling back non bailable warrants.
- To deal with applications for return of property.
- Admission cases.
- Verification of muddemal
- Administrative work.
Ministerial staff and their duties, provided to principal taluka court.

<table>
<thead>
<tr>
<th>Position</th>
<th>Duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Superintendent-I</td>
<td>To look after work of administration and establishment.</td>
</tr>
<tr>
<td>Assistant Superintendent-II</td>
<td>Cash and Finance (Nazir).</td>
</tr>
<tr>
<td>Stenographer</td>
<td>To take deposition and dictation and type judgements.</td>
</tr>
<tr>
<td>Bench Clerk (civil) Sr.Clerk Court Shirstadar</td>
<td>To deal with ready matters. Take deposition. To put up cases before a judge. Write roznamas.</td>
</tr>
<tr>
<td>Asstt to Bench Clerk (civil) Jr.Clerk</td>
<td>To deal with institutions and registration of proceedings.</td>
</tr>
<tr>
<td>Asstt to Bench Clerk (Jr.clerk)</td>
<td>To deal with unready matters.</td>
</tr>
<tr>
<td>Asstt to Bench Clerk (Jr.clerk)</td>
<td>To deal with darkhasts.</td>
</tr>
<tr>
<td>Assistant to Nazir (Jr. Clerk)</td>
<td>Bill clerk to prepare all types of bills. To assist nazir in maintaining accounts.</td>
</tr>
<tr>
<td>Assistant to Nazir (Jr.Clerk)</td>
<td>Copying clerk to deal with certified copy work and to write account of copying.</td>
</tr>
<tr>
<td>Position</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Muddemal Clerk (Jr. Clerk)</td>
<td>Custodian of Muddemal of criminal cases. To deal with receipt / disposal and maintain registers of muddemal.</td>
</tr>
<tr>
<td>Bench Clerk Sr. Clerk (Criminal Side)</td>
<td>To deal with criminal ready matters. To take deposition. To write roznama.</td>
</tr>
<tr>
<td>Assistant to Bench Clerk Jr. Clerk</td>
<td>To deal with unready matters.</td>
</tr>
<tr>
<td>Assistant to Bench Clerk Jr. Clerk</td>
<td>To deal with remand work and committal proceedings.</td>
</tr>
<tr>
<td>Library Clerk</td>
<td>To deal with library and statistical returns.</td>
</tr>
</tbody>
</table>

The basic unit of staff is provided to principal court is shown above. It was assumed by Manudhane Study group, that at least 200 to 250 cases were pending in each court. Manudhane Study Group, prepared various grades of courts I to XII considering average institutions, disposal and pendency of proceedings. The staff was suggested according to grade of court. Pay scale of ministerial staff is also given in the chapter. In this chapter researcher discussed organisational set up and procedural aspects of judicature i.e. courts of C.J.J.D. and J.M.F.C. In the next chapter V pendency of various categories of cases in the year 1980 and 2000 is shown.
Chapter V  Pendency of cases

In this chapter various categories of cases pending in the year 1980 and 2000 shown in tabular form district and taluka wise. To show relation between pendency of cases and staff provided is shown by preparing ranking tables. Lowest number of pendency was given first rank. The information was sought from 642 courts but 211 courts have sent information. Some courts have not supplied full information as asked for, therefore, the courts which have supplied all necessary information have considered for the purpose of analysis. In the opinion of the researcher information received from 211 courts is the fair representation. A look on the information and its analysis shows that there was a mix trend of pendency. In some courts total pendency decreased as compare to the year 2000. Further analysis shows declined in respect of criminal cases. It also seen that pendency of civil matters in all courts have increased. It leads to conclusion that arrears of civil cases are increasing where as criminal cases were getting reduced. It does not mean that crimes have declined of certainly not. In the year 1996 the Apex court delivered a judgement in Common Cause Society v/s. Union of India and directed all criminal courts to dispose of certain category of cases which are covered by the judgement. As a result cases were reduced. This has been resulted in sizable reduction of pending criminal cases. Considering entire situation, one has to conclude that the pendency is on rise even though number of courts increased from 295 in 1980 to 642 in 2000.
Relation between staff, pendency and number of advocates available at each station in court is also shown to determine their impact. The power to decide a case is vested in a Judge/Magistrate. It cannot be delegated but entire responsibility cannot be passed on a Judge/Magistrate. This is mainly because of the fact that a judge is bound by the law and the procedure. A major part of procedure is beyond his control as it is domain of the advocates. Not following procedural laws strictly by persons involved in the judiciary may be a cause of pendency. To verify this factor it was thought necessary to obtain opinion of judicial officers. The next chapter presents analysis and interpretation of information obtained from judicial officers working in the courts of C.J.J.D. and J.M.F.C. in the State regarding pendency and procedural matters.
Chapter VI  Analysis and interpretation of data.

Data received from 211 courts shows in how many courts provisions of C.P.C. are strictly followed for trial of suits.

Total number of courts. 642

Information received from courts. 211

- Parties do not file list of documents with written statement. 100%
- Parties do not file list of witness on the stage of settling date. 71%
- Courts do not keep a stage for admission or denial of documents. 58%
- Practice of notice to produce documents or to admit fact followed in courts by parties and advocates. 14%
- Average time required to file written statement. Six months.
- Issue framed by judges in suits on the stage of issues. 100%
- Courts keep a stage for hearing of temporary injunction application u/o 39 Rule 1 of C.P.C. 100%
Above analysis shows that provisions of C.P.C. are not followed strictly by all persons involved in the judicature. Civil procedure Code, Civil Manual and Evidence Act provide various provisions for curtailing oral evidence and to speed up trial civil proceedings. But these provisions are not followed properly at relevant stages of proceedings therefore this is one of the reason for arrears of pending cases.

Before amendment in C.P.C. evidence of witness was recorded by examination in chief before court. After amendment in C.P.C. 2002 evidence of witness can be given on affidavit under order 18, Rule 4 and 5, but there was some controversy about order 18 Rule 4 and 5 i.e. appealable and non appealable cases. That controversy has been resolved by the Hon'ble Supreme Court, in the year 2003 in a case reported in Maharashtra Law Journal 2003 (3) 841 Madhur Enterprises v/s. Orient Commerce.

Apex court held that

"Recording of evidence by way of examination in chief on affidavit. Considering intention of parliament in sub Rule 4 and 5 of Order 18 which have to be mean by all cases and not restricted to those where an appeal lies."

The purpose of examination in chief on affidavit is to save time of courts, advocates and parties.

On analysis of data of civil cases shows that the life of litigation increases by not following provision of C.P.C., Civil Manual and Evidence Act, properly at relevant stages of proceedings. If there is a proper management of files, witness and judicial work pendency of civil cases can be reduced. Present procedural laws are enough to tackle the problem of arrears with few modification.
Criminal Side

Analysis and interpretation of data of criminal cases.

Trial of criminal cases governed by chapters - 21 to 27, 29 and 30 of Code of Criminal Procedure and Chapter 3 of Criminal manual.

In criminal cases entire burden lies on prosecution to prove the guilt of accused. The information received from 211 criminal courts shows pendency of criminal cases as on 31.12.2000 are as under:

- Total number of pending cases: 2,42,949
- Out of these Summary cases were: 1,72,599
- Total number of bodily injury cases: 62,276

(i.e. u/s.324 to 338 and 352 to 358 of Cr.P.C.)

Framing of charge in criminal case is of considerable importance as it gives idea to prosecution what facts it has to prove. It also gives notice to defence regarding accusation, it has to face during trial. What evidence is to be adduced depends upon the nature of charge? While framing charge, magistrate has to give personal attention to the provisions of sections 211 to 213 and 218 to 221 and Form No.32 of Schedule II of Code of Criminal Procedure. If charge is not framed properly, defence may apply for its alteration. If charge is altered then prosecution may re-examined witnesses those have been examined which increases life of litigation. Similarly if charge is not framed correctly it may give benefit of doubt to accused to get acquittal.

The information received from 211 criminal courts shows that 105 courts keep a particular day for recording evidence of Medical Officers / Doctors and Investigating Officers.

In case of bodily injury, prosecution has to examine doctor to prove injury certificate. If it is not admitted by defence. If he is not examined then
accused will get benefit of doubt for the acquittal from the charges of bodily injuries.

The information received from 211 courts shows that in 50% courts medical officers did not attend court those have been transferred. It means that accused get benefit of doubt in 50% cases of bodily injuries for acquittal. If court manages his judicial work properly, the attendance of medical officers / Investigating officers would be procured regularly and economically.

For example :-

If Medical Officer / Investigation Officer A, is having 50 cases pending in court 'B' then he has to attend the court 50 or more times to give evidence. If these 50 cases are put up on seven particular days, then evidence of M.O. / I.O. can be recorded at least in seven cases on every day. This is noting but management of witnesses and daily board.

Generally in each case prosecution has to prove following documents:-

- Spot Panchanama.
- Seizure Panchanama.
- Injury Certificate.
- First information Report.
- Charge Sheet.

To prove each document prosecution has to examine at least one or more witness on each document. Some time there is no incriminating in these documents considering nature of charge. As there is no incriminating in these documents, defence may admit them.

The information received from 211 courts shows that in 144 courts public prosecutors did not give notice to defence u/s.294 of Cr.P.C. to admit these documents. If provision of section 294 of Cr.P.C, is followed properly
by public prosecutors life of criminal cases could be reduced and trial can be speeded up.

Putting cases on dormant file

The purpose of putting cases on dormant file is unready cases may not have to be handled frequently by a magistrate or ministerial staff. This provision is given in criminal manual.

Information received from 211 courts shows that during the period 1.1.2000 to 31.12.2000 out of 2,42,949 cases only 1099 cases were put up on dormant file. When the number dead matters i.e. unready matter is huge. This shows that instructions given in criminal manual were not followed by J.M.F.C.courts.

Stopping of proceeding u/s.258 of Cr.P.C.

Magistrate is empowered to stop the proceeding of summary cases in certain case. These cases may be where accused is attending court regularly but prosecution does not bring its witnesses. Out of 1,72,599 pending cases, proceedings were stopped in 7577 cases during the period 1.1.2000 to 31.12.2000.

Evidence of formal character on affidavit

While making investigation by police they have to follow certain steps or procedure for completion of investigation and filing of charge sheet. Police officers those were involved in this procedure are shown as witnesses in charge sheet. To prove complete chain of prosecution case it has to examine these witnesses in court. These witnesses some time may not be cross examined by defence as their evidence is of formal character. Section 296 provides evidence of formal character may be given on affidavit. This
provision is not followed by police officers or assistant, public prosecutors at all. This may be happened as they may not aware of this provisions. They may not know evidence which can be called as formal nature. No definition is given in Cr.P.C. of evidence of formal nature. The Hon'ble Supreme Court in 2001 (8) Supreme Court Cases States of Punjab v/s Nainudin observed that

"Normal mode of giving evidence by examining withness in court but that course involves quite often. Spending of time of witness, the trouble to reach the court and wait till he is called by court besides of the strain in answering question and cross question in open court. As it also involves costs which on many occasions are not small. The enabling provision of section 296 of Cr.P.C. though it appears from the usual mode of giving evidence. The object of providing such an exception is to help the court to get time and costs saved besides relieving witness to his trouble when all that the said witness has so say in court relating only to some formal points".

In the opinion of researcher following acts may be called as formal.

- Registration of an offence at police station.
- Forwarding injured or victims or accused for medical examination.
- Filing of charge sheet in court.
- Forwarding prohibition sample to C.A.
- Marking arrest of accused.
- Sending articles to forensic laboratory.
If provision of section 296 of Cr.P.C. is followed life of criminal cases can be reduced and it would help to speed up trial. Trial of criminal cases would be concluded within short time.

Procuring attendance of under trials.

If particular day is fixed for attendance of under trial prisoners in court in consultation with jail authority, police officers and other judicial officers in the district it would help in procuring regular attendance of under trials regularly and economically, which may helps speedy trial of cases.

Disposal of cases in view of Common Cause Society case judgement.

The Hon’ble Apex Court in the year 1996 in the case Common Cause Society v/s. union of India, AIR 1996 page 1699 gave directions to dispose of certain category of cases covered by the judgement. If further directs that those orders be followed in future also.

Information received from 211 criminal courts shows that out of 242949 only 2660 were disposed of by magistrates during the period 1.1.2000 to 31.12.2000 in view of said judgement. This shows that directions given by the Apex Court was not followed strictly which results continuous accumulation of arrears of criminal cases.

Language of court of Civil Judge Junior Division is Marathi. Evidence of witness is recorded in Marathi only.

Language of court of J.M.F.C. is Marathi except charge, notes of evidence order and judgement. In criminal warrant cases deposition of
witness is recorded in Marathi and notes of evidence is prepared in English. In every warrant case deposition and notes of evidence are taken. When language of the court is Marathi why we insist upon to prepare notes of evidence in English. There were 642 courts of C.J.J.D. and J.M.F.C. in the State in the year 2000. If evidence is recorded only in Marathi judicature would save 642 man power per day. This manpower needs to be utilised properly. Instead of doing double work to over come problem of arrears, we are doing half work. How arrears of pendency would be overcame? From aforesaid discussion, we have seen that there is no proper management in the judicature. If we use management techniques in the judicature, the problem of pendency of cases can be solved.
Chapter VII  Conclusions and Recommendations

Conclusions

On analysis of data of research the researcher came to conclusion, if provisions of Code of Civil Procedure, Code of Criminal Procedure, Civil Manual, Criminal Manual and Evidence Act are followed strictly and properly by courts advocates, public prosecutors, police officers and litigants at relevant stages of the proceedings they help to dispose of cases within short time. To follow procedural laws strictly by judicial officers they require moral support from Hon'ble High Court and their respective District Judges. Not following procedural laws by persons involved in judicature is the reason for accumulation of pendency of cases. A possibility cannot be denied that judicial officers who followed procedural laws strictly may be blamed by the bar for high handleness. Hence it is necessary before implementing suggestions made in this report atonous body of advocates, Bar Council of Maharashtra and Goa be taken into confidence.

Recommendations.

2. Judicial officer shall arrange his daily board in such a way to get optimum judicial and administrative work done.

3. Duty list of ministerial staff of principal court of taluka be restructured to ascertain surplus staff. Surplus human resource be utilized optimum.

4. Docket sheets prepared by the researcher [Annexure A-4] be used for examination of suit.


6. Docket sheet prepared by the researcher [Annexure A-6] be used for examination of charge sheets & complaints.

7. Progress sheet prepared by the researcher [Annexure A7] be used in suit to dispose of it in specified period.

8. Progress sheet prepared by the researcher [Annexure A-8] be used in criminal cases to dispose of them in specified time.

9. Courier agencies be engaged to effective service of summons/ notices / witness summons in civil as well in criminal cases.

10. A particular day be fixed by a magistrate to record evidence of medical officers and investigating officers.

11. A particular day be fixed by a magistrate for production of under trial prisoners

12. Victims be given liberty to conduct their case [prosecution] by the pleaders of their own choice. For this necessary amendment be made in section 302 & 303 of Cr.P.C. by the Government.

14. Personal communication be used in civil and criminal cases for providing better services to litigants.

15. The assessment of work of judicial officers made not only basis of the judgements they have delivered or cases disposed of by them but considering other factors also such as :

[a] No. of issues framed / drafted.

[b] No. of particulars framed / drafted.

[c] No. of charges framed / drafted.

[d] No. of unready cases made ready.

[e] No. of cases put up on dormant file and sine die list.

[f] No. of cases disposed of in view of direction given in Common Cause Society case judgement.

[g] No. of cases step forwarded in view of direction given in Rajdeo Sharma’s case.

16. Private agencies be appointed / engaged for each district to service / repair type writers regulary.

17. Training be given to ministerial staff in various areas in view of provisions of Civil Manual and Criminal Manual.

18. To stop practice of preparing notes of evidence and statements of accused u/s 313 of Cr.P.C. in Marathi in criminal warrant cases.

19. High Court may move the Government of Maharashtra for starting publication of gazette notification for issue of proclamation u/s. 82 and 83 of Cr.P.C. to procure attendance of abscandd accused for every district periodically.
20. Incentive be given to judicial officers in the form prize / reward of best judge in a District, Division and State considering their overall performance.

21. Committees be formed for collection of latest case laws at each district. The District Judge may be the chairman of the committee and Additional district judges may be its members. The subjects on which case laws are to be collected may be given by the Hon'ble High Court.

22. Establishment of Research and Development Department in the Bombay High Court.

Chapter VIII Administration Reforms

To implement suggestions made in this report, it is necessary to make some administration reforms in the procedural laws by the High Court and the Government.

1. Implementation of docket sheets for examination of civil suits, darkhast and criminal cases.

2. Use of progress sheet (docket) in civil and criminal cases for speedy trial. Use of proper management by District Judge to get the maximum work done through Civil Judges and Magistrates.

3. Victims be given liberty to conduct their cases [prosecution] by the pleader of their own choice i.e. Amendment in section 302 and 303 of Cr.P.C. to remove discrimination between accused and victims.

5. It be made mandatory to police that evidence of formal character be given on affidavit u/s.296 of Cr.P.C. in every criminal case.

6. Implementation of progress sheet in criminal cases to ascertain whether cases cover under Common Cause Society Case Judgement or Rajdeo Sharma’s case Judgement.

7. Research and Development Department be established in the Bombay High Court.