



# Exploring Court Performance and Developing its Scale

## ACADEMIC ARTICLE

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## ABSTRACT

Courts are an important part of the judiciary. To reduce the pendency of cases, measuring and improving court performance is important. With the objectives of exploring court performance and developing its scale, we conducted two interlocking studies. In study 1, we explored it conceptually. We identified the indicators of court performance through in-depth interviews of legal professionals and clients from the district courts of the Indian states of Uttar Pradesh (UP) and Uttarakhand (UK) (n = 51). Interviews were analysed using thematic analysis. Based on interviews, we generated items and refined them by using a pilot study (n = 105). After that, in Study 2, we surveyed court stakeholders to assess measurement dimensionality and reliability (n = 517). The scale's dimensionality was tested using exploratory factor analysis and reliability was tested using Cronbach's alpha scores. The scale indicated three dimensions: quality of judicial activity, access to justice, and public trust, and excellent internal consistency reliability ( $\alpha = .959$ ). This scale can be used to measure court performance by taking responses from legal professionals.

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## 1. INTRODUCTION

Courts are important institutions that ensure justice and harmony in society. Given its importance in the smooth functioning of society, researchers have paid attention to various aspects of the judicial system such as culture, efficiency, performance, etc. (e.g. Ostrom and Hanson, 2009; Voigt, 2016; Scheider, 2005). Out of these aspects, the performance of any organisation is important for the organisation's progress and to achieve objectives more effectively. Measuring performance is also important to access it and make decisions based on measurement. Hence, there should be a mechanism to measure court performance. The main objectives of this study are to operationalise court performance and develop its scale.

## 2. LITERATURE REVIEW

Owing to ever-increasing recent demands on the legal system, researchers and policymakers are keenly interested in measuring and improving judicial efficiency worldwide (e.g. Lepore, Metallo & Agrifoglio, 2012; Beldowski, Dbro and Wojciechowski, 2020). Legal scholars and reformers have traditionally paid attention to legal doctrine, formalism, and reasoning (Frank, 1990; Lax, 2011; Tiller and Cross, 2006). Some comprehensive frameworks to measure the judicial system's performance have emerged due to various researchers' dedicated and collaborative work. We have reviewed these frameworks extensively (See Section 2.1) to find their relevance for our study.

### 2.1. FRAMEWORKS OF JUDICIAL PERFORMANCE

Government organisations are open to scrutiny from multiple quarters and are expected to serve various stakeholders. Researchers have recognised this; for example, Kourlis and Singer (2009) argue that a well-constructed judicial performance evaluation program must include transparency, fairness, thoroughness, and shared expectations in its measurement system. In one of the pioneering attempts, the National Center for State Courts and the Bureau of Justice Assistance of the U.S. Department of Justice initiated a project titled 'Trial Court Performance Standards Project.' This project developed a system known as the 'Trial Court Performance Standards and Measurement System' (TCPS). It measures the trial courts' performance in the United States of America. TCPS has identified five judicial performance standards consisting of "access to justice, expedition, and timeliness, equality, fairness and integrity, independence and accountability, public trust and confidence" (Reno, Dwyer, Robinson and Gist, 1997). This framework can be used to develop the scale, but we could not find any measurement utilising this framework.

Similarly, in an attempt to develop an internationally acceptable framework, a consortium consisting of the Australasian Institute of Judicial Administration, United States Federal Judicial Center, United States National Center for State Courts, and the Subordinate Courts of Singapore in 2008 was formed. IFCE has aimed to develop a common framework that can be useful for courts globally for self-evaluation and improvement. The IFCE identified ten core values for court excellence: equality before the law, impartiality, fairness, independence of decision-making, competence, transparency, integrity, accessibility, timeliness, and certainty. Based on these ten core values, seven specific areas for court excellence are listed: court leadership and management (driver), court planning and policies, court resources, court proceedings

and processes (systems and enablers), client needs and satisfaction, affordable and accessible court services, and public trust and confidence (results)” (Glanfield, Hall and Marie, 2013). The third edition of IFCE (See **Table 1**) has made some changes (IFCE, 2020). Based on this framework, Global Measures of Court Performance (GMCP) is developed, and it describes eleven focused and actionable court performance measures. They include “court user satisfaction, access fees, case clearance rate, on-time case processing, pre-trial custody, court file integrity, case backlog, trial date certainty, employee engagement, compliance with court orders, and cost per case” (Keilitz, Glanfield and Hall, 2020).

FRAMEWORK	DIMENSIONS	TOTAL PARAMETERS SUGGESTED
Bureau of Justice Assistance (BJA, 1997)	<ol style="list-style-type: none"> <li>1. Access to justice</li> <li>2. Expedition and timeliness</li> <li>3. Equality, fairness, and integrity</li> <li>4. Independence and accountability</li> <li>5. Public trust and confidence</li> </ol>	21
The international framework of court excellence, 3rd Edition (IFCE, 2020)	<ol style="list-style-type: none"> <li>1. Court leadership and, management</li> <li>2. Strategic court management</li> <li>3. Court workforce</li> <li>4. Court infrastructure, proceedings, and processes</li> <li>5. Client user engagement</li> <li>6. Affordable and accessible court services</li> <li>7. Public trust and confidence</li> </ol>	19
European Commission for the efficiency of justice (CEPEJ, 2014)	<ol style="list-style-type: none"> <li>1. Strategy and policy of the courts</li> <li>2. Human resources and status of the judiciary</li> <li>3. Means of justice including finance, ICT, and operations process</li> <li>4. Access to justice</li> <li>5. Public trust and confidence</li> </ol>	115
The international framework of court excellence (IFCE, 2020)  A global measure of court performance (GMCP)	<ol style="list-style-type: none"> <li>1. Court user satisfaction</li> <li>2. Access fees</li> <li>3. Case clearance rate</li> <li>4. Online case processing</li> <li>5. Pre-trial custody</li> <li>6. Court file integrity</li> <li>7. Case backlog</li> <li>8. Trial date certainty</li> <li>9. Employee engagement</li> <li>10. Compliance with court orders</li> <li>11. Cost per case</li> </ol>	11

**Table 1** Frameworks for the measurement of court performance.

In another attempt to create a framework for the efficiency of justice, The European Commission for the Efficiency of Justice has identified parameters for measuring judicial performance. It has set 115 measurable parameters for evaluating judicial performance in five main areas: “strategy and policy of the courts, human resources, and status of the judiciary means of justice, including finance and ICT and operations process, access to justice, and public trust and confidence” (Johnsen, 2014). These frameworks help us to identify major court performance indicators.

These frameworks have included highly qualitative measures such as fairness, access to justice, expeditious justice, timeliness, etc. While these concepts are important for court performance, such concepts are inherently challenging and influenced by context and culture. Instead, some researchers have used quantitative measures such as access fees, disposal rates, case clearance rate, case backlog, cost per case, etc. Other than these frameworks, we have extensively reviewed literature related to court/judicial performance measures to get insights into court performance indicators.

## 2.2. EMPIRICAL STUDIES OF COURT PERFORMANCE

Dakolias (1999) has suggested that substantive law, legal norms, and judicial decision-making are essential for measuring efficiency and justice quality. They have done a comparative study of ten European and Singapore courts using indicators such as yearly filed cases, disposed cases, pending cases, clearance rate (ratio of cases disposed to cases filed), congestion rate (pending and filed over resolved), the average duration of each case, and the number of judges per 1 lakh inhabitants. For a financial perspective, questions have been adapted from the National Center for State Courts (NCSC); for internal operating and learning perspectives, secondary data of the courts are used. CCAI has been adapted from Ostrom et al., (2005). The information system success perspective is measured using the Rai and colleagues scale, for satisfaction, scale by Doll and Torkzadeh (1988), for individual impact scale of Etezadi-Amoli and Farhoomand (1996) have been used.

Lepore, Metallo and Agrifoglio (2012) have used the Balanced Scorecard framework (financial, customer, internal operating, innovation, and learning) after adding the dimension of information system success and named it “Court Performance Measurement System” (CPMS). Many studies have used quantitative indicators such as *disposition time*, *age of pending cases*, *cost per case*, etc. Demirvic et al. (2016) have preferred a similar approach by emphasising disposition time, age of pending cases, cost per case, resolution rate, and performance targets. Beldowski et al. (2020) focus on the number of resolved cases; similarly, Rosales-Lopez (2008) emphasises the number of resolved cases per year. On a somewhat similar approach, Castro (2009) has analysed the number of judges, the number of staff per judge, filed cases per judge, case disposition per judge, clearance rate, pending cases per judge, congestion rate, and time to resolve a case. Some researchers have taken the research further in-depth by using variables such as *confirmation rate*. Scheider (2005) has used the confirmation rate and productivity measure as the indicator of court performance. Confirmation rate is the extent to which decisions are upheld in an appeal at a higher court, and productivity measures include the number of finished cases and several published decisions.

A study based in Brazil by the Instituto da Gestão – INTG (2006) identifies that non-judicial work by judges leads to lesser productivity of the court. Another study based in Brazil by Pinheiro (2003) identifies the factors for the slowness of the judicial work, such as insufficient resources, legal shortcomings, administrative inefficiency, excessive formalism in the procedures, and the public ministry’s poor performance in judicial registries, and the way lawyers act. One more study on the judges of Brazil by Sadek (2005) discusses timeliness, quality of jurisdictional services, and judges’ impartiality while discussing judges characterisation and opinions. Gomes, Guimaraes, and Akutsu (2016) have used the term court performance in the study title and court productivity in study content. Court productivity is the total completed cases in the year divided by the number of first instance judges. However, Schaufler

(2007) has identified ten indicators for the court performance, including “access and fairness, clearance rates, time to disposition, age of active, pending caseload, trial data certainty, reliability and integrity of case files, collection of monetary penalties, effective use of jurors, employee satisfaction and cost per case.”

Along with reviewing the literature on court performance, we also examined the literature on judicial performance. Judiciary scholars generally agree that judicial performance measurement at least should have dimensions of independence, efficiency, and accessibility (Prillaman 2000; Saez Garcia, 1997). Staats, Bowler and Hiskey (2005) propose five judicial performance dimensions: independence, efficiency, accessibility, accountability, and effectiveness. Many scholars and organisations have used the congestion and resolution rates as judicial performance (Johnsen, 2012; Garcia-Posada and Mora-Sanguinetti, 2015; Voigt and El-Bialy, 2016). Voigt (2016) has used variables such as caseload on a per-judge basis, cases resolved per judge as a measure of the productivity of judges, clearance (indicates the percentage of filed cases that are resolved), the congestion rate (caseload divided by the number of resolved cases) and the cost per case. Grazel, Grazel, Sustersic, and Zalc (2012) propose to use the number of resolved cases as the most appropriate measure of court activity.

Recent attempts to measure court performance has led to the development of various approaches, including highly qualitative variables such as integrity, fairness, and transparency (e.g. Sadek, 2005; Prillaman, 2000) to a quantitative variable such as case disposal rate and judges per million population (e.g. Dakolias, 1999; Demirvic, Jasarevic and Berg, 2016; Beldowski et al., 2020). To understand the ground reality, we decided to explore the court performance in the Indian context through field visits and interviews.

### **3. STUDY 1: EXPLORING COURT PERFORMANCE AND SCALE ITEM GENERATION**

Study 1 is conducted to develop an in-depth understanding of court performance and generating scale items based on the interviews. We took responses from lawyers, clients, court staff, and judges. The exploratory study was conducted using semi-structured interviews. Interview questions focused on exploring the court system’s functioning, their norms, procedures, different types of stakeholders in the court system, workflow, goals, strengths, weaknesses, causes of cases delay, court culture, attitude, beliefs, and stakeholders’ opinions, etc.

#### **3.1. SAMPLE**

We conducted in-depth interviews of judges (n = 4), advocates (n = 15), court managers (n = 3), family counsellors (n = 4), other court staff (n = 10), and clients (n = 15) from the district courts of UP and UK. We conducted fieldwork in seven subordinate courts from a total of 51 respondents. Interviews were conducted either in English or Hindi. After generating items, a pilot study was also conducted by taking responses from 105 respondents, including lawyers (n = 100), judges (n = 2), and court staff (n = 3).

#### **3.2. PROCEDURE**

Open-ended, in-depth interviews lasted from 20 to 45 minutes while following an interview schedule. Follow-up questions were asked to get greater details about

the court system and court performance indicators. A non-probability convenience sampling method was used. Demographic information such as professional category, work experience, gender etc., were sought from the respondents. Responses were collected from the people, their views about possible improvements in the system (Guest, Bunce and Johnson, 2006). Interviews were recorded with the permission of the respondents. If the respondents were not comfortable with recording, then notes were taken based on interviews.

3.3. ANALYSIS

The interviews were analysed using thematic analysis because deriving sub-themes and themes would help identify major indicators of court performance. Codes were generated based on similar responses; similar codes were grouped into sub-theme and similar sub-themes into themes. Codes, sub-themes, and themes are given in **Table 2**.

**Table 2** Themes, sub-themes, and descriptive codes.

THEME	SUB THEME	DESCRIPTIVE CODES
Delay	Delay due to judges	Judges are mostly responsible for the delay.
		Judges are not responsible for delay.
		Judges don't want to take the decision.
		Judges are very defensive in decision making.
		Judges don't want to create conflict with politicians.
		Judges also do not sit in the office.
		Judges don't want to work.
		Delay in decision making.
		Judges accept requests of the bar association for strike.
		Lack of punctuality.
	Delay due to advocates	Judges should understand the seriousness of the cases and do fast and fair and justice.
		The intentional delay should be stopped.
		Advocates intentionally seek an adjournment to provide relief to their clients.
		Strikes by advocates.
		Non-preparedness of lawyers.
	Delay due to staff	Incompetent advocates due to the reservation in law colleges.
		Intentional delay to earn more money.
		Lack of punctuality by the staff.
		Staff should focus on work.
		Lack of sincerity in the staff.
	Delay due to clients	Incompetency in duties.
		Lack of proper training.
		delays

THEME	SUB THEME	DESCRIPTIVE CODES
	Delay due to procedural reasons	Vacancy of judges in the courts.
		Staff shortage in the courts.
		The executive is responsible for the delay.
		Shortage of police staff.
		E-court will decrease case disposal time.
		Police should be honest.
		Proceedings should be transparent.
		Multiple cases of advocates at the same time.
		Lesser fine for repeated adjournment.
		Charge sheets should be filed within minimum time.
		Reservation system in the judiciary is one of the causes for adjournment.
		Civil litigation takes more time.
		No solution is possible for adjournment.
		There should be a citizen charter for time-based case disposal.
		High courts should be strict.
		Cases should be transferred to judges according to their experience of specialization.
		If the judge wants then also, she cannot give the decision. The procedure is time-consuming and complicated.
		There should be separation of judicial and executive works.
		Bar and bench coordination is necessary for better performance.
		Barriers of legal process.
Access to justice	Access to public proceedings	Judges are not strict against the corruption of the court staff.
		The concerned people should understand court procedures and proceedings.
	Safety	The court should be approachable.
		There should be a proper information system in place.
	Adequate resources	Perception of feeling safe in the court.
		Shortage of judges in the courts.
		Training of staff is important.
		Shortage of court staff.
		Digitalization should be very fast.
		Infrastructure such as furniture, cleanliness, sitting arrangement.

THEME	SUB THEME	DESCRIPTIVE CODES
	Effective participation	Corruption is a hurdle in effective participation.
		Court procedures should be understood by common people.
	Respect and responsiveness	Sincerity and sensitivity of judges.
		Listening to the clients and advocates by judges.
		The behaviour of the court towards the poor.
	Cost effectiveness	Legal aid support level.
		Cost of pursuing court cases.
	Public Trust	People have fear about court cases.
		I have trust in the court system.
		The reputation of the court in the eyes of clients.
Quality of judicial decisions		Judges have nexus with other corrupt judges.
		Disgruntled with the judicial system.
		The legal system is corrupt.
		Rich people get punishment only if the case is highlighted in the media.
		Lack of privacy in file management due to temporary staff. Anyone can access files from the record room by paying a bribe to temporary staff. There is no accountability regarding the privacy of files.
		There should be a detailed explanation of court judgments.
		Judges sometimes do not apply judicial mind.
		In bench and bar disputes. The tribunal should do contempt of court proceedings.
		Quality of judgment.
		Strictness of courts.
Independence and accountability		Reversal of decision by the higher court can be a criterion of quality of judgment.
	Independence	Bar council and bar association have terrible effects on the judiciary. Office-bearers of the bar creates influence on judges to decide on their favors
		Independence of judges to give judgment.
	Accountability	There is a lack of accountability of judges.
		No accountability of judges.
		No opinion about accountability.
		Yes, judges have accountability towards superior courts.
		Judges misuse their independence for personal gains.
		Independence and accountability should persist together.

(Contd.)



THEME	SUB THEME	DESCRIPTIVE CODES
Fairness		Lack of transparency.
		The procedure is transparent, but decision-making is not transparent.
		Adherence to the procedures by judges and court staff.
		Judges can easily manipulate cases.
		Prejudice in many cases, such as dowry and domestic violence cases.
		The extent of corruption.
		Bail and punishment decisions should be taken without any discrimination.
		Judges should ensure that the weaker section does not feel the additional pressure of the trial process.
		Documents should be safe. Court staff hire their individual staff on cheap wages without the knowledge of judges. This practice can be harmful to the safety of documents.
		Judges should ensure that the weaker section does not feel the additional pressure of the trial process.
Quantitative indicators	-	Average time of case resolution.
		Evidence recorded per month.
		Total time spent by the judge in the court.
		The number of files disposed of by a judge.
		Per month witnessing done.
		Per month case hearing done.

### 3.4.1. Delays

Delay emerged as a major concern while discussing performance with various stakeholders. Based on the responses following five sub-themes emerged.

#### 3.4.1.1. Delay due to judges

Responses covered a diverse area of the court functioning. A lawyer highlighted that Judges are mostly responsible for the delay in case disposal. Judges are very defensive in decision-making to avoid conflict with politicians and influential people. Due to this, sometimes, they tend to pass on the pending cases to their successors instead of giving judgement. A lawyer pointed, “Final judgment should be given 15 days after the argument date, but judges keep on providing the following dates.”

Some lawyers informed that judges accept decisions of the bar association easily. This also reflects the lack of sincerity of judges for faster disposal of cases. Lack of sincerity is also reflected in the lack of punctuality. The analysis suggests that lack of sincerity of judges, lack of punctuality, leniency towards strikes are the major reasons attributing to the delays due to judges.

#### **3.4.1.2. Delay due to lawyers**

Many respondents, including four advocates, mentioned that lawyers intentionally seek an adjournment to relieve their clients. Often, clients want to delay the case process for many reasons, such as delaying the punishment, harassing the other party, personal contingencies, etc. Many lawyers are least concerned about the faster disposal of the cases, so they support the clients to delay the case process. Many clients and lawyers pointed out that lawyers intentionally delay the case to earn more money from them. However, some lawyers said that it is in the lawyer's interest to complete the case as soon as possible to take up other cases. "Strike by lawyers is one of the reasons for the delay," said one lawyer. Due to strikes, the work of the court is stopped causing further delay. Some clients also reported that their cases were delayed due to the strikes by the lawyers. One female lawyer said, "incompetent lawyers cause delay, especially lawyers who got admission in law colleges due to reservation system." This statement reflects the incompetency of lawyers and also causes the delay.

#### **3.4.1.3. Delay due to staff**

Court staff members are important stakeholders in the court system. They do the administrative duties as administrative officers, assist the judges in the courtroom as a *peshgar*, *help the judges* and staff as a *peon*. Court also has librarians, public prosecutors, assistants, court managers, stenographers, accountants. The majority of the respondents accepted the importance of court staff for faster delivery of justice. Many advocates suggested that very old staff are neither competent to handle computers nor want to learn them. Newcomer staff is comparatively fast and adaptable to change.

One advocate informed, "The court staff is not punctual, and it causes delays." The clients also reflected the issue of punctuality. One client pointed, "Staff comes late to the court and it causes delay." Lack of punctuality also reflects a lack of sincerity in the court staff. Many clients reported that they have a typical government employee attitude and are not interested in helping them.

Analysis suggests that delay due to staff is attributed to incompetence, lack of punctuality and lack of sincerity.

#### **3.4.1.4. Delay due to procedural reasons**

Court has to follow certain rules and procedures. These rules and procedures are made to ensure that the court does not convict an innocent person. A judge accepted that even if a judge wants to give faster justice, they cannot do it because of lengthy procedures. Procedural delays are caused not only by the judiciary but also by the executive and legislative branches of the government. Non-filling of vacancies is also one of such reasons. A lawyer reported, "many courts have huge pendency of cases because judges' vacancy is not filled." He further added, "the executive part of the government is responsible for delay in court cases." In the courts, judges also do the administrative work that takes a lot of time to be used for the judicial work. One respondent reported that combined responsibilities of judicial and non-judicial work lead to further delay. On this concern, one court manager advised, "there should be specialist officers recruited like an HR manager, finance manager, etc. Because judges are not trained for administration, and a lot of judges' time gets wasted due to non-judicial work." Procedures can be made faster by the use of technology such as witnessing through video conferencing, use of computers for data management. A judge suggested, "non-utilization of technology leads to delay; for example, hearing through video conferencing can save a lot of time and human resources."

Oliveira (2005) has identified the nine points list of the reasons causing slowness in the federal courts of Brazil, such as inadequacy of background courses for new judges, lack of positive work environment, procrastination of unnecessary procedures, missing deadlines, too much centralisation of judges' powers, lack of material and human resources or their uses, improper case management, non-judicial works by the judges, etc. Our findings also match with their findings.

### 3.4.2. Quality of judicial decisions

The responses reflected that the quality of judicial decisions is an important factor for court performance. Some respondents suggested that only faster disposal of cases cannot be a quality criterion; it is important that judges deeply understand the case before giving any judgment. Many respondents reported that influencing judges is difficult. Few advocates pointed out that mafia and influential people try to intimidate the judges and lawyers, but judges have the liberty to ensure the quality of judicial decisions. One advocate suggested that a detailed explanation of the court judgments is important to ensure quality. Many advocates reported that the majority of judges gives detailed judgement. However, details are missing in some judgements. One lawyer suggested, "Along with judgement, it's important to ensure proper implementation." Other respondents also emphasised the importance of strict implementation of judgments. The analysis suggests that the quality of judicial decisions is attributed to the independence of judges, detailed explanation of judgements, proper implementation of judgements. When asked how the quality of judicial decisions can be measured, some advocates replied, "The higher courts' decision reversal can be a criterion for measuring the quality of judicial decisions."

### 3.4.3. Access to justice

The responses from the majority of the respondents emphasised approachability as an indicator of court performance. A lawyer highlighted that many times clients feel alienated when they come to court. They encounter indifferent and often unwelcoming treatment in the court premises. A client pointed out that "there is no respect for a client in the court .....you are just one of many people lying in the court corridors." Many respondents suggested that the sincerity and sensitivity of judges are important to make courts more accessible. The analysis suggests that a sense of belongingness plays a salient role in inducing confidence in the court proceedings. Two advocates and two court staff explained that court proceedings follow certain rules and guidelines. Everyone, including judges, have to follow these procedures. However, these procedures are not understood by many novice lawyers as well as clients.

Many respondents suggested the need for a proper information management system. Getting information regarding court cases and hearings is an important part of the case process. One lawyer suggested, "there should be a software-based information dissemination system that can message automatically to all stakeholders." This statement reflects the use of technology to make the court more accessible to the people.

The majority of respondents emphasized the infrastructural resources, training of human resources, and use of information technology to improve the courts' accessibility. Many Lawyers and one judge pointed out the incompetence of court staff to use computers, leading to slow case processing. Due to the complexity of the procedure, time, money and emotional cost involved, people become reluctant to approach the court. One lawyer reported, "Legal aid is provided to needy people, but

justice is more difficult for the poor than the rich.” Access to public proceedings, safety, accessibility and convenience, effective participation, courtesy, responsiveness, and respect, and affordable costs of access are the sub-factors used by the study of Reno et al. (1997). The Framework suggested in BJA (1997), and CEPEJ (2014) also included access to justice. These points were reflected in the interviews also.

#### 3.4.4. Independence and accountability

Reno et al. (1997) has discussed this dimension in their study. During interviews, we received answers emphasizing the importance of the independence of the judiciary. Many respondents informed that theoretically, the judiciary is independent, but practically there are apprehensions regarding the independence of judges due to political pressure, pressure by the mafia, and pressure by bar association's influential members. One lawyer reported, “judges sometimes accept the undue demands of bar association's influential members to avoid the strike.”

One advocate said, “independence and accountability should exist together.” he further added, “There is a lack of accountability of judges and this leads to delay in cases” Many respondents replied that judges have accountability, whereas some replied just the opposite of it. The analysis suggests the relevance of independence and accountability for measuring court performance.

#### 3.4.5. Fairness

Respondents mentioned the importance of fairness for court performance. One advocate noted that judges could easily manipulate the court case. Courts are prejudiced against the men in dowry and domestic violence cases. Many respondents mentioned that bail and punishment decisions should be taken without any discrimination. Respondents also emphasised that judges should ensure that the weaker section does not feel the additional pressure of the trial court.

Many of the respondents mentioned the importance of document safety for ensuring fairness. Some lawyers reported, “Court staff hire their individual staff on cheap wages without the knowledge of judges. This practice can be harmful to the safety of documents.” The analysis concludes that fairness indicators can be derived from non-prejudices, non-discrimination, sensitivity towards weaker sections, the safety of documents. Some studies have used fairness as the indicator of court performance (Reno et al., 1997, Sadek, 2005; Prillaman, 2000).

#### 3.4.6. Public trust

An advocate said, “People have fear about court cases.” This fear is one of the reasons that lead to injustice in society. The majority of the respondents reflected trust in the court system with some apprehensions, and they also accepted that public trust is an important indicator of court performance. Lack of trust in court was reflected in the strong statement of an advocate, “rich people get punishment only if the case is highlighted in the media.” This statement reflects the lack of integrity in the system. Some advocates informed us that honest judges do not do whistleblowing against corrupt judges. The analysis suggests the importance of public trust as an indicator of court performance. The public trust dimension is so holistic that it can overshadow other dimensions of court performance such as fairness, independence, accountability etc. Public trust is used as an indicator of court performance by various studies (e.g., Reno et al., 1997; Glanfield et al., 2013; Johnsen, 2014).

### 3.4.7. Other qualitative indicators

Many responses reported issues such as strikes by lawyers, corruption, judges/staff over workload, shortage of workforce, etc. One lawyer pointed out, “Due to improper investigation, case disposal is delayed, corruption in the police, and not sending charge sheet on time also delays the case.” While lawyers blamed the police for the delay, but police had their reasons to mention. One Police Inspector informed, “Police need to wait a lot in court for remand and witnesses, and it causes a delay in other cases to be presented by them. Also, there are problems in the government’s executive part that hampers faster disposal of cases.”

A court manager described in detail, “There is no proper utilisation of the court manager’s post. There is no supporting staff provided to court managers; they are not involved in decision-making. The Court system is reluctant to give proposed powers to court managers.”

Though court performance can be hampered due to executive and legislative reasons such as shortage of judges, shortage of staff, lack of infrastructure

### 3.4.8. Quantitative indicators

Respondents suggested some quantitative indicators, e.g., a court staff suggested average time of case resolution. A judge suggested indicators such as evidence recorded per month, the number of files disposed of by the judge, per month witnessing done. Many respondents suggested the number of files disposed of by a judge as the indicator. This quantitative data is available in the courts.

After contacting court authorities up to the respective high courts, we could not access the data available within the district and subordinate courts. For secondary data, public access of the National Judicial Data Grid (NJDG) provides data such as monthly instituted cases, monthly disposed of cases, the number of judges in the court, and annual disposed cases court, total pendency of cases, etc.

Based on the interviews, many factors emerge. Some of them are qualitative, and some are quantitative. For instance, case disposal rate, number of files disposed of by a judge in a month, and the extent of judgment implementation are quantitative measures. In contrast, punctuality, cleanliness, staff training, court discipline, court stakeholders’ perception of court performance, quality of judicial activities, access to justice, equality, fairness, integrity, expedition, timeliness, independence, accountability, and public trust are qualitative.

## 3.5. ITEM GENERATION

Items were developed based on the analysis of qualitative study and indicators suggested by various frameworks. We followed the established research methods for developing and validating scales (e.g., Hinkin, 1995). The interviews were transcribed, analysed and 48 items were generated. The items were screened by three research scholars, one professor, and ten advocates fluent in Hindi and English and rated each item on a scale of 1 to 5 for relevance and clarity along with optional comments. Eleven items with a low mean value in *relevance* were removed, and two items with a low mean value in *clarity* were modified, leaving 37 items.

After the pilot study, we analysed data by checking mean, communality, and inter-item correlation. After the pilot study, we kept all 37 items for the main survey.

## 4. STUDY 2: SCALE CHARACTERISTICS AND FACTOR STRUCTURE

Study 2 was conducted to examine the characteristics and factor structure of the newly developed scale.

### 4.1. DATA COLLECTION AND SAMPLE

In study 2, legal professionals, including lawyers, court staff, judges, responded to the survey. Data was collected using a convenience sampling method using google forms either through face-to-face meetings or via electronic messages. Total 534 responses were received out of those 17 responses received from other states were removed. The final analysis was conducted using a sample of 517 responses from UP ( $n = 434$ ) and UK ( $n = 83$ ).

47.5% of the respondents were graduates, and 52.5% were postgraduate or above, 93.1% were male and 6.9% were female with average age 35.09 years, average court experience 8.65 years, average distance of their home from the court 11.50 kilometres.

### 4.2. MEASURES

We used 37 Hindi-translated items to measure court performance. Hindi translation of the scale was used because the native language of UP and UK is Hindi. Participants were asked to tell their opinion on a scale of 1 to 5 (1 = Strongly disagree, 5 = Strongly agree). Items were translated into Hindi with the help of a bilingual translator, and then another bilingual translator translated them back to English to verify the accuracy of the translation.

### 4.3. ANALYSIS AND RESULTS

#### 4.3.1. Factor structure

We used SPSS statistics software to perform EFA. We entered data of all 37 items and checked the KMO test of sampling adequacy, and it was found to be .959. This score indicates the sample size is adequate ( $>.50$ ) as mentioned by William, Brown and Onsmann (2010), and a significant chi-square value for Bartlett's test of sphericity ( $2 = 9042.1718$ ,  $p < .01$ ) indicated that factor analysis was appropriate for the data.

We performed EFA with principal axis factoring and with direct oblimin rotation. After multiple iterations, nine items were dropped due to lower inter-items correlation, low communality, or cross-loading issues (Worthington and Whittaker, 2006).

Initially, we conceptualised six factors, but EFA extracted three factors as mentioned in **Table 3**. Based on the face value of the items, we named them the quality of judicial activity, access to justice, and public trust. Though six items are cross-loading with loading 0.2 or less, we have not removed them in this study to revalidate this scale with a different set of samples. These three factors explain 56% of the variance. Thus, EFA reflects satisfactory results as per the research norms (Hair, 2010; Nunnally, 1978; Worthington and Whittaker, 2006).

#### 4.3.2. Internal consistency

Cronbach's alpha for the full scale was .959, which is within the acceptable limits as per the recommendation of Hair, Black, Babin, and Anderson (2010) and Nunnally (1978). After assessing the factor structure, we conducted reliability statistics of each factor. Cronbach's alpha of all the factors is within the acceptable limits (**Table 4**).

ITEMS	1	2	3
Factor 1: Quality of Judicial Activity			
LP6. Judges take proceedings of cases very seriously.	<b>.837</b>	.020	.070
LP5. Judges are sensitive in cases that they hear	<b>.799</b>	-.011	.026
LP19. Judges pay attention to the documents of each case.	<b>.781</b>	-.026	-.093
LP17. Punishment is given in court without any bias.	<b>.715</b>	-.004	-.093
LP18. Bail decisions are taken without any discrimination.	<b>.693</b>	-.016	-.152
LP23. Judges consider all the aspects of a case while passing judgment.	<b>.545</b>	.148	-.143
LP9. Judges ensure that progress takes place in listed cases every day.	<b>.434</b>	.187	-.097
LP25. There is no outer influence on judges.	<b>.408</b>	.060	-.256
LP22. Judges clearly mention the implementation authority in their judgments.	<b>.365</b>	.205	-.039
LP28. Judges provide a rationale for their decisions.	<b>.263</b>	.255	-.181
LP24. Fines and other punishments are enforced effectively.	<b>.263</b>	.220	-.192
Factor 2: Access to Justice			
LP7. I can easily obtain the status of my case from the concerned court.	.024	<b>.596</b>	.028
LP10. I feel safe in the court premises.	.114	<b>.584</b>	.041
LP12. Court staff act fairly with me.	.004	<b>.572</b>	-.098
LP13. Judges behave courteously with me	.326	<b>.447</b>	.019
LP14. The cost of pursuing a court case is reasonable.	-.061	<b>.437</b>	-.202
LP15. Legal aid is provided to needy people conveniently.	.223	<b>.371</b>	-.061
LP16. Courts are punctual.	.293	<b>.309</b>	-.197
Factor 3: Public Trust			
LP37. The court process is fair and consistent.	-.007	.065	<b>-.839</b>
LP34. The court is effective in battling crime.	.071	-.112	<b>-.794</b>
LP35. Court treats everyone equally without any bias.	.169	.003	<b>-.737</b>
LP33. Everyone gets justice in the court.	.149	-.076	<b>-.713</b>
LP36. I am satisfied with the system of the court.	-.063	.291	<b>-.660</b>
LP32. I have trust in the court system	.014	.167	<b>-.561</b>
LP31. Courts provide confidence to witnesses regarding their safety.	.058	.320	<b>-.387</b>
LP27. Most judges are impartial in disposing of their duties.	.255	.223	<b>-.318</b>
LP30. Judges ensure that the weaker section does not feel the additional pressure of the trial process.	.237	.176	<b>-.289</b>
LP26. It is difficult to influence a judge by using pressure tactics.	.219	.072	<b>-.257</b>

**Table 3** Results of the EFA  
of Court Performance Scale.

FACTOR	CRONBACH'S ALPHA
Quality of judicial activity	.918
Access to justice	.821
Public trust	.919

**Table 4** Internal consistency of the factors of the court performance scale.

## 5. DISCUSSION

There are 40 million pending cases in Indian courts (NJDG, 2021). Indian courts are struggling to solve the problem of pending cases. To resolve this problem, improving courts' performance becomes more important, and measuring it becomes important too. Courts use quantitative assessment measures for the internal assessment of judges, such as disposal rate, the pendency of cases, etc. There is a need to get a more holistic measure of court performance based on the feedback of legal professionals. We conducted two interlocking studies with samples from the district courts of two Indian states to address this issue.

The study makes a theoretically significant contribution. Court performance represents a multi-dimensional construct. Unlike other studies and frameworks, this study has reflected only three dimensions of court performance. Access to justice, quality of judicial activity, and public trust are these three dimensions. In different studies, access to justice and public trust are used as dimensions of court performance (e.g., Reno et al., 1997, CEPEJ, 2014). Based on the EFA, the dimension of public trust also includes variables of fairness, equality, and accountability. Overall scale seems to be conceptually strong and psychometrically valid. Through qualitative and quantitative exploration, this study has developed the court performance scale. Scale internal consistency reliability has also been tested. The court performance scale will be helpful to assess the performance of courts by taking responses from the legal professionals.

### 5.1. STRENGTH, LIMITATIONS AND FUTURE DIRECTIONS

The strength of the study is that it reflects satisfactory reliability and factor structure. This scale is based on the field reality in the Indian context, so it is relevant for the states of UP and UK, where the data was collected. Another strength of the study is that we kept names and contact details optional to decrease response bias. We also assured the respondents about the confidentiality of the data. To ensure the panel integrity of the data of study 2, we intentionally kept six items reverse coded to ensure data accuracy. However, there are some limitations to this study. The study has collected data only from two states. Moreover, convergent and discriminant validity has not been conducted.

Future research should measure the discriminant and convergent validity of the scale. Future studies should validate the scale by taking responses from more female legal professionals, respondents from other states, and geographical locations.

## 6. CONCLUSION

The study has achieved the objectives of exploring court performance and developing its scale. The finding suggests that court performance is a multidimensional construct. Its scale will allow legal researchers and court policymakers to assess the courts' performance systematically. An incentive-based program can be started to encourage



the courts to perform better. A major conclusion that can be drawn is that court performance represents a multi-dimensional construct. Theoretically, this measure will allow the researchers to examine the factors related to court performance empirically.

APPENDIX A  
INTERVIEW SCHEDULE

\*Name (Optional).....

\*PhoneNo. (Optional).....

\* E-mail ID (Optional).....

\* Your profession/category

(a) Advocate.....(Designation)

(b) Court Staff.....(Designation)

(c) Judge.....(Designation)

(d) Police.....(Designation)

(e) Court case client.....(Profession)

\* Work experience.....

1. What aspects of work culture in courts can be improved?

2. Tell the instances of work that disturb you the most.

3. What is a good court, in your opinion?

4. How are courts different from each other?

5. How do you distinguish a good advocate from a bad advocate?

6. What are the reasons for the adjournments?

7. How can adjournment problems be solved?

8. What is your opinion about the state of accountability of judges?

9. What is your opinion about transparency in procedures and decision-making?

10. Do people easily get justice from this court?

11. Why do people want to run away from the courts?

12. Any other points which you want to mention?

13. What points can be taken as indicators of legal performance?


14. What points can be taken as indicators of legal culture?

COMPETING INTERESTS

The authors have no competing interests to declare.

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- Beldowski, J., Dbro, Ł., & Wojciechowski, W. Judges and court performance: a case study of district commercial courts in Poland, *European Journal of Law and Economics*, 2020, 1–31. DOI: <https://doi.org/10.1007/s10657-020-09656-4>
- Bureau of Justice Assistance, Trial Court Performance Standards with Commentary, 2015.
- Castro, ASD, An Assessment of the impact of the reform of extrajudicial executive titles (Law No. 11,382 / 2006), 2015.
- Dakolias, M., The judicial sector in Latin America and the Caribbean: elements of reform, *The World Bank*, 1996. DOI: <https://doi.org/10.1596/0-8213-3612-6>
- de Oliveira Gomes, A., de Aquino Guimaraes, T., & L. Akutsu, The relationship between judicial staff and court performance: Evidence from Brazilian State Courts, *IJCA*, 2016, Vol. 8, p. 12. DOI: <https://doi.org/10.18352/ijca.214>
- Demirovic, A., Jasarevic, A., & A.H. Berg, Court Performance Management, 2016.
- Dimitrova-Grajzl, V., Grajzl, P., Sustersic, J., & K. Zajc, Court output, judicial staffing, and the demand for court services: Evidence from Slovenian courts of the first instance. *International Review of Law and Economics*, 2012, 32(1), 19–29. DOI: <https://doi.org/10.1016/j.irle.2011.12.006>
- Doll, W. J., & G. Torkzadeh, The measurement of end-user computing satisfaction, *MIS quarterly*, 1988, 259–274. DOI: <https://doi.org/10.2307/248851>
- Etezadi-Amoli, J., & A.F. Farhoomand, A structural model of end user computing satisfaction and user performance, *Information & management*, 1996, 30(2), 65–73. DOI: [https://doi.org/10.1016/0378-7206\(95\)00052-6](https://doi.org/10.1016/0378-7206(95)00052-6)
- Garcia, F. S, The Nature of Judicial Reform in Latin America and Some Strategic Considerations, *American University International Law Review*, 1997, 13, 1267.
- García-Posada, M., & J.S. Mora-Sanguinetti, Entrepreneurship and enforcement institutions: Disaggregated evidence for Spain. *European Journal of Law and Economics*, 2015, 40(1), 49–74. DOI: <https://doi.org/10.1007/s10657-014-9470-z>
- Glanfield, L., Hall, D., & J. Marie, International framework for court excellence, *International Consortium for Court Excellence*, 2013 <[http://www.courtexcellence.com/~media/Microsites/Files/ICCE/The% 20International% 20Framework% 202E, 202014](http://www.courtexcellence.com/~media/Microsites/Files/ICCE/The%20International%20Framework%202E,202014)>[assessed 3 July 2021]
- Guest, G., Bunce, A., & L. Johnson, How many interviews are enough? An experiment with data saturation and variability. *Field methods*, 2006, 18(1), 59–82. DOI: <https://doi.org/10.1177/1525822X05279903>
- Hair, J.F., Black, W.C., Babin, B.J. and R.E. Anderson, Multivariate Data Analysis: A Global Perspective, 7th ed., Pearson Education, Upper Saddle River, NJ, 2010.
- Hinkin, T. R., A review of scale development practices in the study of organizations, *Journal of management*, 1995, 21(5), 967–988. DOI: <https://doi.org/10.1177/014920639502100509>
- International Framework for Court Excellence (IFCE), 3rd Edition. (2020) <[https://www.courtexcellence.com/Inte/\\_data/assets/pdf\\_file/0015/53124/The-International-Framework-3E-2020-V2.pdf](https://www.courtexcellence.com/Inte/_data/assets/pdf_file/0015/53124/The-International-Framework-3E-2020-V2.pdf)>[assessed 24 March 2021]
- Johnsen, Evaluation of European Judicial Systems, 2014.
- Johnsen, J. T., The European Commission for the Efficiency of Justice Reforming European Justice Systems–“Mission Impossible?”, *International Journal for Court Administration*, 2012, 4(3). DOI: <https://doi.org/10.18352/ijca.83>
- Keilitz, I., Glanfield, L., & Hall, D., Global Measures of Court Performance Brief Version (Rep.), 2020 <[http://www.courtexcellence.com/\\_data/assets/pdf\\_file/0030/54795/GLOBAL-MEASURES-3rd-Edition-Oct-2020.pdf](http://www.courtexcellence.com/_data/assets/pdf_file/0030/54795/GLOBAL-MEASURES-3rd-Edition-Oct-2020.pdf)>[15 November 2020]

- Kourlis, R. L., & Singer, J. M., A strategy for judicial performance evaluation in New York. *Alberta Law Review*, 2009, 72, 655.
- Lax, J. R., The new judicial politics of legal doctrine, *Annual Review of Political Science*, 2011, 14, 131–157. DOI: <https://doi.org/10.1146/annurev.polisci.042108.134842>
- Lepore, L., Metallo, C., & Agrifoglio, R., Court Management in the Justice System: A Performance Evaluation Model. *International Laboratory for the Study of Judicial Systems*, 2012, 27.
- Nunnally, J.C., *Psychometric Theory*, McGraw-Hill, New York, NY, 1978.
- Oliveira, R. N. d., A Avaliação da produtividade dos juizes federais e as causas limitadoras da prestação jurisdicional, 32(jan/mar), 2005, 5765.
- Ostrom, B. J., & Hanson, R. A., Understanding and diagnosing court culture, 2009.
- P.M. Frank, Fault diagnosis in dynamic systems using analytical and knowledge-based redundancy: A survey and some new results, *Automatica*, 1990, 26(3), 459–474. DOI: [https://doi.org/10.1016/0005-1098\(90\)90018-D](https://doi.org/10.1016/0005-1098(90)90018-D)
- Pinheiro, A. C., *Judiciário e Economia no Brasil*. Editora Sumaré, São Paulo, Brazil, 2000.
- Prillaman, W. C. *The judiciary and democratic decay in Latin America.*, Westport, CT: Praeger, 2000.
- Reno, J., & Dwyer, J. C., Robinson, L., & Gist, N.E., *Bureau of Justice Assistance Trial Court Performance Standards*, 1997.
- Rosales-López, V, Economics of court performance: an empirical analysis, *European journal of law and economics*, 2008, 25(3), 231–251. DOI: <https://doi.org/10.1007/s10657-008-9047-9>
- Sadek, M. T., Magistrados Brasileiros: Caracterização e opiniões, Discussion paper, Associação dos Magistrados Brasileiros, 2005.
- Schauffler, R. Y., Judicial accountability in the US State Courts Measuring court performance, *Utrecht Law Review*, 2007, 3, 112. DOI: <https://doi.org/10.18352/ulr.40>
- Staats, J. L., Bowler, S., & Hiskey, J. T., Measuring judicial performance in Latin America, *Latin American Politics and Society*, 2005, 47(4), 77–106. DOI: <https://doi.org/10.1353/lap.2005.0055>
- Tiller, E. H., & Cross, F. B., What is legal doctrine, *Northwestern university law review*, 2006, 100, 517. DOI: <https://doi.org/10.2139/ssrn.730284>
- Voigt, S, Determinants of judicial efficiency: a survey, *European Journal of Law and Economics*, 2016, 42(2), 183–208. DOI: <https://doi.org/10.1007/s10657-016-9531-6>
- Williams, B., Onsmann, A., & Brown, T, Exploratory factor analysis: A five-step guide for novices, *Australasian journal of paramedicine*, 2010, 8(3). DOI: <https://doi.org/10.33151/ajp.8.3.93>
- Worthington, R.L., & T.A. Whittaker, Scale development research: A content analysis and recommendations for best practices, *Counselling Psychologist*, 2006, 34, 806–838. DOI: <https://doi.org/10.1177/0011000006288127>

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