

Note: This is a modelling, done based upon analysis of existing facts and evolving reasoning, as to how the 'Government' and 'Constituents of Governance' are likely to behave and function 'influenced by normal human attributes' under different 'probable conditions' and does not imply projection or criticism of 'any particular government system or person in the world'. Any explanation in this 'coinciding with any working Government system' shall be an unintentional coincidence only.

JUSTICE DELIVERY SYSTEM

JDS-Justice delivery system; CEJ-closed eye justice system; JOJ-Justice and only Justice; RIJ-Reign of injustice; JD-Justice deliverer; CAALEE- Crime abolition and Law enforcement establishment; AI-Investigating agency; MAI-Medical Investigating agency; AJD1- Assisting JD; AJD2- Assisting JD; WAL- Who is at loss; WAG- Who is at gain; JMP-Justice making process; OSJ-Outsiders supporting justice; PIJM-Participants in justice making; TJD- threshold time for Justice delivery; COLTH- Compensation of loss trust, happiness; JBI- Justice building Initiatives; JTP-Justice threshold point; FS-Fragmented system; JOJ-Justice and only justice; RIJ- Reign of Injustice;

Summary: This chapter brings out that

- 1. Justice is absolute truth, thus anything which is not justice is 'INJUSTICE'. Thus, without realizing this, an 'INJUSTICE' can be delivered in the name of 'JUSTICE'.**
- 2. Without defining Justice and whose entitlement it has upon it, Justice can NEVER be delivered**
- 3. Acumen, inquisition, analysis are the tools of Justice and not passive hearing**
- 4. Time taken in delivering final decision is the most important dimension to consolidate Justice**
- I. Justice system: name would associate appropriate objective, aim and also set accountability for the existence of the system and therefore, for the constituents/players also.**
- II. Any thing which is not justice is 'injustice', just the opposite and there is nothing in between. This is the most important principle of JDS.**
- 5. Thus the prerequisites for capability of the system to deliver justice would be:**
 - (i) defining what justice is and whom it is for**
 - (ii) defining the system transpiring to the people and also to the players in the system**

- (iii) **defining role and RAA of co-actors/co-players in justice delivery with minimum output they are bound to produce**
 - (iv) **Defining that 'delivering justice is the responsibility' of players of the 'Justice delivery system'**
 - (v) **Outline checklists and procedures with all supporting pre-requisite documentation against a set timeline**
 - (vi) **Defining duties for all the designated players to be fulfilled and measured in each case to commence 'justice delivery proceedings' with compliance of full and identified pre-requisites (parameter and criteria)**
6. **JDS Constituents are : Justice Deliverer, JD; 'Caalee'; Investigating agencies(AI); Medical Investigating agencies(MAI) and Jury**
 7. **JDS participants are Lawyers (AJD1) and others (AJD2,3.....)**
 8. **In OEJ, the Judge as Justice deliverer JD, would own the responsibility of delivering justice and check the other actors like lawyers, 'Caalee' etc for fulfilling their responsibilities, predefined minimum prerequisites. In CEJ, none of the player and associate in JMP owns it and carries the responsibility of delivering justice.**
 9. **prime objective of JDS would be to examine if the 'Loss was due' rather than 'gain is fair or not'. That too, moving ahead with the presumption that 'gain is fair', unless and until it is proven otherwise.**
 10. **The JMP process must therefore, aim to find out if the 'loss was due'? And then come to 'if gain is fair'?**
 11. **The priority of WAG would therefore be, not that it would look up for itself but that WAL is prevented from accessing to what WAL wants. This provides a very high incentive to WAG to repeat its act of gaining again by making WAL a loser again.**
 12. **So an easier task for WAG in CEJ becomes to prevent WAL to get what it lost and WAG gains out of it.**
 13. **So the closed eye justice system does not remain an impartial and absolute truth system and would show a bias towards one party, unfortunately WAG, in its intrinsic nature itself.**
 14. **The judge can not think or analyze, but only go by what has been presented. Thus it would lead to a mindset of shifting the justice line knowingly if it seems to happen ultimately**

15. **coming close to justice line or pushing WAL away from justice** Some interim decisions like permitting 'bail' must specifically address that it would not cause WAG
16. **In CEJ, for proving a happening, every aspect like objective, motive, participants and players, sequences of actions, results or consequences, all need to be placed at one place properly linked up to one another well integrated** And what WAG would have to do -only denial
17. **The OEJ regime would be based upon predefined, complete and time bound procedures not only for the players in the JMP after the case starts in the court, but for every player contributing to firming up evidences in the process ever since the crime has occurred, and all procedures, testimonials, validations well integrated with one another and complete, with pre-notified actions, responsibilities of each individual actor/player and Co-actor/co-player.**
18. **Time in which justice is delivered, is most significant aspect other than the 'Justice itself'. There is 'Justice threshold point' on time line and justice delivered beyond that point shall be 'injustice delivered'.**
19. **in 'CEJ', the judge cannot see the fact that case might already have been configured by AJD2 before coming to the court, the lawyer can afford to stand fighting and pleading for reasons other than 'delivering justice' which is 'personal benefits'.**
20. **In OEJ, the (judge) JD would, seeing the facts and using its acumen and understanding, would ask the AJDs including 'Caalee', medical support, testing people to first fill the gaps rather than carrying the gaps through**
21. **justice cannot be delivered because of incomplete procedures and "no restrictions" on application of personal choice and options by AJD2 changing the course of 'justice delivery' even before it started in the court. This aspect may be termed as 'Fragmented system' and would be a potential cause of 'delivery of injustice'.**
22. **JD shall review the authenticity, compliance of procedures, compliance of time frame by all AJD2 and review reports, details of tests etc to ensure that these meet the requirements of justice delivery**
23. **This would constitute a system conforming to the OEJ as all AJD2 actors would perform their 'defined' duties under 'defined' procedures within 'defined' timeframe keeping their responsibility and accountability towards the cause of justice delivery.**
24. **The application of parameters and norms on discretionary and non-uniform basis is more anti-justice activity than applying the standardized procedures and norms uniformly to find out WAL and WAG**

25. Cases in which children, women and handicap people are victim, identification of WAL is very easy

Preface

There was an incident occurred in Delhi, India's capital in which a medical student doing MBBS was raped in broad day light at a place close to her college and at a small hidden place on main road and a place full of hustle and bustle. The rape was done by a slum dweller on knife head. The case went to the court. One day there was a news that the lawyer of the accused pleaded in the court that accused can not be punished being juvenile, less than 18 years old.

Probably in old days the law was made that a juvenile under 18 years to be sent to rehabilitation centre, instead of jail, as the crime, perhaps keeping petty crimes like purse snatching or eve teasing, might have been committed under ignorance and due to surge without knowing consequences and the accused might not be mentally balanced and matured being younger. Also the heinous crimes like rape and murder might not have been visualized for being committed by 'juvenile' while keeping such provision. But the lawyer wanted to provide advantage to the culprit who committed a crime which can not be committed under ignorance at all, proves planning for committing it and also the accused being physically potent. And a crime which caused **irreversible great mental and physical torture to the victim.**

The basic question is 'did lawyer's argument go against basic principles for which laws are made'?

This is an example where the lawyer wanted to provide advantage, knowingly, to the criminal. The lawyer's statement that the criminal can not be punished being less than 18 years age reveals that lawyer was aware of the crime having committed by the accused but still knowingly wanted to support him under the shadow of law. And a criminal, by doing a rape, presented horrifying evidence of its being potent both mentally and physically for planning and executing the crime. So deserved no favour, in principle.

The basic question which comes up here is therefore, (i) what justice is (ii) whom justice is for (iii) what judiciary (as called) is for? Serving the victim or saving the criminal? Is anyone accountable for delivering justice? Have these fundamentals been addressed at all or every one of us just believes that justice is being delivered without defining what it is, whom it was for?

Let we look on the other side. The symbol of law is the goddess of justice, a women blindfold, why its so? Why is the lady blindfold? May be in old days, there were no reliable methods to consolidate and confirm the evidence, firm up the symptoms and the signs to construct a ground on which the justice could stand and therefore, primarily

the case was decided based upon the witnesses certifying the crime and the criminal. Thus a 'goddess blindfold' system evolved. It signified that the Judge since not being there at the time of crime, has **no right to visualize the crime and the criminal** and thus, blindfold. The judge is to be told by others, who were at the sight of crime, to the judge and the judge should decide the case upon the 'hearings'. So the judge would use ears and not eyes and nor the brain.

This is indeed a 'closed eye justice' (CEJ). This will further be elaborated in subsequent description. First let us try to elaborate the fundamentals.

(A) Justice Delivery System: A new Paradigm

Deviating from the present term and mechanism of 'testing criminals,' commonly called 'judiciary', we would now try to develop a new regime and philosophy of a new environment for justice delivery. The **basic and fundamental principles** of the system would be:

- (i) The term Judiciary etc as being used for such criminal testing mechanism does not indicate the objective and is ambiguous. Thus a system delivering justice may be called 'Justice Delivery System' JDS. **This name would associate appropriate objective, aim and also set accountability for the existence of the system and therefore, for the constituents/players also.**
- (ii) 'Justice' is a universal truth, an absolute, and thus is unique and uncompromised. And any thing which is not truth is false or a lie. Therefore, **any thing which is not justice is 'injustice', just the opposite and there is nothing in between. This is the most important principle of JDS.**
- (iii) If the outcome of system meets with the prerequisites for delivering justice and is able to signify to the one who needs justice that only 'Justice' has been delivered from the system, then it is called '**Justice and only justice**' (JOJ). And if it does not comply to this, it would be '**Reign of injustice (RIJ)**' as anything which is not justice is 'Injustice'.
- (iv) **Thus the prerequisites for capability of the system to deliver justice would be:**
 - (a) **defining what justice is and whom it is for**
 - (b) **defining the system transpiring to the people and also to the players in the system**
 - (c) **defining role and RAA of co-actors/co-players in justice delivery with minimum output they are bound to produce**
 - (d) **Defining that 'delivering justice is the responsibility' of players/co-players of the 'Justice delivery system'**

- (e) **Define/ Outline checklists and procedures and Investigations and scientific-prevalidated testing/validation in standardized manner (as minimum) with all supporting pre-requisite documentation against a set timeline**
- (f) **Defining duties for all the designated players to be fulfilled and measured in each case to commence 'justice delivery proceedings' with compliance of full and identified pre-requisites (parameter and criteria)**

In many countries, the justice delivery is being done with most of the above attributes missing. For example, the term 'judiciary' 'court' 'lord' etc are being used for the system meant for 'justice delivery' which neither transpire to the people and nor to the players in the system themselves, that the system and its players/ constituents have absolute accountability to deliver justice. A **new term therefore, has been evolved as 'Justice delivery system' (JDS) which by name itself signify that the very purpose of the system is to 'deliver justice'.**

(B) JDS Constituents:

The main character in present system '**Judge**' therefore, would be termed as '**Justice Deliverer**' or **JD** in short.

The **other important constituents (Co-actors/Co-players)** shall be the '**CAALEE**', **Investigating agencies (AI)**, **Medical certification/investigation units (MAI)** etc

The participants **mainly lawyer (etc)**, would be termed as **AJD** or **Assisting Justice Delivery**1.....2,3....

(C) Rules of Justice Delivery

(i) **Must recognize absoluteness of Justice: If it is not justice delivered by the JD, it is 'injustice' delivered** and there cannot be anything in between

(ii) The system and JD must carry responsibility and with defined accountability to deliver Justice. **JD is the justice deliverer and holds accountability to deliver justice. If JD is not sure of delivering the justice due to something being incomplete or some gaps, it would get those gaps made up first and then review.**

(iii) **Should understand whom justice has come to existence for:** Justice is for justice seeker **who is at loss WAL** (term defined subsequently) and has occurred loss because someone else wanted to and/or derived gains out of its loss.

(iv) **MUST** carry the responsibility of **delivering justice in time and with due punishment** to discourage others to repeat the crime.

(v) **Should define what justice would aim for**

The JOJ model would deliver 'trust, happiness, compensation to loss IN TIME' to the WAL, one 'who is at loss'. It would be equally applicable to any person, if suffered similar loss and at any time, at any place under similar circumstances. The RIJ model would be the other way round. It would not deliver Trust, happiness, proper compensation IN TIME to the one who is at loss.

Closed Eye Justice and the New evolution-Open Eye Justice

It can be seen that the 'closed eye justice' does not fulfill the obligations of 'Rules of Justice system'. **In the closed eye justice (CEJ) system, the JD 'justice delivery' will not think, will not see, will not use its acumen and wisdom for deciding a case but only listen to the lawyers and witness and decide.** Even if the judge uses its wisdom, it is only impaired wisdom which is the use of only ears, and not the eyes, and thus not whole of its brain. This would gradually get transformed into a 'dummy and passive' system, a system in which only witness is important, neither the judge nor lawyers; neither the victim nor the crime. And evidence, if exists can be manipulated by creating confusions and doubts by the lawyers putting witnesses into jugglery of questions. A system which would suit to the masters, in Master Slave Governance.

Taking a turnaround opposite to it, we think about an 'Open Eye Justice' (OEJ) system philosophy in which the 'Goddess' would see the things in **pre-decided minimum prerequisites**, as 85% of the information is received through eyes, analyzed by brain, think, link up the evidences, question to self and AJDs and witnesses and decide. **Thus JD acts as an 'active and responsible' constituent instead of passive.**

In CEJ the basic responsibility of judiciary (presumed present mechanism) is considered as punishment to culprit which would fundamentally differ in OEJ. **In CEJ if the culprit is not identified or partly identified (for which witness is almost 'must') with respect to crime and even if the culprit not identified and/or punishment not rendered, the justice is presumed to have been delivered which is entirely wrong and unethical.**

However, in the OEJ, the eyes of the Goddess are open and there is no helplessness. **The basic responsibility of Justice System is to deliver Trust, happiness, compensation to loss (COLTH) to one who is at loss and punishment to culprit is a derived product of this 'philosophy'.** In fact Justice must also cover a threat to the anti- socials (negative social factor) reflected in the outcome of JDS, but however, **a correct and timely decision and outcome of JDS would itself work as a threat to anti-socials.**

It can be very well understood that the eyes of the Goddess are open to see that all the actors associated in the process, **ever since after the occurrence of crime, must work with due diligence, not to leave any gaps and any requirement unfulfilled which would derail the justice making process anytime.**

Understanding concept of Open Eye Justice

This new concept with a practical and pragmatic approach to see and measure the 'justice' envisages justice seeking process as a tussle of 'gain and loss' and a fight between 'gainer' and 'loser'. There are **three associated players directly related to the 'justice'**, the one **'who is at loss' (WAL)**, one "who has caused the loss (and gained out of it-**who is at gain- WAG**) and the **third one is the 'judge'-JD**. If we look at the perception of justice by the two effected parties, one 'who is at loss' has natural inclination of promoting justice. The person who has incurred a loss would come to the justice system with the hope that the 'justice delivery' would occur and its loss would be compensated and culprit punished.

The other person who has caused the loss WAG, would not normally come to justice system as it is at gain and the only possibility of outcome of justice system 'in the form of the justice' would be that it would lose what has been gained and get punished also. This brings in the most important analysis based upon perception. **These two actors/players have just opposite perception of justice.** Obviously if it was not so, they would have reconciled earlier and leveled up the loss or the gain.

Because of their perception of justice being different and opposite, the third actor i.e. Judge-JD would come in, who would support one's perception and discard the other one's. This again supports the postulate discussed earlier that if it is not justice delivered by the judge JD, it is 'injustice' and there cannot be anything in between. The perception of this third player therefore, becomes most significant as **it is either delivering 'Justice' and if not, it is delivering 'Injustice'**.

In OEJ, let us term the proceedings in the court as 'Justice making Process-JMP'. At the onset of the justice making process, (JMP), the judge would not have any perception about the 'justice' and to be able to deliver 'justice', it would have to build well defined and well structured 'perception' about the same and would deliver justice when it would presume its 'perception' being very close to the 'reality' which would be 'Justice'. In CEJ, the judge is taught about the happenings by the lawyers and would form a perception based upon the same. Thus the path taking entire mechanism towards justice is paved by lawyers. If both or anyone lawyers decide the course of justice, (lawyers- with no direct accountability to deliver Justice), the perception of judge would, most likely, not coincide with justice. Further if there is difference of caliber, seniority, personality, argueability, rationality, analysis etc of these two lawyers, their approach towards justice would get affected. And this will always be so. Therefore, **both lawyers presumably will not be equal in terms of capability to deliver justice. The perception of judge in CEJ being driven and framed by the lawyers, would therefore, not be independent.** Thus the justice delivery may also get affected.

This can be avoided by conceiving this new philosophy of OEJ, by making the Judge as Justice Deliverer/JD, controller of 'justice making process', an active associate in the process.

The Judge as Justice Deliverer/JD, therefore, should have to be actively associated, like having experiencing himself, the happenings taking place. The Justice Deliverer, JD, therefore, **would be able to conceive the gaps in the justice delivery and seek those gaps being filled up by other actors** in the JMP. This would be 'open eye' justice system. Say for example, if a case of 'rape' has come and it is pleaded that the accused was not in the city that day or at that time, the judge would ask the lawyer and the 'CAALEE' to verify it and own responsibility for letting accused unhurt. The judge would also ask the 'CAALEE' that if the rape has occurred and the person presented by them as accused, is not getting evidenced as accused, someone has done it, why a different person is produced by them and why they do not intend to bring the actual culprit to the court and when it would be done/ complied now. **For JD, the JMP continues till the COLTH is realized.** This will also discourage anyone to go ahead with any intention of wrongly modifying the justice making process to favour WAG. **This would make the judge as the owner of the JMP and carry assigned responsibility of delivering justice.** It would ascertain 'not to be forgotten by any actor' the important analogy that if it is not justice delivered by it, it is delivery of 'injustice'.

In OEJ, the judge would own the responsibility of delivering justice and check the other actors like lawyers, 'CAALEE' etc for fulfilling their responsibilities, predefined minimum prerequisites. In CEJ, none of the player and associate in JMP owns it and carries the responsibility of delivering justice.

OEJ Players: After introduction of OEJ it is required that the following terms, which have not been discussed but going to figure subsequently are understood:

AJD1- Assisting JD in justice delivery- Lawyers, Jury

AJD2/Co-actors/Co-players- Assisting JD in justice delivery -'CAALEE' officials, Investigating agency, doctors, civil servants, forensic experts, scientific experts

JMP-Justice making process- Proceedings in the court under JD

JB1- Justice building Initiatives- Correct Instantaneous FIR/FCR/CRAG, post mortem, Medical examinations, Forensic tests, Scientific validations, Site inspections and evidencing, Identification and arresting criminal, Removing threat to witnesses etc.

OSJ-Outsiders supporting Justice- witnesses

PIJM- Participants in Justice making- General expression for all persons associated in JMP and before JMP

CEJ a wrong myth and practice

As mentioned at the beginning, there was a case of rape of a medical female student of one of the most reputed medical college in India's Capital, Delhi. The girl was raped by a slum dweller and the argument was presented by the lawyer that the culprit can not be punished because he was less than 18 years of age.

If such arguments have a place in a 'justice delivering mechanism', certainly the system would have gone out of place, drifted from the aim of justice delivery. Even the basic question would remain 'unaddressed' as to 'what justice is' and whom it is for? Such expression raises the most fundamental question pertaining to the justice Delivery system (JDS). What various actors in the JDS are for? To deliver justice or to protect the person one happen to get attached to, for portraying the case. Why any body, even an organ of the JDS would go against the basic principles of JDS (Not Laws). Laws are made for General application on many people but justice in a particular case; need to be made up, specifically, for that case. There may be an argument that the justice system actors PIJM, may do it under ignorance, but if any of the PIJM goes to injustice out of ignorance or other reasons, the whole JDS becomes fragile and meaningless. The term of JD system (and not the judiciary) has been used as the justice is an outcome of participation of many actors **who must be working together for 'delivering justice'**.

There is 'someone at loss', in the process of JDS and 'someone else at gain'. This may look like as an ordinary business preposition/ situation. So what different in a situation which leads to introduction of justice and JDS, is that the one who is at gain has no grudge and complaint. However, the one 'at loss' feels that the person 'at gain' has taken away 'those things' which were supposed to be his/her, WAL's, in a manner which is contrary to the terms of a healthy society, equal rights and correct distribution of loss and gain. Therefore, **the 'who is at loss' (WAL) would seek decision and verdict regarding his perception of 'should not be a loser'. And the JDS would be deciding if WAL is correct or not. So the objective or the prime objective of JDS would be to examine if the 'Loss was due' rather than if 'gain is fair or not'. That too, moving ahead with the presumption that 'gain is fair', unless and until it is proven otherwise.** Since gain and loss are interrelated in this case, if 'gain' is not fair, the 'loss' was not due.

The person who is at gain (WAG) would always argue that the gain to it was fair, or it was not because WAL was put to loss, so taking this as the basis to start the JMP process, is not meaningful. **The JMP process must therefore, aim to find out if the 'loss was due'? And then come to 'if gain is fair'?** This now should be the axis from where the JDS would start. **So the first step is to identify WAL and WAG and specify.** The identity of WAL and WAG would depend upon the transaction, it's sanctity and not that who raised the finger first. This marks the first difference between CEJ and OEJ. In CEJ, both contestants are placed at par, so no one 'WAL' and no one 'WAG', which is incorrect as explained subsequently.

For example, the core philosophy of Judiciary in some mechanism, somewhere, is that 100 culprits may go unhurt and unpunished but no 'innocent' should be punished. This itself declares that Justice Delivery is biased towards one who would look to be innocent to the judge in JMP, without recognizing the loss (if due) which has occurred and without questioning the gain, if fair or not. This is a statement of creating inherent disbelief in the JD and the other players, for their being capable of identifying WAL and WAG and even carrying such an intention at all. This statement handicaps the justice delivery without any 'justice oriented' definition and JMP objectives to achieve 'justice'. **This relieves all the players in justice system from the responsibility of 'delivering justice'. Because of not recognizing and working for the perception and need of justice, to WAL, thus, not recognizable as 'justice system meant for delivering justice'.**

The principle of such mechanism if defined as 'No innocent person should be punished even if a criminal gets out of it **without any punishment itself expresses inability of the system to deliver justice. This expresses inability, even to be able to discriminate and differentiate between a criminal and innocent.** This is a clear message that (i) a criminal can get out of it and (ii) the criminal 'need not to be innocent' but should 'come out 'to be innocent' in the process of court's proceedings. **This would further exemplify that even if a criminal has been set free treating innocent by this mechanism, no one in the process is accountable. This is another great draw back of 'closed eye justice' system.**

In Closed Eye Justice system, there would be visible examples of dishonoring of the laws by individuals, known and in evidence prominently, but the whole justice system would keep a closed eye towards the defaulters. **The CEJ would have an unreasonable excuse that, since the system itself is blind (not able to see), unless there is a complaint making the judiciary, justice system, to notice such disobedience of laws, they have all the right to ignore it.** If in a country, the disobedience and irregularities by the well known people and prominent public figures like political leaders, MOG, OIG, Film actors, Visual and audio media actors, notable persons, celebrities, prominent sports person etc, an action of disobedience of laws which even gets wide media and news coverage on Television and newspapers etc, is conveniently overlooked by judiciary/justice system under the excuse of not able to see by itself, the existence of CEJ is evident. **The disobedience of social laws and norms like bigamy, more marriages, child marriage, social monetary transactions in marriages, torture to spouse etc, would just be overlooked by CEJ under the excuse of inability to see and act 'without complaint' or 'personal matters of people' although there would be laws against such acts.**

There is one more serious drawback of CEJ. As demonstrated in other chapter, there are only two entities which are 'truth', time and mathematics. The time would keep moving and nothing in this universe can stop it. Time signifies change, a change which is outdating whatever is existing in the universe on a particular day. In such dynamism, the

human behaviors also keep on changing causing creation of new patterns and methods for executing crimes. In some countries, throwing Acid on the face of girls, a condemnable inhumane act, has started occurring which was almost negligible few decade back. So, when everything including human behavior, including unwanted and anti-social behavior, is changing with time, there should be a regime to change the rules and Laws correspondingly. **If there is no procedures of reviewing the existing laws periodically by professionals and legal people, CEJ would result.** CEJ would also have excuse of examining a case at present under the same law as decades before in the past to maintain parity with the similar case occurred in the past, which would be unreasonable. **Persistence of laws continuously without modifying the same, would make the laws ineffective and irrelevant. May be such review of Laws at an interval of every 10 years is essential with intermediate reviews whenever required by Justice system.**

Analysis of CEJ

The 'closed eye justice system' model can bring out serious drawbacks. Let's analyze it. The witness is the central entity in the justice delivery. The person who has to deliver justice is blindfold. It can only hear and analyze based upon whatever is being told and discussed in the court room. We move top to bottom. **The aim of the system is that the judge must decide the case, so that justice is delivered.** The fight is between WAL and WAG. The justice requirement is to give WAL what it has lost. WAG would now enter into the process with an already possessed advantage of having gained what it wanted. So WAG just has to manipulate the system in a way that WAL does not get what it has lost. And even if it is presented by WAG that WAL has not lost, what it claims to have lost, or WAL is not able to prove **by itself** that loss is accountable to WAG, the WAG wins over, as it would not now return what it has gained. **The priority of WAG would therefore be, not that it would look up for itself but that WAL is prevented from accessing to what WAL wants. This provides a very high incentive to WAG to repeat its act of gaining again by making WAL a loser again.** If a person has killed someone and is under trial and there is a witness. Now the person already facing trial for killing would have a much more potent reason to kill the witness, even much stronger reason than what would have been for the first killing. If there is further some witness after the 2nd killing, it would have further strong reason to kill and even after many killings, the WAG would, by virtue of gaining more and more with every subsequent killing, would ultimately be at large gain and get free as the best gain to it. **A great incentive CEJ would provide to repeat the criminal act again. It is obviously proven if in a murder case, the witness is killed or a criminal set free on bail perform another crime.**

So an easier task for WAG in CEJ becomes to prevent WAL to get what it lost and WAG gains out of it. WAL is already a loser, lost something, therefore, demoralized and only expecting justice to happen. Where the society is greatly fragmented on

economic and social grounds, the WAL will under all probabilities be a weaker and/or lower economy and/or socially backward and/or physically weak person. **If such a person expects justice to happen, it is just like making a trial, and it would preferably step out from the justice process, if it expects entering into another loss in the process. And WAL exit is WAG win.**

Therefore amongst WAL and WAG, if contesting, the WAG win is also likely in CEJ. Which is 'delivering injustice in the name of justice'.

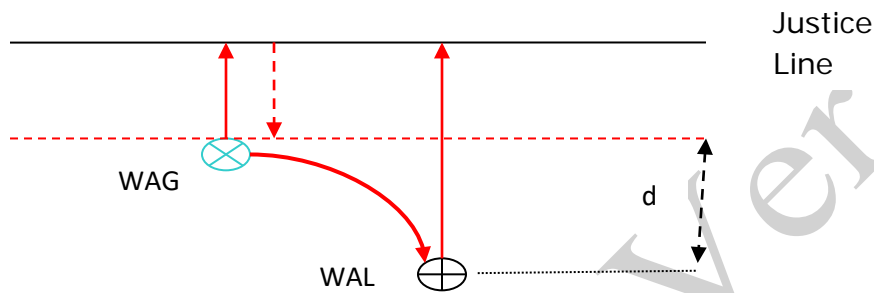


Fig:

If we look at a simple graphical demonstration as above, there is a justice line and WAG and WAL are placed under the line. They are pursuing justice thus to reach the justice line. WAG is closer to justice line being in a position of advantage of, high morale, higher economic and social status and the advantage of gained assets or rather advantage of possessing the additional (gained) means and assets. WAG also possess higher morale in CEJ as even if, by crooked means, it weakens the strength of WAL, it would win. On the other hand, WAL is away from the justice line because it lacks these attributes. In case of 'Closed Eye' system, both have to reach justice line and obviously it is easier for WAG to reach the line than WAL.

This is not all. There is even more serious consequence in CEJ (closed eye justice). The WAG does not try to reach the justice line but instead prevent WAL to reach it, because this will also ensure its win. CEJ since proceeding with the presumption that WAG's gain is undisputed, so it is essential for WAL to reach the justice line to prove wrong. It is obvious that if WAL does not reach the justice line it would not get justice. There would be fair chances that the WAG would succeed in keeping WAL away from the justice line. Now justice is what WAG would have presented, and justice being a closed eye exercise, the JMP would accept it to be the justice. Thus the justice line does not remain an absolute mark, independent, sincere and equally respectable, and moves down to the

position of WAG so that what WAG has presented, has become justice. **So the closed eye justice system does not remain an impartial and absolute truth system and would show a bias towards one party, unfortunately WAG, in its intrinsic nature itself.**

This shifting of the justice line changes the whole perception of all actors of JDS in CEJ. If shifting is an inherent and likely outcome of the Justice delivery process, it would go unnoticed even if the judge has deliberately made this shifting to happen. It is very disappointing. But the judge may have an incentive to shift the justice line, if the presented out come of the process is expected to be the same otherwise. The reason is obvious. **The judge can not think or analyze, but only go by what has been presented. Thus it would lead to a mindset of shifting the justice line knowingly if it seems to happen ultimately.** This is a very desecrating result of 'closed eye justice' system.

CEJ vs OEJ- understand difference

Ideally both WAL and WAG should be placed at equal 'justice distance' (or even WAL, after due recognition, closer than WAG) which would mean that both are placed in a manner to bear the same efforts and spend equal energy for reaching to the justice line. This would not be possible in case of CEJ. **The WAG normally would be more powerful, resourceful, manipulator and criminal in mind compared to WAL, otherwise WAG would not have got over WAL while carrying out offence.** Since CEJ system is blind fold, would depend upon all the evidences as narrated by WAL should come before PIJM, all the atrocities on WAL done by WAG should happen live in the courtroom so that CEJ can see that the crime actually occurred. With the position of benefit WAG is having before the trial starts, there are many reasons due to which this is not likely to happen in a manner CEJ would intend to happen to prove crime because:

- (i) WAG being powerful resourceful manipulator, criminal minded would prevent the actors OSJ (outsiders supporting justice like witness etc.) to come to court to replay the act for judge in CEJ.
- (ii) The witness OSJ participants shall have no incentive, direct and potent, to put them to exposed risk.
- (iii) Thus even though, WAL and WAG are placed at equal justice distance, the position of WAG would shift closure to justice line creating a differential 'd' which would be 'Anti justice positioning of gain and loss differential'. This Anti justice differential would make all the difference in decisions by the authority. This represents the basic design of CEJ tilted towards injustice. If you consider a case of minor, 8 years old, raped (or murdered) by a person, and no witness, the above can very well be made out to be perfectly applicable.

Thus it is first responsibility of JDS that WAL and WAG are placed at equal 'justice distance' and to realize this, in OEJ system, the following MUST be considered as prerequisites:

- (i) Should decide in JMP (may be or may not be publicly till final judgement JD announced) that who is WAL
- (ii) Should decide (may be or may not be publicly till final JD announced) - How likely is that WAG as stated by WAL, is correct and also how likely it may be other way round.
- (iii) Identify the positioning of WAG and the factors which can shift its position towards the Justice line. Nullify the factors.
- (iv) Identify the positioning of WAL and assess how much its position can be altered by WAG in the process.
- (v) Work out measures to avoid the Anti justice differential and following the same during the JMP process.
 - (a) No influence or clout of lawyer. If any, need to be counteracted.
 - (b) No power clout of WAG. If any, need to be counteracted to ensure no influence in court and process.
 - (c) No resource clout of WAG. If any, need to be counteracted - No wealth transactions
- (d) JD to ensure that none of AJD1, AJD2 and other player's actions can cause WAG coming close to justice line or pushing WAL away from justice line. **coming close to justice line or pushing WAL away from justice line. Some interim decisions like permitting 'bail' must specifically address that it would not cause WAG**

The very first step therefore, should be identification of WAL. If a 8 year old girl has been raped, the WAL is already established. A CEJ would not recognize this status and would wait for years of discussions even to recognize WAL which would demoralize WAL even to stand by its own case.

However, the OEJ regime would recognize WAL at earliest and put in records so that the recognition of WAG, onwards, can only be concentrated upon. Further as delivering justice is the responsibility in OEJ, it would act morally to find the criminal or else the justice would not be delivered. In CEJ even in identified cases of crime causing grave loss to WAL, the CEJ closes the case simply if the accused is not proven 'to be accused' pretending JDS to be blind. **The OEJ would ask for finding out the WAG, the real accused if the 'CAALEE' has not been able to prove accused as 'accused' in trial, because now with open eyes OEJ can see the crime having committed and therefore, dutiful to find the culprit to 'deliver justice'.**

In CEJ, if something is being pursued, based upon something which has happened and it is to be proven to have happened, denial is the easiest course as **for proving a happening, every aspect like objective, motive, participants and players, sequences of actions, results or consequences, all need to be placed at one place properly linked up to one another well integrated. And this is what would be required by WAL and its lawyer to be done.** And what WAG would have to do -only denial and therefore, nothing of the above activates required. This analysis can just highlight how tough is for WAL to win and get its dues. The OEJ system would consider this and assess the strength after linking up the activities rationally, meaningfully, and not mathematically which gives benefit to WAG creating small gaps in CEJ. This would be possible in OEJ and logics and rational can be developed by JD with active brain and participation, however transparently, to maintain fairness.

The OEJ regime would be based upon predefined, complete and time bound procedures not only for the players in the JMP after the case starts in the court, but for every player contributing to firming up evidences in the process ever since the crime has occurred, and all procedures, testimonials, validations well integrated with one another and complete, with pre-notified actions, responsibilities of each individual actor/player and Co-actor/co-player.

In OEJ therefore, JMP would start once the victim has reported about the crime with compliance of predefined complete procedures by AJD2 .

Some of the ways to counter act the influences to reduce the Anti Justice differential may be:

- i. WAG clout- Know the political/ power status. Publish it/ notify it
- ii. Notify political alliance, party, position,
- iii. Know the social status. If higher than WAL notify who is high, who is low
- iv. Know the financial (rich) status. If higher than WAL, notify who is high, who is low
- v. Know crime background and publish/ notify
- vi. Know the religion and caste and if WAG tend to influence from these corners, publish / notify it
- vii. Assess how likely WAG can harass WAL and witness (as directly proportional to (i) to (vi) if higher) if released on bail etc. **Notify it if bail permitted**

The OEJ would keep eye open to view any disobedience of laws, specially the prominent people like MOG, OIG, MGG, District and village elected public people, Film stars, Actors from important media like television news papers etc, and arrange for registration of a case by itself, even if there is no formal

complaint from the public. **The social anomaly by such people like bigamy, women harassment, illegal marriages, monetary transactions and expensive unwanted personal and public celebrations, media propaganda etc comes in media coverage along with video recordings or in news paper and can be conveniently taken as the basis to register a case.** This would be an action by OEJ though CEJ would 'keep eyes closed' and overlook causing encouragement to common people to repeat.

The OEJ would have very important function of reviewing and modify existing Laws for effectiveness and relevance. As mentioned above, CEJ would ignore to own this function. *This has been elaborated in other chapter.*

Analyze Important constituent: AJD1- Lawyer

Let us analyze the role and behavior of lawyer in CEJ system. The lawyers are the contractually engaged people to serve some purpose in favour of the client. A contractor in other fields would try to perform so that it earns a good name which would help it to succeed further. The judgment/ assessment of performance is also possible with well laid down agreed performance criteria. A lawyer on the other hand perform against no criteria of performance as it is pursuing something which is non-existent, thus just making a try and does not matter if it achieves or fails to achieve. **'Failing to achieve' is not losing as there was nothing which existed and which it would lose.** Therefore, 'failing to achieve', also does not make the lawyer 'a loser'. So both possibilities are equally placed for him/her, and no sincere botheration expected for being on any specific way or either way.

A lawyer therefore, expected to proceed sincerely so long as the way ahead is *conducive, supportive to the cause of justice*, easy and swift. If not an easy way ahead, it may also decide to go the other way.

Initially a lawyer *may* have two reasons for its association with a case. The lawyer believes client and wants to get what the client has come for, which may be justice *in its opinion* and other one is looking after its own interests being human being.

A learned lawyer, by listening to the story of its client, would *easily* come to know about the level of truth *in it* and *can have reasonable understanding* if the client is at fault or not. The capability of a lawyer for developing reasoning and analysis would always enable lawyer to understand to a great extent, if its client's presentation is true or how much true. Without this understanding, a lawyer cannot plead the case. However, if now the lawyer feels that the person is at fault but decides to associate with the case, it is obviously because of its self interests. In every case going to court, there is one person (party) who is at fault (out of the two), but the lawyers associate themselves with all the cases and with both the parties, which clearly represent that the lawyers may be into the courts with motivation of fulfilling self interests. Obviously, it is true for a human being.

Examining this further, there are two persons, one is wrong and the other one is correct and both would hire the lawyer. Looking at their ability to engage the lawyers, even the wrong one, it becomes evident that the lawyer would give priority to its own interests over serving the true aim of justice delivery. Since **in 'CEJ', the judge cannot see and the fact that case might already have been configured by AJD2 before coming to the court, the lawyer can afford to stand fighting and pleading for reasons other than 'delivering justice' which is 'personal benefits'**. Thus the lawyer is likely to support its clients to get its personal benefits fulfilled. If the lawyer wants to get its client win over and favoured by the court, irrespective of its being justice or not, then the lawyers approach again becomes part of the second reason and becomes its own interest.

Now we presume that the other 50% lawyers with WAL are fighting for justice. In general the personal gain to the WAL lawyer would be less than the lawyer of WAG as WAG would extend benefits for making its lawyer to reverse the status by either making WAG case stronger or making WAL case weaker. If the process of justice is true and if its delivering justice always, there should not be a possibility of making WAG case stronger because if WAG is at fault, the procedure of justice must prevent from becoming its case stronger. Thus, making WAL case weaker may be a possibility. But it also goes against justice. So there seems to be possibility of an injustice if a lawyer fights a case for WAG in a CEJ system, as the judge would normally go by the lawyers.

Another serious aspect of CEJ is that the case can not be self visualized by the judge. It is to be heard. Therefore, witness is most important because they have seen the incident and would be the link between CEJ and justice. Under the circumstances where CAALEE may exhibit aligned with criminals, due to any reason whatsoever (lack of action or non-compliance of procedures by CAALEE shall also be a support) and the judge has to give judgment without involving its independent and rational thinking since not permitted, its capacity to deliver the justice depends upon the sincerity and honesty of the lawyers in presenting and contributing to the case. The lawyer, who has to carry through the case for years by putting in the most labour oriented contribution, **would slacken the arguments if either the results are not coming through as expected or if there is a benefit in doing so.**

Another important aspect is that lawyers are considered being only pleading the case considering pleading as their duty even for the criminal. Therefore, even for a criminal to be punished by the court, the lawyer while pleading to protect it, has not done any thing wrong, inspite of having made best efforts to protect the accused from punishment,. This is a very sensitive issue. On one hand the lawyer has been trying to protect the criminal and on the other hand its criminal's right to prove itself innocent. However, a criminal pleading that it is not criminal, is against the justice delivery therefore, the criminal should have this right only when criminal is not 'criminal'. Therefore **while granting opportunity to the criminal for pleading its probable innocence, norms need to be**

developed so that criminals and lawyers have enough discouragement that while availing the granted opportunity by the law, they do not join hands to turn around the law to 'un-law'.

The other derivation of this situation is that if the lawyer of the culprit is more prominent and more intelligent than the lawyer of the WAL, which is likely to happen in natural course, because WAG would be in a position of hiring better lawyer being in possession of gains and with the sole objective of getting out unpunished with whatever measures it may adopt, the lawyer of WAG may argue upon the lawyer of WAL and others to drift the case away from justice. In CEJ, creating contradictions in statements of various witnesses (easy because they are not intelligent and conversant with laws as the lawyers are) is one such course. **And the CEJ makes it easy.** The WAG lawyer has not to work hard enough for it **as the lawyer may not clearly prove WAG being innocent, but only by creating doubt about the consistency of the case and witnesses, it would get favorable results** as the benefit of doubt would go to WAG because of the sole principle of CEJ that 100 criminals/ culprits may be acquitted by court believing them to be innocent if the presentation in the court to the judge, which is not under its control, is incomplete. So judge would go by this rule helplessly even though seeing with his own eyes that crime has been done and with the decision WAL is at loss again. This is not justice as per OEJ.

In OEJ, the (judge) JD would, seeing the facts and using its acumen and understanding, would ask the AJDs including 'CAALEE', medical support, testing people to first fill the gaps rather than carrying the gaps through. It would ensure none of the players has left any stone unturned to enable it to deliver justice.

Fragmented vs Integrated System

The process of justice delivery have many stages which eventually would make the justice delivery dependence on many people and many procedures. These stages would be driven and decided by the participants and actors associated at these stages and would carry out the designated activities as per procedures and their perception and priorities driven out of their perceptions. More stages would also result more procedures and as the number of procedures would increase, the probability of their being incomplete and inter-procedure conflicts would increase. Thus more players and actors **AJD2 and more number of procedures "If not properly integrated", would bring down the probability of justice delivery.**

Many examples around us substantiate it. In a case, when enquiry officer was asked 'if a particular scientific based test shall be performed on the accused', the reply was that 'it would be seen if the above test is to be performed or not'. Such one decision based upon the perception of a AJD2 would change the course of justice delivery even before it comes to the JD.

Thus, **justice cannot be delivered because of incomplete procedures and “no restrictions” on application of personal choice and options by AJD2 changing the course of ‘justice delivery’ even before it started in the court. This aspect may be termed as ‘Fragmented system’ and would be a potential cause of ‘delivery of injustice’.** It would have serious repercussions on the objectives of justice delivery as it would change the course and direction of justice even before commencement of the process of ‘justice delivery’. Thus **the fragmented justice model is another depiction of enhancing probability of delivering ‘injustice’.**

The ‘CAALEE’ have the duty of arresting the criminals to safeguard the society. The arrest is to be made as per some act and provision in the law. And this is decided by the “CAALEE” that under which law and act the charges are to be made. ‘CAALEE’ also has responsibility to collect all evidences which are required necessary for the justice delivery. All the factors are very important for putting the proceedings on the path of justice delivery. And CAALEE is not ‘justice system’. **This impresses the prominence and dependence of justice on the Non-justice delivery AJD2, which inflicts the basic spirit of justice making by contaminating it with the decisions and perceptions of actors who have no defined and documented responsibility towards justice delivery.** There is no doubt that this aspect would prominently figure in CEJ as it is permitting justice being configured by those who have not been made accountable to justice delivery.

Role of AJD2:

It is obvious that all activities related to justice making and delivery can not be performed by the JD. Therefore it is absolutely essential that

- a. The AJD2 are limited to avoid fragmentation of justice delivery making it weak and ineffective. However, the existence of all independent specialized fields like law, CAALEE, medical etc shall have to be kept intact
- b. All AJD2 are well defined in the justice delivery procedures with discreetly defined role, responsibilities and accountabilities towards justice delivery. The minimum prerequisites should be documented.
- c. **The AJDs are prequalified and specialized in the fields of investigations, firming up evidences, testing and validation, analysis, medical testing and analysis, weapons, crime methodologies and these should have distinct and identified existence correlating their expertise and knowledge.**

- d. The procedures to be followed by them are complete and described in a manner not to leave a chance of applying their discretion for non-

compliance. However, additional information based upon AJD2 acumen and experience must be included as all cases of same crime are not same, to make the reporting complete.

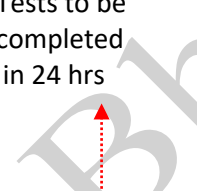
- e. The importance of their role and participation is highlighted to them from justice delivery point of view and made public also
- f. Interface between two players and their corresponding procedures are well defined so that there is no ambiguity possible because of difference in their perceptions
- g. And all activities under all AJD2 to be performed within defined time frame

With compliance of above guidelines, the justice system would be 'Integrated Justice Delivery System or JDS in short; conforming to OEJ.

Thus the JD shall review the authenticity, compliance of procedures, compliance of time frame by all AJD2 and review reports, details of tests etc to ensure that these meet the requirements of justice delivery. If not, the JD would get the needful done to make up all gaps, deficiencies by AJD2 and if having done by them avoiding procedural requirements, recommend action against the concerned AJD2.

It is described in subsequent coverage in this chapter that besides the justice itself, other most important parameter to constitute 'justice as justice' is the time. Therefore, all above actions by different actors must be stipulated along with the time dimensions. So within a definite time frame the actions of all actors must be completed. **This would constitute a system conforming to the OEJ as all AJD2 actors would perform their 'defined' duties under 'defined' procedures within 'defined' timeframe keeping their responsibility and accountability towards the cause of justice delivery.** The discretion will normally be having no place, however can always be provided as an additional step to support justice delivery but specifically mentioned in the reports by AJD2, for which AJD2 would get recognition.

The OEJ structured system would look like to be. **It is brought out that FIR/ FCR/CRAG and medical should not be under 'CAALEE, the investigating agency, and the same need to be incorporated**



If we go a little behind into the past, the kings used to go for hunting. There the aids of the king who would drive the deer from one direction, it would go to other direction for

escape and the other group would again drive the deer back and so on until the animal is trapped, tired and then killed by the king to satisfy its urge of bravery.

Why these people would do it? The king would get any kind of meat to eat in its palace. The king's aids are also able to get it without much trouble, but why then all of them together would chase and kill the deer. The reason we know from the history is that it was used to be done for fun and for entertainment. **Powerful people, when gets driven by the feeling that their power is unchallenged, would go for periodical checking and verification that their power is still unchallenged, by carrying out law breaking exactions** on helpless. When the deer is getting trapped, no one thinks of good about the animal. The people feel happy as more and more the deer gets close to 'being killed'.

And 'justice system' is the mechanism to stop this effectively. However, **if CEJ continues**, gets accepted by Government all through and **finally becoming a culture, the powerful people would play with justice system by tempering procedures, influencing AJDs, frightening witnesses and so on.** Once this is a culture every powerful person would have incentives to follow.

Like this if one government authority does the bad and other government authority can not stop, it would join the first powerful (centre of power) to enjoy the misdeeds over helpless citizens. **Can we now say that when many government agencies come together to trouble a citizen, they tend to enjoy it?!**

So one most important point emerges here, is that if one powerful is doing wrong, there should be other powerful in other field to stop it, and if the second powerful can not stop, it would join the first in the process of torture and they both start enjoying. This brings in very important derivation. First **wherever powers are provided or available in the government system it is essential to develop equally powerful entity or system which would continuously check the application and use of authority and powers by the government people. The presence of citizen and its complete transparency 'must' be ensured in such a monitoring system** as the citizen is going to suffer if the powerful join and spread a culture of 'injustice' and 'malpractices'.

But as explained above, when an authority possessing Government powers, unchallenged powers, start to trouble a citizen, the mindset of other entities possessing Government powers shifts from citizen support to support the one troubling the citizen, and they join. This cannot be termed as 'Injustice' as in this case the citizen even can not avail its rights to seek justice as the process would route through those who are torturing. Thus this is termed as 'Sepulture of Justice' -SOJ. SOJ would be a result of continuance of CEJ for long.

This represents a hypothetical situation where Justice system players and/or co-players and/or AJDs may happen to join to cause 'delivery of injustice' in the name of 'Justice'.

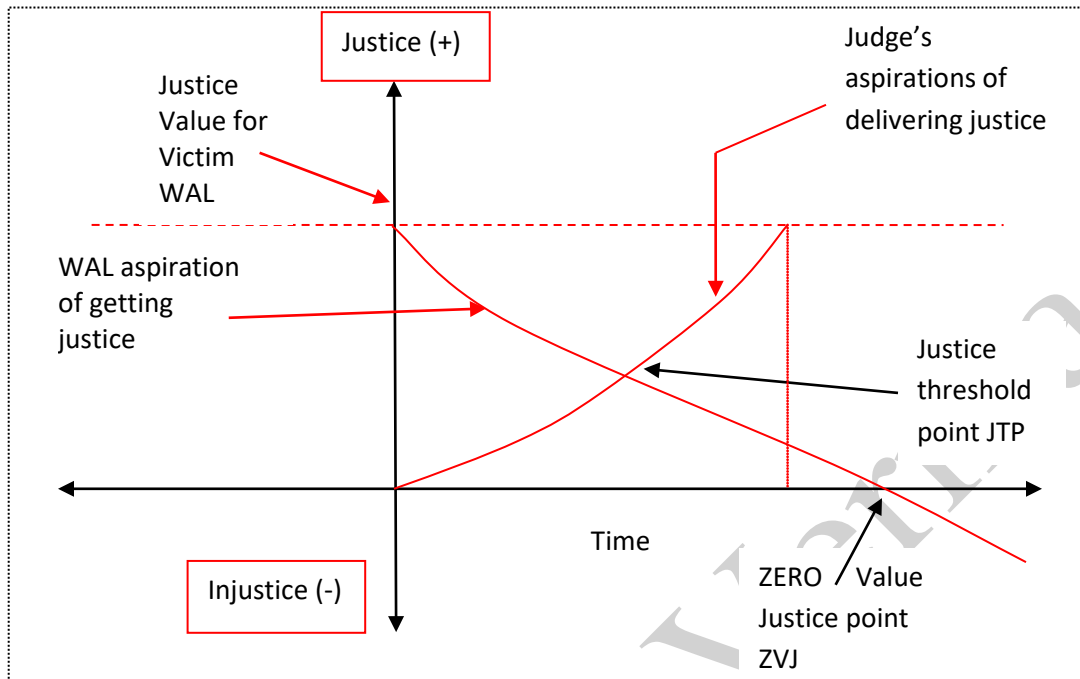
This explanation is very important but restricted for further elaboration for the present, however, there are incidents leading to this analogy.

Time most important measurement

The important parameter for justice delivery, after the justice itself, is the time. These two together consolidate the quantum and form of JUSTICE. If the time of delivering justice is so much that the feelings of incurring a loss are washed out from the memory of the WAL or WAL feels exhausted and harassed in the process of seeking justice, the justice becomes injustice to WAL and consequently WAG is benefited by undue advantage.

It is elaborated earlier that the perception of justice by WAL and WAG are just opposite. WAL, though, would want immediate compensation of the loss occurred to it, WAG on the other hand, would want that the WAL's perception and expectation never come true and WAG keep the possession of gains it has earned out of loss to WAL. And Judge, **JD, has the responsibility to deliver justice to WAL within a time frame such that the WAL is able to mentally relish the compensation before it is exhausted** and has lost feeling of loss to it **which would be depreciating with time**. Not only this, **the JD should also bear a social and statutory obligation to give decision, namely justice, before the people in outside world forgets the case, so that the decision also serves as a deterrent to all the people outside not to repeat the crime**. If the time of justice delivery exceeds this time frame, neither the WAL appreciates the weight of decision, being mentally sick of carrying both agony of the incurred loss for a long time and daily hardships of livelihood getting superimposed on it to stress both mentally and physically everyday. Nor the decision becomes a strong disincentive to all the people not to repeat it, the people having forgotten and not caring for the decision anymore. Moreover, if this time frame of justice delivery is more, many more such crime would have happened in the due course of time leading to not only multiplying the crime but also defeating the only purpose of the justice delivery into existence. Therefore, **anything most important after 'justice' itself is the 'time of justice delivery' TJD which starts from the occurrence of incident.**

Fig.294



If we understand it with a graph, the justice is most meaningful on the day it has been sought. The principle is very simple that the one who is at loss, seeks justice, has all the right and entitlement to get justice right at that moment. It is only because of the slackness and complexities of the system and because of long procedures and rules and overburdened system, the justice system would take more time. However, the WAL is living a life and occupied in many other things. Nevertheless, the WAL would be the most sincere about pursuing justice because it is in expectation of gain, so would divert its attention and lay priority on getting decision. So the aspirations and the best state of justice meaningfulness for WAL is when the justice is sought. As the time would pass the meaningfulness of justice would depreciate and at some point it crosses the time line. At this point, if the justice is given to the WAL, it becomes meaningless to it and becomes zero value justice (ZVJ). Beyond this time the justice is not awaited by the WAL any more and also it does not leave an impression on people for being an effective disincentive not to repeat the crime and, **judge's decision becomes 'injustice'**.

There have been incidents in over the globe that the 'victim' who suffered loss and sought 'justice' from justice system/judiciary did not get during his/her life time.

We also derive the curve of judge's aspirations/ readiness of 'delivering justice. When time is zero, the judge's aspirations of delivering judgment would be zero. As the case would proceed the judge would build understanding for the case and the aspirations of delivery of judgment would increase with time. At some point it would cut the justice value curve and this forms the threshold point of justice (JTP). If the time taken in delivering justice is beyond JTP, then the value of justice comes down. Any judgment

delivered beyond JTP is not worth, **neither it would provide a pleasure to WAL having won, nor it provides enough deterrent to the (WAG) and other people not to repeat the crime by others.** The reasons and helplessness exhibited by the judiciary may be many but the fact is that after JTP the value of justice diminishes and at a point beyond it, becomes a zero value justice.

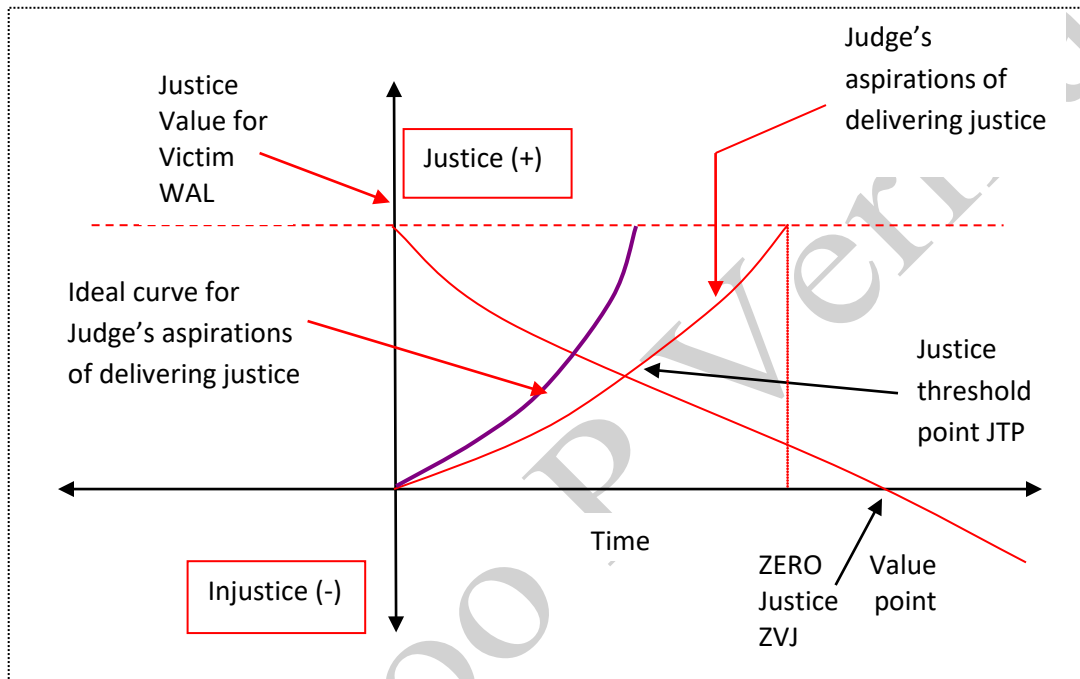


Fig.

Judge's aspiration of delivering justice therefore, must occur much before the WAL's aspiration of receiving Judge's decision as 'Justice'. Ideally the judge's JD's aspirations of delivering justice should match with the JTP or before. As CEJ is based upon endless and undefined discussions, arguments without assigning time based responsibilities to players and co-players, realizing 'curve for judge's aspirations of delivering justice' would normally be beyond sight. It would be possible with well defined pre-requisite norms, procedures, identification of WAL, WAG etc and finally strong determination of the JD to deliver 100% JUSTICE. **And if a judgment is given even beyond it, its no more justice but it becomes 'injustice'.**

The most difficult exercise would be to find out a reasonable time frame in which the criminal to be punished to realize that 'justice is delivered'. In an analogy below, the dimensions of perceptions have been explored [to work out](#) the criteria.

- 1) The aim of justice system is to punish the criminal so that neither it repeats it nor others dare to repeat it to trouble the society [again](#). It [should](#) make enough impact on others to be discouraged [adequately](#) from [repeating](#) the crime.

So the time of justice delivery should be less than the time a criminal may take to repeat the crime. So $TJd < Trc$ (Trc= repeated crime time)

- 2) The WAL would contest the case with the hope that the justice would come to make it to believe that the criminal is punished and its loss is compensated in a time that transpire JOJ, having retaliated and punished on its part as the effected person (WAL) would have wished to.

Time in measurable form

I would try to address this important feature of Justice delivery, which can turn a decision labeled as 'justice' by CEJ, into injustice while viewed from the side of WAL, for whom the justice is meant. Although the time within which, justice should be delivered, has been outlined in the form of a hypothesis earlier. But time need to be evolved in a shape with measurability so that it can be applied and practiced.

Let we evolve it with geometrical embodiment as below:

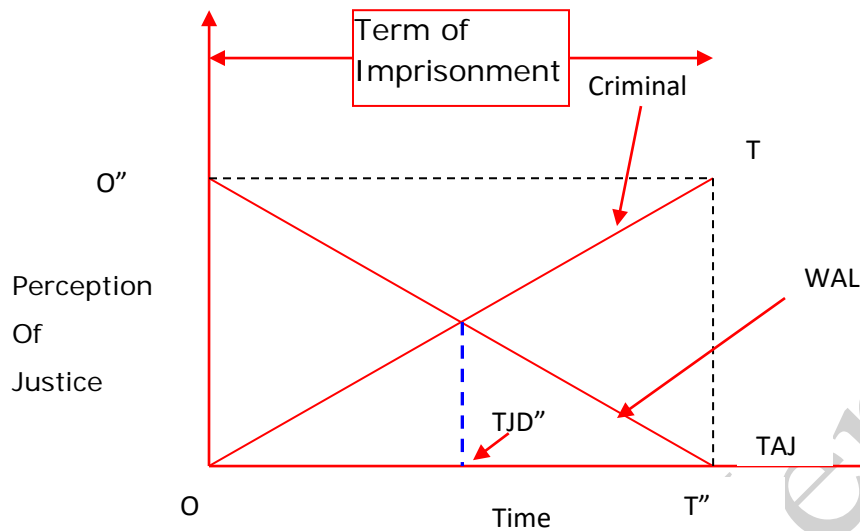


Fig306

The above curve is based upon the 'criminal's perception' of the justice delivery when the verdict comes before or the period for which the case has already been through by a time equivalent to the imprisonment it would get. O-T'' is the time equivalent to full term of punishment the criminal is going to get. The line O-T represents the perception of the WAG, criminal, which would be zero at the start. The WAG would not like to conceive getting punished at the start. However, since it knows within its own self that the punishment is due to come, gradually its perception for the punishment would rise as the JOJ would start getting consolidated with JMP moving ahead. For simplicity, the curves have been considered as straight lines. However, the opposite will happen to WAL.

Also the perception of justice for WAL represented by line O''-T'' would be just opposite. It would be highest initially and coming down as the case will proceed further and it would in fact fall much steeper than the criminal curve rises.

As the JMP move ahead in time line, the criminals perception shall rise because now its punishment shall be total term of prison he would get minus the time period which is already lost in court's proceedings.

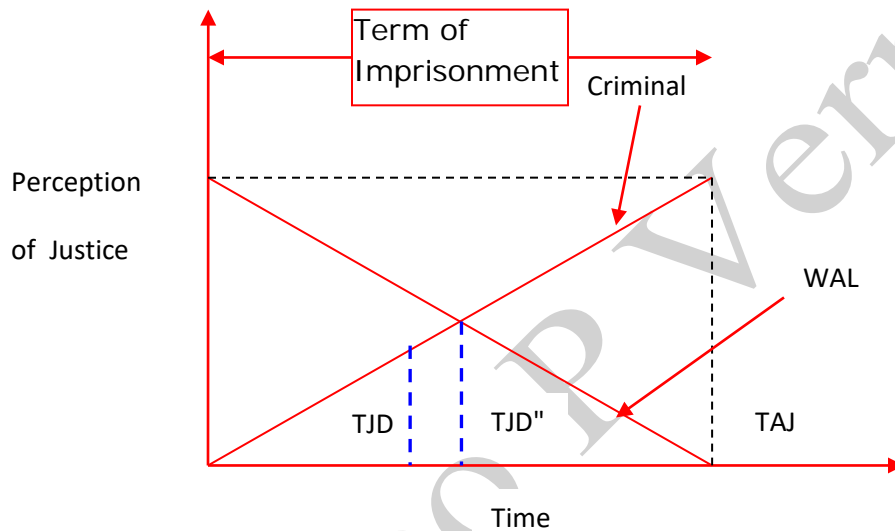
The two lines would intersect and time corresponding to this intersection point TJD'' would be the last point where justice should be delivered. As this is the last point, the JOJ in fact must ideally deliver the justice before this, say around 70% of TJD''=TJD.

So if the likely punishment corresponding to the crime is seven years imprisonment, the verdict should come in less than 3.5 years say 2.5 ($3.5 \times 0.7 = 2.5$ years). The time taken by judge to analyze and deliver justice, can not be any criteria as the demand of justice to

WAL makes it mandatory that the justice is delivered to enable the WAL to feel like justice **having** delivered. **The justice system should be designed to fulfill this fundamental obligation which the justice system owes to those for whom the system has been installed.**

Let we call this point as Justice Threshold point as analyzed above. TJD (Threshold time for justice delivery) would correspond to the time taken in delivering justice to WAL. If TJD is more towards left, its justice to WAL and if its more on right, its injustice to WAL.

Fig—



So if the justice/ verdict is given by a court within TJD, it is indeed, justice delivered. If we divide this period into two, '0 to TJD/2'- it is efficient justice delivery (EJD) and if it is from TJD/2 to TJD, it is just in time justice (JTJ). However if the justice is given after TJD then its delayed justice or injustice to WAL (who is seeking justice), thus losing the purpose and value of justice. Let we divide this also in two parts, 'TJD to TAJ /2', which is injustice to WAL and if its between 'TAJ/2 to TAJ', its major injustice (MIJ) to the WAL. Beyond TAJ, its anti-justice, emergence of SOJU where the judiciary has knowingly or unknowingly, aligned itself to the criminal and can be termed as 'criminal aligned justice' (CAJ). If more than 20% of the decisions are given after TAJ, it will turn to be criminal aligned justice system where delivery of justice will only be a coincidence.

Other decisions by JD: Temporary Exit

While deliberating upon a case, many decisions are taken by the JD/judge. In 'Closed eye Justice', since the principle is that both WAL and WAG are considered at par, the WAG automatically avails the considerations which are due to an innocent person so long as it is not declared guilty by the court. This is fundamentally and ethically wrong as

elaborated earlier. **The crime has already been done and it is handicap and incapability of the 'justice system' that this has not been verified and declared, though WAG has become a criminal and culprit from the moment it has committed crime.** This again leads and advocates to the principles of OEJ that WAL and WAG must be established to the extent possible at initial stages, though would not become only basis for delivering final decision by JD. Let we term bail, parol, medical treatment outside etc as **'temporary exits'**. For any action and permission to be granted by the judge to WAG, the following must be complied as standard procedure:

- (i) it must be correlated with any possible loss to WAL on that account.
- (ii) **The JD must be sure that the proceedings suggest that the accused would not cause any harm to WAL, OSJ and then only 'temporary exit' should be granted. It more relates to the 'rights' of WAL on Justice system, than 'WAG'. Though unfortunately, CEJ follow just the opposite.**
- (iii) **Also the action of the judge for granting permissions for 'temporary exit' like bail, parol, and relaxations like medical treatment outside etc to WAG should be substantiated with the decision in written, as to what gain it would accrue to the justice system and the society and what would be the harm if the same is not granted.**
- (iv) **It is the responsibility of JD towards 'Justice system' to examine all important witnesses before bail is granted.**
- (v) **The identity of witness must be known to judge, JD, but if the witness demands, it should be kept hidden from others including lawyers.**
- (vi) **The questions regarding identity of witness can be asked by JD separately to satisfy itself, and lawyers should ask questions pertaining to the incident.**

If the above are not examined and documented for granting 'temporary exit' to the accused, then it would be indirectly 'provoking' the crime.

This would be specifically applicable to provisions like 'bail', parol, hospitalization of WAG, temporary exit from jail etc as there has been all round apprehension that while freed on bail etc, the culprit mainly removes the evidences and witnesses. In CEJ system any criminal would have great incentive to do it, **as explained earlier, as weakening of WAL is most preferred strategy for WAG to win over.**

In CEJ, though the permissions and relaxations are granted by judge on 'discretionary' basis (which is totally against the rights of WAL), however, **assigning responsibility of substantiating and documenting reasons as to what gains it would accrue to the justice system and the society and what would be the harm if the same is not**

granted, onto the JD/judge, would make the JD more judicious about its decisions. JD owes this obligation to OEJ.

WAL recognition as philosophy

While advocating the identification of WAL and WAG, care need to be taken to ensure accuracy. If we look at the cases in the courts, the most important cases for delivery of justice would be where the loss has been made permanent and irrecoverable/irreversible and such cases would be primarily the crimes on the human, causing direct and irreversible loss to WAL like rape, murder, abuse to women or child or handicap or weaker person causing physical torture and physical loss causing permanent disability etc. specially if the sufferer is women or children or handicap the WAL is easily identifiable. The **weaker person can be defined separately by the law owners and published in advance** to avoid any arbitrariness and suspected misuse. It is necessary to define norms for weaker person as such person would be like a woman or child or handicap against a person of higher power potential. The criteria based upon differential of fields like economic, political or governmental position, social recognition, profession, identifiably, physical strength, social mass of individual amongst two parties (WAL & WAG) ,may be relevant and developed in the form of legally accepted criteria to facilitate recognition of weaker person likely to be becoming more prone to a crime upon them by others.

Broadly the identification of WAL (and may be WAG) are easy in following cases.

- (i) Rape, murder, physical abuse especially to children, women, handicap or weaker person
- (ii) Crimes causing permanent or irreversible physical loss especially to children, women, handicap or weaker person.
- (ii) Crime causing permanent damage to the thinking, brain activeness especially to children, women, handicap or weaker person
- (iii)

Looking back and assuming that **the justice delivery by justice system has a responsibility in setting the people on right course by conveying a strong message that evils are not acceptable**, the above philosophy largely will make the justice delivery path much easier by narrowing an easy identification of WAL & WAG and if impartial norms and parameters are defined as a standard for identification of WAL

and WAG, this itself would convey a strong disincentive to the people not to enter in to crimes.

In many media/madiak reporting, different category of people who have great inclination towards causing trouble to others, are presented which normally overlooked. This would need to be corrected.

The weaker and powerful can be decided by assessing the differential of weight of two sections in terms of the following on a predefined scale:

- Government status
- Political status
- Power to administer authority; legal
- Power to administer authority; administrative
- Proximity to legal authorities
- Proximity to HOG, MOG, OIG, MGG, PL
- Possession of powers to trouble/stress the people without check
- Possession of powers to trouble/stress the people without penalty
- Control/influence over public media/madiak reporting
- Social status
- Wealth and financial base
- Social and Economic disparity WAL less and WAG high
- Professional status and benefit
- Social recognition
- Identifiability or possible inability to identify individuals
- Physical strength
- Social mass and back up
- Past records of exaction, torture to others, crimes

WAL identification moves with the fundamental philosophy of incurring loss.

Thus the starting point of identifying WAL is the loss. Sometimes when the loss is not directly and easily identifiable, not physically visible, it may look that neither of the two parties are WAL or WAG. But the loss would have occurred, may be indirectly to some other one. Say for example in tax evasion the physical loss has not occurred/incurred and as it is, WAL & WAG are not identifiable. In such a case, the origin may become the loss. In above example, the loss has been

incurred by a department organization, government and the next step would therefore be, to identify who has caused the loss. The person who has caused the loss becomes WAG. However, in most of such cases, these would neither be as dreadful as the physical crimes, nor would convey a generalized message to the people to prevent it from spreading like a culture.

There may be an argument that since it would not be equally easy and identifiable to assign status of WAL and WAG, this should not be implemented. However, as mentioned above firstly it is identifiable in critical and crucial crimes of permanent or physical loss and crimes against women, children and weaker one and any relaxation in the process of justice delivery in such crimes propagates an impression of weak and sluggish and ineffective justice delivery system and spreads like a diseases, if not checked. If measures, to avoid, an image building of the justice system as ineffective and sluggish, the justice system itself would adopt it as an acceptable characteristics inbuilt in the system which would firstly prevent sincere efforts from the justice delivery system participants to 'deliver justice' and further, if it becomes accepted, would start adopting unfair and corrupt approach to prevent 'justice delivery' deliberately. Therefore, **such measures 'must be taken' to make the justice delivery effective, prompt, timely, transparent, impressive and conclusive. The transparency in the JDS by making norms and parameters, even the obvious one, for adjudging WAL and WAG and making it public and applying the same equally and uniformly to all the cases would be much more important, purposeful, meaningful than pushing this activity aside on the scare of being somewhat inaccurate, which can easily be proven to be untrue provided PIJM are sincere to the cause. Even if the sincerity of PIJM is distorted, formulation of complete procedures would force them to correct themselves.**

And after all it is not to be forgotten that judge is there to closely measure all parameters, making it public before declaring the justice.

Incidentally today in existing systems also, in case of a murder, or mysteries where the culprit is not directly identifiable, the first norm for enquiry happens to find out as to who would have been got benefitted by the killing, **thus**

identification of WAG and WAL is done even today but indirectly with diluted norms. This only is proposed to be streamlined and made stronger.

May be in some justice delivery systems, many of the **scientific and psycho-analysis tests are disbelieved** to be supporting evidence for a case. However, still these are applied to some cases on discretionary basis. **The application of parameters and norms on discretionary and non-uniform basis is more anti-justice activity than applying the standardized procedures and norms uniformly to find out WAL and WAG.** Once a norm and procedure has been adopted in any single case to facilitate delivery of justice, it becomes available to all the cases as a matter of principle. **If such procedures and norms are standardized and made applicable equally to all case, instead of discretionary, it becomes OEJ.**

Identify WAL: Cases in which children, women and handicap people are victim, identification of WAL is very easy. It can be done almost in all cases. An intentional action for not doing it, can only prevent.

Step-I: Give weight age to the decision from 100% to 0%. 0% will correspond to a situation where it is absolutely impossible to identify WAL. It will be necessary that this does not become common practice to assign 0% which, if not supported by facts, should be considered intentional.

Step II- After the medical, and its reports within one week after the incident, first round of discussions may be held in the court for WAL (and WAG if possible).

An argument would come up that the judge has to deliver justice for the WAL but at the same time it is to be ensured that an injustice is not done to the WAG. This is an argument which normally would be given to distract the genuine efforts of the judge to frame justice. Yes, **if the stake holder of justice system / judiciary have a faith in the judge JD, then the outcome of its decision would not be seen as an injustice to the WAG.** The most fundamental question is that who needs justice? Obviously, the WAL. So the first step would be to identify WAL (and WAG at earliest possible). Once it is decided, the direction of the case can be set. It will be easy to decide the 'Acts and laws' under which case can be processed. The judge would proceed with the case. If required, an intermediate review can be made regarding the status of WAL and WAG. However, the need of the justice would be to recognize loss of WAL and its only at the time of delivering verdict, the judge would check and assess that it is not so much against the WAG that it would become injustice to it, rather than changing the course of justice on account of this every now and then.

Outlining OEJ

Taking an example from India, the judge on its initiative directed the government for adopting pollution norms, gave targets for various related activities. The judiciary even issued directives of its own on general issues like using seats belts in motor vehicles, why the same judiciary, in such cases of extreme un-social behaviour, in which a citizen has been treated inhuman like, cannot say that since case is more serious than it has been put up for, therefore, has been examined for additional dimensions and 'additional charges emerging out of the proceedings' are established and punishment rendered not only to those who committed crime but those also who supported the crime and obstructed delivery of justice accordingly. **Yes it would be a reaction of an OEJ system**

There is nothing which can prevent the judge to examine the case from other derived and obvious charges emerging out of the case it self, but like many other examples in which judiciary installed precedence in favour of the social advantage, the judiciary may not opt to exercise it for the sake of being at ease. And this disparity may get freely permitted in CEJ.

The court in a systematic manner can [investigate and deliberate upon systematically](#):

Pre-requisites:

- I. The procedure for FCR, First Crime Report (presently FIR) is elaborated under FCR /CRAG chapter.
- II. **FIR** should not be with investigating agency/CAALEE. FIR should be under DH with free domain. If it is with CAALEE/investigating agency, the JOJ shall be badly obstructed because the investigating agency may have incentive not to register FIR which would provide it ease and good image because it would relieve from the botheration of long uneasy investigations and better statistics of crimes.
- III. Subsequently it has been explained separately that FIR/FCR (First crime report) may be with District Head/Incharge and upto medical examination, CAALEE should not be associated
- IV. FIR should be open and freely available/accessible. Should have minimum human interface and automatic registration through computer interface should be available.
- V. A delay of more than 24 hours in registering a case/ FIR would imply the government apathy/irresponsibility

Evidence: (i) Procedures and check lists as minimum prerequisites, for action to collect evidences by 'CAALEE would be established for each crime. List of all evidences to be collected by CAALEE with time frame, shall be part of procedures

(ii) The procedures for collection of evidences and various medical and forensic tests scientific validation would be detailed in the law itself along with maintaining confidentiality as explained in the chapter of 'Draft Act against Rape'.

(iii) Any deviation would be viewed seriously fixing responsibility and notified. The procedures shall be clearly placed against a timeline for various stages.

Statutory commitment: (i) All players must have given an undertaking that they would participate in process for realization of justice

(ii) The basic responsibility of Justice System is to deliver Trust, happiness, compensation to loss (COLTH) to one who is at loss and punishment to culprit is a derived product of this 'philosophy'. **If there is a crime there is always a criminal having caused it. The test of justice system is to identify and punish.** Until this is done the justice is not delivered.

Investigation and tests: Prerequisites and Procedures are well defined with specifying the actors and players, their responsibilities and accountability, time frame for completing various investigations and tests, preservation of evidences and test results with no possibility of tempering, departmental auditing authority for checking compliance of above and action against one who fails.

Simulations: The Government alongwith JDS and investigation agencies/"CAALEE" shall conduct in-depth study and develop computer simulation techniques with which the 'crime scene' can be effectively 'simulated' in the form of a video presentation, by experts in the field based upon inputs from the victim, investigation reports and experts. The 'crime simulation' can be done even without knowing (or presenting) the culprit. This would be viewed by the JD as an help to visualize the 'crime scene', which in any case, is the responsibility of JD, and may not be taken as conclusive evidence till the technique and experts knowledge is established. In due course with continuous validation, this can be adopted as reliable source of 'information'.

Court proceedings: The case must be produced before the court within stipulated time frame. **It should be enforced that the case would be submitted to the court as per the schedule irrespective of the culprit has been arrested or not.** The prevailing principle of OEJ is that the culprit is a criminal from the date of committing crime and not from the day it is arrested or presented to court or declared guilty by the court. The reference point is the 'crime' day only.

Since justice is for WAL, the JD would decide the case as per the time schedule providing satisfaction to WAL for justice having delivered.

Time: As defined previously, after the justice itself, the time of delivering justice is most important factor for making the 'justice delivery' meaningful and purposeful for WAL and deterrent for WAG and others not to repeat.

It is very important to note that in OEJ, the justice coincides with the justice to WAL, which means justice delivery would correspond to the realization of due compensation to

WAL. This is very important in judiciary especially where a tier of courts at different levels exists and the case is contested in the higher court **afresh** irrespective of whatever being decision of the lower court.

In CEJ a decision by lower court, first in the court's hierarchy, would be considered as 'justice delivered' whereas WAL would wait for due compensation for many years to come as the case shall be contested afresh in higher courts. Thus **in OEJ the 'justice delivery' would correspond only to the final decision by 'justice system' which would make WAG to start with its punishment.** In such over burdened and long justice delivery, the ZVT would correspond to the final verdict putting the WAG on the course of punishment. **If there are more than one stages of courts, all these courts must have concluded before JTP.**

OEJ, Open Eye Justice a New Regime to Justice

Let us elaborate new justice regime, the 'open eye justice' (OEJ). A regime which makes the players of justice system to be dutiful to the 'justice delivery', over and above hearing, would sensibly and rationally look at the development of case at intermediate stages, would give cognizance to evidences and thus develop strong and positive procedures, rules and laws for evidences to be fair, impartial, transparent and applicable, check its direction, reiterate the ultimate objective and also guide the players in this 'justice process' to remain visibly unbiased. The OEJ should be based upon step wise identification of pre-defined attributes, rational and open thinking of the judge, procedures for developing concrete and well defined 'non-witness' evidences and correlating laws with the evidences, and deliver the justice in a form and manner that it becomes justice to WAL.

The OEJ shall also install independent and unmanipulatable procedure to firm up evidence, especially non-human and passive evidences. The evidence, if positive and firm, would become the reason to constitute the justice. The most important is that the evidence should get firmed up of its own and not to be installed by others, especially those who are playing parts in the JMP without having the perception of delivering justice. Again coming back to the case of a rape, if the semen of the male are found inside the body of the female, then it is rape by the male and there is nothing to be installed /proved by way of witnesses by the lawyers.

Starting with open eye justice system, the first change is that we call the judiciary or judicial system as 'Justice System' a system responsible to deliver justice. Judiciary only signifies the body and 'Judicial systems' is the application. The 'Justice System' term only shows spirit and the purpose.

The basics shall be as under:

*the registration of a crime/ complaint shall be an open procedure, free and beyond direct discretionary control of government/ CAALEE. So OEJ would have free FIR system with check list so that CAALEE has important information in first instance and no time wasted during investigation.

*the investigation process shall be assisted by known experts or expert agencies in the field instead of "CAALEE" which is fundamentally designed for maintaining law and order by using force, an activity which would always deter the citizen to gain trust in CAALEE and volunteering spontaneous support. The investigations of all type of crimes by same CAALEE persons, would also present reports, abortive and evasive, thus enhancing probability of 'uncertainties'. In OEJ, there shall be well defined/ established norms, rules and procedures, checklists and final reports for investigations by specialized agencies, of different type of crimes, redefining the laws to be complete and applicable, instead of providing unchecked liberty to the players to make their own interpretations.

An example in this case will be very relevant. There was a brutal case of rape in Dec'12 in India's capital. While giving verdict, the court appreciated the investigations done by CAALEE and mentioned that all rape investigations should be done with same seriousness. In OEJ there would not be any scope for the judge to carry such expression as every investigation would be governed by same detailed and comprehensive procedures, forensic tests, scientific tests etc against a timeline. The media also highlighted the case to extreme as a 'wonderful' example of justice. The judge's expression clearly brings out CEJ system's indirect support to casual AJDs (and thus WAG) in cases where the investigations did not exhibit similar seriousness and commitment as shown in this particular case and so did the 'Media' TV channels and newspapers etc. Consequently one case solved but thousands remained pending and nobody bothered, since one case was projected as 'symbol of justice delivery' by the whole media, deliberately, and once it was done, media projected as 'complete accomplishment' of justice.

*The investigation should be done by a different unit than the one registering/ receiving the FIR.

*For example, there will be different groups/agencies/units to investigate rape, murder, abduction, theft, social evils etc and all predefined evidences will have to be taken from the site under defined responsibility, as stipulated in a check list especially designed for the particular crime, as minimum prerequisites. In addition the investigating officer will be free to add more information as per its acumen and experience by clearly defining so. **They shall be fully responsible for the correctness of the reports and shall be accountable for faults.**

*The analysis of investigations/ site evidence samples shall be highly mechanized and the results would get automatically registered without human interference. Biological

evidence would have high weight being nearly conclusive. For example, if semen of the accused is found inside the victim of a rape victim and there are signs of physical struggle, the case will be decided straight way and no witness would be required.

*Identification of an accused by the victim is a useless exercise. The courts and the investigating officer should be competent to establish culprit's identity and if the culprit was at the place of crime or not.

The most surprising presentation of this is where the culprits are kept with covered face through out and even when the final decision is given by the judge. So common public never see and know the criminal, with complete visibility for their satisfaction and verification.

*The investigations need to be complete, self sustainable, comprehensive so that CAALEE remand normally is not required however, except in cases where more partners and evidence are to be found, high profile crimes like terrorism etc. The case would be presumed to be put up to court by investigation agency/ experts jointly and not by 'CAALEE' only. The investigating agency shall be free of CAALEE or direct government control. It may be an organization under the other constitutional entity as defined separately. They would preferably adopt scientific procedures to analyze the accused, science based thinking and building up a systematic chain of events.

*There can be foolproof procedures easily introducible which can not be tempered with by anybody knowingly or unknowingly. A sample Act against Rape has been presented alongwith this chapter, which can provide ample understanding as to how such procedures can be produced which cannot be manipulated. And the case can be decided with 'justice delivery' within three weeks.

* Once a case has been registered it would appear in public notification on web, newspaper etc and then it would be the liability of the 'CAALEE' and the court towards the public to finalize the case in a stipulated time. At the time of deciding the law, rule, article for trial of the case, the time frame for finalization will be made public.

*The witness should be confidential. Why the criminal should know who is giving witness against it. It's a wonder that such practices are still the main decisive factor in many systems. Simply because of accused being a hard core criminal, in CEJ, no witness would turn up and thus no justice would be delivered.

*Such procedures would be devised that investigations remain totally confidential but transparent to JD and retrievable at any point of time, even after the decision by the court. For example, three doctors may be called for postmortem and one may be assigned the job by picking up name arbitrarily on the spot and details of the person died kept confidential from the doctor. The report shall be prepared on the spot along with

photographs, video and shall be stored at once in a manner that it can be opened by JD, in court only.

*Every proceeding would go as per defined time schedule and the WAG/ WAL weight would be worked out at intermediate stage.

*any person/ agency in the justice process, deliberately changing the course of the case, by changing information or hiding information will be punishable including the players in the justice delivery process.

There must be specialized units who would do the investigations for crimes by experts may be the non government or semi government agencies but with high reputation in such investigations. It would enable the 'CAALEE' to conclude investigations early and collection of all evidences would be done on the first instance

Rape is another crime for which a fool proof procedure is developed by collecting all evidence within hours of the happening of the crime. The officers failing in carrying out the investigations within this period should be punished. And for rape, murders etc, the evidence need to be highly scientific based instead of witness based as no rapist would do the crime when a witness is present. For years and decades such procedures are already being practiced over the globe, which only need to be copied in countries which are still behind, if there is sincere and real urge to impart justice .There should be check list for different crimes and the same should be got filled up along with FIR. **The case would go to court with full investigation and the article and law under which the trials to be done. Looking at the details the court will decide the law under which the case would be processed.** In CEJ, the court process the case as suggested by the CAALEE and at last after waiting years discharge the case and free the accuse stating that the case is not proven against the law and article under which it was tried on recommendations of CAALEE. It makes mockery of whole process of justice. **The judge in OEJ must establish the laws and articles under which the case to be tried at the start.**

(2) Scientific based investigations by highly trained experts not necessarily government agencies with instantaneous sealing of records.

(3) Decision of law under which to be tried at the beginning and acceptance by court.

(4)The witnesses are the important factor which decides fate of a case. For centuries, it is surprising that none bothered even to think about this which has been continuously swinging the justice and making efforts put in by many eminent people for years, a waste. The justice is in the hands of witness and not the judge, another serious drawback of CEJ. Further the law provides for punishment to a witness if it is interpreted to be incorrect. This would further discourage people to become witness. In OEJ, the witness would be heard and a weight would be assigned to its statements for WAL or WAG and

for the real cause for which it has come to the court. If the contradictions and confusions are created by a witness (deliberately or under ignorance) to take the case towards uncertainty, or anywhere the judge seeks additional information, the witness would be asked to clarify regarding such points by the judge JD.

The OEJ would depend upon trust instead of distrust, owning the witness instead of disowning it, why it should be known to any party (WAG & WAL) if any body has been giving witness and witnessing should be an restricted forum with the judge and the jury and the lawyers (no harm if identity kept confidential from lawyers also) and none others need to be present. Identity may be known only to the JD. The cross questioning may follow further and correctness of cross questioning by the lawyers, can then be well assessed by the judge for its being appropriate or not. So the relevance and accuracy shall be decided by the judge and not by the lawyers through their confusing arguments with the witness, which is the base of CEJ system.

The OEJ would proceed with the fundamental principle that in every crime, there are two persons who knows each and everything. The criminal, and the victim. And criminal is not going to confess the reality. So victim must be considered as the best source of evidences to support its claims. For all serious crimes, every citizen must be made wise that in case of meeting mishappening of such crime, what they should do so as evidences gets firmed up. In the sample Act against Rape, it has been elaborated that how the victim of the rape can create evidences. Even in unfortunate case of murder of victim by the criminal, these evidences would speak out of itself to entrap the criminal. It would be necessary that such guidelines are made for all the crimes and all citizen are made wise by giving wide publicity.

The justice system need to treat the witness as their important asset for realizing justice, and important assets are protected by the owner. It is only for the lawyers and the judge. The statement of the witness is important and not its face and identity, why some one should be discouraged to support the justice and the process of justice by installing such procedure which put the witness to much trouble. Knowing the witness should be for the lawyers and the judge that the witness is physically present in front of them and willingly giving a statement and not for the contestants and public. The process of witnessing should be such that the witness identity is not made public. And if it is made public by anyone, it would invite a charge of threatening the witness of its life.

The justice delayed is justice denied. The procedures can be easily installed in which first stages of judicial proceedings of every serious crime may be defined and check lists prepared for various stages of proceedings with conclusions so that the outcome of previous stage is available to take up the second stage instantaneously. The witness statement are also converted into check list form for very fast scrutiny whenever required and preventing individuals interpretation of the words, language expression, of the witness which makes the proceedings of Justice delivery so subjective that even the

decision of one court is turned down by other court, simply because two contradictory interpretation of the same situation/ records by two different individuals, the judges.

In CEJ, at the end, without any intermediate introspection, the judge can decide the case either way, by giving a judgment in 300-400 pages? 300-400 pages of words, language would provide all the scope for any interpretation of words by different people leaving all decisions illusive, challengeable, arguable and further stretchable.

The whole JDS process therefore, should be logic based, instead of individual based, and any step would be derived from previous step, connected together in terms of logic, rational and outcome and from first step till last step forming a chain so that it is possible to look upon the case from beginning towards end decision or from end decision to the beginning in a systematic manner anytime, especially for very quick review by the other subsequent courts if the case further is referred to.

In OEJ, the eyes of the 'goddess of justice' are open always to see if the case is proceeding correctly, if the lawyers arguing correctly without causing an harassment to the witness and the other side and also if the judge is proceeding as per appropriate time frame. The eyes are open to permit the judge to ask its questions to clarify his queries enabling linking of various facts by the judge.

With eyes of the goddess of justice closed, the judge would become god of justice without any accountability to give any decision whichever way and whatever manner. In the current scenario of CEJ, it is not questioned by the actors in the justice system, why the justice delivery takes 18-20 years in the first stage, are the Government authorities set responsible, Is judicial system corrupt? (The former Law minister in September'10, accused eight Chief Justice to be corrupt). This also raises a vital point to ponder. The judicial system does not have any administrative function to correct itself. This function is with the government and the bureaucrats and if the sluggish and obsolete judicial system is favourable to them while operating in 2Face mode, they do not attempt any change. This has been discussed separately in 'the Independent constitutional entity' in which the justice system is made separate and independent assigning administrative function of self control, monitoring and correction for delivering desired objectives, thus becoming fully accountable for delivering results they are there for. This will be how a justice delivery system with eyes of the 'goddess of justice' open, the 'Open Eye Justice' will be.

Prevention: OEJ would, with open eyes and brain in action, would think beyond the individual case. The OEJ shall carry the responsibility of visualizing the mishappening analyzing it to see if it was possible to prevent it. In OEJ the JD would invariable mention adequately as to what could have prevented the crime. Was there a person whose action could have prevented the mishap. Was there any government person/authority, aware of the possible mishap, before it occurred, whose action could have prevented it. Was there an unwanted social norm or tradition which caused the mishap etc. If any

government person whose timely action was 'strong enough' to prevent the mishap, and he preferred not to act, why the person does not become 'conspirator' or 'co-conspirator' in the act of such mishappening. Why the same person shall not become the reason for happening of more crimes. If existing laws are not enough to make the 'people responsible' especially 'government people responsible' whose action could have prevented the mishap, the JD would mention about making of new laws by the government. In OEJ in fact, JDS can itself structure draft laws and send to the government.

Summarizing the OEJ

- ✓ Follow principles and ethics of justice- define justice and whom it is for
- ✓ Well defined responsibilities and accountability of system, players, co-players
- ✓ Integration from FCR/CRAG to Justice delivery, all accountable to justice delivery,
- ✓ FCR and medical/ forensic tests, scientific testing/validation with specialized earmarked units and not with CAALee- coordinated by DH
- ✓ All stages of investigations, tests, validation to be well integrated well connected to one another
- ✓ Well defined responsibilities and accountability of players and actors JD, AJD1, AJD2
- ✓ Performance measurement of players against justice making and justice delivery attributes,
- ✓ Well defined minimum prerequisites checklists, procedures, time bound, of all stages and uniformly applied to all cases
- ✓ action for non-compliance and against those who distort the procedures
- ✓ Witness to be secured and protected, confidential, if witness opt for it
- ✓ Everything which facilitates justice delivery, besides witnesses, are welcome including special medical tests etc.
- ✓ Review of, what could have prevented the mishap/crime and whose action and what action of 'government people' would have prevented it
- ✓ Stages of defined procedures tied up to the time line to deliver justice in Time