



PUBLIC FORUM | **THE RULE OF LAW AND SUSTAINABLE DEVELOPMENT**

11 JANUARY 2017

Rule of Law Case Discussion by Emerging Leaders

Suphannada Lowhachai

Tze-wei Ng

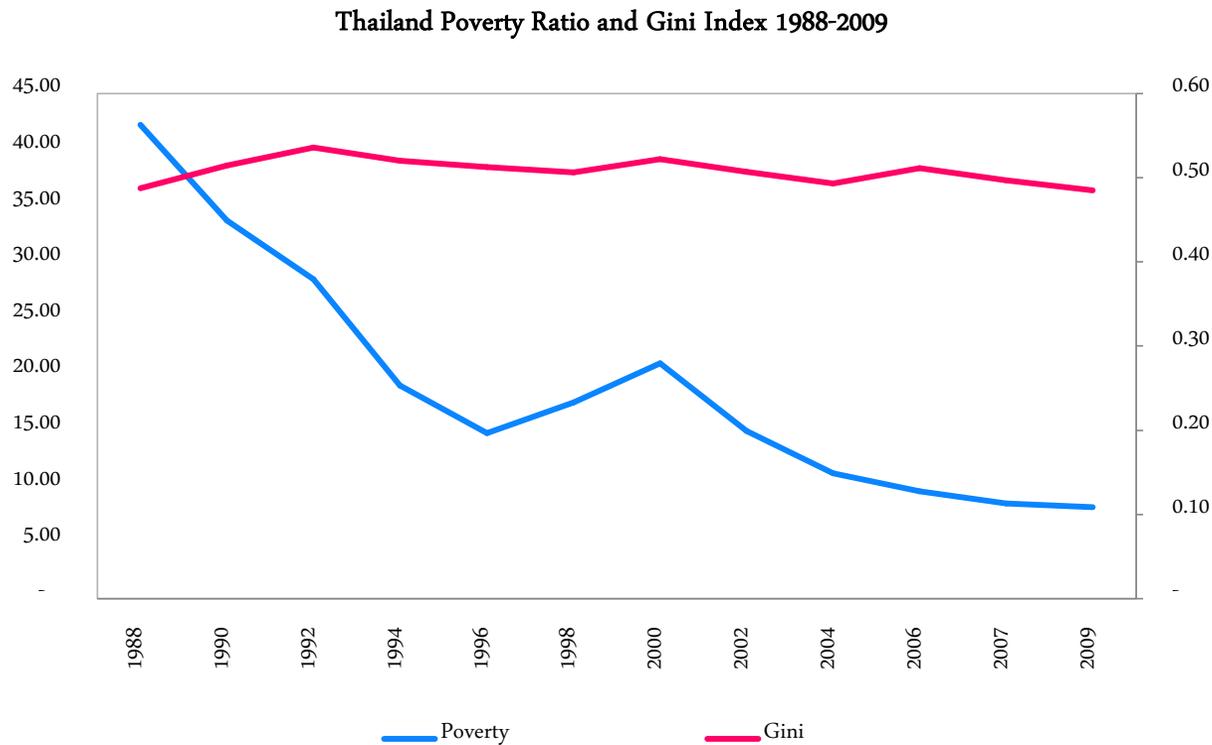
Sumathi Chandrashekar

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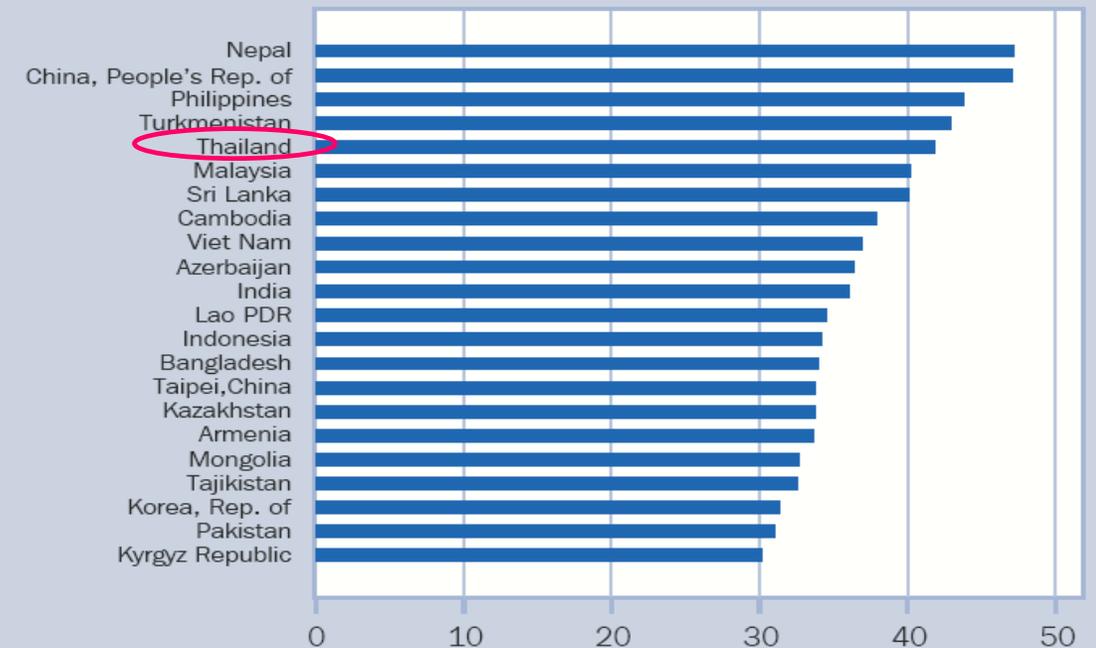
Policy Problem: INEQUALITY

- Persistently high level of inequality.



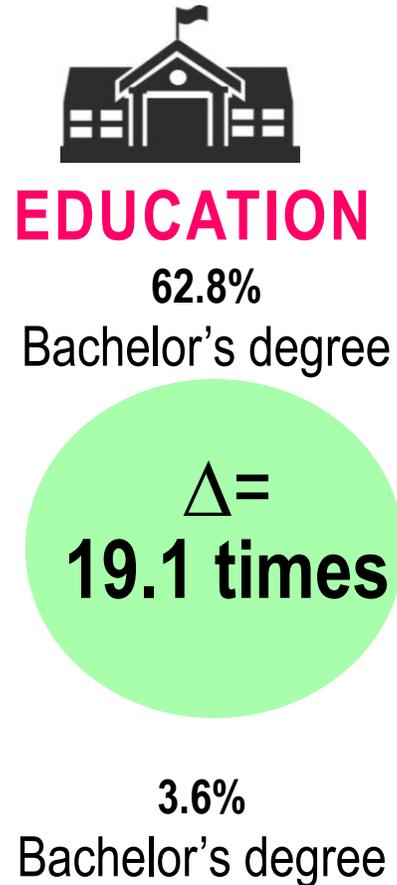
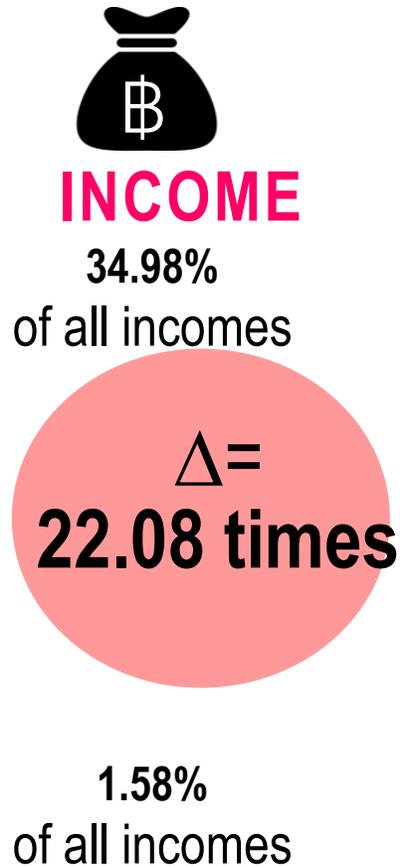
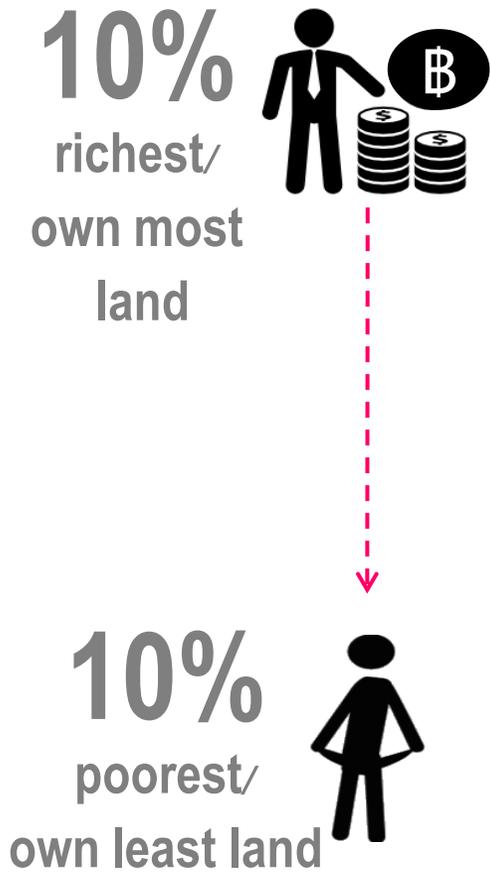
Source: National Economic and Social Development Board

Figure 2.1 Gini Coefficients, Developing Member Countries (expenditure and income distributions)



Source: Key Indicator 2007, ADB

Policy Problem: INEQUALITY



Policy Problem: INEQUALITY

- **Despite progress made by past policies, more need to be done.**
- **Several factors posing more challenge to moving forward in inequality-reduction.**



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SUSTAINABLE DEVELOPMENT GOALS



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Linkages to the Rule of Law

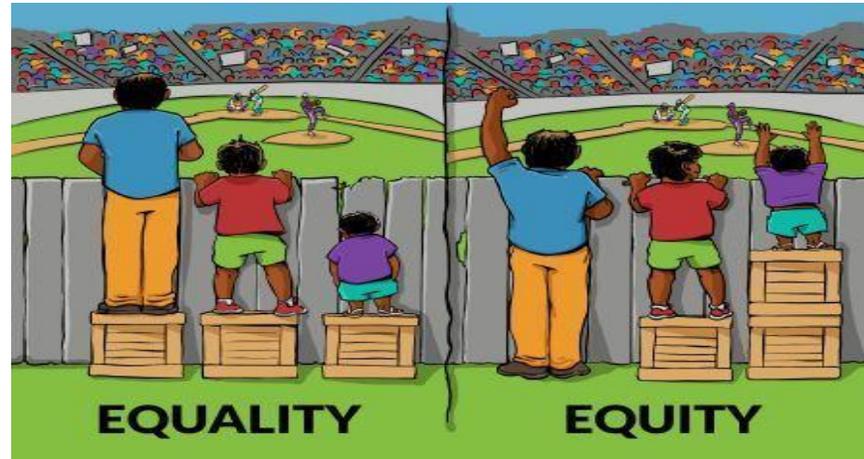
- **Economic and social inequality can lead to unequal access to justice.**
- **Creating a just society and reducing inequality require strengthening of the Rule of Law.**
- **Rule of Law can be an entry point in tackling inequality**



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Policy Recommendations

- Promote equal opportunity to access public services.



- Ensure a full coverage of QUALITY public services.
- Strengthen community toward self-reliance.



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Subdivided Housing



Photos by: Benny Lam, SoCO



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Background:

- **1 in 7 people lives in poverty**
- **1 in 3 elderly**
- **1 in 4 children**
- **One-third in "working poor" families**

At the same time:

- **NGOs report rising demand for legal assistance in relation to housing, family, employment, discrimination, bankruptcy, immigration, welfare, administrative penalty etc.**
- **Judiciary reports increase in number of litigants in persons**



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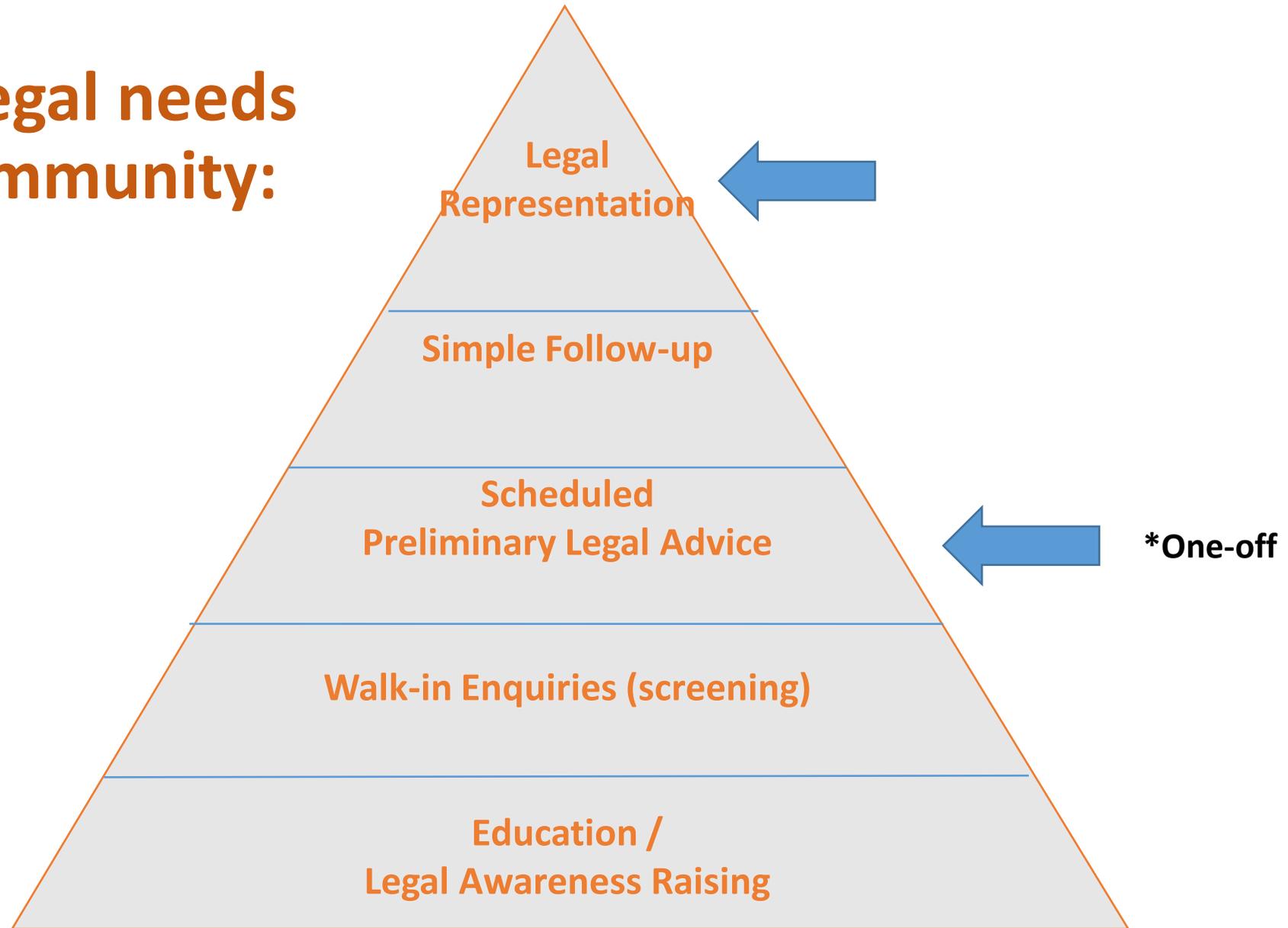
Policy problem: Access to Justice

- **Legal needs for the poor insufficiently met by the current legal aid system**
 - 1) Gaps** in state legal aid program
 - 2) Regulatory restrictions** on provision of pro bono services
 - 3) Regulatory restrictions** on NGOs and law schools providing legal aid services

Gaps in current state legal aid system:

- **Only covers proceedings stage**
- **Means and merits test**
- **Criminal cases: defendant often only get 15 minutes to meet with legal aid lawyer before hearing**
- **Civil cases: one-off legal consultation; up to six-week waiting time**
- **Etc.**

Serving legal needs of the community:



Policy suggestions:

- **Government to conduct strategic review of legal aid policy**
- **Government to provide funding for and/or create enabling environment for the creation of Community Law Centers**



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From comparative experience:

Importance of early access to legal advice

- **“Common cold” v.s. “surgery”**
- **“The legal problems of every day life”*: legal solution can prevent further socio-economic problems**
- **Will save money in the long run**

*Hazel Genn, “Justiciable problems”



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Challenges:

- **Access to justice not a policy priority**
- **Many different interests to balance (existing government service providers, bar associations, private lawyers who fear business may be impacted)**
- **May see more legal aid as leading to a more litigious society**



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What has been done so far?

- **Feasibility study on setting up Community Law Centers in Hong Kong (ongoing)**
 - **Surveys with NGOs (establish needs)**
 - **Review of existing services and regulatory restrictions**
 - **Comparative experience**



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What more needs to be done?

- **Full-scale *Justice Gap Analysis* (establish “unmet needs”)**
- **Stakeholder roundtables: NGOs, bar associations, law schools**
- **Targeted outreach to relevant government leaders**



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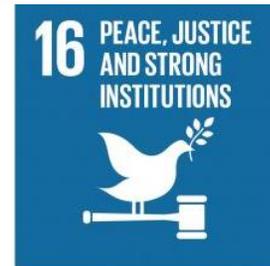


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Linkages to the Rule of Law

- **Fundamental building block of Rule of Law**
- **“Rolls Royce” version of the law**
- **Equal access to the protection of the law**
- **Key to protection of all other rights**
- **Resolve problems within the law**



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To conclude:

- **Rising poverty and inequality in Hong Kong**
- **Ensuring access to justice is one important strategy to address this inequality, and to make law works for all**



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Photo by: Sushil Kumar / Hindustan Times

- **April 2016**
- **Chief Justice of India at the Joint Conference of Chief Justices and Chief Ministers of India**



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What is the problem? : India's backlog in courts

- **India has largest “backlog” in the world**
- **30 million cases pending in Indian courts (March 2016)**
- **Cases filed \neq Cases disposed**



Where does the solution lie?

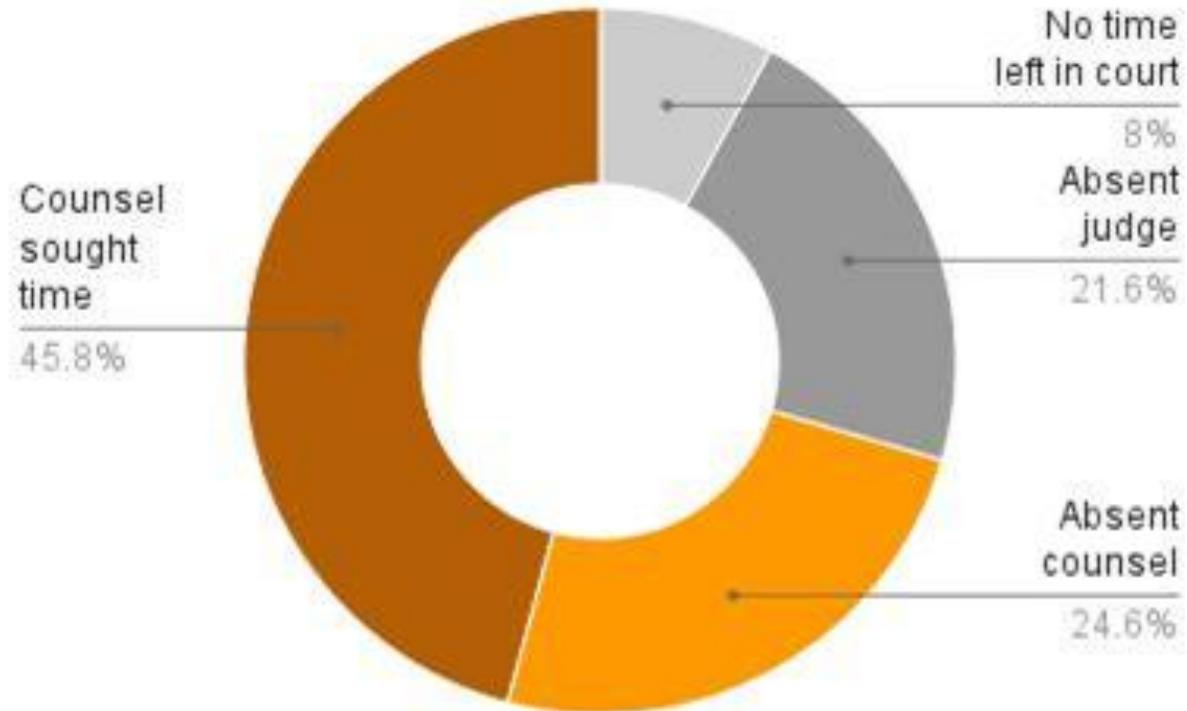
- **Easy: Appoint more judges**
- **Complex:**
 - Who / What causes pendency?**
 - Judges?**
 - Lawyers? Litigants?**
 - Types of cases?**



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Some findings

Causes for delay (Delhi High Court: 2010-15)



Vidhi Centre for Legal Policy (2017), unpublished

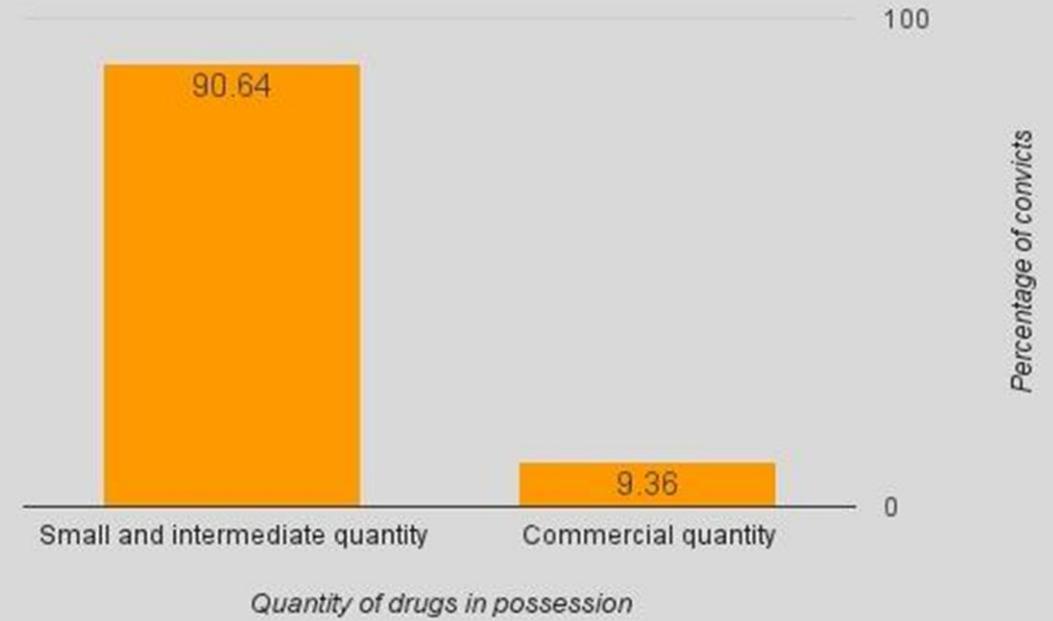


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Some findings



Drugs convicts in Punjab



Vidhi Centre for Legal Policy (2017), unpublished



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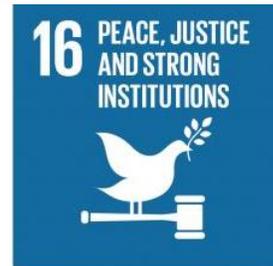
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Linkages to the Rule of Law

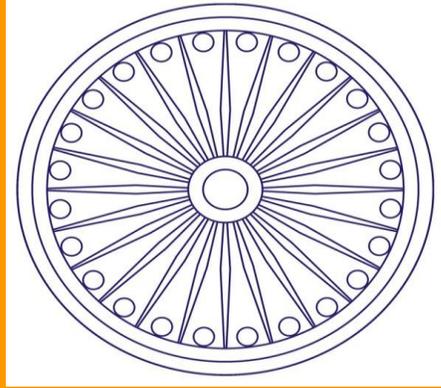
- **Implementing “Rule of Law” needs certain institutions, e.g., courts**
- **If courts fail, then Rule of Law collapses**

Policy Recommendations

Besides increasing judges, what can be done?

- **Changes to procedural law**
e.g., how often can counsel seek time
- **Changes to substantive law**
e.g., decriminalize drug addiction
- **Changes to behaviour**
e.g., attendance of judges, or delay as strategy





KEEP CALM
AND
BRING BACKLOG
TO ZERO



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Policy Problem : Science and Sustainability

- **The problem is BIG.. so BIG**
- **But we don't see it**
- **“The time is NOW”**



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Landfills normally cover vast areas and some go deep into the ground as well.



Policy Problem

- **The problem is BIG.. so BIG**
- **But we don't see it**
- **“The time is NOW”...*why?***



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3 GOOD HEALTH AND WELL-BEING



6 CLEAN WATER AND SANITATION



11 SUSTAINABLE CITIES AND COMMUNITIES



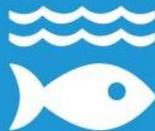
12 RESPONSIBLE CONSUMPTION AND PRODUCTION



13 CLIMATE ACTION



14 LIFE BELOW WATER



15 LIFE ON LAND



16 PEACE, JUSTICE AND STRONG INSTITUTIONS



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Policy Problem

- **The problem is BIG.. so BIG**
- **But we don't see it**
- **“The time is NOW”... *It's Thailand's time***



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Linkages to the Rule of Law

- ***Challenge of inequality (Why “we” don’t see the problem?)***
- ***Criminal justice (illegal activities)***
- ***Good governance of private and public sectors
.....long value chain of garbage production...***



Policy Recommendations

- *Such a long value chain and many stakeholders involved*
- *Where do we start?*



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Policy Recommendations

- **Raise consumer's awareness (advocate *trash literacy*?)**
 - **Strike a *balance* with growth**
- **Encourage the efficient consumption behavior**
- **Product design**
- **Sustainable – economically viable**



Lastly...

**Ladies and Gentlemen:
THE TIME IS NOW!**



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