

# Introduction To Law, Economics, and Public Policy

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**Prepared for the [LPPYF Law and Public Policy Youth Fellowship, IMPRI, New Delhi, June 16, 2023](#)**

## Organization

- **Select Thoughts and Observations**
- **Basic Concepts in Law, Economics, and Public Policy**
- **Pending Cases**
- **Defining the Rule of Law**
- **Understanding Data: a critical Skill for Linking law, Economics and Public Policy**
- **Select biases to Guard Against in Reasoning**
- **Concluding Remarks**

## Select Thoughts and Observations

- इस बात का बहुत ध्यान रखो कि आपकी ज़िंदगी के जहाज़ पर कौन कौन सवार हो रहा है। क्योंकि कुछ सवार लोग आपके जहाज़ को सिर्फ़ इसलिए डबाने की कोशिश करेंगे क्योंकि वो जानते हैं कि वो कभी कैप्टन नहीं बन सकेंगे.

**Enemies need not be always those who are  
outside the country with guns.  
They can also be inside the country with  
pens.**



**A masterpiece painting by an  
egyptian painter, describing  
the "Media"**

## Select Thoughts and Observations

- जब आप थोड़ा-सा सीख पाते हैं तो आपको लगता है आप बहुत कुछ जान गए हैं. लेकिन जब आप ज़्यादा सीखते हैं तो आपको अहसास होता है कि आप बहुत कम जान पाए हैं.
- Sadhguru: "I don't know" is not the blind spot. "I know" is the blind spot

### Scarry Thought

**In the USA, Young Lawyers already don't get Jobs. Because of IBM's Watson, you can get Legal Advice (so far for right now, the basic stuff) within seconds, with 90% accuracy compared with 70% accuracy when done by Humans. So, if you study Law, stop immediately. There will be 90% fewer Lawyers in the future, (what a thought!) only Omniscient Specialists will remain.**

**How would legal education and skills formation change in India?**



Thought provoking  
words of  
Sir M visvesvaraya



**Sir M Vishveshvariah went to meet Gandhiji. He sat down on the chair offered to him. Gandhiji chuckled. Sir MV asked him why. Gandhiji replied you are wearing a suit carrying a gold handled cane and have a gold watch in your pocket so you have to sit on a chair. I'm like the poor in this country who have only one cloth to wear and don't have a chair to sit on**

**Sir MV replied Mahatma I'm the son of a poor temple priest who could hardly make two ends meet. I saw the Englishman ride in a carriage drawn by horses with a gold handled stick with all the people looking at him in awe.**

**I decided that I should do better than him so therefore I toiled hard studied and earned this position. If all our countrymen think like you in the future we will sit on the floor and others will rule us!**



Tweet your reply

## Select Thoughts and Observations

- **Sir Mokshagundam Visvesvaraya**, [KCIE](#), [FASc](#) (15 September 1861 – 12/14 April 1962), also referred to by his initials, **MV**, was an [Indian civil engineer](#), administrator, and statesman, who served as the 19th [Dewan of Mysore](#) from 1912 to 1918.
- Visvesvaraya is regarded in India as one of the foremost civil engineers whose birthday, 15 September, is celebrated every year as [Engineer's Day](#) in India, [Sri Lanka](#), and [Tanzania](#). He is also often regarded as "the maker of modern [Mysore](#)". According to [Prajavani](#), a [Kannada](#) language newspaper, he is also the most popular figure in the [southern Indian](#) state of [Karnataka](#).

## Select Thoughts and Observations

- There was a time when we honored those who created the prosperity and the freedom that we enjoy. Today we honor the complainers and sue the creators. Perhaps that is inevitable in an era when we no longer count our blessings, but instead count all our unfulfilled wishes.

Thomas Sowell, US Economist



## Select Thoughts and Observations

- Oikophobia" is a term which stands for "aversion to a home environment, or an abnormal fear (phobia) of one's home and also a tendency to criticize or reject one's own culture and praise other cultures".

It is critical that these attributes be avoided to become competent at public policy.

- “I am part of the East, I am part of the South, I am part of the West... I am universal... I am India.” - [@DrSJaishankar](#)

This isn't just banter. There is a deep truth embedded here.

## Select Thoughts and Observations

- Indian courts will be eternally incapable of delivering mature judgments unless they start deciding upon issues on first principles instead of deliberating upon and delivering judgments on specific instances.
- 44 million pending cases, 300,000+ undertrials, endless dates, elusive justice.
- At this rate, it will take 300+ years to resolve all cases.
- In the age of Insta, why are India's courts going slow? Who's responsible? How can this be fixed?

## Select Thoughts and Observations

- “The high courts and the Supreme Court pronounce several verdicts. The victorious goes home happy and dancing as getting judicial orders are a long-drawn battle of several years. However, their happiness is short-lived. I have had personal experience in my village when people would come with complaints that they did not get the desired justice,” said President Murmu.
- She also stressed assimilation of regional languages in the judicial system in order to make justice more accessible.
- "The language of justice should be inclusive, so that the parties to the particular case as well as interested citizens at large can become effective stakeholders in the system.," she said.
- She said that as English has been the primary language of courts, a large section of the population is left out of the process.
- <https://www.hindustantimes.com/cities/ranchi-news/president-urges-centre-and-judiciary-to-ensure-real-justice-for-people-stresses-on-regional-languages-in-the-judicial-system-101684945363751.html>

Accessed on may 24 2023

Many opportunities for livelihoods in regional languages

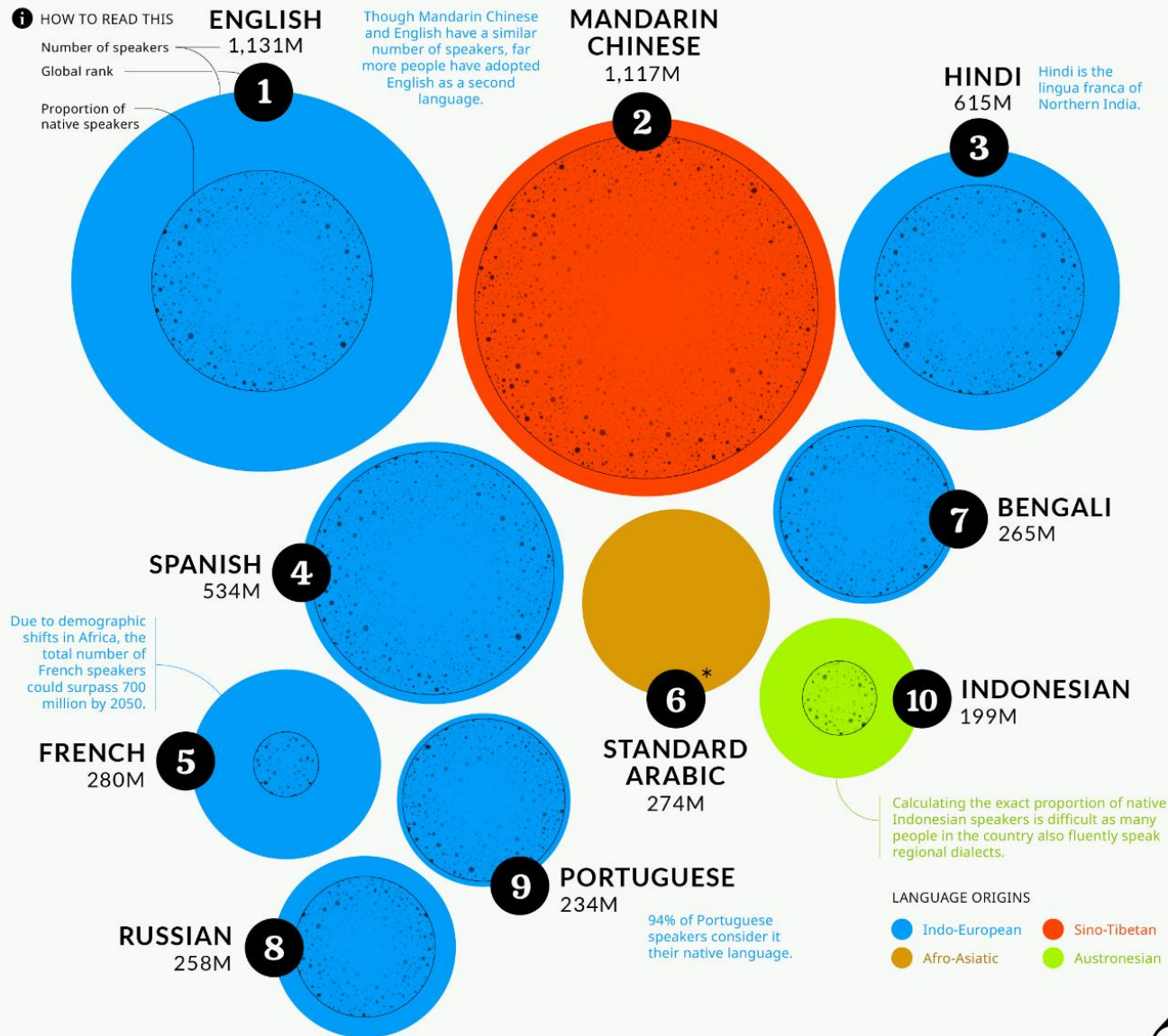
## The Top 10 Most Spoken Languages Worldwide

**i** HOW TO READ THIS

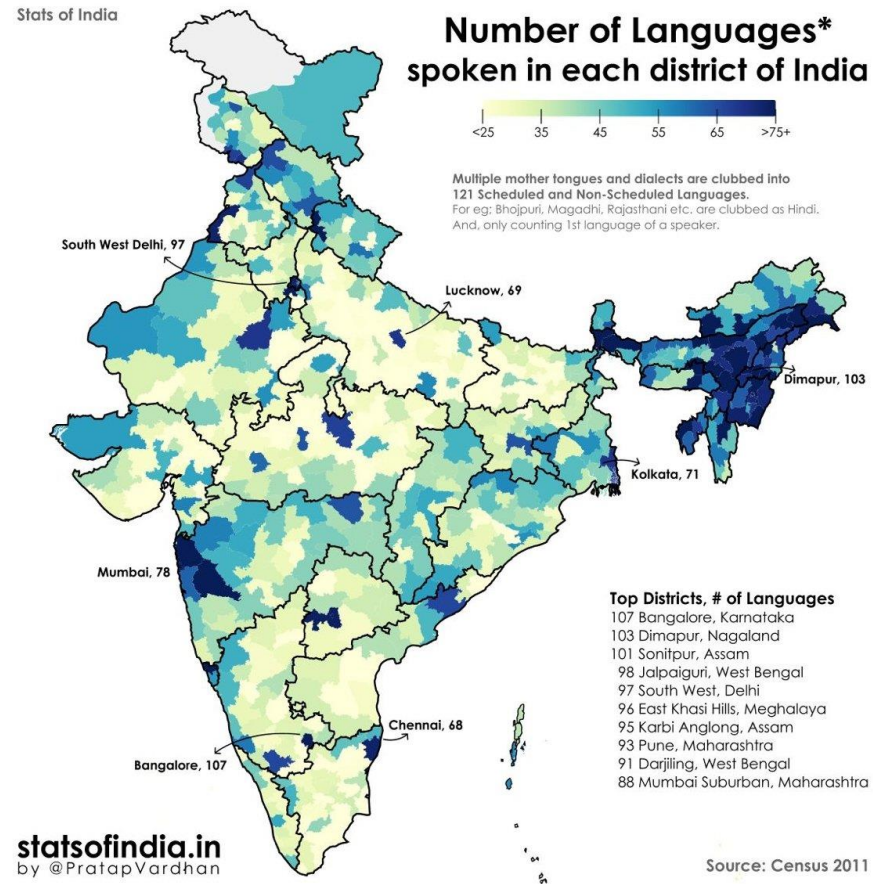
Number of speakers

Global rank

Proportion of native speakers



# Select Thoughts and Observations



## Select Thoughts and Observations

- **No feudal dynasty - in judiciary or in politics - will want India to be safe, secure and prosperous.**

**The better India does, the more difficult it is for such dynasties to survive and thrive.**

- This system of judges appointing themselves is thoroughly discredited and broken beyond repair

**(for India, how judiciary personnel at all levels selected? Is there diversity or relatively small group perpetuates itself in particularly high judicial positions?)**

# Off With Those Headless Laws



**Bibek Debroy & Aditya Sinha**

The word ‘draconian’ comes from the Athenian lawgiver Draco who gave civilisation an important milestone — written laws. Before this, it was ad-hocracy. Even though an improvement, the laws were extremely harsh, with the death penalty being commonplace.

Global laws have adjusted to changing times. However, some draconian principles exist even today. These provisions have hampered economic growth and are a barrier to the ‘ease of doing business’ agenda. This is what Gautam Chikermane and Rishi Agrawal allude to in their 2022 Observer Research Foundation (ORF) report, ‘Jailed for Doing Business’ ([bit.ly/3wbGLEa](https://bit.ly/3wbGLEa)) — and about which Chikermane wrote on last month on this page ([bit.ly/37zqsNv](https://bit.ly/37zqsNv)).

They claim that ‘of the 69,233 compliances that businesses have to follow, 37.8% carry imprisonment clauses’. For instance, not whitewashing latrines and urinals once every four months may lead to imprisonment up to two years under the Factories Act, 1948. To escape these provisions, businesses try to be under the threshold of being classified as factories. The laws on entrepreneurs in India have been designed to keep busines-

ses small. The romanticisation of small industries may very well be an afterthought.

The report doesn’t argue for eliminating all imprisonment provisions, but argues for their rationalisation. In case of contravention to the laws governing businesses in India, one the burden of proof lies with the accused until stated otherwise. Consequently, this gives rise to rent-seeking among the lower bureaucracy.

Under some laws, imprisonment is immediate. The nature of contravention — procedural or deliberate — can only be established after a time-consuming trial. Until then, the entrepreneur can languish in jail. Thus, there should be imprisonment only if criminal intent has been established. This may, however, lead to a reduction in deterrence.

A deterrence-inducing mechanism should ensure compliance while not taking away the ability of businesses to function. In India, crime is primarily classified into two subheads —



**Not much utilitarian, is it?**

those under the Indian Penal Code (IPC), and others part of the special and local laws (SLL) like the Excise Act, Electricity Act and Motor Vehicle Act. Apart from labour laws, even SLLs have provisions on imprisonments. Imprisoning entrepreneurs under such laws serves no purpose. Instead of deterring repeat offenders, they discourage investors in states where local laws carry stringent imprisonment clauses.

There should be a transition from imprisonment to stringent monetary penalties in case of contraventions. To be an effective deterrent, they should be punitive like in the US. India’s Constitution does not bar courts from imposing punitive damages, but they are still uncommon.

The Supreme Court in the ‘Municipal Corporation of Delhi vs Victims of Uphaar Tragedy’ case ruled that ‘punitive damages can be awarded when the wrongdoers’ conduct ‘shocks the conscience’ or is ‘outrageous’ or there is a wilful and ‘wanton disregard’ for safety requirements’. Most labour law-related ‘offences’ that warrant imprisonment pertain to safety requirements. Apart from the procedural mistakes, punitive damages may be imposed for actions that grievously threaten the safety of workers or employees.

In many laws, imprisonment is immediate, and the accused remains in prison through the trial. However, if monetary penalty is not imposed at the time of filing charges, it won’t be an effective deterrent. Thus, the accused should deposit, say, 75% of the penalty to the court while the trial continues, which should be credited back to the accused if he or she is

found not guilty.

If the magnitude of monetary penalties is mentioned under the law, over time, inflation erodes their value. This again reduces their deterrence. Even for IPC, there are some ridiculous fines. The one for an act that endangers life or the personal safety of others can extend to only ₹250. Similarly, the fine for spitting outside a spittoon under the Factories Act, 1948, can extend to — wait for it — ₹5. Since amending a law is time-consuming and challenging, an administrative order should decide the range of penalties or damages.

Also, something similar to a plea bargain mechanism can be considered, by which businesses could choose between severe punitive damages or undergoing trial with imprisonment. Punitive damages coupled with plea bargains can pose an effective deterrent. Also, since undertrials comprise an estimated 75% of the total prison population, a plea-bargaining mechanism would help reduce this burden on the criminal justice system.

Hefty fines, penalties and damages collected can be also used to strengthen the justice delivery system. Finally, it would be an important step towards facilitating the ‘ease of doing business’ agenda. It’s time for the Law Commission to revisit all penalties, fines and provision of imprisonment. Unnecessary and redundant penalties should be taken out of the law books.

*Debroy is chairman, and Sinha is additional private secretary, research, Economic Advisory Council to the Prime Minister (EAC-PM)*



## Select Thoughts and Observations

- The National Judicial Appointments Commission Bill, 2014 was introduced in the Lok Sabha on August 11, 2014 by the Minister of Law and Justice, Mr. Ravi Shankar Prasad.
- The Bill has been introduced in conjunction with the Constitutional (121st Amendment) Bill, 2014, which establishes the National Judicial Appointments Commission (NJAC).
- The Bill provides for the procedure to be followed by the NJAC for recommending persons for appointment as Chief Justice of India and other Judges of the Supreme Court (SC), and Chief Justice and other Judges of High Courts (HC).

# Select Thoughts and Observations

## Select Provisions of the NJAC Bill

### Reference to Commission for filling up of vacancies

- When a vacancy arises in the SC or HCs, the central government will make a reference to the NJAC.
- Existing vacancies will be notified to the NJAC within thirty days of the Act entering into force.
- When a vacancy arises due to the completion of term, a reference will be made to the NJAC, six months in advance.
- For vacancies due to death or resignation, a reference must be made to the NJAC within thirty days of its occurrence.
- **Procedure for Selection of Supreme Court judges**
- Chief Justice of India: The NJAC shall recommend the senior most judge of the Supreme Court for appointment as Chief Justice of India. This is provided he is considered fit to hold the office.
- SC judges: The NJAC shall recommend names of persons on the basis of **their ability, merit and other criteria specified in the regulations.**
- Veto power of members: The NJAC shall not recommend a person for appointment if any two of its members do not agree to such recommendation.

# Select Thoughts and Observations

- In 2015, the **Supreme Court rejected the National Judicial Appointments Commission (NJAC) Act and the 99th Constitutional Amendment** which sought to give politicians and civil society a final say in the appointment of judges to the highest courts.

## **One perspective:**

- Time to find ways to implement a new NJAC, with executive taking back the powers to appoint judges.
- This is the political contest between the Executive and the Judiciary.

# Select Thoughts and Observations

- We need to gradually move away from this concept of state enforced group rights. That is one of the key problems facing our society and nation. It will not be easy, it will not be done overnight, it will have its contradictions, but it will help our civilization. This is our duty.
- Harsh Madhusudan

# Select Thoughts and Observations

- **Each year, 26th November is marked as Constitution Day. It is a day to remember the exceptional efforts of those greats who made our Constitution, while continuing to make it relevant for India's future progress.**

## Select Thoughts and Observations

- the biggest mistake that people who don't understand the scientific method make, is to use data for a single point in time, to draw conclusions about changes over time.
- This unscientific use of data, is usually to justify prior beliefs based on random observations
- First Framework, then data, then data analysis, empirical evidence, then nuanced conclusions, then opinion (that too in the area of expertise).
- NO FACT FREE OPINION\_\_PARTICULARLY RELEVANK IN LINKINF LAW, ECONOMICS, AND PUBLIC POLICY

# Basic Concepts in Law, Economics, and Public Policy

- Tyagi, Kalpana , 2013 *Introduction to Law and economics*, on Research Gate
- WHAT IS ECONOMIC ANALYSIS OF LAW? Consider the following cases: Case 1: Amrita recently discovered that the common wall with her neighbor Sunita is constructed on her land. She is thinking whether to go to the court to get the wall demolished which her neighbor has wrongly built on her piece of land. On talking to her lawyer, Amrita finds that the average cost of litigation is 50,000 and the time taken is 5 years.
- The value of the land wrongly occupied measures  $\frac{1}{4}$  square feet and is worth 30,000/-.
- There are also other costs associated that is the uncertainty cost about the decision, since the wall has been in existence for around twelve years as also the cost of producing evidence.
- Based on the information available, Amrita does a calculation in her mind whether she should go to the court or settle the dispute through Arbitration with her neighbor or if she should consider the lost piece of land as a sunk cost.

## Basic Concepts in Law, Economics, and Public Policy

- Case 2: There is an increased incidence of traffic rule violations specially jumping the red light and talking on the mobile while driving. The present fine is 100/- , with no special fine for repeat offenders. The Government is considering a revision. What should be the appropriate level of fine and/ or other penalties to prevent the violation of rules. In other words, what level of fine &/ or other penalties will have a deterrent effect on the behavior of violators.



## Basic Concepts in Law, Economics, and Public Policy

- Case 3: Anu is walking on the street in the pedestrian's path. She is hit by Amit's speeding car from behind.
- Anu goes to the court and the court awards her a compensatory damage of 10,000/.
- Why did the Court award a compensation of 10,000 and not 500 or 2000?
- In Case 1 above while considering the various legal remedies available, Amrita is essentially doing a cost-benefit analysis of the legal remedies available.
- In Case 2, while deciding on the appropriate level of fine & other punitive measures, the legislators are performing a cost-benefit analysis of law

# Basic Concepts in Law, Economics, and Public Policy

- in Case 3, the court performs a Cost Benefit analysis to determine an appropriate level of damage to be awarded. In Case 3, why the fine is not extremely high or miserably low?
- This can be attributed to the fact, that there are two balancing factors while considering an appropriate level of fine in case of negligent 'driving'. If on one hand driving is a beneficial activity that saves time and increases efficiency, then on the other a high reckless speed would lead to negligent accidents like the present one.
- In a large metropolitan city like Delhi or Mumbai where typical commuting time per day for an average person ranges from 3-4 hours per day, commuting from one place to another necessarily requires use of a means of transport public or private. Thus, there is an opportunity cost of travelling in terms of time and money
- If the damages awarded in hit and run cases is disproportionately high, then the COST of keeping a car increases, as the insurance premium will increase. In a nutshell the cost to the driver increases. Thus, driving will be discouraged with such a regulation.
- Likewise, if the compensatory damage is too low say 10/, even a bottle of coke will be more expensive. Thus, it will be a ridiculous amount not sufficiently high to deter rash and negligent driving. Thus, the fine has to be determined at an appropriate level , while balancing the interest of both the parties and the court accordingly decides a fine of 10,000.

## Select Economic Concepts and their Implications for Legal Processes and Public Policy

- I will present the concepts and we can discuss application to Indian Legal processes and Public Policy

# Transaction Costs

- These are the costs incurred in discovering the relevant prices at which agents are willing to trade; costs involved in undertaking negotiations and in making contracts.
- They also include the resources expended in locating whom one ought to trade with and in product search; in discovering the willingness of the other party to trade on certain conditions; and in ensuring that the terms of contract are being observed.
- Thus, transaction costs comprise three elements:
  - Search and information
  - Bargaining and decision-making
  - Policy and enforcement

The above is a general definition. It needs to be applied in specific contexts. Pendency cases example is given shortly. But there are others.

# Opportunity Costs

This is a very large area, and therefore the discussion is quite selective.

## **-Opportunity Cost**

- In economics, the concept of costs is among the most complex.
- Cash accounting used by government organizations in India, does not provide complete picture of costs. So some understanding of accrual accounting is essential in judicial reason and judgements.

## Opportunity Costs 2

- Opportunity cost is associated with opportunities that are foregone when an organization's resources are not put to their best alternative use.
- All resources (even those, such as land owned by the defence organizations) must be included into economic cost estimates.
- Opportunity cost of capital manpower used in particular use also needs to be estimated.
- Without estimating economic costs of an activity, decisions will be based on grossly incomplete data.
- In India's legal processes, how much weight is given to economic costs?

## Principal-Agent Issues (or Agency Theory)

- In private sector, these issues arise due to separation of ownership and control. In businesses the Principal Agent problem arises when agents (e.g., a firm's manager) pursue their own goals rather than the goals of Principals (e.g., the firm's owners) .
- Asymmetric information between the Principal and agents plays a key role in giving rise to these Issues.
- So information monitoring, and organizational arrangements for checks and balances are essential.
- Quality of organizations (and institutions) matter.

# The Concept of Moral Hazard 1

- All the contracts involve expectations about future behavior. If one party to a contract cannot monitor the other party's adherence to it, one or both the parties may engage in post-contract opportunistic behavior to secure advantage (utility or profit) than is permitted or anticipated by a particular contract.

**“In general, moral hazard occurs when the party to be insured can affect the probability or magnitude of the event that triggers payment”.**

- Thus, the general meaning of moral hazard is that it represents a situation when individuals have incentives to engage in economically inefficient behavior.



# The Concept of Moral Hazard 2

## Some examples of moral hazard:

- The manner in which Below Poverty Line (BPL) population is defined and the relevant documents used for various subsidy programmes.
- Bank deposit insurance and guarantees , including of employment
- Water is among the scarcest resources in the 21<sup>st</sup> century. The way it is priced in India, very low compared to costs, does it give rise to moral hazard? How to address it.
- Minimum support Price (MSP) for select crops
- With respect to healthcare, moral hazard represents misallocation of resources caused by a particular method of financing healthcare. As an example, when medical expenses are paid by a third party (Employer or Insurance Company), individual and his or her health care providers have less incentive to economize on the use of the medical resources.

## Real vs Nominal Prices

- There is a tendency to not take into account how prices are changing over time.
- So nominal values are taken, and judgements made
- Thus, many prices, some taxes are set in nominal terms. This implies reducing real prices over time as prices rise.
- So it is useful to set utility and other prices, and taxes in relation to an index or in percentage terms.
- India's petrol prices, which are linked to global prices, and which change everyday, is an example of good design.
- Judicial decisions need too take such good design feasures in the context of a particular case into account.

## Concluding Remarks on Economic Concepts, Legal Processes and Public Policy

- Economic Principles and concepts are Universal, but their application is contextual. There are myriad ways in which these can be combined to address a given issue or to attain a given objective. There is therefore no general recipe.
- Contextualizing of the economic reasoning concepts must be based on robust empirical foundation.
- The understanding of numbers (numerical literacy), investment in construction of data-bases and, data-mining, and in capacities to analyze the data are essential.
- So is the need for purposeful experimentation, so that programs, schemes, or policy instruments not found to be effective can be reversed without undue delay or transition costs.
- Political economy thus needs to facilitate feedback loops in policy implementation, and refinements to address limitations in design and/or implementation of policies/programs/schemes/as they become evident.
- It is the outcomes that matter, aided by good design. Processes, and real-time information to managers and decision makers.

# Pending Cases

- Pendency of 4 Crore 30 Lakh cases in India is a big challenge for me. The distance b/w 'Justice' and a common man should be reduced. It is a matter of concern if people, despite spending money, are not able to get timely justice: Kiren Rijiju (@KirenRijiju), Former Union Law Minister.
- Due To The Judicial Intervention The Growth Of Nation Shouldn't Be Stalled: Former Union Law Minister Kiren Rijiju [@KirenRijiju](#)
- An analyst has observed that the system must find a way to identify and blacklist professional blackmailers posing as PIL (Public Interest Litigation) petitioners who massively burden the justice mechanism at a time when it is already dealing with pendency, not to mention, hurt the economy deliberately.
- Another analyst has observed: roads in Uttarakhand to aid the army in reaching the forward posts with China are still held up by the Supreme Court on the case by so called "environmentalists" (anti-India Chinese agents) the safety of the soldiers and the country is more important than the SC's ego.

# Pending Cases

- Indian courts have a backlog of 4.5 crore cases — 3.8 crore in lower courts, 60 lakh in HCs & 70,000 in SC.
- 23 new cases add to backlog every minute.
- Judicial reforms led by [#NJAC](#) are needed to mend our broken criminal justice system

Minhaz Merchant 15 December 2021

The NJAC (National Judicial Appointments Commission) Act, **2014** was enacted by the Narendra Modi government to regulate the procedure to be followed the NJAC for recommending names for appointment as Chief Justice of India and other judges of Supreme Court and Chief Justices and judges of High Courts and for their transfers.

What is the economic cost of pendency empirically? How to reduce it?

Digital records, on-line hearing, better judgement of what cases to take at high court and supreme court level, low cost arbitration of disputes, and others could be useful in addressing this issue.

Use of new technology such as drones to resolve property disputes etc. may be feasible

Useful collaboration between legal and economics profession

## Pending Cases

- <https://voxdev.org/topic/institutions-political-economy/unease-doing-business-how-congested-courts-hinder-firm-productivity>

- The above link argues that congested courts hinder firm productivity

- It argues that:

Poor contract enforcement distorts production in two ways:

- 1. Direct impact:** If a producer uses a supplier for which there is a severe contracting friction, use of that input will be distorted, which will directly lower productivity.
- 2. Indirect impact:** A severe contracting problem might lead a producer to switch to a more costly supplier or less efficient technology to avoid the friction. While this is costly, a methodology that measured distortions using cost shares (e.g. Hsieh and Klenow 2009) would detect only the direct impact of the distortion, not the indirect impact.

# Pending Cases

- D.Y. Chandrachud-led Supreme Court's e-committee has chosen five high courts — Bombay, Delhi, Telangana, Madhya Pradesh and Allahabad — to start the digitization of case documents or legacy records across all courts
- Government has cleared a draft Bill for linking Aadhaar & voter ID.
- The reforms will allow the Election Commission to seed the Aadhaar number with electoral rolls on a voluntary basis.
- This could help reduce the number of bogus & duplicate entries in electoral rolls

<https://www.niti.gov.in/sites/default/files/2021-11/odr-report-29-11-2021.pdf>

Accessed on 30 November 2021

- [#NITIAayog](#) continues to bat for speedy access to justice through online dispute resolution (ODR). The report on ODR Policy Plan for India will help create a sustainable framework, which will help to scale dispute avoidance, containment, and resolution online.
- The Covid-19 pandemic resulted in a large section of society unable to receive timely access to justice. ODR is the process of using technology for dispute avoidance, containment and resolution outside the traditional court system.



## Pending Cases

- Justice Abhay Sreeniwas Oka, judge of the Supreme Court, supported the idea of live-streaming of court proceedings.
- Our Chairman of E Committee Justice Chandrachud also carries the same view. There also once we start live streaming, we'll have to evolve new ethics. So jointly we will have to evolve code of ethics for live streaming.
- Highlighting that live-streaming will increase the transparency of court proceedings, Justice Oka said, "I personally feel live streaming should be there in limited form in selected cases. Let us have transparency. Nothing wrong in transparency. If Parliamentary proceedings are live streamed, why not court proceedings, of course with all the constraints".

<https://livelaw.in/top-stories/justice-as-oka-supports-live-streaming-transparency-court-proceedings-186970>

- **Accessed on 5 December 2021**

# Need for Cultural Literacy in the Judiciary

- **How Judiciary's Cultural Illiteracy Is Working Against Hindu Interests**

**[R Jagannathan](#)**

<https://swarajyamag.com/ideas/how-judiciarys-cultural-illiteracy-is-working-against-hindu-interests>

Accessed on 21 December 2021

- Justice Tarried is justice Denied: Lawyers and the Judiciary Must Guard against the law being used to delay Cases

Bibek Debroy

- Somebody should try to quantify and do a thorough analysis of the economic and financial destruction caused by arbitrary court judgments just in the last 15 years. The number is likely to be in trillions of rupees.

Rajeev Mantri

Indicates potential economic costs of economically ill-informed judgements

## Defining the Rule of Law/1

- Effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of justice, opportunity, and peace—underpinning development, accountable government, and respect for fundamental rights. Traditionally, the rule of law has been viewed as the domain of lawyers and judges. However, everyday issues of safety, rights, justice, and governance affect us all; everyone is a stakeholder in the rule of law.

<https://worldjusticeproject.org/sites/default/files/documents/WJP-INDEX-21.pdf>

Accessed on 15 November 2021

## Defining the Rule of Law/2

**The World Justice Project defines the rule of law as a durable system of laws, institutions, norms, and community commitment that delivers:**

### **The Four Universal Principles of the Rule of Law**

- **Accountability:** The government as well as private actors are accountable under the law.
- **Just Law:** The law is clear, publicized, and stable and is applied evenly. It ensures human rights as well as property, contract, and procedural rights
- **Open Government:** The processes by which the law is adopted, administered, adjudicated, and enforced are accessible, fair, and efficient.
- **Accessible and Impartial Justice:** Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve.

<https://worldjusticeproject.org/sites/default/files/documents/WJP-INDEX-21.pdf>

**Accessed on 15 November 2021**

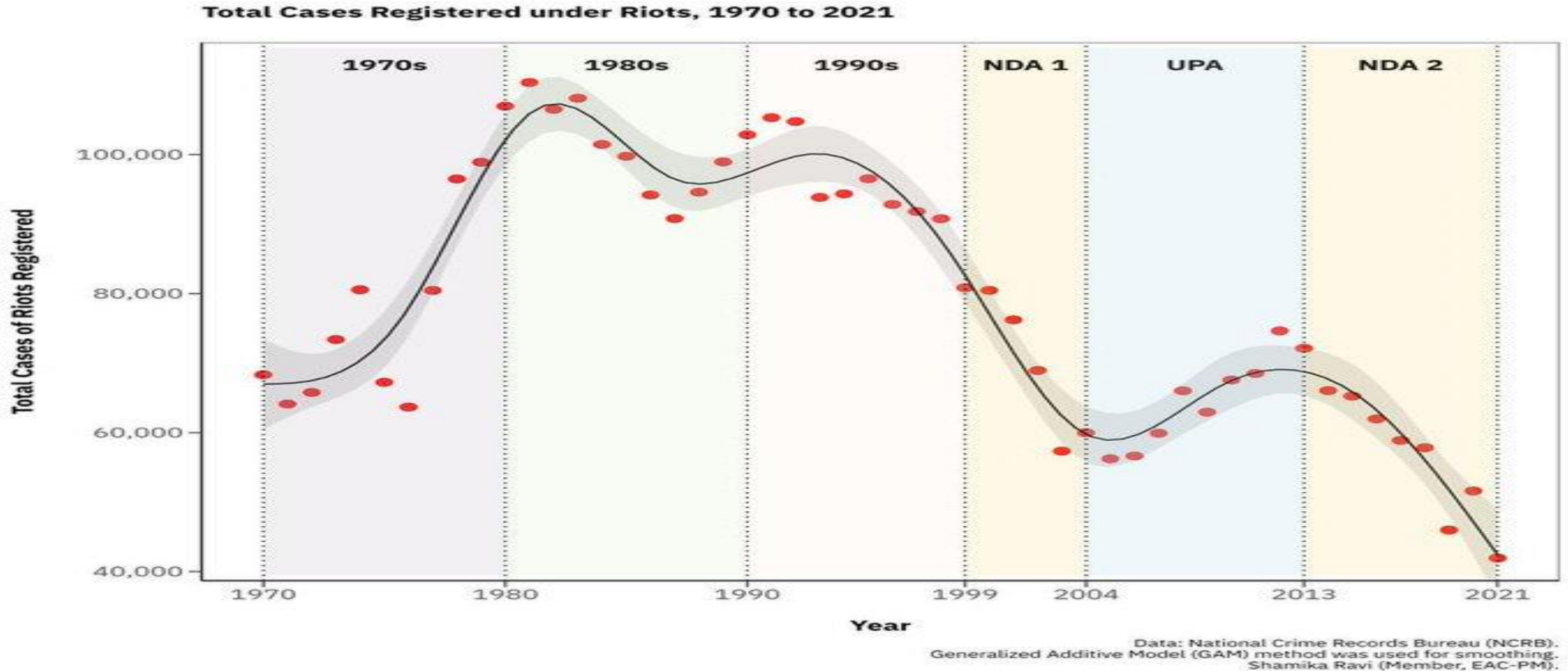
# Understanding Data: a critical Skill for Linking Law, Economics, and Public Policy

- “Interesting: how much bad news is anecdotal and good news is statistical. (And how invisible the statistical is.)
- Still, if only one of the two can be good news, I would rather it be the statistical.
- It accumulates toward qualitative change that lasts.”

Steward Brand

Example from India in the next slide.

Riots (violence) in India is on a steady decline. The country is most peaceful in 50 years. Here's the updated analysis using NCRB (National Crime Records Bureau) data. Anecdotes (however powerful) are not substitute to careful objective data analysis. And the data tell us that riots and tensions in India have been falling and very sharply from 1998 onwards. (The maximum riots were in 1981



# Understanding Data: a critical Skill for Linking Law, Economics, and Public Policy

[https://www.visualcapitalist.com/here-are-15-common-data-fallacies-to-avoid/?utm\\_source=Visual+Capitalist+Infographics+%28All%29&utm\\_campaign=21450911c9-EMAIL&utm\\_medium=email&utm\\_term=0\\_31b4d09e8a-21450911c9-45089011](https://www.visualcapitalist.com/here-are-15-common-data-fallacies-to-avoid/?utm_source=Visual+Capitalist+Infographics+%28All%29&utm_campaign=21450911c9-EMAIL&utm_medium=email&utm_term=0_31b4d09e8a-21450911c9-45089011)

Accessed 4 November 2021

- In today's tech-driven economy, data is essential for gaining new insights, making decisions, delivering legal and other services, and building products.
- In fact, there is so much data out there, that the quantity of it is doubling every two years—and by 2025, there will be 175,000 exabytes of data in existence.
- This is an unprecedented figure, and it's hard to put into perspective. To give you some sense, a single exabyte is equal to 1,000,000,000 GB of data, and five exabytes has been said to be roughly equal to “all of the words ever spoken by mankind”.



# Understanding Data: a critical Skill for Linking Law, Economics, and Public Policy

- **Common Fallacies With Data**


- As you can imagine, digging through all of this data can be quite the challenge.
- Data comes in many different forms and not all of them are easy to analyze. As a result, it is tempting to take shortcuts with data, or to try and fit the incoming data we receive into our pre-conceived notions of how things ought to be.

# Type 1 and Type 2 Errors in Statistics

- **Type I error means rejecting the null hypothesis when it's actually true, while a Type II error means failing to reject the null hypothesis when it is actually false**
- Example: Type I vs Type II error
- A person decides to get tested for COVID-19 based on mild symptoms. There are two errors that could potentially occur:
- **Type I error (false positive):** the test result says you have coronavirus, but you actually don't.
- **Type II error (false negative):** the test result says you don't have coronavirus, but you actually do.

# Type 1 and Type 2 Errors in Statistics

Type I and Type II Error		
Null hypothesis is ...	True	False
Rejected	Type I error False positive Probability = $\alpha$	Correct decision True positive Probability = $1 - \beta$
Not rejected	Correct decision True negative Probability = $1 - \alpha$	Type II error False negative Probability = $\beta$

 Scribbr

# Type 1 and Type 2 Errors in Statistics

- A discussion Question:
- Suppose all those undertrial are released, what would that imply for Type I and type II errors?
- Can we minimize both errors at the same time?

# Understanding Data: a critical Skill for Linking Law, Economics, and Public Policy

- **Examples of Fallacies**
- Here are four examples of fallacies, and why each is considered a faux-pas by data scientists.
- **1. Survivorship Bias**
- When people analyze the qualities it takes to be a successful entrepreneur, we typically look at the existing population of established entrepreneurs for clues. However, by limiting our sample just to this “surviving” group of entrepreneurs, we run the risk of survivorship bias.
- There are lessons we can learn from all of the entrepreneurs who have failed—they are just much harder to find. Integrating that data into the story can help complete a much fuller picture.

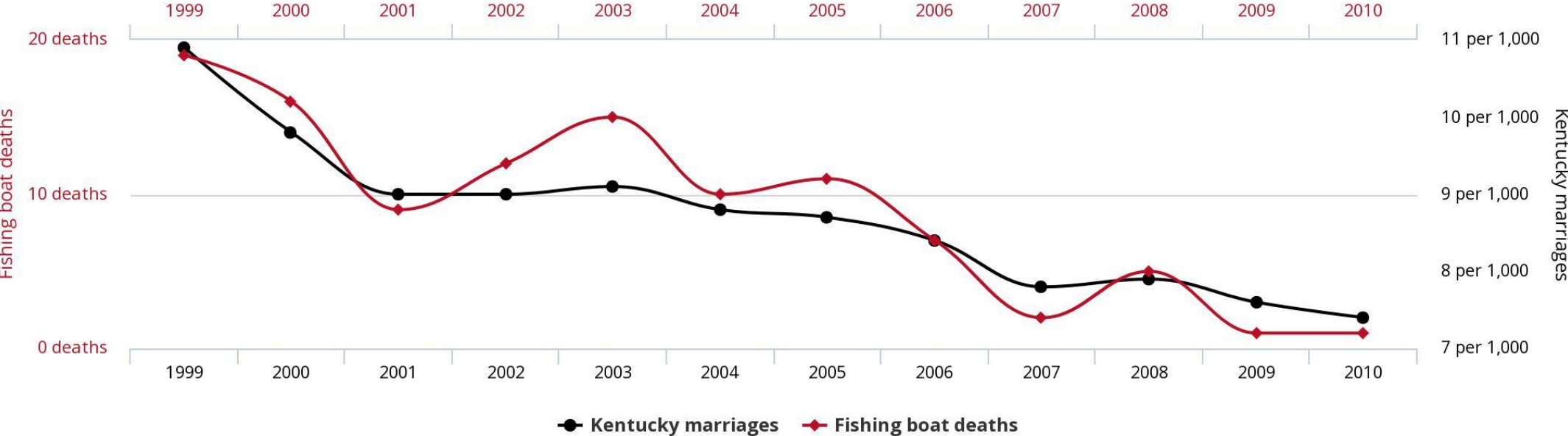
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- **2. False Causality**

- Did you know that there is a 95% correlation between the marriage rate in Kentucky and the amount of people who drown each year from falling out of fishing boats?
- Does this mean that there is some sort of relationship between the two variables?
- Finding a high level of correlation can happen simply by chance—but awarding false causality is one of the most amateur statistical mistakes in the book.

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**People who drowned after falling out of a fishing boat**  
correlates with  
**Marriage rate in Kentucky**



# Understanding Data: a critical Skill for Linking Law, Economics, and Public Policy

## • **3. The Gambler's Fallacy**

- If the roulette wheel turns up black for 26 times in a row, does that mean that it will revert back to red on the next spin?
- It's easy to say that the odds don't change, but imagine being in the moment. The Gambler's Fallacy happens with data analysis as well: just because something happens unusually frequently over a period of time doesn't mean that nature will "even it out".



# Understanding Data: a critical Skill for Linking Law, Economics, and Public Policy

- **4. The Cobra Effect**

- Data can be used to measure progress in achieving business goals, but what if there is incentive to game these goals?
- Wells Fargo, in an effort to upsell existing clients, introduced an incentive called “eight is great”. In short, their employees were encouraged to sell eight accounts per customer, which could take the form of credit cards, savings accounts, and other financial services.
- In an example of good intentions gone awry, Wells Fargo employees began breaking the rules to meet their targets. Millions of unauthorized credit card and deposit accounts were opened based on this perverse incentive, and the bank was eventually ordered to pay a \$142 million settlement.



## Select biases to Guard Against in Reasoning

### **confirmation bias**

- **You favor things that confirm your existing beliefs.**
- We are primed to see and agree with ideas that fit our preconceptions, and to ignore and dismiss information that conflicts with them. You could say that this is the mother of all biases, as it affects so much of our thinking through motivated reasoning. To help counteract its influence we ought to presume ourselves wrong until proven right.
- Think of your ideas and beliefs as software you're actively trying to find problems with rather than things to be defended. "The first principle is that you must not fool yourself – and you are the easiest person to fool." -  
Richard Feynman

## Select biases to Guard Against in Reasoning

- **belief bias**

- **If a conclusion supports your existing beliefs, you'll rationalize anything that supports it.**
  - It's difficult for us to set aside our existing beliefs to consider the true merits of an argument. In practice this means that our ideas become impervious to criticism, and are perpetually reinforced. Instead of thinking about our beliefs in terms of 'true or false' it's probably better to think of them in terms of probability. For example we might assign a 95%+ chance that thinking in terms of probability will help us think better, and a less than 1% chance that our existing beliefs have no room for any doubt. Thinking probabilistically forces us to evaluate more rationally.
- A useful thing to ask is 'when and how did I get this belief?' We tend to automatically defend our ideas without ever really questioning them.

# Select biases to Guard Against in Reasoning

## The curse of Knowledge

- **Once you understand something you presume it to be obvious to everyone.**
- Things makes sense once they make sense, so it can be hard to remember why they didn't. We build complex networks of understanding and forget how intricate the path to our available knowledge really is. This bias is closely related to the hindsight bias wherein you will tend to believe that an event was predictable all along once it has occurred. We have difficulty reconstructing our own prior mental states of confusion and ignorance once we have clear knowledge.
- When teaching someone something new, go slow and explain like they're ten years old (without being patronizing). Repeat key points and facilitate active practice to help embed knowledge.

## Select biases to Guard Against in Reasoning

- **Anchoring Bias**

**The first thing you judge influences your judgment of all that follows.**

Human minds are associative in nature, so the order in which we receive information helps determine the course of our judgments and perceptions. For instance, the first price offered for a used car sets an 'anchor' price which will influence how reasonable or unreasonable a counter-offer might seem. Even if we feel like an initial price is far too high, it can make a slightly less-than-reasonable offer seem entirely reasonable in contrast to the anchor price.

Be especially mindful of this bias during financial negotiations such as houses, cars, and salaries. The initial price offered has proven to have a significant effect.

# Select biases to Guard Against in Reasoning

## Groupthink

- **You let the social dynamics of a group situation override the best outcomes.**
- Dissent can be uncomfortable and dangerous to one's social standing, and so often the most confident or first voice will determine group decisions. Because of the Dunning-Kruger effect, the most confident voices are also often the most ignorant.
- Rather than openly contradicting others, seek to facilitate objective means of evaluation and critical thinking practices as a group activity.

## Select biases to Guard Against in Reasoning

- **Framing Effect:**  
Context and delivery can have a big impact on how a story is interpreted. We must have the humility to recognize that we can be manipulated, and work to limit the effect that framing has on our critical thinking.
- **Spotlight Effect:**  
Because we each live inside our own heads, our natural focus is on what we're thinking and doing. We project this onto others, and we overestimate how much they notice about how we look or how we act.



## Concluding Remarks

- Economic literacy is essential for all stakeholders involved in the judicial process.
- Lack of it is costly, and as India moves towards INR 400 trillion (USD 5 trillion) economy, lack of economic literacy will affect economic growth and welfare of the average household.
- India's Nominal GDP or GDP at Current Prices in the year 2022-23 is estimated to attain a level of ₹272 trillion, as against ₹234 trillion in 2021-22, showing a growth rate of 16.1 percent. At this rate, using rule of 72 (72 divided by the growth rate) India's GDP will double to 545 trillion by 2028-29, well above USD 5 trillion (1 USD = 82 INR)
- Much of current Law and economics literature is mainly US based. Need to develop material for Indic civilization context, including in Indian languages.
- There is a strong case to introduce KARMAYOGI type Mission started to move civil servants from process to playing their appropriate roles to legal community as well.
- Economic growth is an imperative for national security as well. So judicial processes should not unduly impinge on it.
- A compulsory course in Law, Economics, and Public Policy in Law and Public Policy Schools has strong merit.
- Encouraging double degrees in Law and economics, and collaboration in research between judicial personnel and public policy economists also has merit.