CHAPTER V

STAMP DUTIES AND REGISTRATION FEES

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5.1 The first report of the Commission focused only on non-judicial stamp duties and deferred consideration of judicial stamp duties to the final report. In the present chapter, we have made an indepth study of judicial stamp duties and taken for analysis up the few items on which we had reserved comments in the first report.

Further comments on tax potential

5.2 Detailed comments have been made in the first report on various aspects of the revenue realised from this head of account in the eighties and nineties. This is the most productive of the major own tax revenue sources in Karnataka. The buoyancy of stamp duties and registration fees in the 14 major States is given at Table I. Although buoyancy for the entire period of 1980-81 to 1998-99 is above 1 in Karnataka, it has fallen from the level of 1.36 for the period 1980-81 to 1992-93. Buoyancy levels for the longer period are also lower than those for many of the other major States.

Table I

Buoyancies of stamp duties & registration fees

	'80-'81 to '92-'93	'80-'81 to '98-'99
ANDHRA PRADESH	1.01	1.19
BIHAR	1.44	0.39
KARNATAKA	1.36	1.08
GUJARAT	1.20	1.22
HARYANA	1.11	1.37
KERALA	1.36	0.30
MADHYA PRADESH	1.27	1.42
MAHARASHTRA	1.48	1.24
ORISSA	1.18	0.92
PUNJAB	0.84	0.36
RAJASTHAN	1.34	1.24
TAMILNADU	0.40	0.71
UTTAR PRADESH	1.26	1.02
WEST BENGAL	1.33	0.80

Source:- Revenues based on RBI studies of State finance of various years furnished by Institute for Social and Economic Change Bangalore.

NSDP from published & unpublished data of Central Statistical Organisation.

Duties on some documents on which suggestions were deferred in the first report

5.3 In the first report, the Commission had postponed consideration of duty levels to be imposed on hypothecations, pledges, pawn, unattested pledges and mortgages without possession (para 6.82). We have examined the matter in detail and noted the manner in which duty levels have been shifting over time to adjust to alterations in banking practices. At present, the stamp duty for the hypothecation of movable property is .1% with a ceiling of Rs. 10000, while for pledges which offer a higher degree of security to bankers it is .5% with a ceiling of Rs. 2 lakhs. The Model Act circulated by the Government of India puts hypothecations and pledges on the same footing and applies a uniform rate of .5% with a ceiling of Rs. 2 lakhs to all of them. Unattested instruments are duty exempt in Karnataka and other similar mortgages without possession charged at 3% with a Rs. 3 lakh ceiling. Separate duties do not seem to be specified for both these instruments in the schedules of some other States-Andhra Pradesh, Maharashtra and Tamilnadu. Since bankers are in any case resorting mainly to hypothecations and the transaction is applied to material secured for working capital finance, we recommend application of the recommendation given in the Model Act to both instruments

Extension of the compulsory registration requirement

5.4 In paras 6.49 to 6.53 para 6.103 of the first report, we had made suggestions regarding extension of the compulsory registration requirement to instruments like General Power of Attorney and sale agreements applicable to immovable property by amending the Registration Act at the State and Central levels to control evasion and fraud. Our recommendation regarding extending the ambit of Section 17 and dropping the proviso to Section 49 of the Registration Act to prevent unregistered GPAs from acquiring evidentiary value in judicial proceedings relating to part performance of contracts under the Transfer of Property Act (Section 53A) is being implemented by the Central government. The statute in this connection is pending for Presidential assent. This is a welcome development. The State government should ensure that the amendment becomes law as quickly as possible. It is also necessary to tackle the prevalent practice of transferring ownership without executing a document by making purchasers equityholders in property and shifting only the equity to them which is being used to evade duty on conveyance. We recommend amendment of Section 17 of the Registration Act at the State level to include such transactions under the definition of "conveyance".

5.5 The State has tackled the practice of evading duty on conveyance by using the technique of creating and dissolving partnerships (which have low duty liability and are not compulsorily registrable) by making such transactions registrable. To mitigate the disincentive effects for entities which are developing from firms into incorporated companies for economic and industrial reasons, we may reduce stamp duty and registration fee requirements for firms in which partners continue to hold controlling shares for a minimum lock-in period of 5 years.

Recommendations relating to other matters

5.6 There are financial penalties prescribed in the Stamp Act. Up to ten times the stamp duty due can be levied as penalty for unstamped or under-stamped documents and the document itself impounded. Section 82 also prescribes a penalty of 7 years' imprisonment and fine or both for making false statements but this is rarely enforced. We recommend introduction of a penalty for non-registration of registrable documents since this is the most common evasion technique. The suggestion made in the May 1995 NIPFP report that registration should also be cancelled if affidavits are found to be false may not be enforceable in practice.

5.7 Under Section 72 of the Registration Act there is only provision for a single appeal to the Registrar (D.C.) against an order of the sub-registrar refusing to register a document. We recommend that there should be provision for a second appeal to the Revenue Appellate Tribunal. We also recommend that inspection powers in Section 67B of the Stamp Act should be used to examine the records of developers who are suspected of undervaluing property and evading stamp duty.

Governance and tax payment

5.8 We have drawn attention to the widespread perception about unfriendly, rent-seeking, sub-registrars' offices in the Commission's first report. In recent months, there have also been several newspaper reports about specific instances of illegal gratification in the department. We have already made several recommendations to simplify and rationalise duty and fee structures and procedures. A key suggestion that we would like to re-emphasise is the institution of a system of computerised generation of guidance values, for which, as we have already indicated in the first report, much of the preparatory work is practically complete. Concerted action over a six-month period is all that is required to bring in this radical improvement in the effectiveness and user-friendliness of departmental offices. We reiterate our view that computerisation at the superficial level of scanning registered documents or networking offices to improve MIS data would be inadequate to enhance the performance and image of the department. We hope government will move in the direction suggested in the first report as rapidly as possible in the interests of revenue and better compliance. As soon as this stage is reached, duties on conveyance should be brought down to the levels suggested in the Commission's first report

5.9 A beginning should be made in improving physical infrastructure in sub-registrars' offices. Most of them in Bangalore and other cities are located in cramped, storeyed buildings which are deficient in facilities for both official personnel and the public. We strongly recommend setting up modern offices spread over a single floor with personnel located in glass cubicles set opposite a comfortable public lounge provided with a computerised kiosk at which data concerning tax rates and procedures can be accessed in a user-friendly manner over the internet. Such offices should be provided with telephones and given powers to incur the expenditure required to purchase consumables for computers and take and preserve registered documents.

5.10 The need to fill up departmental posts which are lying vacant should be assessed after working out requirements after computerisation. This is essential since it is widely believed that sub-registrars' offices are being run by outside persons, "recruited", used and paid by departmental officials out of unaccounted earnings. Such persons should be kept out of sub-registrars' offices after the required personnel are put in place. Recruitment rules should be modified to ensure that personnel with computer skills are preferred for appointment.

5.11 As already mentioned earlier, action has been taken to purchase hardware. Some of it is getting installed with NIC support. Software development has commenced along with networking and development of management information systems. We suggest that the general recommendations on e governance made by us in this and the first report be adopted in this department. Some of the comments made regarding computerisation of the motor vehicles department would also be applicable to the Stamps and Registration department. We reiterate our view that regular departmental staff should be trained to use computers and used for managing systems when software development is completed. NIC or other special personnel should not be taken on board for routine computer operations; they may be required only for creating a core systems management group attached to the head office for trouble shooting and handling upgradation and similar issues.

5.12 Routine office management in sub-registrars' offices also requires substantial improvement. No check list is used to confirm that sub-registrars have done the prescribed verifications before registration. No record is therefore available of the manner in which a document has been treated after presentation. This affects transparent working and makes inspections difficult at the micro level. Since it is possible to precisely specify the verifications required to be done by the sub-registrar for each kind of transaction, check lists could easily be prepared and brought into use. It is heartening to note that the IGR has already prescribed an office inspection schedule and formats for conducting inspections. This should be strictly adhered to and closely supervised. There is also no departmental manual listing out procedures and requirements although there is an internal diary containing much of this information. This should be developed into an easily readable manual which can be used by both departmental staff as well as users. It should be made freely available to members of the public and put on the departmental website. It could also be broken down into brochures documentwise and these could be made available at all offices.

5.13 A major area of administration that requires upgradation relates to duty collection through stamps. We have already made extensive recommendations on this issue. For many transactions, there is no requirement of authentication of the document concerned. Payment could therefore be encouraged through agencies which deal with such transactions in large numbers like banks, financial institutions, stock exchanges and insurance companies. For transactions which require authentication, these agencies need to be authorised to "frank" documents on behalf of government. Since 1994-95, the department has been using franking machines in sub-registrars' offices. In Bangalore, at least, they are apparently being used fairly extensively. The Nasik printing press has practically given up printing stamps in small denominations. Stamp shortages add to the distress of taxpayers and encourage rentseeking. The department is planning to furnish franking machines to major institutions like banks etc. Franking machines will be calibrated to handle transactions of up to Rs. 10000 at a time and will pay advance duty whenever machines are recalibrated. Sub-registrars admit that most conveyance documents today are not prepared on stamp paper and duty is paid through bank drafts which are appended to the document when it is presented.

5.14 In the first report, we have already recommended online collection and accounting of duty by most institutions. To this end, officers of the appropriate level should be empowered to endorse documents and accept duty on behalf of the government. This could be routinely done online by financial institutions, stock exchanges, insurance companies and the like. It would, in fact, be a better alternative to stamps than franking. It would also remove the harassment and delay created by frequent visits by the personnel and clients of such institutions to sub-registrars' offices. Appropriate verification mechanisms could be prescribed for departmental officers using documents and occasional physical checks. This would eliminate the need for stamps, franking machines and even methods like pass-books and revolving credit accounts which have been suggested in various reports and thoroughly modernise duty collection. Safeguards could be incorporated and powers granted to institutions made liable to withdrawal if they are found to be evading levy and collection of duty. We also recommend abolition of adhesive stamps as a means of collecting duty.

5.15 No-objection certificates demanded before registration of conveyance deeds add to the lack of transparency and delay in registration. These relate to violations of "public policy" under other statutes which are expected to be identified and prevented when deeds are registered (under Section 22A of the Registration Act). NOCs sought at present pertain to prohibited land transfers-lands granted by government to Scheduled Castes and Scheduled Tribes, confirmed to tenants under the Land Reforms Act or to *inam*holders under Inams Abolition Acts, lands notified for acquisition by the government or the Bangalore Development Authority as well as non-alienated or *gramthana* lands and surplus lands or sales to non-agriculturists violating the Land Reforms Act. In urban areas, it appears that only a formal *affidavit* is taken from the presenter of the document, while in rural areas, the document is referred back for verification through J forms to concerned departments. To avoid delay, the practice in rural areas is for the presenter to obtain the required certificates upfront and present them along with the document to the sub-registrar. Measures to reduce such harassment must be explored as it is at the root of non-transparent, user-unfriendly departmental functioning. Whether affidavits and strict penalties for false declarations could substitute for the NOCs could be considered. However, removal of such requirements may need to be made contingent on feedback from concerned departments on documents registered. In any case, wide publicity should be given to prescribed procedures, their rationale, exemptions and NOC requirements through a citizen's charter in which time limits for registration and avenues for grievance redressal are indicated.

5.16 Accounting for duty collected and MIS pose special problems in this department. We have already discussed them in detail in the first report. Online transactions could substantially improve data collection mechanisms and our understanding of the revenue productivity of different documents. For the present, it is preferable, as suggested by the IGR, for the Finance department to collate data relating to drafts collected by sub-registrars for stamp duty and registration fee payment obtained from sub-registrars' offices and information regarding sale of stamps furnished by district treasuries to arrive at a reasonably accurate estimate of revenue realised. This could be reconciled with the Accountant-General's office from time to time.

5.17 A major area of reform is facilitating the issue of *khatas* and mutation after a transaction is completed. At present, this is tackled afresh by appropriate authorities with considerable harassment of citizens. In urban areas, it is handled by the local body while in rural areas, the revenue department is entrusted with the task. The only link between registration and *khata* issue is transfer of intimation of registration to the appropriate authority. Even this is rarely enforced. We do not recommend automatic issue of *khata* after registration by the sub-registrar himself, since the department may not be fully aware of local requirements. There should however be provision for online intimation of registration to concerned *khata* issuing authorities. Since the revenue department and municipal bodies are themselves getting computerised, provision should be made for such interaction when systems are developed. Till something akin to the Torrens system of title insurance in introduced in the country, the sub-registrar's office may only be required to advise visitors to obtain encumbrance certificates before registration and ensure the genuineness of the title to property. Agencies granting lands like local bodies, BDA etc.should be formally authorised to collect stamp duty and registration fees and exercise delegated powers to register documents on behalf of the department. This should be done after they are linked online to the IGR's network and systems are developed for transferring data relating to formal title to property for use by both parties.
Other statutes administered by sub-registrars and District Registrars

5.18 From the e governance point of view, this is an area of considerable public interaction. District Registrars are authorised to register, reconstitute and dissolve partnerships, trusts and societies under the respective Acts. Apart from stamp duty collected by them, they also charge a renewal fee from societies as well as fees for the issue of certified copies. Here again, we must consider how the procedure could be simplified and insulated from harassment and rentseeking.

5.19 A major activity of the sub-registrar that touches the lives of many citizens is his function as the Registrar of Marriages. Marriages conducted under the Hindu Marriage Act and the Special Marriage Act are registered by the sub-registrar, but those under the Parsi Marriage Act are registered by the District Registrar. The basic difference between registration under the Hindu and the Special Marriage Act is that the former is a mere recording of a legal action that has been performed elsewhere. The sub-registrar, therefore, is only required to demand proof of age and residence from parties to the contract. The Karnataka government has simplified procedures for such registration in 1999. The present format requires an application signed by both parties (there is no need for signatures of parents or the priest), proof of residence and of age. The sub-registrar is expected to immediately record the matter in his register and if desired furnish a certified copy on the payment of a fee. It was observed during a visit to the sub-registrars' office at Jayanagar that inadequate supply of printed forms for certificates and application forms is being managed by private supply of these formats for obtaining the sub-registrar's signature.

5.20 Government has been considering making registration of marriages compulsory to protect the interests of women. An Act in this regard which has been approved by the Government of India several years back is pending enforcement. If this happens, care will have to be taken to facilitate registration. The Inspector General of Registration is considering setting up user-friendly welcoming offices specially geared to handle such functions. Local body offices may perhaps be better suited to deal with the matter. We recommend therefore that panchayats in rural areas should be given the power to register marriages under the Hindu Marriage Act as soon alongside maintenance of a networked computerised data base of such registrations.

5.21 In the case of marriages conducted under the Special Marriages Act, the District Registrar has a clear statutory role. 30 days' notice of marriage has to be given after obtaining an application along with reliable proof of age and residence. Registration and issue of the certificate are done after expiry of this period. To prevent rent-seeking, the procedure should be publicised on the web site, at kiosks and through other methods like posters and brochures within the department, application forms should be freely available within the office (and not offered for sale along with draft certificates through private booths), publication of the marriage notice should not just be on the notice board but by some other more effective method and the certificate automatically issued after expiry of the thirty days. For the present, we do not recommend transfer of this function to local bodies.

JUDICIAL STAMP DUTIES

5.22 In its first report, the Tax Reforms Commission had deferred consideration of judicial stamp duties, which are fees levied to defray part of the costs of running the civil justice system in the country. From a purely economic viewpoint, the civil justice mechanism may have to be treated as an impure public good with large social externalities. The extent to which costs incurred in supplying the public good should be recovered, that is the share of government expenditure on civil justice that must be recouped from levying court fee has to be determined; in addition, how this burden should be spread among different categories of litigants will also have to be decided. While deciding the latter issue, we may have to examine whether the incidence of court fees should be modulated among user categories on the basis of the ability to pay principle or the benefit principle after examining the extent to which it is possible to quantify the costs incurred for supplying civil justice to a litigant and his ability to pay.

5.23 Some of these matters have been discussed in detail by the Supreme Court while deciding a bunch of appeals against various State governments in a judgment commonly referred to as Aswathnarayana Shetty and others vs. State of Karnataka-AIR 1989 Supreme Court 100. Since court fee is not a tax but a fee, there should be a *quid pro quo* between the service and the class of citizens served in the form of a "broad and general correlation" between revenues earned and expenditure incurred on providing services, even when revenues are merged in overall revenues and the services also benefit persons who have not paid the fee. After considering in great detail the significance and implications (economic and administrative) of the benefit and the ability to pay principles, however, the Court did not clearly pronounce in favour of either of them.

Instead, it laid down a detailed mechanism for levying court fees by suggesting that a nominal fee of around 2% to 21/2% could be levied on the initial slab of Rs. 15000, an *ad valorem* levy not more than 7.5% could be laid on claims above Rs. 15000 subject to a limit of Rs. 75000 and after this limit is reached, progressively decreasing rates down to ½% could be applied in graduated scales.

5.24 An argument often used is that judicial stamp duties could be used to deter speculative and frivolous litigation. This may not be sustainable simply because the expensiveness of the legal system (which could result in denial of access to justice for poorer persons or deter litigants) is due today much more to costs other than judicial stamp duties-lawyers' fees, "the law's delays" and the like-rather than to prohibitive court fees. Exemplary costs are in fact provided in Section 35 of the Civil Procedure Code (they have recently been enhanced) for those responsible for frivolous litigation. These are expected to be awarded to opposing litigants alone, but the provision is rarely exercised. In view of this as well as in view of the fact that costs other than court fees are likely to deter litigation, the Commission does not also think it necessary for the State to claim a part of such exemplary costs.

5.25 The more important objection to using judicial fees to discourage frivolous litigation relates to the inalienable duty of the State to provide justice for its citizens. It must be remembered that litigants take recourse to courts only after exhausting the potential of private dispute settlement mechanisms like arbitration and conciliation. The provision of justice should not therefore be expected to be entirely self-supporting, particularly since the judiciary does not merely decide individual cases, but also considers and settles in the course of litigation, general principles of law. The civil justice method of resolving disputes could also be considered as a safety valve that reduces the scope for violent altercations and criminal action. For this reason, there would be no case for recovering the entire cost of judicial administration from users alone. When a comparison is made of revenues and costs on this item, the focus should be on ensuring that the quantum of fees raised is not higher than expenditure incurred on the judicial system.

5.26 While considering the issue of judicial stamp duties, therefore, the basic question of determining the share of expenditure on civil justice that could be recovered through court fees and how this burden should be shared between different user categories will have to be examined.

Statutory basis of the levy

5.27 There are several items in the Central, State and concurrent lists of Schedule VII of the Constitution which relate to fees as well as judicial administration. Item 96 of the Central list empowers the Centre to levy fees for all matters except those taken in any court. Judicial stamp duties and court fees themselves fall specifically under item 3 of the State list (List II) of the Seventh Schedule of the Constitution which refers to fees collected in all courts except the Supreme Court. (Item 66, which is a companion item to item 96 of List I, empowers States to raise fees-other than those taken in any court-from any matter in the State list). The power of administration of justice which was once a State power (item 11 of the State list) was transferred to the concurrent list (item 11A) in

1976. Similarly, item 26 of the concurrent list referring to legal, medical and other professions, has enabled Parliament, if it so desires, to determine stamp duty payable on applications for enrolment as advocates. The concurrent list like the other two also has an omnibus provision under item 47 covering the levy of fees in respect of matters in the list, excluding court fees.

5.28 By construing these provisions together, the present position regarding the levy of judicial stamp duties and court fees is that only fees charged in courts fall within the ambit of State legislation under item 3 of List II. They are administered by courts of law under the overall supervision of the Law department. Tribunals and quasi-judicial bodies that are not referred to as courts fall within the ambit of provisions of the Constitution other than item 3 of List II. This has sometimes had the effect of reducing a source of State revenue, when for expeditious disposal of specific disputatious matters, special tribunals are set up to dispose of particular categories of civil disputes. Consumer protection tribunals and, more recently, debt recovery tribunals have been established in this manner; the latter procedure has resulted in removal of a fairly lucrative source of court fee revenue for States. States must take note of this aspect whenever special tribunals are proposed. Although it should be convenience of litigation and not revenue that should be the principal consideration, the State government could review all cases of special tribunals that have been set up in this fashion. The basic principle to be considered from the court fee point of view when a matter usually handled by civil courts is transferred to a special tribunal is that the government which furnishes the service should be entitled to determine fee rates and reap revenues.

5.29 Another feature of special tribunals is that court fee rates are laid down in the constituting statutes themselves. They tend therefore to escape review for long periods of time. The State government should regularly examine such rates with reference to the service rendered and the position before creation of the tribunal.

5.30 Finally, there are process fees levied on plaintiffs under the Civil Procedure Code to cover the costs of summoning witnesses and documents and ensuring attendance or production. These are covered by the Civil Rules of Practice framed and administered by the High Court. The revenue realised is not earmarked for expenditure to be incurred on witnesses. It is accounted for under the omnibus head of judicial stamp duties while expenditure on witnesses is booked under normal Court administration.

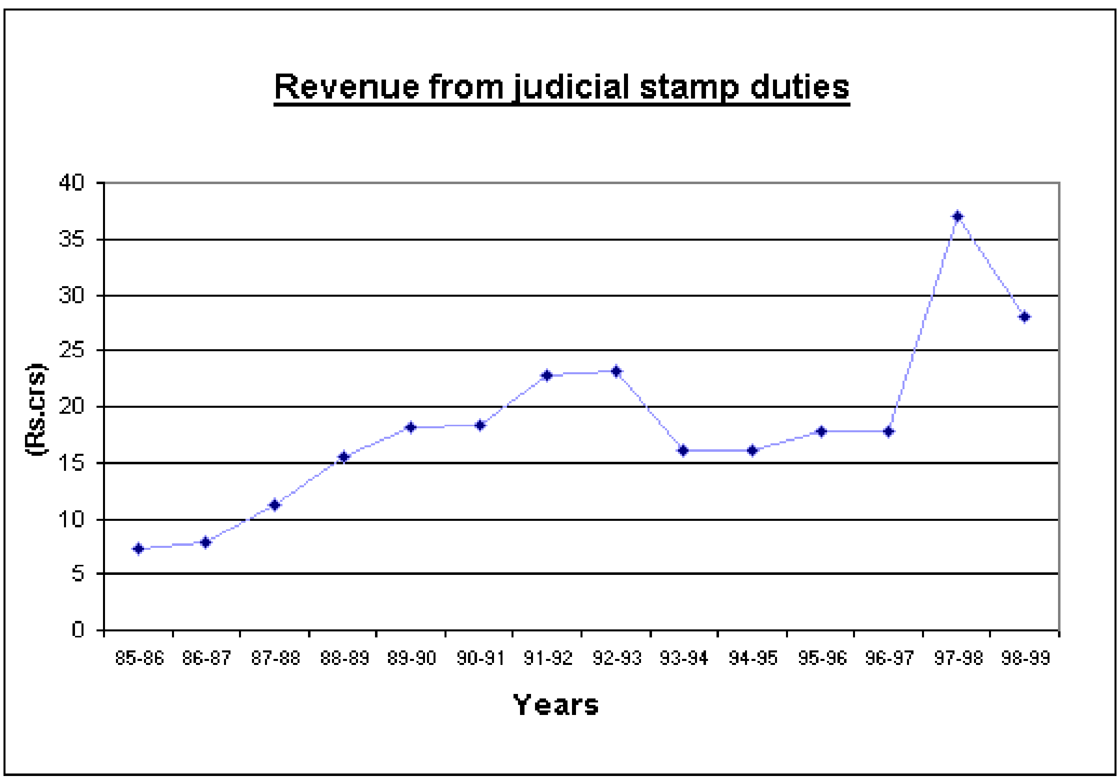
5.31 The Karnataka Court Fees and Suits Valuation Act of 1958 is the statute applicable to levy and collection of judicial stamp duties in the State. As for process fees, since they have been reviewed as recently as 1999, there may be no case for further immediate increases.

Revenue significance of the levy

Table II

Revenue from judicial stamp duties

Year	(Rs.crs)
1985-86	7.3
1986-87	7.79
1987-88	11.26
1988-89	15.46
1989-90	18.05
1990-91	18.28
1991-92	22.87
1992-93	23.11
1993-94	16.11
1994-95	16.05
1995-96	17.75
1996-97	17.76
1997-98	36.99
1998-99	27.97



5.32 Revenue realised from judicial stamp duties has been indicated at Table II. There is considerable fluctuation in revenues, which show increase up to 1992-93, after which there is a distinct slump from around Rs. 23 crs. to Rs. 16 to Rs. 17 crs. From this level, revenue is again seen to have more than doubled to Rs. 37 crs. and once more reduced to around Rs. 28 crs. The reasons for such fluctuations are difficult to determine since responsibility for the levy is diffused over several departments and agencies. The variations noticed might even be due to misclassification of receipts! There is a case for closer monitoring at the Finance department and treasury levels, which should be possible today since these departments as well as courts and major tribunals are being extensively computerised. Recent comparable figures of judicial stamp duties for other major States are not readily available but the 1995 NIPFP study (Table 9 of Chapter II) notes the wide range (between 4% and 35%) within which these figures move across years. There is not much clustering around median values either.

5.33 There appears to be no mechanism today to capture the quantum of fees realised from judicial courts, administrative and other courts and government departments and authorities (as a whole as well as under different items) for reasons which will be discussed in greater detail under administration and evasion. Informed conclusions and policy decisions are not possible in such a system.

***Quid pro quo* between service and fee**

5.34 As indicated earlier, the major issues to be considered under this head pertain to the extent to which expenditure on providing civil justice should be recovered from users and the manner in which the tax burden should be shared among different categories of users. It is appropriate to expect judicial fees to defray part of the costs of revenue administration, that is expenditure incurred on recurring personnel and maintenance costs. Capital expenditure on buildings, residential and official as well as on equipment, furniture etc. ought to be met by government out of the general budget. Latest accounts figures for judicial administration from the Finance department for 1999-2000 indicate that Rs. 127 crs. were spent on running all courts (including criminal courts), of which Rs. 112 crs.were on salaries. Rs. 5.8 crs. were spent on works (official and residential buildings). Figures available from the High Court indicate that civil and sessions courts accounted for around Rs. 90 crs. in 2000-2001. Since the court fee head also covers receipts from other tribunals and quasi-judicial and even administrative authorities set up by the State, expenditure on all such agencies could be assumed to be around Rs. 100 crs. It would be appropriate to realise through court fees approximately half these costs; the above principle may be treated not as a rigid rule, but as a broad guideline to evaluate the working of the system from the financial viewpoint. There is a case to gradually increase revenue realizations from judicial fees to Rs. 50 crs. by streamlining the tax structure. This should be attempted, however, only alongside substantial upgradation and modernisation of infrastructure facilities for the judiciary and litigants. The burden of court fee should also be distributed equitably among litigants in line with benefits received and their ability to pay.

Distribution of tax burden

5.35 Although the Supreme Court did not specify clearly the principles on the basis of which the burden of court fee should be shared by different categories of users, it considered several issues like the number of manhours expended on a legal proceeding, the value of the subject matter etc. A mix of the concept of vertical and horizontal equity and the benefit principle seems appropriate while allocating the fee burden among different users. The principle of cost recovery can be applied only at the macro level while determining the share of expenditure on maintaining the civil justice system that should be recovered through court fees. It cannot be used to allocate the fee burden since it is not possible to determine the manhours expended in deciding each case and compute their cost. Benefit can, therefore, be measured only in terms of financial advantage derived from taking up a civil matter in the courts and fees tailored accordingly. Such an approach is also in line with the equity principle. There is also a case for exempting or charging low specific fees when legislative protection is proposed to be given to special beneficiary classes, like accident victims, those whose land has been compulsorily acquired by the government or factory workmen.

Rationalisation of slabs and rates

5.36 The general structure of the Court Fees Acts of different States is drawn from the basic Central Court Fees Act of 1870 and the Suits Valuation Act of 1887 which were in force in British India under the unitary political structure. Some States like Karnataka and Tamilnadu enacted their own Acts after independence while others adopted the earlier statutes with amendments. As in the case of non-judicial stamp duties, in respect of judicial stamp duties also, for this reason, there is little differentiation among States in statutory provisions and fee schedules despite the absence of a conscious mechanism for harmonisation or consultation among them. In general, court fee acts have a general chapter (Chapter IV in the case of Karnataka) indicating how fee should be computed and two schedules (Schedules I and II in Karnataka) covering items subject to specific and *ad valorem* duties. General chapters focus on determining the fee base for different kinds of proceedings and plaints, but they also lay down the fee rate in cases (like adoption suits, revenue matters and the like) in which no value can be arrived at on the disputed subject matter. Tax base determination is pegged to the amount claimed or the relief sought and sometimes there are floor and ceiling rates. Evasion by under-valuation is, however, possible when claims are not in monetary terms; this is discussed in later paragraphs.

5.37 *Ad valorem* fees are prescribed on plaints, petitions, appeals and various kinds of applications filed in different courts or before various authorities. On the whole, they follow the guidelines laid down by the Supreme Court in Aswathnarayana Shetty vs. Government of Karnataka and others (mentioned earlier). However, there are different ways in which States have applied these guidelines as the comparative fee structure in respect of Karnataka, Tamilnadu and Kerala given in Annexure I will show. A related issue with respect to *ad valorem* rates is the valuation question which will be discussed further on in this chapter. As in the case of non-judicial stamp duties, specific rates are applicable whenever valuation of the disputed or claimed item is not possible; they are also levied on a large variety of applications to executive and quasi-judicial authorities. In Karnataka, rates have in general remained static from 1979; very few rates were changed in 1982. There is also a case for adjusting rates to general inflation levels to generate more revenues to modernise tribunals and improve their services for litigants, advocates and magistrates

5.38 In the case of general suits, in the Karnataka Schedule I, there is an inordinately large number of slabs and rates finely differentiated on the basis of suit value. This was introduced by an amendment on 29/1/93 to implement the Supreme Court's guidelines in A. Shetty's case. Against 16 items in the Karnataka schedule, Kerala has only 6 and Tamilnadu just 3! Since the Supreme Court had only laid down guidelines, there is sufficient leeway for the State to simplify and rationalise its fee structure in the interests of transparence and administrative facility.

5.39 Going by the basic principles of public finance, there is no justification for such excessive rate differentiation. The rationale behind the prevailing rate structure is also weak. The "inverted U" rate curve is regressive; the rate structure is also inversely related to the benefits received from litigation. The present schedule thus violates both the benefit and the equity principles. In our view, the court fee structure should be proportional to the value of the disputed property. This would require merger of the existing multiple rates into a single low rate, which should be applied to suit value. We recommend that the rate should be determined by computing the prevailing effective average rate and rounding it off to the nearest integer. The rate might stabilise around 2.5% to 3%. A minimum low floor rate could also be fixed. This will create a simple transparent system that would be comprehensible and acceptable to lawyers and litigants.

5.40 Other modifications proposed are the following:

-the fee to be raised from 1/8th to 1/4th of the security value in cases of suits for the possession of title documents as in some neighbouring States

-for adoption suits, the fee to be raised to Rs. 50 for cases with market value below Rs. 5000

-drop provisions relating to suits under old statutes like the Bombay and Hyderabad Land Revenue and Mamlatdar Courts Acts

-dropping from the Second Schedule item 2 referring to petitions under Section 26 of the Insolvency Act and Section 95 of the Code of Civil Procedure, for which the present duty level is half that for suits (to discourage frivolous insolvency petitions and applications for arrest and attachment), since Rs. 1000 is the maximum compensation that can be claimed under the provision and Rs. 100 would be the maximum court fee that could be collected.

-At item 3 relating to petitions under Sections 53 or 54 of the Insolvency Act, an across-the-board fee of Rs. 500 could be levied.

-removal of the differentiation between applications filed within and beyond the limitation period at item 5 (applications for review of judgments). Applications for review presented to the High Court, civil courts and KAT could be charged at 5% and those to government at Rs. 100.

-in the case of letters of probate and certificates under the Succession Act, the rate could be 1% up to a value of Rs. 1 cr. and 5% in other cases.
-for undertakings under Section 49 of the Divorce Act, appeals to any court other than the High Court or executive officers, appeals to KAT and government, the fee rate should be Rs. 50
-for appeals to the High Court, the fee should be Rs. 100
-for appeals under the Arbitration Act, the fee should be 1% with a minimum of Rs. 50
-copies of judgments of criminal courts should be charged Re. 1 and those of High Court decrees, Rs. 5
-copies of stamped documents presented in lieu of originals should be charged Rs. 2
-copies of other proceedings should be charge Re. 1/page
-petitions to excise, revenue and municipal officers and to DCs for land leases should not be charged fees
-petitions for lapsed deposits presented after six months should be charged Rs. 5
-other petitions to government as also to DCs should not be charged fees
-petitions to KAT relating to legal powers should be charged Rs. 50 and other cases Rs. 10
-petitions to executive magistrates should not be charged fees
-applications for temporary injunctions presented to a court should be charged Rs. 100 and those to other authorities Rs. 50
-applications for arrest or attachment before judgment (other than to a High Court) should be charged Rs. 50
-applications under Rule 58 CPC in a revenue court should be charged Rs. 50 and in other courts Rs. 100
-applications under Section 47 and Rule 90 CPC should be charged Rs. 50
-applications under Order 17 Rules 1 and 2 CPC in the High Court should be charged Rs. 100 and in other courts Rs. 50
-the fee rate for original petitions not otherwise provided for should be similar to that in Kerala
-the fee rate for applications to set aside arbitration awards and applications for directions to file arbitration awards should be similar to those in Tamilnadu
-revision petitions in the High Court under Section 115 CPC should be charged Rs. 50
-writ petitions in the High Court under Art. 226 (except *habeas corpus*) and under Article 227 should be charged Rs. 500 as also appeals to the High Court
-applications under the Specific Relief Act should be charged Rs. 100
-petitions to the High Court and KAT not otherwise provided for should be charged Rs. 5
-election petitions for membership, presidentship and vice-presidentship of the Taluk Board or *panchayat* (or equivalent) should be charged Rs. 50
-applications to sue as pauper should be charged Re. 1
-applications to appeal as pauper in the High Court should be charged Rs. 2 and in other courts Re. 1
-bail bonds and other other instruments under the CPC and CrPC not otherwise provided for should be charged Re. 1
-copy of power of attorney or vakalatnama filed in any court should be charged Rs. 5
-the lower slab for agreements for question for opinion under the CPC could be dropped from the schedule

-all caveats should be charged Rs. 10

Determination of market value for computing the fee payable

5.41 As indicated earlier, procedures prescribed for evaluating the tax base, which are critical from the equity and revenue viewpoints, are relevant only in cases when the claim or relief is not specified in money terms, but described as movable or immovable property which require valuation. The legal procedures prescribed as well as actual practices make a difference in this area.

5.42 In the Karnataka Act, determination of the market value of immovable property is governed by the provisions of Section 7 of the Karnataka Act, under which values are determined as a multiple (121/2 to 25 times) of the land revenue or 15/30 times the net profit for unassessed land. The plaintiff is expected to file a statement along with the suit indicating the market value and the court is expected to adjudicate this issue first. Since land revenue rates have remained stagnant since 1965 in Karnataka, this implies that in respect of immovable property, court fee rates are today totally out of alignment with market values. In the Kerala Act, however, Section 7 determines the market value of agricultural land as ten times the annual gross profit minus assessment, of buildings as ten times the rental value or actual market value and of other property as estimated by the plaintiff but not less than fixed by the Collector under the Stamp Act. Under the Tamilnadu system, thirty times the assessment, rent etc. is taken as market value for specified classes of agricultural land but the market value is treated as ten times the difference between the annual gross profit and assessment for other categories of agricultural land; for house sites, market value is taken for determination of the court fee.

5.43 Both the neighbouring States mentioned above have moved away generally from linking market value to land revenue to the gross profit minus assessment approach. It is desirable for Karnataka too to adopt guidance values notified by subregistrars for valuation purposes. A gradual transition to market-linked valuation could be made with fee rates adjusted downwards to prevent undue hardship to litigants on account of sharp increases.

Exemptions

5.44 The list of exemptions prescribed under Section 69 is given in Annexure II. The list may be reviewed in the light of the recommendation made by us further on to remove court fee on applications made to government offices on non-judicial matters.

Proceedings in non-judicial tribunals and administrative matters

5.45 Suggestions have been made for raising fee levels for quasi-judicial tribunals-consumer and labour courts, economic offences and motor vehicle tribunals, arbitration matters and the like. As mentioned earlier, fees can be levied only in tribunals through which the State provides services. Since arbitration is governed by the provisions of a Central Act and costs are fully met by the litigants themselves, there is no case for levying court fees.

5.46 A substantial component of labour legislation is enforced through criminal complaints. Matters under the Industrial Disputes Act are dealt with in labour courts manned by judicial officers, but expenditure is not recovered through court fees as a specific exemption notification has been issued by government. Such exemption is justified since these disputes relate to an important component of economic legislation- the protection of workers' rights.

5.47 Consumer courts are an example of special tribunals that have been set up under a Central Act to decide matters that were once subject to civil legislation. A provision in the Act constituting tribunals provides for court fee exemption although costs of running the courts are met by State governments. Since the issues decided relate to civil claims in respect of goods and services that have already been paid for, there is a case for levying a fee even if there is an element of social legislation about the disputes handled by such courts. It is suggested, therefore, that an across-the-board nominal fee of Rs. 100 should be charged in consumer courts which could be eventually debited to the losing party.

5.48 In the case of land acquisition awards, court fee is not being levied today on the enhanced compensation amount given by courts, when matters are referred to them by the Land Acquisition Officer under Section 18 of the Act. Such references are mandatory when a landowner accepts the compensation fixed by the officer under protest. Courts often enhance the compensation to a substantial extent, but a view has been expressed that court fee cannot be charged on this amount since proceedings have arisen on the basis of administrative referral not on *suo moto* approach to the court by the landowner. Court fees are leviable in the rare cases when appeals are filed in higher courts against lower court orders determining compensation. We have considered the matter in depth. Since compensation amounts are routinely enhanced by courts, there is a case for levying a fee of .5% on the compensation awarded which should be collected after the case is decided while paying the amount.

5.49 Motor vehicles accident tribunals manned by judicial personnel are exempted from court fees by a specific government notification under the Motor Vehicles Act although the costs of running such tribunals are met by the State. There may be a case to charge a low fee of .5% on the value of the compensation awarded, (which is generally paid by insurance companies) to be collected only after the conclusion of the case from the compensation amount itself.

Fee collection mechanisms and e governance

5.50 Judicial stamp duties are paid by affixing adhesive stamps on documents presented to courts or public authorities or preparing documents on impressed stamp paper (Sections 71 and 72). As in the case of non-judicial stamps, judicial stamps, copying sheets for orders and impressed stamp paper are printed in security printing presses on indents placed by the State Treasury department on the basis of requirements indicated by registered stamp vendors. Stamps are distributed to vendors who are entitled to the usual scale of commission for selling them to users. Section 4 provides that no document chargeable with fee should be filed, exhibited or recorded in or be acted on or furnished by any court or public officer unless the required fee has been paid. Courts and administrative authorities are expected to ensure that the required value of stamps is affixed to documents presented to them. They are expected to cancel stamps while receiving documents to prevent re-cycling and fee evasion (Sections 4 and 74). The practice is fairly systematically observed in offices concerned with judicial and quasi-judicial work, but it is probably increasingly neglected in purely administrative offices.

5.51 Levy of fees on routine petitions and applications filed on administrative matters to government seems anomalous in modern offices which are expected to be open, welcoming and responsive to citizens and their needs and complaints. It goes against the current emphasis on transparence and open government which is based on citizen interaction and feedback. The Commission is of the opinion that the existing procedure of charging stamp duty for petitions and applications made to the government should be given up since this is followed more in the breach than in the observance. It is incompatible with an e governance environment since the revenue realised from fees is disproportionate to the cost of monitoring a plethora of departments. Unless the fee provision is dropped, it could be used in a discretionary manner for rentseeking and harassment by individual officials. The bar on unstamped documents being legally accepted for adjudication has also been modified to some extent in judicial courts due to the current practice of treating even letters as starting points for public interest litigation

5.52 Adhesive judicial stamps are printed in denominations of 10 and 60 paise and 1, 2, 4, 5, 10, 20, 25, 30, 35, 40, 45, 50, 60, 75, 100, 200, 300, 500, 1000, 3000, 5000 and 25000. Judicial copying sheets are printed in 35 paise denominations. It was indicated that in 1999-2000, Rs. 86 lakhs were spent on printing judicial stamp paper. Suggestions have been made for rationalising the number of denominations and aligning them with the schedule to the extent possible, since even today, stamps of higher value are often affixed to documents, due to non-availability of stamps of the required value. This should be done expeditiously. There is also a case for considering (as in the case of non-judicial stamp duties) whether online computerised collection would be possible. Actual collection of fee in cash, through demand drafts, pay orders and the like and franking in tribunals themselves, even when they have been fully computerised, may not be easily accepted. Collection and related franking through banking channels could be considered side by side with stamp vending. Over time, more modern methods would drive away antiquated procedures based on stamp affixation with their attendant problems of artificial shortages and forgery.

5.53 A visit to the court of the Principal City Civil Judge at Bangalore on 23/7/2001 furnished us with a comprehensive overview of how court fee is administered and collected. The complex of courts served by this area accounted for Rs. 6.57 crs. of gross revenue (without accounting for refunds) in 2000-2001 (which would amount to close to 1/5th of the revenue realised from judicial stamp duties). If we consider the revenue realised from the Court of Small Causes which is another very busy civil tribunal at Bangalore, it is clear that these courts alone could account for the major share of court fee revenue.

5.54 The courts gathered under the Principal City Civil Judge at Bangalore are the first cluster of civil courts to be computerised; since 4 months, documents are being received at two computerised counters linked to a Local Area Network. The counters deal with original and miscellaneous suits. Administrative personnel attached to the court have themselves been trained to work on computers. Staff manning the counters make initial entries into the computer which is programmed to do a preliminary verification of documents with reference to jurisdiction (both territorial and pecuniary). They enter the claim value indicated in the plaint into the computer which generates the court fee payable on this account and this is verified at the counter itself. Since there are no facilities for scanning documents, connectivity that is already available is not at present being utilised. Documents that are cleared by the computer are passed on manually to the back office which is manned by two Sheristedars (Office Superintendents). The Superintendents do a detailed manual scrutiny in which the adequacy of the court fee is also examined with reference to market value and stamps are cancelled. A brief note is entered into the computer and the file sent to the Principal Civil Judge for allocation to the appropriate court for decisions on doubtful issues including adequacy of the court fee. The Principal City Civil Judge's court, which is probably the busiest civil court in the State, receives around 40 to 60 original petitions and around 100 miscellaneous ones daily. A Daily Register of Court Fees is prepared manually in the back office from which an annual total of gross collection is prepared and sent to the High Court at the end of the financial year.

5.55 From the users' viewpoint, the following improvements could be introduced into the system without much difficulty:

There is a case for a kiosk system under which the document could be scanned and court fee computed for the benefit of users without recourse to the counter

The extent to which connectivity could be used for interaction between personnel at the counter and the back office and the Principal City Civil Judge could be examined

A citizens' charter could be developed and enforced to ensure processing without delay

Connectivity could be used for online verification of pendency and delay

Back office MIS outputs seem to have been developed but they have not yet been put into effect; these could be streamlined for regular outputs regarding fee realised from different kinds of suits and documents and feedback given not only to the Controlling Judge but also to the Treasury and the Inspector-General of Registration

A user-friendly computer manual detailing inputs, outputs and the like could be prepared and made available to all users and personnel.

There is a case for developing expert-system software for mechanising scrutiny of documents in the back office to the extent possible

5.56 From the accounting point of view, there is today a monthly report furnished by District Treasuries relating to revenue realised from stamp duties as a whole that is furnished to the Director of Treasuries and the IGR. Duty is collected at the point of sale of stamps and stamp paper before the transaction liable to duty actually takes place. Dispersed sale and receipt of documents in different tribunals and offices characterise the levy. As seen above, however, it appears feasible even without computerisation to obtain regular reports from all tribunals regarding various kinds of court fees recorded by them while receiving documents.

5.57 We have already considered the tricky issue of likely under-valuation. The practice is for defendants to routinely take the plea that the subject matter of suits is not properly valued. Courts have to, therefore, in most cases,consider and pass judgment on the adequacy of valuation as a preliminary to registering the plaint and taking a decision on the subject matter of suits. When appeals are preferred, orders can be passed on the adequacy of the fee levied and deficit fee collected; eventually unpaid deficit fee is collected as land revenue arrears.

5.58 Fee refunds are provided under Chapter VII when a plaint is rejected for delay in presentation, or delay in remitting deficit fee, when plaints are remanded to lower courts, when earlier orders are reversed or reviewed, when settlements are arrived at before the hearing takes place etc. At the court of the Principal City Civil Judge at Bangalore refund orders were being issued on the computer but data relating to refunds was not being netted out for MIS purposes. This could easily be done since connectivity has been established.

5.59 Court fee examiners (officers of the rank of Assistant Registrars) can be appointed by the High Court under section 17 of the Act to inspect records of subordinate courts from the viewpoint of adequacy of valuation and fee collection. The Karnataka High Court, which was providing for such inspections every two years, has discontinued the practice recently. There is a case for reintroducing it as provided under the Act.

5.60 A penalty of 6 months imprisonment and/or fine of Rs. 500 is prescribed in Section 76 for registered stamp vendors who disobey prescribed rules and for sale of stamps by unregistered stamp vendors. There is no case for any change at present.

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Justice P. Venkatarama Reddy, Former Chief Justice, Karnataka High Court.
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Shri. S.K Ghoshal, Central Administrative Tribunal, Bangalore.
Shri. M.A.S Rajan, Addl. Chief Secretary Karnataka (Retd.)

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Shri. Aswathnarayana, Bar Council, Bangalore

Annexure I

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Money suit	on amount claimed	on amount claimed	on amount claimed
Suit for maintenance	on amount claimed to be payable for one year	on amount claimed to be payable for one year	on amount claimed to be payable for one year
Suit for annuities or periodical payments	on 5 times amount claimed to be payable for one year (if annuity is payable for less than 5 years, on total sum payable)	on 5 times amount claimed to be payable for one year (if annuity is payable for less than 5 years, on total sum payable)	on 5 times amount claimed to be payable for one year (if annuity is payable for less than 5 years, on total sum payable)
Suit for movable property other than title documents -if subject matter has market value -in other cases	on market value on amount of relief sought (if suit is for goods pledged as security for debt, on debt amount)	on market value on amount of relief sought	on market value on amount of relief sought
Suit for possession of title documents	1/8th of amount or market value of property secured if plaint alleges or issue framed	1/4th of amount or market value of property secured if plaint alleges denial of title to	1/4th of amount or market value of property secured if plaint alleges denial of title to

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
	regarding title to money or property secured by docum-ent	money or property secured or issue framed regarding title to money or property secured by document	money or property secured or issue framed regarding title to money or property secured by document
Suit for possession of title documents where plaintiff's title is not denied	on amount of relief sought	on amount of relief sought	on amount of relief sought
Suit for declaration -where prayer is for possession of property -where prayer is for injunction on immovable property -other cases	 on market value or on Rs. 1000 whichever is higher 1/2 the market value or on Rs. 1000 whichever is higher on amount of relief sought or on Rs. 1000 whichever is higher	 on market value or onRs1000 whichever is higher 1/2 the market value or on Rs. 1000 whichever is higher; on plaint amount oronRs1000, wh-whichever is higher,if it relates to copyright infringement on market value or on Rs. 1000, whichever is higher	 on market value or onRs.300 whichever is higher 1/2 the market value or on Rs.300 whichever is higher; on plaint amount or onRs500, whichever is higher,if it relates to copyright infringement on market value or on Rs. 400, whichever is higher
Suit for adoption -in Munsiff's court where market value below	 Rs. 25	 Rs. 50	 Rs. 50 in district munsiff's

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Rs. 5000 -in other cases	Rs. 1000 if market value less than Rs. 15000 & Rs. 250 in other cases	Rs. 150 if within Rs. 15000 in Munsiff's court and Rs. 500 in sub-judge's or district court	court, Rs. 100 in city civil court Madras or sub-courtor district court up to Rs.10000 & Rs.500 in others& Rs500 in High Court
Suit for injunction -connected with immovable property relating to title -in other cases	1/2 market value or on Rs. 1000 whichever is higher on amount of relief sought or Rs. 1000 whichever is higher	1/2 market value or on Rs. 500 whichever is higher on amount of relief sought or Rs. 500 whichever is higher	1/2 market value or on Rs. 300 whichever is higher (Rs. 500for copyright infringement & 400 in others)
Suit relating to trust property	1/5th of market value with cap of Rs. 200;on Rs. 1000 if there is no market value	1/5th of market value with cap of Rs. 200;on Rs. 1000 if there is no market value	1/5th of market value with cap of Rs. 200;on Rs. 1000 if there is no market value
Suit for possession under Specific Relief Act	1/2 market value or on Rs. 1000, whichever is higher	1/3 market value or on Rs. 150, whichever is higher	1/2 market value or on Rs. 200, whichever is higher
Other suits for possession of immovable property	on market value or on Rs. 1000, whichever is higher	on market value or on Rs. 1000, whichever is higher	on market value or on Rs. 400, whichever is higher

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Suit relating to easement	on amount of relief sought with minimum of Rs.1000	on amount of relief sought or on Rs.1000,wh.is higher	on amount of relief sought which should not be belowRs. 300
Pre-emption suit	on consideration for sale or market value, whichever is less	on consideration for sale or market value, whichever is less	on consideration for sale or market value, whichever is less
Suit relating to mortgage -to recover money due -where prior mortgagee seeks determination of charge -where prior mortgagee is to be paid out of sale proceeds of mortgaged property -where co-mortgagee claims for all mortgagees -where sub-mortgagee claims his share -for redemption of mortgage	 on amount claimed on written statement on amount claimed on amount claimed on total amount claimed on amount claimed under sub-mortgage on amount due or 1/4th of	 on amount claimed on written statement on amount claimed on amount claimed on total amount claimed on amount claimed under sub-mortgage on amount due or 1/4th of	 on amount claimed on written statement on amount claimed on amount claimed on total amount claimed on amount claimed under sub-mortgage on amount due or 1/4th of

RATES OF JUDICIAL STAMP DUTIES IN	**KARNATAKA**	**KERALA**	**TAMILNADU**
-for foreclosure of mortgage	principal secured, whichever is higher on amount claimed as principal and interest	principal secured, whichever is higher on amount claimed as principal and interest	principal secured, whichever is higher on amount claimed as principal and interest
Suit for accounts	on amount sued for	on amount sued for or on Rs. 1000 whichever is higher	on amount sued for
Suit for dissolution of partnership	on value of share	on value of share	on value of share
Partition suit -where claimant's share is denied	on market value of share	on market value of share	on market value of share
-where claimant is in joint possession	Rs. 15 if value of share below Rs. 3000, Rs. 30 if value between Rs. 3000 & Rs. 5000, Rs. 100 if value between Rs. 5000 & Rs. 10000, Rs. 200 in other cases	Rs. 50 in Munsiff's court, Rs. 300 in sub-court or district court	Rs. 30 in District Munsiff's co urt, Rs. 300 in High Court, Rs. 30 up to Rs. 5000, Rs. 100 up to Rs. 10000 & Rs. 200 in other cases in other courts
-where in addition to one of the above, claimant claims his separate share	on 1/2 the market value of share or 1/2 the rates,	on 1/2 the market value of share or 1/2 the rates, accor-	on 1/2 the market value of share or 1/2 the rates, accor-

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
	depending on which is applicable	ding to whether he claims po-ssession or joint possession	ding to whether he claims po-ssession or joint possession
Suit for joint possession	on market value of share	on market value of share	on market value of share
Suit for cancellation of decrees	value sought to be cancell- ed	value sought to be cancell- ed	value sought to be cancell- ed
Suit to set aside attachment	on 1/4th of market value of attached property or amount for which property attached, whichever is less	on 1/4th of market value of attached property or amount for which property attached, whichever is less	on 1/4th of market value of attached property or amount for which property attached, whichever is less
Suit to set aside other orders	on 1/4th of market value or rates applicable to other suits	on 1/4th of market value or rates applicable to other suits	on 1/4th of market value or rates applicable to other suits
Suit for specific performance -sale -mortgage -lease -exchange -other cases	 on consideration on amount secured on fine and premium and average of annual rent on consideration on market value or as for other suits	 on consideration on amount secured on fine and premium and average of annual rent on consideration on market value or as for other suits	 on consideration on amount secured on fine and premium and average of annual rent on consideration on market value or as for other suits

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Suit for recovery of immovable property from tenant	on premium and rent paya- ble for year before date of presenting plaint	on premium and rent paya- ble for year before date of presenting plaint, on rent to be	on premium and rent paya- ble for year before date of presenting plaint
Other suits between tenant and landlord	on rent payable for year before date of presenting plaint alleges or issue framed	apportioned or reduced in such cases	on rent payable for year before date of presenting plaint
Suit for mesne profits	on amount sued for	on amount sued for	on amount sued for
Suit to alter or cancel entry in revenue registers etc	Rs. 50	Rs. 150 if within Rs. 15000 in	Rs. 15
Suit in revenue court relating to village office	Rs. 50		Rs. 50
Suit in Tahsildar's courts under Bombay	Re. 1.50		
Mamlatdar Courts Act			
Suit under Bombay and Hyderabad Land Revenue Acts	Re. 1.50		
Suit relating to public matters	Rs. 50	Rs. 10	Rs. 50
Third party proceedings	on 1/2 the claim made	on 1/2 the claim made	on 1/2 the claim made

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Other suits -in revenue courts -in civil courts	 Rs. 50 Rs. 20 if subject matter below Rs. 5000, Rs. 100 if value between Rs. 5000 & Rs. 10000 and Rs. 200 in other cases	 Rs. 25 Rs. 50 in Munsiff's court, Rs. 200 if value is below Rs. 25000 and Rs. 400 in other cases in sub-court and district court	 Rs. 15 Rs. 300 in High Court, Rs. 30 in District Munsiff's court & Rs. 30 up to Rs. 5000,Rs. 100 up to Rs. 10000 & Rs. 200 in other cases & courts
Plaint, written statement, pleading setoff counter-claim or memorandum of appeal -within Rs. 15000 -between Rs. 15000 & Rs. 75000 -between Rs. 75000 & Rs. 250000 -between Rs. 250000 & Rs. 500000 -between Rs. 500000 & Rs. 750000	21/2% Rs. 375 + 71/2% of amount over Rs. 15000 Rs. 4872 + 7% of amount over Rs. 75000 Rs. 17125 + 61/2% of amount over Rs. 250000 Rs. 33375 + 6% of amount over Rs. 500000	Rs.2 within Rs. 100, 2% for additional amount or part up to Rs. 15000, 5% for additio-nal amount or part up to Rs. 50000, 7.5% up to Rs. 10 lakhs, 5% up to Rs. 1 cr.and .5% over this amount.	40 ps.up to Rs.5, 40 ps/Rs.5 between Rs.5&Rs. 100,75ps per Rs. 10 over Rs. 100

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
-between Rs. 750000 & Rs. 1000000	Rs. 48375 + 51/2% of amount over Rs. 750000		
-between Rs. 1000000 & Rs. 1500000	Rs. 62125 + 5% of amount over Rs. 1000000		
-between Rs. 1500000 & Rs. 2000000	Rs. 87125 + 41/2% of amount over Rs. 1500000		
-between Rs. 2000000 & Rs. 2500000	Rs. 109625 + 4% of amount over Rs. 2000000		
-between Rs. 2500000 & Rs. 3000000	Rs. 129625 + 31/2% of amount over Rs. 2500000		
-between Rs. 3000000 & Rs. 4000000	Rs. 147125 + 3% of amount over Rs. 3000000		
-between Rs. 4000000 & Rs. 5000000	Rs. 177125 + 21/2% of amount over Rs. 4000000		
-between Rs. 5000000 & Rs. 6000000	Rs. 202125 + 2% of amount over Rs. 5000000		
-between Rs. 6000000	Rs. 222125 + 11/2% of		

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
& Rs. 7000000 -between Rs. 7000000 & Rs. 8000000 -over Rs. 8000000	amount over Rs. 6000000 Rs. 237125 + 1% of amount over Rs. 7000000 Rs. 247125 + 1/2% of amount over Rs. 8000000		
Petition under Section 26 of Insolvency Act	1/2 above duty scale	1/2 above duty scale	1/2 above duty scale
Appeal on such petitions	As in duty scale	As in duty scale	As in duty scale
Petition under Sections 53 & 54 of Insolvency Act	1/2 duty scale with cap of Rs. 500	1/2 duty scale with cap of Rs. 500	1/2 duty scale with cap of Rs. 500
Appeal on such petitions	1/2 duty scale with cap of Rs. 500	1/2 duty scale with cap of Rs. 500	1/2 duty scale with cap of Rs. 500
Memorandum of appeal under Succession Act	1/2 duty scale	1/2 duty scale	1/2 duty scale
Application for judgment review presented within 90 days	1/2duty leviable on plaint or appeal	1/2duty leviable on plaint or appeal in all cases	1/2duty leviable on plaint or appeal in all cases
Application for	duty leviable on plaint or		

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
judgment review presented after 90 days	appeal		
Application for review of KAT order	Rs. 20		
Probate of will when value over Rs. 1000 on part over Rs. 1000 up to Rs. 300000	5%	1% up to Rs. 1 cr..5% in other cases	2% between Rs. 1000 & Rs. 5000, 3% in other cases
Probate of will when value over Rs. 300000 on part over Rs. 300000	10%		
Certificate under Succession Act	Fee leviable for probate on security and 11/2 times this fee on value of security to which certificate is extended	1% of value up to Rs. 1 cr. .5% in other cases	1% up to Rs. 5000 & 3% in other cases
Petition for divorce or dissolution	Rs. 100		Rs. 10 for Christians & Mus-lims, Rs. 30 for Hindus Parsis, Rs. 50 for Colonial Divorce Jurisdiction Act

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Undertaking under Section 49 of Divorce Act	Rs. 5		Re. 1
Appeal to any Court other than High Court or executive officer	Rs. 4	Rs. 5	Re. 1
Appeal to KAT	Rs. 8		Rs. 2
Appeal to High Court -if order relates to suit of value over Rs. 1000 -in other cases -if appeal under Section 45B of Banking Compan-ies Act -if appeal under Section 411 A of CrPC	 Rs. 15 Rs. 8 Rs. 100 Rs. 5	 Rs. 10 Rs. 5, Rs. 10 in some cases & Rs. 100 in others Rs. 100 Rs. 5 Rs. 2 under Agriculturists Debt Relief Act	 Rs. 2 Rs. 5 in some cases, Rs. 10 in some & Rs. 100 in others Rs. 100 Rs. 5 Rs. 2 under Agriculturists Debt Relief Act
Appeal to government not chargeable under any other act	Rs. 10	Rs. 5	Rs. 5

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Appeal under Arbitration Act -where value within Rs. 5000 -where value between Rs. 5000 & Rs. 50000 -other cases	Rs. 15 Rs. 50 Rs. 150	Rs. 25 up to Rs. 15000, 1% up to Rs. 1 lakh, 2% up to Rs. 5 lakhs,.5%in other cases	Rs. 15 up to Rs. 5000 from District Munsiff's court or higher & Rs. 100 in others
Judgment copy not being a decree	Re.1		50 ps up to Rs.50,Re.1in oth- ers,Rs. 2 in High Court
Judgment copy of criminal court	50 paise	Re. 1	50 ps.
Copy of decrees made by courts other than High Court	Re.1		75 ps.up toRs.50, Rs. 1.5 in others
Copy of decree of High Court	Rs. 4	Re. 1	Rs. 5
Copy of stamped document presented in place of original -when stamp duty on original within Re. 1 -other cases	Duty chargeable on original Re.1.25	Duty chargeable on original 0.75	Duty chargeable on original 0.75

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Copies of other proceedings	50 paise/360 words	0.75	0.75
Petition to excise, revenue and municipal officer	Re. 1		.25 ps. To .75 ps.
Petition to DC for land lease	Rs. 2	.75,.25 for non-lease cases	.25 ps. To .75 ps.
Petition to Forest Officer for lease extension -if value below Rs. 5000 -if value above Rs. 5000	Rs. 25 Rs. 5/Rs. 1000 over Rs. 5000	Rs. 5 Re. 1/Rs. 1000 over Rs. 5000	Rs. 5 Re. 1/Rs. 1000 over Rs. 5000
Petition for attestation of documents for use abroad	Rs. 10	Re. 1	Re. 1
Petition for lapsed deposit presented after 6 mths -when amount within Rs. 50 -when amount between Rs. 50 & Rs. 1000 -in other cases	Re. 1 Rs. 2 Rs. 4		.5 ps Re. 1 Rs. 2

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
Petitions to government not provided for -relating to legal powers -other cases	 Rs. 4 Rs. 2.50	 Rs. 2 Rs. 0.5	 Rs.2 Rs. 0.5
Petitions to KAT, etc. not provided for -relating to legal powers -other cases	 Rs. 2 Re. 1		 Rs. 2 Rs. 1.5
Petition to Civil Court (other than Principal Civil Court of original jurisdiction), DC etc. of value below Rs. 50	Re. 1	Re. 1	25 ps.
Petition to Court etc. for copy of decree	Re. 1	Re. 1	25 ps.
Petition to Court for calling for records by post	Re. 1 + application fee	Re. 1	75 ps. + application fee
Petition of criminal complaint (except those for which police can arrest without warrant)	Re. 1	Re. 1	75 ps.
Petition to deposit or	Re. 1	Re. 1	Re. 1

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
determine rent			
Other petitions to executive magistrates, etc.	Re. 1	Re. 1	Re. 1
Application for temporary injunction -presented to a Court -presented to other authorities	 Rs. 10 Rs. 5		 Rs. 5 in High Court & Re.1 up to Rs. 50 & Rs. 2.5 in
Application for arrest or attachment before judgment (other than to a High Court)	Rs. 5	Re1 for values below Rs.50, Rs. 2.50 in other cases,Rs.5 in High Court	other cases and courts
Application under Rule 58, CPC -in revenue court -in other courts	 Rs. 5 Rs. 10	 Re. 1 Rs. 5 in High Court, Rs. 2.5	 Re. 1 Rs. 5 in High Court & Rs.
Application under Section 47 & Rule 90 CPC	Rs. 5	in other courts in all cases	2.5 in other courts in all cases
Application under Order 17 Rules 1 & 2 CPC -in High Court	 Rs. 10		

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
-in other courts	Rs. 5		
Application under Trusts Act	Rs. 5	Rs. 5	Rs. 5
Application for probate to have effect in India	Rs. 25	Rs. 25	
Other applications for probate or succession certificate -where value within Rs. 2000 -where value between Rs. 2000 & Rs. 10000 -where value over Rs. 10000	 Rs. 5 Rs. 10 Rs. 20	Re. 1 up to Rs. 1000, Rs. 5 in other cases	75 ps.up to Rs. 1000, Rs. 5 in other cases
Original petitions not provided for -in High Court -in other courts	 Rs. 12 Rs. 2	Re. 1 in munsiff's court, Rs. 20 in High Court, Rs. 10 in other courts	Rs1&5 in munsiff's court, Rs. 20 in High Court, Rs. 10 in other courts
Application to set aside arbitration award -when value within Rs. 5000 -in other cases	 Rs. 25 Rs. 100	Rs. 25, Rs. 100 up to Rs. 10000, Rs. 250 in others	Rs. 100 up to Rs.10000, Rs. 250 in others when above Rs. 5000 in all courts except Dt. Munsiff's Court, Rs. 25

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
			in other cases
Application for direction to file arbitration award -in Munsiff's court -in other cases	 Rs. 50 Rs. 200	Rs. 15 in all cases,but Rs.100 in non-munsiff's court if value up to Rs. 10000&Rs. 250 in other cases	Rs.250 when aboveRs.10000, Rs. 100 between Rs. 5000 & Rs. 10000 & Rs. 15 below Rs. 5000 in all courts except Dt. Munsiff's Court, Rs. 15 in other cases
Revision petition in High Court under Section 115 CPC -where value is within Rs. 1000 -where value is between Rs. 1000 & Rs. 10000 -in other cases	 Rs. 5 ? Rs. 20		 Rs.5 Rs. 10 in other cases
Winding up petition for company	Rs. 100	Rs. 100	Rs. 100
Writ petition in High Court under Article 226 (except habeas corpus)	Rs. 100		Rs. 25

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
or petition under Article 227			
Appeal to High Court	Rs. 100		
Application under Specific Relief Act	Rs. 10	Rs. 100	Rs. 100
Petition to High Court and KAT not provided for	Rs. 2	Rs. 2	Rs. 2
Election petition -for Taluk Board or Panchayat -President and Vice-President of these bodies -TMC members -Municipal Council members -Mayor, Deputy Mayor or Municipal Chairperson	 Rs. 15 Rs. 25 Rs. 50 Rs. 100 Rs. 200	For VP member, Rs.25, VP President,member of munici-pal&district Board Rs. 50, Rs.200 for Municipal Chair-man or District Board Presid-ent,Rs. 250 for general elect-ions	Rs. 25 for VP member, Rs. 50 for VP President, Dt Boa rd & municipal council membr Rs.200for municipal chairman
Application to sue as pauper	75 paise		75 ps.
Application to appeal as pauper -in High Court	 Rs. 2.50		 Re. 1

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
-in other courts	Rs. 1.25		Rs. 2
Bail bond or other instrument under CPC and CrPC not provided for	Rs. 1.25	Rs..25 in village court and Re. 1 in others	75 ps.
Copy of power of attorney filed Vakalatnama -to Karnataka Appellate Tribunal -to High Court -to KAT -to government	Rs. 2 Rs. 2 Rs. 3 Rs. 3 Rs. 3	Re. 1 Rs. 3 Rs. 5 Rs. 5	75 ps. Rs. 3 to High Court & gover nment, Rs.to Board of Reven ue or CEO, Rs. 1.5 to others
Agreement for question for opinion under CPC -where value within Rs. 5000 -in other cases	 Rs. 15 Rs. 100	 Rs. 15 Rs. 100	 Rs. 15 and Rs. 100
Caveat under Succession Act -where value within Rs. 2000 -in other cases Other caveats -in High Court	 Rs. 6.25 Rs. 12.50 Rs. 10	Rs. 10 in all cases	Rs. 10 in all cases

RATES OF JUDICIAL STAMP DUTIES IN	KARNATAKA	KERALA	TAMILNADU
-in KAT -in other Courts	Rs. 10 Rs. 5		

Annexure II

EXEMPTIONS FROM JUDICIAL STAMP DUTY

Written authority to institute or defend a suit executed by non-civilian armed forces personnel
Memorandum of appearance for defendants in criminal cases
Plaints and documents in suits in village courts
Application presented to concerned revenue officer prior to land revenue settlement
Application relating to irrigation water from government sources
Application to extend cultivation or relinquish land not settled permanently by government
Application to serve notice to relinquish land or enhance rent
Written authority to an agent to distrain
First application to witness (other than petition containing criminal charge of information)
Bail bonds in criminal cases and recognizances
Application regarding an offence made to police
Petition by prisoner
Complaint by public servant
Application to remove timber in government forests (except from contractors for extending leases)
Application for money due from government other than refund of lapsed deposit 6 months after lapse
Appeal against municipal tax
Application for compensation for land acquisition
Petition under Section 48 of Indian Christian Marriage Act
Appeal, copies and applications for copies by government servant against dismissal, reduction or suspension orders
Copy of record of rights filed with plaint or application