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NATIONAL JUDICIAL ACADEMY



**WORKSHOP ON DEVELOPMENT OF INNOVATIVE PEDAGOGIES FOR DELIVERY
OF TRAINING: 1- 5 NOVEMBER, 2015**

VERBATIM REPORT

By

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Resource Persons		
1	Hon'ble Ms. Justice S. Vimala- Session 1	Judge, Madras High Court-
2	Hon'ble Ms. Justice Manju Goel- Sessions 13, 14, 18 and 19	Former Judge, Delhi High Court
3	Ms. Aditi Chaudhary-Session 2	ASJ (Special Fast Track Court), South Saket Courts, Delhi
4	Prof. M. R. K. Prasad- Session 3 and 4	Principal, V. M. Salgaocar College of Law, Goa-
5	Dr. M. Rajendra Prasad- session 4 and 9	Professor & Head, Centre for Youth Development and Studies-

SESSION 1

What motivates adults to learn?

Dr Geeta Oberoi:

Introduction and also not only your introduction, how much time you have spent in the state judicial academy, and what subjects you are actually yourself teaching to judicial officers.

Introduction by the participants

I am Lakshmikant Gaur, i am director of Delhi Judicial Academy, there are two director, one director for academics and i am Director for administration, Delhi Judicial Academy, I joined there on 1st of may 2015. i think i have been to the academy, aditi can,hahahaha so i had been there, but i mean as judges we do not specialize in anything, whatever task you have given us to teach you from your experience and other resources available at your end, you try to do use of it, thank you.

I am A. V. parthasarathi, coming from A.P. Judicial Academy, Hyderabad and i am working as senior faculty member there since 2011 and i mostly deal with the procedure aspect on civil side, as a faculty member, i was deputed for the post, i am regularly working as a district judge in the cadre. Thank you.

Very good morning to all the participating officers, i am kanchana, i am from Hyderabad Judicial Academy, i hail from telangana state, i posted in telangana, recently on 10th September i have taken the charge of administrative officer so i have no teaching experience as such, i have entered in to the judicial services in 2010, ok mam thank you.

I am from manipur, my name is V.K. sharma, recently i retire as a district judge and joined the manipur judicial academy as a joint director, thank you mam.

I am Sunil Kumar from chattisgarh, additional director, i joined on 10th july 2015, i have no experience, thank you.

Very good morning to all of you, i myself is pradeep kumar singh, i am from judicial training institute, Lucknow, i am there as additional director, training, i have joined this post in the moth of April, 2015 and since then motor vehicle accident claim and appreciation of evidence in session trials are the areas which are allocated to me to educate the officers, at present newly inducted batches are under training and that is all. thank you.

Very good morning all of you, i am gautam kumar choudhary, director, judicial academy, jharkhand, Ranchi, i have been there for last 1 year, i have been posted in 2014, in our academy there is one director, there is one senior faculty and one administrative officer, so basically we also take classes, senior faculty takes classes on civil side, i take classes on criminal side and apart from that land law, in fact jharkhand is a state we have different land revenue in different districts, apart from that we have land reform Act, when i came last year, i was working as a district judge, we use to have difficulty in this land reform act so..administrative officer since june 2014 as far as taking class is concerned, i am teaching domestic violence Act, protection of women from domestic violence act and major part of the teaching is by director and additional director and senior faculty member, thank you.

My name is A.M. Babu, i am the director of the Kerala judicial academy and i am in the academy since june 2010 and i am dealing in the civil procedure code and mortgage and gift and few local descriptions.

Good morning, i am Geeta choudhary, deputy director, administration for Rajasthan judicial academy, all my work related to administration so i do not have much experience though i have taken two classes regarding involving evidence.

Very good morning to everybody present here, i am Vibha yadav from uttrakhand judicial academy, it based in nainital and before nainital there is a place called bhawali so its basically there, its colder then nainital so i belong to very cold place, i was posted in this academy on 1st of June 2015 and my batch is 2012 so basically all the work that i have done is 1 and 1/2 year of my training, foundation training and the remaining work in the academy so i am very new to the judicial fraternity and as well as to the academy so i do not have any training experience, that is done by the faculty member and senior faculty member in the academy is the only work that i have allotted is admin, some research work and preparing module for the training, thank you,

Good morning, i am Hansraj, joint director, himachal pradesh judicial academy, i am additional district and session judge and i have joined the academy 4 months back, we are holding one induction course for 15 new officers and we are training them and giving them all practical as well as academic training, apart from it we are also holding this orientation courses not only for the judicial officers but for ministerial staff as well, i am also teaching the new induction officers also and training is still going on. thank you.

Good morning everybody, i am mahbub ali khan from tamilnadu, basically i am judicial officer in the cadre of senior civil judge and presently posted as deputy director, regional center of tamilnadu judicial academy, madurai, i am going to take charge, it is going to open tentatively on 28 or 29 of this month, regarding the experience in the training side, i use to conduct workshop for the district judiciary staff as well as my colleagues and i also teach them procedural aspects and regarding the

execution proceedings, i have submitted a paper that is available in the website of tamilnadu judicial academy, regarding speedy disposal of the execution proceedings and i was also preparing another paper on execution side and that i have presented it during the workshop between the officers and i am to take charge after the inauguration of judicial academy and as such i have come here as a fresh candidate, fresh students to get input from the National Judicial Academy, thank you very much.

Good morning Ma'am and good morning everybody, myself pathak alok, i am basically a judicial officer in the cadre of civil judge, senior division, i joined Bihar judicial academy in 2013 and conducted several training, i was the post director of induction training of 27th batch, bihar judiciary, still one induction training is going on and i am the course director, regarding my experience, initially i was practicing advocate in supreme court, thereafter i joined national law school, jodhpur, i was teaching over there then i joined bihar judiciary and i prepared course module of training and other training programmes in the academy and i have been conducting classes regularly so presently i am working as faculty in Bihar Judicial Academy, thank you.

Good morning, i am monit kumar pandey, director, Bihar Judicial Academy, i have joined as a director in Bihar Judicial Academy in July this year and i have no experience of teaching or training of the judicial officers, after joining the academy as director, i have taken classes, thank you.

Myself G.J. shah, i am recently posted as additional director, Gujarat Judicial Academy, i have taken charge on 19 just now, i do not have much experience of teaching, i have worked as civil judge, senior division and at academy actually we have given training to judicial officers as well as assistant public prosecutors and staff members, thank you.

Very good morning, my name is Sameer and i am director and judicial officer training institute, Maharashtra situated at Nagpur, now we have been focusing on training of public

prosecutors, i have recently provided induction training to the newly assistant public prosecutors and for refreshers we conduct specialized training, we are also conducting training on stress management, we are also conducting mock trials also. thank you, i think

I am Aruna bandopadhyay, posted as west bengal judicial academy since 2nd of July this year and as we must be knowing..full fledge academy is coming up till that time our training is only to the judicial officers since residence so once that academy will come up, hope fully by the end of 2016 we will be able to invite from all the other state.

Actually, we also start your introduction and, I am Dr. M.R.K. Prasad, i am principle of V.M.Salgaocar College of Law, Goa so i have acknowledge teaching of 20 years and bright scholar and i have conducted clinical courses at V.M.Salgaocar College of Law where, i have also trained teachers in negotiation and mediation.

I am Dr. Rajendra Prasad, center for youth development and studies, trichhi, i did my PhD in Andragogy, i have worked as a teacher in Madras University, thank you.

I am justice vimla from Madras High Court, my relevance here is, i was the former director of Tamilnadu state judicial academy, that is why i believe Director call me here, i have come here to learn from all of you then to give from my side, thank you.

Good Morning, I am Aditi Choudhary, i am additional district and session judge in Saket court, Delhi, i have been called by Geeta because i had longest tenure in the Delhi Judicial Academy as additional director in the 4 years, also i had the opportunity of teaching in the faculty of law and being a mediation trainer also is one added assets of being a trainer so its going to be a good experience over here, i am looking forward for it, i have gone back to the court and this is the first

opportunity that i am getting to come back and rethink as to what is the judicial education was all about so looking forward it.

So good morning, i am professor at National Judicial Academy and yes i think, yogesh you should introduced yourself please, Good morning every one, i am yogesh, take your seat, i recently joined as a research fellow in National Judicial Academy, so he has 4 months in the academy and many of you must be having 4 months so babies are also there, so now i think i will ask justice Vimla,

Dr. Geeta Oberoi

why we have assembled over here is like as you must have seen in your programme schedule also, you, may be some of you must have joined now, some of you may be there for 5 years, 6 years, 7 years, even not directly in state judicial academy but may be as resource person but you have spent some considerable time in your state judicial academy and you see now the state judicial academies are very important in the sense that you must have seen our calendar of this year and next year hopefully, we wont be doing any training for the civil judge junior division so the whole work is on you, also we are not doing ant training for ADJ's even that National Judicial Academy is not doing, what national judicial academy is doing if you see, we are mainly concentrating on High Court Justices training, special course training and PDJ's on some special subjects like access to Justice or Court administration, such specific 8-9 subjects, we have identify that plus we are not doing those regional conferences we use to do, where we actually teach around 200-300 judicial officers for a particular region so that also..now there is the whole responsibility upon you, major training activity actually falls on your shoulder and then the question is how you are doing it, are you doing the way it should be effective also like if you remember, i think its the 3rd, 4th time we are meeting in the year 2015 itself, we remember that Aditi was also part of that January conference and we had this

group divided, we had that time parallel programme going on and in that parallel programme what we did, we did one state judiciary programme and we had one civil Judge junior division programme was going on over here and what we did interesting thing, we divided directors and civil judge, junior division and we assigned each director 5 to 6 civil judge, junior division, now the director was from different judicial academy and civil judge junior division from different judicial academy then they got free interaction as to what are limitations, what are good points of your state judicial academy and what are things which you think your state judicial academy needs to improve

Ms. Aditi Choudhary

It was very very interesting experience because judges were interacting with persons who did not know their seniors and were not familiar with their academy also so they came out very openly and brutally honest about the working of the academy, why they do not like their academy so i think it was first of its kind experience and it was very good exercise and when state judicial academy, aditi and everyone came and make presentation and then they themselves showed that look there is a problem and problem is may be the way we conduct these programmes, may be the way courses are conducted, may be we have to actually you know even though may be the hierarchy wise they may be the junior most but you have to at the same time remember that they have crossed the age of 18, you remember your own experience, what your child is ready to accept up to the age of 5 and then at the age of 15 if you start talking to him in the terms you use to talk to him at the age of 5, it is not going to work, on the other hand your relationship with your child is going to be stressed out, you know your child would be looking when will i get freedom from my parent, actually when will i go out so we have to think how we talk, every year with growing age of a person we have to change our own style of communication with that person, now may be they are judges civil judge junior division or judicial magistrate and they have just entered and they are new and they know nothing and we

know nothing but at the same time they have crossed the age of 18 and today generation if you see even when they crossed 18, they know it, they actually many things more than us that is true so these people actually know more in some aspect of life so how should we communicate even if we want to, what would be the effective method of getting across the idea, our thoughts to them so that they accept it because if there is no transfer of learning, I think then the whole exercise of sitting together and lecturing them actually makes no sense, they will be sitting there, yes say ok and then you know things may fly out from window, also adult learning there are certain of course, Mr. Prasad has done Phd in Andragogy so I do not want to say but these andragogy it is a science, it proves that more than 55 minutes you may get Amratya Sen also but after 55 minutes, the attention will go out, 55 minute is the maximum a person can pay attention when speaker is speaking so these are all techniques that we should know that is why if you say this year we have all our programme schedule, you go to website, its one hour so that there is and then half and our you go out refresh your self and then again come so we have to actually adopt this new methods, something really good should come out of this and what could be good from our side is transfer of learning should take place, it should not remain just up to my self then actually there will be application of that learning in the court work or any administrative work that they are doing so with this so that is why we have organised this conference about methods, you all will be learning in all these 4-5 days, different kinds of methods that we can you know apply when we are holding this post but as many of you said you are handling admin work, you are not engaged in teaching work, still may be you can call person and tell that this is what we want, this is how we want you to communicate with our judicial officers, even then this course will help you, that is my idea, with this remark I will leave to Hon'ble Justice Vimla.

Justice Vimla

Good morning to all of you, this good morning will not motivate me to talk any further...hahahahahah..good morning to all of you, i think madam did not provide you the sufficient breakfast to say in louder voice, i think she provides varieties, good morning to all of you, i think this is the time for you to enjoy the session throughout, it is a time to enjoy in the sense that unless you open your mind and open your mouth, you will not be able to enjoy anything here unless you do it here, you will not be able to make the same in your academy, feel free to speak any thing and say anything, we have come here to share our experiences and to gain, sharing is gaining, only to this extent i want to say initially, when i saw the programme schedule designed by PhD in legal education by our director and after seeing the caliber of presenting co-faculty here and after hearing that so many of you have rich experience as director of judicial academy, i thought i should speak less and learn more, that is how, after seeing the schedule i thought, had i attended this course, had i this opportunity to attend this programme earlier that is before joining the judicial academy as director, how my performance would have been , honestly i felt that, had i attended this course earlier, merely by seeing the designing of the programme, i thought that i missed that opportunity and you are all fortunate to attend this programme here and excellent collection of material by our young research fellow, yesterday till 12 o'clock i was going through the material, it is highly useful and highly relevant, even if you do not have time to read here and go and before complete your tenure as director judicial academy, kindly complete reading it, it will be highly useful for you and now coming to judicial education, in a meeting a teacher was addressing, she asked a simple question, she gave a proposal and then asked a simple question, the proposition is this any number divided by the same number is equal to 1, 9 divided by 1 is 1, 11 divided 1 is 1, which you know divided by the same number is 1, she asked another question whether anybody wants to challenge this proposition and

everybody was not as if anybody do not know the answer but they were thinking what the teacher will think about, but my fellow would think about, what if my aunt, if my question is wrong what would be my image, two many things are operating in a mind and they spent time only in finding out answers that questions arising in their mind, they did not venture in to putting a question to the teacher question, one small kid and raised up and asked this question, teacher do not mistake me what if 0 is divided by 0, that question was by the mathematical genius Ramanujam, only if you raise the questions without any inhibition then you start learning not otherwise, there comes a difference between adult learning and child learning, we are always with lot of ideas and values, the more we learn, the more we will realize how much we did not learn, really this is my experience after reading and knowing everything, my goodness why i did not learn earlier, had i learn this earlier, how the things would have been beautiful for the litigants. so far as the duty of, director judicial academy is concerned, many of them come and occupy the post because high court had posted them to that place, many of them are functioning, whether true or not, many of them functioning only because High Court expected us to function like this but does not matter, high court has given opportunity to enter that does not mean that whatever has been said in the high court, we should simply follow it, we have the duty to ascertain, verify and find out what are the difficulty of the judges who are coming and taking training, many of the judges through i came to know through interaction, they are very brilliant but judgement do not reflect that as if they are that much brilliant, judgement was very very mathematical judgement, questions raised and answered nothing more. in one session i was asking what made you not to reflect your level of thinking in your judgement and why it is not so they were telling we they are very afraid of telling their mind, i was wondering why we should be afraid off, then they were telling if any extra remarks are made, lawyers write petitions, i signed the petitions to the high court saying some allegation of corruption, this and that, that is taken note by the vigilance department, we are putting them unnecessary trouble and that is why we do not want

to write more on judgements then i took the matter to the chief justice and tell my chief justice because unsigned petition taken cognizance by the vigilance department, our judges do not feel free to write, this is what i understood after interacting with the judges whether they can do anything about it, immediately chief justice said arrange one programme for all judges, this was really wonderful, i do not know whether any other judge would have done this, immediately all the judges in tamilnadu were participants in that, judge made the opening remark like this you are all my children, if you commit mistakes, yes we will take actions and if you do good i will appreciate all of you. so who will give this freedom, it is only the judicial academies, it is only the director who designed a programme, it is the director who selects the topic, when an academic meeting take place, do not leave to the judges alone to decide the topic, have the need based analysis of all the participants and what do they want, find out what do they want, that only motivates adult to learn, if it is relevant, need of the our then they will shoe the sufficient interest, find out and then inform the judge and get it ratified and then place it, there is another practical aspect also just i wanted to tell you when you are functioning as a director of judicial academies then coming back for motivation, let's begin with a story, how many of you like stories? apart from children adults also like stories, when we tell any concept through storytelling, it attracts everybody and listening is facilitator, three persons were engaged in the business of building a wall, a passerby who is a journalist stopped there and watch what are these three people are doing and ask simple question and what are you doing and do you like doing this? these are the questions, how many of you feel pride that you are judge of this country? no one,hahahah, of course everybody but ask them separately, what is this, night remand at 12 o'clock, the high court asking me how many cases you have disposed, this party person is shouting before the court, did you feel that? did you not? at times, you can not say no, every job there is some inherent difficulty attach to that job no doubt about this but you compare the job with others, what is the first promise of the constitution, it is justice social, economic and political , this is

the first promise of the constitution, what are the powers, how much the power vested in you, whether we exercise or do not exercise power is there, we have the division, separation of powers, judiciary, executive and legislature, who has ultimately has say in this matter, if a legislature passed enactment which is beyond the provisions, who has the power to say that your law is bad, who has the power, it is only the judiciary, how you are going to say that, unless we have absolute knowledge, there is difference between information and knowledge, do we share knowledge among the judges, the nature of the job of the judges such that we always stick on to our dias, we always stick on to our chamber so Sharing is a solution even if you do not know where it comes from. There is one case, very very pathetic case of rape, the case is like this the victim girl and the accused were in love with each other, they were together for 8 months she conceived and she delivered a child and child was 9th standard, in a case of hearing there was group of people and i was asking what made this group to appear, they were telling that there is a compromise which a court must accept, then i said recently the supreme court said in a case of 376 there is no question of compromise, why did you brought all these people before me, what am i to do with these people then they say the first person to come before me is the victim girl who was studying in 9th standard, madam i do not know what is justice, what is court but i want my education not to be discontinued on account of this case, victim of the victim, victim is the mother, asking to do justice for her education, if i want money no body is to give me, now this man is ready to give me money, allow me to accept it, what you will do, what could be done, this is where our judicial education, the depth and breath knowledge of experience sharing we get from here that help a lot and i was asking PP without legally offending the judgement of the supreme court, what is the way out to sort out this problem, then i went through the papers, she was aged above 16 and below 18, there is a law when there is radio logical opinion, marginal would be this side or that side, therefore i hold that offence of rape is not made out, the only offence made out is 417 which is compoundable then i permitted them to compound,

now the question is whether in all cases of 376, we should state away rule out compromise, they all are very very poor village people, do not have even the money to have one time meal, what i wanted to focus here is the problem is that the session judge at the time of passing the sentence did not go in to the question of 357 at all, providing compensation, at least a line could have been written, so this is the state of affair, when girl approached and asked for justice then i looked in to everything and grievances of many were brought to light, this is how the justice system is, then it is upon the judicial academy what could have been done, what is possible and what is not possible, it is only the trial judge who can do that, trial judges deal with the life but appellate judges deal with the file, this is the difference, and i enjoy my work as a district judge not as a high court judge, honestly. it is you people, i always say and ever say it is only for the poor man, the trial court judges or the supreme court judges, it is the supreme court for them, they do not have money, power, capacity to move to the supreme court, and if the trial court judges to be groomed and the adult education made possible, it is only through the directors of judicial academies, no body is in better position, you are the creator of entire justice system now.

we have beautiful faculty today, they have rich experience and they are going to share with this aspect of motivation, take everything from here and make the justice system really justice oriented system to the poor and marginalized people of this country, this is what is expected, this is simple presentation on motivation, i think all of you one by one can read each one will read and explain: why there is feather, any relevancy of that, any thing can be said, i want you to speak, that is all, even wrong answered will be appreciated because we learn from the mistakes, yes wonderful interpretation, color always motivates, togetherness is always beautiful, it reflects many color of life, yes yes, this is the way of learning, yes,

Inspiration

- What inspires you? There are a lot of things that can provide inspiration –
- seeing other people accomplish great things,
- seeing other people overcome adversity,
- hearing inspirational quotes from great people,
- even the sheer beauty of nature can remind us just how lucky we are to be alive.

This is alright, any explanation to that any interpretation to that, now the first picture is justified now, yes

Amazing gift of life

- It's easy to forget what an amazing gift life really is.
- Our lives are nothing but a cosmic blink.
- Even our seemingly all-encompassing world is just tiny blue dot circling an average sized star spiraling around a galaxy of 200-400 billion stars, which itself is just one galaxy among billions more.
- Yet for one brief moment, we get to experience the wonders of existence, of consciousness.

We will pass on quickly, other have to present

POSITIVE OUTLOOK

- Having a positive outlook on life is a crucial part of finding inspiration. In the paragraph above, did you feel inspired reading about the vastness of our universe and our unique place within it, or did you feel overwhelmed and depressed at the insignificance of it all?
- Our brains are wired to find things we're looking for – if you're always cynical or waiting for things to go wrong, then your life will reflect that. On the other hand, having a positive outlook on life will bring you joy and provide you with inspiration when you least expect it.

yes

Hungry for success

- “The biggest startup successes-from Henry Ford to Bill Gates to Mark Zuckerberg-were pioneered by people from solidly middle-class backgrounds. These founders were not wealthy when they began. They were hungry for success, but knew they had a solid support system to fall back on if they failed.” -Eric Ries

Everybody should open up before the end of the slide.

- “Excellence is an art won by training and habituation.
- We do not act rightly because we have virtue or excellence, but we rather have those because we have acted rightly.
- We are what we repeatedly do. Excellence, then, is not an act but a habit.”–Aristotle

Is it not easy to get excellence? not easy, it is by habit, what we repeatedly do we become, he supplement by saying when there is will there is a way. yes

Imagination

- “The great successful men of the world have used their imagination. They think ahead and create their mental picture in all its details, filling in here, adding a little there, altering this a bit and that a bit, but steadily building – steadily building.” –Robert Collier

What is thinking ahead in world of judiciary, world is rapidly changing, not only changing, rapidly changing, e-commerce litigation, internet fraud, too much of advancement in litigation but no advancement in law, are we prepared to change? so we have to equip our self in terms of skill and knowledge and the purpose of the judicial academy and national judicial academy will be no where, yes.any body

How far you go in life.....

- “How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving and tolerant of the weak and the strong. Because someday in life you will have been all of these.” –George Washington Carver
- yes change your thought and change your world, yes any body

- “Change your thoughts and you change your world.”–Norman Vincent Peale

- “Your time is limited, don’t waste it living someone else’s life. Don’t be trapped by dogma, which is living the result of other people’s thinking. Don’t let the noise of other’s opinion drowned your own inner voice. And most important, have the courage to follow your heart and intuition, they somehow already know what you truly want to become. Everything else is secondary.”–Steve Jobs, yes

•“Nobody can go back and start a new beginning, but anyone can start today and make a new ending.”

Yes is it not relevant today?

•“Out of clutter, find Simplicity. From discord, find Harmony. In the middle of difficulty lies Opportunity.”–Albert Einstein

•“Yesterday is not ours to recover, but tomorrow is ours to win or lose.”-Lyndon Johnson

If your actions inspire others to dream more learn more, do more and become more You are a leader-John Quincy Adams, how many of you motivated by reading this? all of you, yes

Learning brings humility, Humility develops capability Capability brings wealth and Wealth and righteousness brings happiness.

•Life affords no higher pleasure than that of surmounting difficulties, passing from one step of success to another, forming new wishes and seeing them gratified.-Samuel Johnson

Before concluding only thing i want to say, there are two firing judges who tried our Indian leaders, one is Tilak and other judge is Mahatma Gandhi, you might heard of trial of mahatma Gandhi, he prosecuted for sedition in respect of two articles written in young India newspaper, when he was prosecuted, people became restless, there was commotion everywhere, but for the British the law is it was effort to dis mental that government, therefore it amount to sedition and when Gandhi was called upon to enter into defense he said i plead guilty, i agree with every word spoken by the advocate general and there is no going back, i admit my guilt then people were really scared off, then the judge was under dilemma whether to precede that trial despite the admissions or to accept the guilt, Gandhi ji was insisting that in plain terms i will file a written statement admitting each and every one of your word of charge, therefore no need of trial, give me maximum sentence but he did not stopped there, he started saying as a person of responsibility, i have taken education from the funds of the society, i know my responsibility, i admit my responsibility, i know i am playing with fire, even if i am released, i will continue to do the same thing, only option is either you resign from

your job if you feel that your law is not good, if the law is not just you resign your job, and if you think your law is just give me maximum punishment, the judge said you have made my job easy by admitting your guilt, the only thing is, i know your caliber, i do respect that, but i want to give some punishment which will justify my conscience, you what was the final words, the final word is if at all the government is inclined to release you at the end of it i will be the first person to be happy, while sitting as a judge who said that, what is the relevancy of my saying this is that Tilak was convicted the nation condemned the judge but when this judge convicted saying that he will be the happiest if the government release them, he touched the heart of millions of people including Gandhi, see the way of rendering the judgement, the if at all the education is relevant the most important people is the judges, if we give the order of priority to give education, it is only the judges, we have lot of things to learn in the world, lot of things to do. lot of people, lot of matters in which justice is needed, therefore kindly i request you to kindly pay best attention to the judicial education and make a programme a meaningful one, thank you very much. we take a break for tea and come back at 11.30.

SESSION 2

How to increase intrinsic motivation & willingness to share knowledge amongst judge participants?

Ms. Aditi Choudhary

Welcome back from the short tea break, the manner in which we are going ahead of schedule shows that there is lot of enthusiasm to learn and also that madam session has been very successful, we are here to learn and share our experiences, the real why i agree to come for this programme is also it was because it was time for me to share with you things which i felt would help you because if somebody has shared with me i would have also work better, when i worked as the additional director. the session which Geeta spoke about we had in January when we spoke to the judges who barely have 2-5 years of experience that was the session which was eye opener, we myself as a judge in Delhi, whenever i had nomination for the academy to attend the programme, i was enthusiastic, because i was enthusiastic in what i was taught but with times i realized that my co judges did not share my kind of enthusiasm, i use to wonder why but nevertheless i joined as a joint director, still i could not really understand why and then i went to attend that training session organised by commonwealth judicial education institution in Canada, it was one month training we had that is where we learn that where we are going wrong because it was one of the classes on Andragogy that i learnt. then i realized that what exactly my target group wants, it also made me realize that i have to completely rethink my strategy of teaching, i had to completely reorient myself as a teacher although i had been teaching before that also. This is much more intensive and it is very well designed programme for you to develop with every session as to how do you have to progress when you conceptualize a training and what are the various strategies that you can use for the purposes of training, now when you come to the academy on your deputation, you are at a lose, because most of

us do not really know how to go about it, its really important to understand how to become a better teachers, how can we become better communicators, because it is really easy to just stand there and convey the other person these are the sections, these are the cases, but really are you doing justice to the class? now the topic was how to motivate adults, Mam has given us the general understanding of what exactly motivates adults, what motivates us to become successful to perform, to become better human being to do better in life.

First thing you need to understand what motivate adult judges to learn, we have with us prof. prasad who has done PhD. in andragogy and I might be wrong somewhere so kindly correct me and i would also want to learn from you also. first thing we need to understand when design a programme, conceptualize a programme or we execute the programme or when we evaluate our performance of programme is that you are focusing on different target group which does not really operate or think the way you and i understand that they do, we are use to class room teaching, but this group is not like that, the special need of special group is really need to understand as a judicial educator, if you do not understand you fail as a judicial educator as simple as that. now these terms are here anragogy and pedagogy what do they mean? Pedagogy is something which evolves in the monastic schools of England of Europe from the 7 to the 12 century, where the monks use to teach the children and they had the typical class room teachings that we also experience as small children in school but with time things changed, there was need for something beyond the class room teaching, there was something beyond the teaching as the rote they call, the students were not having the options of questioning, why? why he has been taught, what was he being taught? how far that teaching would be relevance to him, and this is where the andragogy came in because there was a need of saying yes, ok this is one way of teaching, because that is how children learns and that what we have been doing, but then there is other group also of adults, how do you train them, how

do you teach them, so you have two kinds of say education system or learning systems, one is pedagogy how to teach children and one in andragogy how to teach, how to help adults to learn, what we need to think is, are there any two ends of spectrum, either it is this either it is that, of course now we further go in to what exactly it is mean or it is something which is synthesis that we would be requiring in our judicial education that we do in our academies, is it a synthesis of them? that we need or is it a particular time that we need, is it a innovation in a particular time that we need? is what we need to dwell on, now it is very important to understand that why this andragogy came, it is time and again used, why this andragogy, why this andragogy, what was the need for this andragogy, it was fine, we were small children attended school, the teacher explained everything to us, it was very very easy but there was something more which was required and what was that something more which was required was that what happens is that the life span of the individual was much more longer then the time span of the cultural changes which took place in society so a person education did not end with the school he required to be educated through learn life skills he needed to do train to do something much further and also as we now the technology coming in the knowledge become absolute so there was need of continuing education and continuing learning, there was need to teach individual the art to learn himself to become self sufficient in the learning style, the best way to teach some one is of course you tell the person what it is but the still the better way is to tell the person how to learn? because once you teach a judge participant, how to look into things further, the trainees who come to you, its very easy to tell them, this is the case law but how to understand precedent further, how to look for research things further, to equip a person and to skill the person with the technique of further learning is what the andragogy is and this is what we require in our judicial education, also the very important thing that happen that required andragogy was the characteristics of the learner itself was challenged and this is what we need to understand as a judicial educators, we do not have students before us, we have individuals who think differently

and how does he think differently is very important for us to understand, the concept of the learner has changed, how was the concept of learner changed? earlier with the pedagogy which meant for the teaching of the child technique, it was used for education all over the world, the learner was seen as a dependent, a dependent meaning by the teacher would decide what is to be taught and he would go exactly by what the teacher taught it was right, andragogy challenges that, it says that no learner is self directed, why because as an adult, you won't want to here what aditi choudhary is saying untill unless you fell that what she is saying is relevant for me, its going to help me, tomorrow making my programme, appreciated as additional director or director of the academy so an adult learner is not a dependent learner so do not stand there in the class room, getting lectures, he is not interested in that, he can read the lectures from he is equip with the art of reading, he knows how to read, he can read on his own, its very important to understand over here that the adult is a self directed learner, he comes there, he responds in a different form a child whom you are giving a class room lecture to a class room session to then another very important thing which you need to take note of that is, that the judge who comes before you for a programme has got years of experience before him, the reason why you need to here me very carefully because you will be given an exercise just now and you will be require to perform, it will help you in your presentation, now what you need to understand is that unlike the child who comes to the classroom with the clear slate, we have a judge who hails various jurisdictions you know, i might be calling a judge for a programme say let's say its a family court programme, he is got years of experience behind him and having a NDPS court, having a PC Act court and definitely all those years of experience is something that you and me as trainers understand and capitalize as a problem solving that your participants itself, right now in the room we have 100 years of knowledge if all of you combine together, similarly is the case of a programme or refresher course which you have in your judicial academy, you have judges of various years of experience, variety of experience, you can never undermine that experience, a sensible and a

good judicial educator understands what is the experience of that judge target group and accordingly plans the session so that he gets the maximum out of that target group by way of resource not as a target in the sense of a participants but as a resource, how we do that, we will come to that, readiness to learn is very important for us to understand, the child listen to his teacher in the class because he does not have a choice.

Next important thing is that here we have a group who has a different orientation to learn, where the child performs, it is a subject matter of context, meaning thereby gaining knowledge for the purposes of using that knowledge probably for bada hoker engineer banugaa, bada hoker doctor banugaa, he is going to use then that what we say iskoe padloe kaam aayegaa, why are you wasting your time lets move from here, if i tell you that listen to me you can go back and the day you go back you all listen to me very carefully because we all are performance oriented, performance oriented means that we want things to be put in practice immediately, we want what today we learn from the judicial academy, you will only listen to what we say at what the faculty or what the resource persons or the facilitator are saying at the national judicial academy, if you can go back and implement it immediately otherwise nobody is interested, who's problem is that, that exactly is the problem of the judicial educator who are maintaining the academy, its not the participants who have the problem, the problem is with us, the judicial educators, you have not understood the meaning of what is exactly require by a target group, your planning is faulty, your execution is faulty, your evaluation is faulty, all three are faulty and that is why you get this kind of response which is very very negative response for an institution of judicial education, adults are goal oriented, relevance, what do i have to do with this, how it is relevant for me, but then as i came back to my academy and i have this three after to work on programmes with my director was really innovative santosh, both of us try to focus on things which were of interest to our participants judges, things which are judges

wanted us to do for them, why because it was consciousness of the 6 principles that made us aware that we cannot just put any programme according to our liking, approved by the high court and just let it comes through and impose that programme on the judge participants just because we happen to be running a academy which has backing of the high court behind it, i thing it would be worse case of imposing your learning on others without doing so, so we have the six principles what do they say, adults are self autonomous, self directed, the adult knows after we explain this 6 principles to you, we will have the breakout group where all of you would be in 4 groups, thereafter 15 minutes discussion among all of you, the 4 groups as to, let me tell you now only, you have the target group let's say of 30 officers who have the experience of 3 years in the judiciary, you have to make a programme for them, ok, i am leaving the open house, you can do the way you want, what would you think about at the planning stage, at the execution stage, at the time when sessions are going on, would be any considerations, would you take care off the kind of people you are calling for the session, would you take care off the kind of infrastructure you are providing? would you take care of evaluation you do from the feedback? i know there are some people, from there expression, they are not getting the hang of it but definitely when you sit in the group discussion with the other colleague who would be much senior and much experience, when we break out the group we would have 2-3 experience persons in each group, let's try to teach our young colleagues also so what i would like you to do is to use this concept the 6 concepts and tell me as to what is the manner in which you would design a particular session or lets make it just one day programme, one day training programme, let's call it a refresher course, its not a induction course, its a refresher course, one day refresher programme for judges of three years experience in the judiciary from the lower induction coming in, how would you actually conceptualize and materialize these 6 principles, the first principle is adults are autonomous in itself, meaning thereby they think for themselves and they want to know how, why and what is the judicial education that you are giving them, adults are

accumulated a foundation of experiences and knowledge, the judge may have teaching experience, who is coming before you, the judge may worked as a lawyer for 2-3 years before he joined the services, adults are goal oriented, they want exactly, this is what i am going in the session, this is what i need and this is what has to be executed then only i am going to be happy, they are relevancy oriented, they will question what am i doing here? why am i doing this? adults needs to be shown respect, why do you think the adult should be shown respect? is this relevant? in our programme district judges come because they are the perfect resource persons, they have years of experience and then they come and all the judges sit quietly, they listen pin drop silent. So what is this respect element, why need for respect, why should i respect you as a adult learner? what is so different about it? aisa kya hai ki and it is a principal of andragogy, what is the reason for it? it is years of hard work of his getting somewhere in life because of his competence, it is of extreme importance which we neglect, and that is where what mam said about the young judge who could not even why his performance was low and how she communicated and got things done, this is exactly the problem, the junior judge is not able to convey that what nonsense is this district judge sitting in front of him and talking and he is not interested in that rubbish, this is what he learnt in his LLB class room, he is not here to listen to this again, that is why he is not motivated, he is just not interested, i have this small clip, i hope it works here.

Video clipping

we will be dividing our self in to 4 groups, we can start from here, you can just take out the numbers, 1-2-3-4 and one group 1 can go into first room and so on and so forth, what you are require to do is you have got the background about what the 6 adults learning principles and characteristics are, we have a target group of let's say 30 judges, i am again repeating my self, 3 years of experience coming to the academy, now after learning theses 6 principles, you might think that

this is irrelevant also, if you think that one particular is irrelevant, you are most welcome to do so, do not go by my words, if you want to stick to something which you disagree with, you can put it down, no this is not going to help over here, may be this is a principle but for this target group, its not going to help so you can reject the propositions of 6 principals, its totally up to you and may be in the group of 4-5 persons, one or two might be having a dice ting opinion, kindly put that down also with regard to the methodology so let it be totally open experience and exercise, we can start 1-2-3-4, 1-2-3-4, 1-2-3-4, 1-2-3-4, 1-2-3-geeta you are 4, hehehe so one group can stay here, group 2, group 3 and 4 assemble, now it is exactly 12 o'clock, 12.20 should be fine, we can assemble here and one group leader has to be assigned. you can give presentation in any form, you need power point, flip chart, oral presentation, you can use that, totally up to you and the group leader will make the presentation what exactly it is and how it is related to the 6 principals, ok lets try it out, just do not hesitate, i will leave it to you, let it be criminal law, if you want to have one civil law, you can have on civil law, any law but just see how would you put this principals to magistrate level, 3 years of experience.

20 minute exercise.

All armed, ready to shoot, we will have it by the group leader but if one of the member of the group if you want to speak, you are most welcome, so we will start with the first group, i am on behalf of group no. 1, before desiging the course what we thought proper to invite suggestions from the target group as to what target group they want to have topic they want the refresher course so after receiving that we found that it was temporary injunction and adjournments, interim orders that came, let's imagine that was the, that we received from the different district of jharkhand and other states that they are having the problem disposing off the interim applications and the adjournment matters then after the second phase of the exercise was that we made a request to the target

audience please contribute to so that it can be included in the reading material, that also help the judicial academy in preparing the reading material partly contributed by nominee participants so we have received that then after it was not that we were making contributions, we also took the pain, we have judgement on this point, the judicial officer who comes they want to, judgement are available on website but they do not suffice, they want to have the compilation of judgement on a particular point, our point is when we pin point the judgement which is relevant to their day to day functioning, they take it like reference material in their day to day functioning and thereafter the as far as the course are concerned, it was a one day course, starting from 10 o'clock to 11 o'clock, not more than 55 minutes as madam has laid down so it was a 1 hour session and the first session was lecture by a expert on the subject, then we had a lecture by judicial officer who had a working experience on the subject because he present the matter in different way then we had a lunch break, before the lunch break the group was divided, the trainees were divided in to different groups and asked to give presentations. any thing more, the case were also circulated on which the discussion moved forward. so this was how the last session, interactive session goes on, we also have some idea of some, in Kerala they have aptitude skill and knowledge so they call it interdisciplinary but we could not have the consensus on this point because one day session was so brief that we can not have that stress management session in 1 day at least it could have been more better so that is, of course the subject will not be completed with out evaluation and feedback, we got the unanimous feedback. that is all, thank you sir, i will request group 2 please.

yes my self on behalf of group 2, i feel that there is diversity of ideas because what we have resolved in pur group, what we discussed right now, there seems to be resemblance with the group 1, but there was a little bit difference, what we were doing and what practical difference in the Bihar Judicial academy also, but what did the group feel that are they approving all these points by

application of these 6 principles of adult learning, yes because we discussed these things also, adults are goal oriented, in every session one goal must be fixed that what goal ought to be decided with the group and we decided that active participation of the members or you can say group discussions what we are doing here that is going to cover idea no. 2, adults have accommodated the foundation of life experiences and knowledge so they must get the opportunity to share their experience and knowledge, this was also discussed with the group and this was supported by our group members also and now I would request our sir from Delhi to say something because he was the think tank of our group, it is the question of selection of topic, and it is the feedback you get from the field that becomes and sets the tone of selection of the topic as such so you have an exercise being done before the programme designed whereby you come to the selection of the topic, next is the selection of the resource person for the topic you selected, there may be 6 principals but they come as a package when you say I am taking feedback from the other persons so it takes care of autonomy, it takes care of divine board, it takes care of the life experiences so all these experiences come the movement you take this exercise, everything gets imported so you do not have to separately make the issue out of that so there has to be method and selection of the topic by the academy to design the programme, you pick the topics but academy should not hesitate, thank you, thank you sir.

We would request group 3, mam you want to say something, one thing I want to say that the selection of the topic by academy I do completely agree with you for the subjects which are already the judges are handling, yes it should be made according to their language but in case of new legislation coming in, we want to update and we want to give them new input regarding the other methods, academy should have the autonomy to decide and that once again may depend upon the inclination of the judges to participate, one they can give option to them and we can take it, for group 3, first of all I would like to begin with my experience, in teaching of 5 years I know people

with 3 years experience, even they keep on asking questions on the telephone, so i personally found that some of them know the answer of the particular questions of some particular area so the first thing i would like to do is the first session is as because as they are adults and they have to respect that and that fear physios also has to be kept in view that somebody ask a question and he has the tendency not to ask because he or she think that what people would think about it so for that i will devote the first session to tell them whatever difficulty all of you faces, note down in a piece of paper and do not mention your name, so let them come out with the problem each one of them faced without mentioning your name so that would be my first step in first session, then we can collect all the sheets from the students and thereafter we will put those problem on the projector 1 by 1 open house in session 2, open discussion and thereafter the faculty members are also there we have a interactive discussion and then we find some solutions and then in law, i will never tell a student what i am telling you is ultimate truth, again we are only telling them this is what i think and this is how we analyse it and this is how we view it and this is the submission behind it, now you have to learn your self, try to find out, your own view in the light of what i have told you, in the light of what everybody else told you because a judge should not be told something that this is final and other day high court or supreme court says this is the correct position so how can we say in law that this is the final truth let it be a developing kind of thing, we are only discussing with them, we are enabling them to become better judges, so this is what, thank you sir, thank you, mam please, i am presenting group no. 4, at the outset i would say that the since its a refresher course only for a day so we know that it is upon us to know the theory and then get in to practice so we just can not let the judicial officers to be taught in the manner like A for apple like that but they should be kind of refreshed with regard to the topic because its is a refresher course and we put in to practice as what we learn ion theory but since its for a day so we would like to concentrate on the practical aspects, apart from the brain storming once that first you go through the theory and then find out all your

problems and then take it, accordingly we will choose the resource persons and we have sorted out the first session, delay in disposal of civil cases, and there we would kind of tabulate and formulate the reasons and asked for their suggestions as to how the civil cases can be expedited in terms of disposal and to jot them down, secondly the second session would be to find out the cause of delay in disposing of the criminal cases accordingly and to jot them down and we would ask their suggestions and how can you from your side rather to mitigate such delays because i mean it is upon the judicial officer to control the court, control the lawyers and we will give and discuss the methods how the pendency in cases, you know as a district judge i had my own experiences like there would be delay in execution of warrants and the CDs won't come on time so during the monetary help once in a help, we together have formulated one procedure through the mail itself. so it would be a very short session for a day, now let me ask you how many of you had only one day programme? how many of you decide to one particular law or you want to put in different disciplines, civil also, criminal also, other area, competency of a judge also, the only point in which consensus was not there with regard to duration that is one point which i found that there was no consensus with regard to timing 40 minute, 45 minute and so there would be difference of experience but nevertheless it is sharing of different experience that we are learning over here, mam i just go through the shortly briefly, see the points are interconnected definitely, the 6 guiding principles that can be interconnected like Mr. gaur said it is really difficult to say but there was consensus in the house that since adults are self directed we need to ask them as to what exactly they want in their sessions that can be by way of both topics as well as methodology, topics we definitely ask them, methodology we presume we know the best because we are the judicial educator but i think we need to change our attitude over there, may be these youngsters are so quick, they go so much on the net, they experiment so much, may be they come out with some novel idea or methodology also so lets open.

Justice Vimla

madam asked you one question how do you respect the participants, what is the mode of respecting, one way of respecting them as one group told that collecting materials, when we ask them you are also with lot of potentials you said that send us the material, they feel that they are respected, other groups are also telling break out group discussion and presentation by the participants and during breakout discussion also they are able to expose their view point and when we here there views they feel that they are respected and every group i think all the 6 principles got in to your mind, and you have practiced also through presentation.

Ms. Aditi Choudhary

As a good judicial educator you need to understand convince the participants this is why we are having this programme so kindly make the most of it and the person then would make the most of it, proper nomination is very important, of course in other state you have all jurisdiction but in delhi you do not have, you cannot have persons wrongly nominated for programme so one way we decided in judicial academy that we our self make the nomination list and we updated till the last day, so it helps the judge also, it is really good that we getting call from the judge also that itself a very big thing for us and then we are getting the judge in to the programme, definitely there would be reason for him to come so i feel these nomination are again a issue with regard to respect to the selection of the resource person, i am again repeating, you have to be really cautions, we had confrontation which are ugly to some extent where you know the chair person or the moderator has to intervene and try to bring things at stall. The motivation aspect, of course the motivation would come from, you see there is thing about when a person goes to the learning zone then he goes to the panic zone, how do you motivate? and i learnt that when you take the learner from the comfort

zone to the learner zone, its fine but when you take to the panic zone, then you become the bad learner, this panic zone then suddenly i recollected we had session in the academy, we had this session judge come and in that session, instead of asking the judges as to ok, judge went on taking out faults, this is where you are wrong, this is what you are doing, why are you doing this, you have not understand the basics, the minute that started we knew that session is not going to be flop, you the kind of feedback going to get so anticipating this kind of reaction in your session is very very important and for you to take care, with regard to what motivates a learner, it is your social relationship, external expectations are there, what high court expects from you, that is what motivates you to learn, you want to serve man kind, personal advancement, i will get a good grade, inner sense of increase our learning, increasing our knowledge is again a motivation to learn but now the barriers can be many, it can be lack on money, time, scheduling problem, to motivate adults you have to create a motivating atmosphere, physical and psychological, physical meaning manner in which you control, the psychological again the kind of resource persons you have, its really important for us to have the expertise in the subject, unless you have the expertise so you need to study the subjects even if it is not of your interest then you need to have the empathy, empathy meaning thereby that three year experience, the judge who is sitting in front of you, you have to get him to his shoes to know what is troubling that young man, so empathy is really important for a moderator, we all work as a moderator in our training programmes, enthusiasm, i have come here to speak to you, because i believe in judicial education, i have come here to speak to you because i believe we all can change out, even i had not that attitude which i have today towards judicial education, we all can change it, you all spoke about that thing you know this programme in which you had this surface problems and all, one last thing, there is this as a judicial educator it is very important for you to know that there are different kind of learners also, it is not that each one has got the same style, we need to be aware of different learners, i will skip this, in any group all kind of

persons could be there, there is this quiz which you can fill up in your own time, it will give ideas as to how wrong we are in thinking as to what is the best way of teaching, what works best when we teach, and this is the bottom line you can not teach any one any thing, i can only make, so thank you so much and you can fill this then i can show you the answers, thank you, mam, i think it is your lunch time, i can not take too much of your time, but just brief remarks on evaluation, he said when questions are taken, no name is taken, it is really important that if they are given liberty to give their questions and evaluation without name, i have literally seen when i was director, when we take the evaluation form, evaluation is so important when madam was talking about the need of analysis, what is your need? what is your practical difficulties and in what areas the future course should follow, this kind of questions are included and they indicate their preference and whenever the new programme comes we can choose our participants from that list and we can choose our topic also from that list, so its a very nice practice and that will also come in the best practices that being shared, that is one of the method to find out the problem even though we want to disclose, we would not want to disclose because we feel safe not to open our mind in it and the resource persons, i have no hesitation in disclosing them, many times at the beginning, the regular practice use to call only these sitting high court judges, even the sitting high court judges will have the updated knowledge up to date, too many assumptions they use to call, whenever High Court judges come and all the participants would be sitting, i had my own doubts whether they are breathing or not breathing, hahahaha, i was really surprised how can they sit like that without moving their legs, moving their hands, is it humanly possible? when judges go and ask how they felt regarding the participants they said dead face and why, not even a smile, not even they are opening the lips and i do not know why we are coming here and unless they participate, we are not happy then, we started saying in the opening remark that it is the expectation of the judges that they would like to here your side also, may be in between they stop and tell that what is your view, they volunteer in asking

questions, participants might have come forward because the level in the hierarchy this was the problem then i had to communicate to both sides, and with regard to this contravention with regard to difference of opinion we must confess that we are reluctant to accept views from others and unless we are ready to take comments, unless we are ready to accept our mistakes there is no way to improve our self, we must have that tolerance when we take up public appointments we do discharge public responsibility when our decision effect the third parties and with great responsibility we must have the tolerance, we should accept their views, perhaps if it is offending to us we may simply say sorry that we are not agreeing with their views, if you are going to shut their mouth and ultimately we are going to be the losers and whenever they come, they use to tell in advance that they are at liberty to give negative opinions also but in a polite language as madam said, not in a offending language in a diplomatic way so these are all my remarks on your presentation, thank you.

at our academy we are drafting a privacy policy only to address this issue that what is being, suppose the information, the feedback which has come has to be shared then it is not given individual form, it is given as a bundle of information like so many persons said yes, so many aggrieved and so many did not agree so it is just going in bundle form so may be in couple of months we will be finalizing.

Can we now assemble at porch for group photograph then we will proceed for lunch around 1.30 and we will come back at 2.30. can we have a big round of applause for Hon'ble Justice Vimla because she will be leaving. thank you very much, because i am sitting in a bench, if i am single sitting i would have skipped my sitting there, because i have lot of things to share with all of you because in a bench sitting normally we do not take leave or permission, tomorrow we have our tax bench along with justice J chandru so i could not be with you, i terribly will miss all of you, this is my sincere feeling, anyway i take leave of all of you, 3.30 is my flight, thank you very much for all your kind participation.

SESSION 3

Natural Learning, Formal Learning, Personal Learning

Dr. M.R.K Prasad

Sometimes being a teacher i avoid taking blame so therefore, i always put the slide, so the adult learning process is self learning rather than teaching, so i think these two things madam has already introduced, andragogy is for the adults and pedagogy for the children. so what madam has taught you whether it has synced in your mind or not let's look in to this, now any reaction why children learn, i ask why they learn, you told them to learn, second you force them, and they do not know why they are learning, so initial child learning basically somebody ask hem to learn, they do not know why they are learning, how do they learn, the way we teach them, so like adults they wont question, if i tell you to right 0 like this, why should I? i need reason but the child does not require reason. so the question how children learn, the way you teach and what they learn, so let the student decide what subject they want to learn so learning is subject centered, ok i think its clear, now lets come to adult, when adult learn, because they want to learn otherwise they will not learn, you also know why are you learning, but you know why are you learning so adults will learn because they want to, how adults learn? not the way teacher present, you learn the way you want and learning among the adults, and what they learn, based on their needs, when you will become judge, you will learn how to judge, if you are a teacher, you will learn how to teach, you do not want to learn because teacher is not going to judge, unless it is not useful for you, you will not learn, when you are taking adults, you should keep in your mind that. I think madam has covered the area of Andragogy at length so i will quickly go through the slide. there are basically 5 assumptions of Andragigy.

1.Adults are self-directed learners

2.Adult learners bring a wealth of experience to the educational setting

3. Adults enter educational settings ready to learn

4. Adults are problem-centered in their learning

5. Adults are best motivated by internal factors

Number one is adults are self-directed learners,

1. Adults are self-directed learners

Adults like to involve actively in the decisions that affect them,

More capable of taking responsibility for themselves,

Adults would be more independent and self-directed than others due to age and experience

Now come to the application, following things are important

You are no more a teacher but a facilitator

Collaboration between learners and Teacher

Establishment of a safe environment

Learners are not afraid to share ideas experiences

Learning through conversation and exchange of information

now what is the Problem in self directed learning

- Self-learning depends on maturity and personal intelligence.
- most lack the required understanding of learning necessary to be self-directed
- need guidance and encouragement
- Self-directed learning as a goal that may be desired but not necessarily practical to attain

2. Adult learners bring a wealth of experience to the educational setting, Now what is the application and problems.

- It is an important resource for both learners and the facilitators.
- In many instances adults were the best resources for each other,
- Educators should help learners to become more open-minded.

- Learner experiences based on ways of thinking, habits, and prejudices and define themselves based on their experiences.
- Curriculum must be structured in a way sharing of experiences among learners
- Use of group projects and interactive discussions.
- Course content should also be allowed to evolve as opposed to being tightly scripted
- Requires carefully constructed discussion questions
- Social situations and cultural influences on learners.
- They may negatively effect the learning
- Preconceived notions may prejudicially impact their ability
- to learn,
- how they learn,

3. Adults enter educational settings ready to learn

- Adults often experienced situations that triggered a need to learn something new.
- Specific events that may often prompt the need for new knowledge.
- Adult learners want to know why they need to know something before they learn it.
- Learning should be a gratifying and pleasurable experience.
- Importance of combining both the needs of learners and those ascribed by society or institutions.

Application:

- Facilitators must realize each learner enters for a specific reason,
- It may be a personal desire to learn something or because the course is required by an employer or institution.
- Facilitator must take steps to help learners identify their learning needs.
- Learner needs should be the central focus of the course
- variety of resources should be made available for learner access

- Course curriculum and assignments and assessment should reflect those needs

Problem:

- Not all learners are able to identify what they need to know, and not all courses are taken purely by choice

Forced/influenced by peers

Forced by employer

Job requirement

4. Adults are problem-centered in their learning

- Adults like to apply immediately what they were learning to life situations
- Do not pursue learning simply for the sake of learning,
- Adults desire to be aware of the relevance of what they learn in relation to their life tasks or goals.
- Theory and practice should be united in learning.

Application:

- Curriculum should be process based versus content based
- Allow learners to develop content in accordance with their specific needs.
- The ability to make a connection between everyday life and learning

Now what is process based? it means suppose there is an issue that is what we call process based, for example you are taking about Cr.P.C., there is a training programme for the public prosecutors, you are going to teach them how the procedure in the court applies, you need to talk them, not on general theories of, i think in the morning somebody talked, i think madam talked about, if somebody teaches you theories of punishment, that is content based and what s process based, how you give sentence, suppose you are from 3 years to 7 years or up to 7 years, whether i should give one day or 7 years, more on the procedural side, practical side.

what is the Problem:

- Learning for the purpose of immediate application may not be true all the times
- Adults may choose to learn something new purely for the joy of learning

5. Adults are best motivated by internal factors

- Adults were best motivated to learn primarily by internal factors,
- Examples: self-esteem, self-actualization, or recognition.
- Knowles believed that adults were best motivated when they were recognized and appreciated for their individual contributions to the class.

Application:

- Facilitators must recognize the need of learners to be appreciated and respected
- Such attitude foster an environment conducive to learning
- Taking the names of the contributor
- Giving credit for raising an important question

Problem:

Many times adults are influenced to some external motivators such as a

- Pay raise
- Job promotion
- Increment
- Additional degree
- Status

--Seven Steps Process to Implement these Assumptions

1. Creating a cooperative learning climate;
2. Planning goals mutually;
3. Diagnosing learner needs and interests;
4. Helping learners to formulate learning objectives based on their needs and individual interests;
5. Designing sequential activities to achieve these objectives;
6. Carrying out the design to meet objectives with selected methods, materials, and resources; and
7. Evaluating the quality of the learning experience for the learner that included reassessing needs for continued learning.

--now what is the Role of the Teacher or facilitator, so one is

- Positive climate and
- Clarify purpose
- Learning resources
- Intellectual and emotional
- Sharing feelings and thoughts

whatever you say may be wrong but you have right to say that so that kind of attitude you should have so on whole whatever we discussed those 6 assumptions what it talks about is collaborative, it is not training programme, it is collaborative learning.

--Collaborative Learning

- Both facilitators and learners become active participants in the educational process.
- The hierarchy between facilitators and learners is eliminated.
- A sense of community is created.
- Knowledge is created, not transferred.

•Knowledge is considered to be located in the community rather than in the individual

that is the most important thing in collaborative learning. so that is why i said 90% madam has solved my problem because i need not explain again those things.

so now what we look in to simulation exercise, now this is one of the best method that you could actually adopt, of course i do not have much experience in training the judges, i do a lot with mediation and negotiations, client counselling, this can be done easily with the simulation exercises, in addition to that even the substantive theory can be taught in simulation exercise so let's look in to this, why do we teach? i do not there are certain questions, that is why i asked this uncomfortable questions, somebody says i am getting paid, yes of course i am getting paid but why do you teach, for getting paid, do not come to the teaching, you can go somewhere else so why do you teach? basically you want to communicate something and make other learn that is why you teach so these are some of the responses i get from the teachers, i said collaborative learning, again what we teach? there are so many thing that we teach, how do we teach? this is most important, because what generally happens in most of the circle now, interactive teaching, collaborative teaching, what are the methods that we are looking, mostly group discussion because that is easy, you give some problem let them go and discuss and make presentation, it becomes really monotonous, the reason being we do that there are several methods of teaching, of course the first one is everyone favorite, lecturing method, whether teacher is important or method is important? both. lecture method that we all follows, one teacher effectively deliver the lecture methods, other teacher does not deliver the lecture method, therefore teacher who does the lecture method effectively becomes the best method, as madam was mentioning even if you are best teacher in the world, attention is only for 20 minutes and lecture method what they here they will forget always, suppose forget about training programme, talk about when you went to training programme in law college, does a teacher teach every thing? may be 50% of the book a teacher may teach, how much understand, may be 30-40%

of 50% and what you understand, how many of you will write, few of you, what would you write, the teacher may explain and the how much you retain afterwards and then you go and write in the examination, how much little you know, so if this elimination goes around, probably 5 to 10% of the subject you would be writing in the examination, that is the problem with the lecture and what I remember is not always the lecture of the teacher, what he is ready to do, we will remember that he is a good teacher but suppose he made you to do some exercise, you will remember that exercise. So case law method, we give a case then they read and try to solve it, these cases are already decided cases, most of the Americans do the case methods, so I will assign to 10 pages case or like Keshava Nanda Bharti case for your study, study tomorrow the Keshava Nanda Bharti Case, then I will pick up somebody, Sir what is the Keshava Nanda Bharti facts, tell me, what are the issues, what the judge said, now who said what, I am not teaching anything, I am only asking only relevant questions to the students, when students respond to that, the class learns it, that is Socrates method, they combined with case method.

The role play and simulation, there is no much difference, suppose I give you a role, you enact it and by enacting you learn it. Next is clinical method, clinical method is now in law colleges, clinics are becoming popular, for example consumer clinic so the students who are coming to consumer clinic will take a case which comes in free of cost, they represent the case in the consumer form so clinical method is learning by doing, remember that 75% retain it, that is the most effective method, clinical method is the most effective method, like in all MBBS courses, what they do, when you joined as a Dr, they take you to the hospital, theory, practice, Dr. will take you to the hospital, treat the patient and explain to them how he may ask you. Class room discussions, field visits, you tell them to go to the field and see what is happening, storytelling, I think in the morning madam has given us two stories, collaborative teaching is the one, two teachers will come and they fight each other, they give opposite news as they are fighting each other and with that you learn, for example you are talking about right to education, and he is labor law teacher, somebody child activist so three of them will

come, i will talk on constitutional law perspective, he will talk in labor law perspective, others will talk as a child activist, all are important, so it gives a atmosphere to the students who are not in a position to raise issues, this people will raise issue, so with that discussion generates so it is to break the monotony, few times you can do but the teacher has to be very very matured enough to do collaborative teaching, you must have the compatibility, otherwise i am a senior teacher and you are a junior teacher. so what is simulation, simulation is basically a effective method to synthesize the doctrines, suppose you want to teach some doctrine, you can give a simulation to understand, its a collaborative learning, why it is collaborative learning, i will also learn, you will also learn, i will show you two simulations today. Simulation is just a mock. but please remember it is not a script, we do not give you a script. In the problem method what happen no involvement of the client, suppose the situation is that whether it is constitutionally permissible or not, whether under Indian penal code, it is a offence or not, you do not have any emotions, you least bothered about the client, but when i give you the simulation, you are warred about the client, so lets do one thing i have one simple game, its not a simulation, its a simple game. the goal is, this is we use in the negotiation, negotiation we see as a win win situation that means both the parties should get benefit, if you are going to exploit me, i will not agree and if you are going to exploit me i will not agree, that is the fundamental basis, both should get some benefit then only they will agree so lets play a simple game of 30 seconds. so you choose your partner and everybody stand up, yogesh can you come, i will just demonstrate them, please choose the partner, look at this the name of the game is win as much as you can, no limit for winning so you have to hold like this hands if it touches to my side he will get one rupee and if it get touches to other side he will get one rupee, ok, i want to see how gets the highest amount of money, understood? is that clear? so everybody is ready, hold the hands, i will give you 30 seconds, everybody hold the hands? ready? start

Stop. ok now any body got 30? 49 ok, ok anybody got zero? ok how many you got? the team who has got 29-0 please come this side, who got the lowest 11-5, no body got zero? 0-0 please come, hahahaha, i am looking for that and please remember, we are all adults here, this is purely for learning. its fun right? ok now what is the game? win as much as you can so who is the winner in this game? highest one, why they got highest? yes both want win win situation, see what is the goal of the game? both should win. as long as i am not bothered about how much the other person is getting, i am also getting the same, absolutely no problem, that is what the mind set, ok so these people also thought but in negative way and here what happened, fully exploited, usually what happens, those you got zero put completely out of thinking, so if you create this kind of simulation or game, the goal is to teach the students how important to think out of box and benefit for both, i will end this session with one small story which i learn when i was very small, there were two friends jealous about each other so both one day decided to become rich, both went to forest to pray god, finally the god appeared before the friend no. 1 and ask the friend what you want he said god tell me this thing are you going to give the same to the other fellow? god said yes, so he said whatever you do the other fellow give me double, tathastu he said went to the other fellow and asked the same thing did you go there? God said yes, what he asked, he asked whatever i give it to you, i give him double, so what he did, take my one eye, so he lost one eye and that fellow lost two eyes. years of meditation and praying to the god, once i am comfortable in getting the money why should i bother what other fellow is going to get? i am not bothered about my need, i am more bothered about how much the other fellow is going to get, if that is the attitude the negotiation will fail, so we will stop here we will come back after the tea break and then then we will see the simulation, how it will apply and also one actual simulation we will try to depict.

SESSION 4

Andragogical principles: collaborative process of adult learning

Dr. M.R.K. Prasad

Sorry for rushing what happened, so what we will do is i will quickly run through this then we have a small simulation and then i will hand over to Mr. Parasd, so when we should use this simulations, we use in clinical and non clinical sources to impart skills, to teach them we can use this and also to break autonomy in the training programe, you have this small simulation and game you get energized, but before you want to start a simulation, you need to have certain things, for example game, what is my goal, my goal is to demonstrate to the participants that collaborating with each other will give you more benefit, therefore negotiation works when both are going to get some benefit. You should have Goals.

- Key to a successful simulation is to define its goals.
- The teacher must specify the goals before developing the simulation
- Better to have simple goals than ideals
- Communicate those goals to the participants

Second is format, what formats is required foe example facts.

- Facts are crucial to a simulation
- Simple vs complex facts
- Uncertainty it teacher important lessons about doctrine, Lawyering and legal process
- It forces participants to exercise judgment
- Too much uncertainty would have no rationale in judging

Second aspect of format is role, what role you are going to give to the participants

Need to decide what role the participant would be playing in the simulations

For Examples: roles can be

Lawyer,	Activist
Negotiator,	General Public
Mediator	Judge
Litigator	Business Person
Government official	NGO

then the third one is required is the collaboration, collaborations in the sense that whether

- Participant is alone or have partners
- Depends on what to achieve like, on your simulation problem for example you need for team work

Practical Constraints

Want to develop interpersonal skills the group

- Size of the group vary from two to eight students
- Need to avoid free riders
- Selecting the group/partner

so it is all depends how you want to conduct a simulation in which format

what is the time like i will give you 15 minutes to finish this, you go on reminding them last 5 minutes, last 1 minute like that otherwise they go on teaching each other and particularly when you do simulation you become a child so you want to really do it so we need to stop with the timing, so you need to manage the timing, the another important thing is most of the time simulation can not be conducted by one person it may be difficult. you can choose from the participants one for your assistance and that is fine and why do you need assistance because there may be some material to be distributed, somebody has to keep the timing, somebody has to observe how the negotiation taking place, i cannot sit here and do negotiation.

also observing how they are negotiating, they are doing negotiation properly or simulation properly and you need to prepare the participants and what tools are required if you need something you have to keep that before you start the simulation you can not search for the thing in the last minute, the most important thing in the simulation is reflection. and what is this reflection is kind of feedback . start with the positive things and then tell them the negative things, you need to explain the team that why are you doing this, it is not to criticize any one, this is just to have the learning experience. Further for simulation i need 5-6 hours, because it takes lot of time and please set realistic goal with the simulation, it has limitation and what is that suppose in a moot court what happens, moot court is a kind of simulation, what happened in moot court, you only argue, you do not win or lose, even if you lose actually there is no client, your protection is intact, but in real case it is completely different, there is no responsibility on the law student to win the case but in real life you lose the case you lose the client so that i can not bring here, so goal should be simple goal it can not be too big goals that you can not achieve simulation. what we do is we will have small simulation demonstration now, i request three of them, it is a control simulation what i am doing. ok. you sit here, both of you go out. situation is here, he is a shop owner who has a glossary shop on somebody who bought a tea cup set without verifying they went home and when they opened it, one cup was broken now they want to negotiate with him to replace it, first time they came and asked they did not agree so second time they are coming to negotiator for the same problem, so let's see how they negotiate for replacement of the cup, ok, please observe i am going to ask you for your critic.

now this was negotiation simulation, now let us first think about what did you learn from this, aggression may not every time ok, when you are going for negotiations, when you are aggressive, it hurts, so why did you agree for second one, why did you not agree for second customer, no i am asking you how there representation was made, politely and second customer did not challenge my

reputation but she accepted my mistake and i too realize that i must kept the best material in my shop so as to maintain my reputation, ok so the decision that you are going to take is basically influences by the way they approach, second customer gave some suggestion please try to return to the company from you have taken it, that is very good observation. suppose he sent to the manufacture and manufacture refused, still the second approach is better, yes it is better why? because relationship is maintained, why you want a relationship, its for further transaction, but you can by from some other, may be but nevertheless he is the person in the neighborhood so that is more convenient for her. so any thing you want to reflect, three of you, this is what happened, this is not their actual nature, i told them to do so, this is stage manager simulation, so it is good for explaining something to the people, otherwise i could have told this is what happen to your approach, i wanted to make difference between good negotiation and bad negotiation, so it is all left to you, that is why i said Goal, what is your Goal and why i have chosen them, when morning madam asked us to tell about themselves the way they are speaking i observed because her voice is loud so i decided that she would be good for hard negotiation so she can shout, not because of nature. ok so the way they are talking, actually i was little apprehensive, because this is nice gentleman, very soft spoken, i was really surprised to see the transformation. He has done really excellent, so all three has done well and this is the choosing the right person for simulation is also very important, otherwise it may go wrong and may be again you will learn from the mistakes, i think its time, to you Dr. Prasad.

Good evening everybody, i have short time for the session and i have couple of exercise so learning styles,

I chose this topic because of my interest in adult learning styles and special learning situations for adult students who have learning disabilities. Educators and students must develop effective strategies and methods to transfer learning outside the classroom for academic and professional development reasons in the workplace. My knowledge of adult learning styles enables me to both differentiate instruction and teach others how to meet varying learning needs.

When facilitating or preparing curriculum I always ask myself, “How do adult students use their preferred learning styles to learn something in the classroom and produce the learning outcomes they wanted to achieve for the workplace?”

Being cognizant of the fact that all learners learn differently allows me to provide effective instructional design and methodology.

- 1.Social-cultural implications, perspectives of distance and workplace learning,
- 2.Transformational learning to work-based learning,
- 3.Interactive learning dimensions via the Internet that are not in the classroom setting,
- 4.and, identify teaching and learning strategies for distance learning and new technologies in the workplace.

basically there are lot of, major three types of learning, one is visual learner, they want to see, how many of you were first bench students when you were studying, can you raise your hands, this is called visual learner, they do want to see the teacher, If you are a verbal learner, try the techniques that involve reading, speaking, and writing. Find ways to incorporate more speaking and writing in techniques. For example, talk yourself through procedures in the simulator, or use recordings of your content for repetition. Make the most of the word-based techniques such as assertions and scripting. Use rhyme and rhythm in your assertions where you can, and be sure to read important

ones aloud. Set some key points to a familiar song, jingle or theme. Mnemonics are your friends for recalling lists of information. Acronym mnemonics use words, focusing on the first letter of the word to make up another word or memorable sequence. You can also make up phrases using the items you want to memorize.

If you are a visual learner, use images, pictures, color and other visual media to help you learn. Incorporate much imagery into your visualizations. You may find that visualization comes easily to you. This also means that you may have to make your visualizations stand out more. This makes sure new material is obvious among all the other visual images you have floating around inside your head. Use color, layout, and spatial organization in your associations, and use many “visual words” in your assertions. Examples include see, picture, perspective, visual, and map. Use mind maps. Use color and pictures in place of text, wherever possible. If you don’t use the computer, make sure you have at least four different color pens.

Systems diagrams can help you visualize the links between parts of a system, for example major engine parts or the principle of sailing in equilibrium. Replace words with pictures, and use color to highlight major and minor links. who are the last bench, the noutty fellows, it depends on the teacher, hahahaha, so the last bench students are always all rounder, they do, they listen, they watch and they do all mischief, how many of you in school use to read loudly for examination, these kind of people are auditory learners they want to listen they are very good listeners

If you are an auditory learner, use sound, rhyme, and music in your learning. Focus on using aural content in your association and visualization. Use sound recordings to provide a background and help you get into visualizations. For example, use a recording of an aircraft engine running normally, playing loudly via a headset, to practice flight procedures. Use a recording of the sound of wind and

water when visualizing sailing maneuvers. If you don't have these recordings, consider creating them while next out training. When creating mnemonics, make the most of rhythm and rhyme, or set them to a jingle or part of a song. Use the anchoring technique to recall various states that music invokes in you. If you have some particular music or song that makes you want to "take on the world," play it back and anchor your emotions and state. When you need the boost, you can easily recall the state without needing the music. and next is kinetics learner, how many of you while reading for example, how many people use to walk while reading, these kind of people are kinetics learner.

If you use a physical style, use touch, action, movement and hands-on work in your learning activities. For visualization, focus on the sensations you would expect in each scenario. For example, if you are visualizing a tack (turn) on a sailboat, focus on physical sensations. For assertions and scripting, describe the physical feelings of your actions. For example, a pilot might script as follows: "I feel the friction as I push the throttle forward to start my takeoff run. The controls start to feel more responsive as I check the airspeed, oil pressure and temperature. At takeoff speed, I pull back slightly, and I feel the vibrations of the wheels stop as the plane leaves the ground. After a few moments, I reach down and set the gear selector to up. I feel the satisfying bump as the gear stops fully up." Use physical objects as much as possible. Physically touch objects as you learn about what they do. Flashcards can help you memorize information because you can touch and move them around.

Now i will give you a small exercise you start, i will give a massage, this is called chain whisper, we can see practically how massage talk. this is what happened when gossip go around in the colony. hehehe, yaa, In India most fast spreading thing is gossiping. It is so silent now, hehehehehe, please say loudly on the last day of the training the crow came and drunk the milk, what is the original

massage, on the last day of training crow came and drunk the milk, so in middle what happened, this is the one, now please read the original massage, so what is the original, he will read the original massage, last evening, it rained in Judicial Academy, one earth warm came outside, one crow taken away that earthworm, this is the original massage. learning by doing, i am giving for next exercise, i am giving two horses and two riders. please take two two of them. so each person should have two horses and one paper of riders. Horses have to run. basically both the horses have to run with the riders. You have to make horses run. I will give you one clue, keep both the horses back to back, keep the jockey on the top and rotate it 360 degrees then you will get it. so this is the identity based learning, we can give this exercise and puzzle.

We can now i have a questionnaire instrument, do not see the last page, explanation is there, during the ice breaking session, you can do this exercise. Actually there are 7 learning styles, visual, arithmetic, like that. you will get it on the internet, you have to fill the numbers. There is this, we cannot say this is the best learning style, we cannot say that, only thing is, so there is no best, you can use these methods for learning. ok then thank you very much, can we give big round of applause to Dr. R.K. Prasad, both Dr. R.K. Prasad, of course one Dr. R.K. Prasad would be there, so what we do we just meet for 10 minutes over here. Also one minute, today we have movie at around 7 i do not know whether you have seen or not, its called Hawa Hawai and it will be in the auditorium followed by Dinner over there only so we have not practice of having dinner at auditorium. Now as participant you continue to sit here.

SESSION 9

Impact of power point presentations on transfer of learning

Group A, who was not there, from Bihar Judicial Academy, can we start from group D, Group C hai , we will start, you have 2 minutes think about something, ready all 4 of you?can we all have silence please,

Group C

kya aapko milna hai, civil case hai, kya civil case hai, mai tou munshi hu, hamare paas ek bahu acche vakil sahab hai, mai aapko लेकर जाता hu, namaste, aaiye, bethou bethou, kidher se aaye hai, aapka naam kya hai, we have come from hyderabad, we have some problem with regard to property, humne yaha property kharida, kuch log waha encroach kiya, yaha kyo property liya, we were advised to invest some money here, kitne amount ka tha, paanch laakha ka, ab kya karne kaa, problem is that our neighbour is encroaching our property, we want an advice what to do, uska naam kya hai, sudama, measurement kya hai property kaa, 600 square feet kaa hai, ok, tou sab documents sab laaye kya, sale deed, kuch bhi nahi, site kaa address mai bata sakti hu, sale deed chahiye, namantran chahiye, tax receipt chahiye, mai sab likh kar deta hu kya sab chahiye, we will file injunction suit, stay order, judge deta hai, the problem is that the person has encroached, how many days it will take, 2 years minimum, 2 years? lok adalat mai bhi chance hai, aap order jaroor dilate kya, haa 100% , what about the fee sir? yeh court fee dena padta hai, so it will be 55 thousand court fee, court mai deposit karega, ek hee baar bharna kaa hai sir, haa nahi tou suit nahi dakhil hoga, any reduction, no no, woh tou court mai dene kaa hai, agar lok adalat mai compromise hoe gaya tou wapas mil jaayega, aur mera fees alag hai, woh court fee hai, sahab kaa fee 50000 hai, sahab kaa fee bhi ek hee baar bharna hai, shuru mai 10000, baad mai thoda thoda ker ke, bas ek yaa do baar aana padega, bahut kam fees hai bhai sahab, aap andhra se aaye hai naa, kam bola mai, sab document de dijiye,

phone number hai kya, yeh mera address hai, how many days it takes to file a document, woh document laiye, ek deen mai dalenge, aap itna confidence se keh rahe ki order jaroor aayegaa, sir yeh document aapke paas hai naa, woh kaise, hum sab dekhege idhar, local sab manage karenge, sir samjho aap case jeet gai, you won, ok fine

thank you, thank you, claps

Group A, this was group C, namaskar jee, namaskaar

Scene 1

aap log koi case ke liye aaye hai kya, dhekhiye hum log ek NGO se aaye hai, saarthak naam hai or hum log ek research kar rahe hai ki ye joe nyaya hai, isme joe kamiya hai, isme kya sudhar laya jaa sakta hai, overall iss system ke baare mai hum log research kar rahe hai, aapka koi card, facebook pe aap NGo koe follow karna chahte hai, nahi nahi, abhi sab under process mai hai, aap yaha kyou aaye hue hai, woh ghotala hai naa, vyapam ghotala, humkoe fasa diya hai, vyapam mai hua kya ji, naukari karne ke liye paise bhi diye, uske baad pakad bhi liya inn logoe ne, kehte hai daily aau, aur aate hai tou yaha per bhi paise doe, kiskoe dene padte hai paise, babu koe, kis baat ke, bolta hai court fee hai, haa, kitne leta hai? 50 rupay, judge sahab nahi dekhte kya, dekhte hai najre jhuka ker, seedha nahi dekhte, tou phir aapka kya sujha hai, system mai kya hona chahiye, ek tou judge sahab koe case khud monitor karna chahiye, judge sahab se tou baat hi nahi hoti, voh tou seedhe under jaate hai, babu koe thoda paise de doe, woh aaram se tareekh de deta hai, dhanyawad aap logoe kaa, hum aapki baat aange rakhenge, ek baat aur rakhna, yeh joe puri court hai yeh puri police ke kehne pe kaam kar rahi hai, aap chahte hai judge sahab court ki saari karyawahi mai acche se dhyan de, nahi nahi jaach koe judge sahab monitor kare, voh dekhe ki police sahi jaach kar rahi hai ki nahi, aur jail mai tou aisa hai naa, police bahut chalak hoti hai, woh 90 din mai bail hona hota hai, woh jaan

mucch ker police aisa karti hai, chalo hum log aapki baat koe sarkar tak pahuchane ki koshish karenge apne NGO ke dwara, this was scene 1, claps

Scene 2

namaskar ji, hum logoe kaa ek NGO hai, haa tou, hum log thoda legal research kar rahe hai, aap yaha kyo bethe hai, kya pareshani hai, case chal raha hai mera ek, kahe kaa case, accident kaa, aapne kiya tha accident, nahi maine koi accident nahi kiya, ek aadmi galat side se aaya, takkar hoe gai, waha per hum log utre gaadi se, uske koi kharoch nahi aai thi, police bhi aayi thi, police ne bhi dekh liya sab kisi koe koi chot nahi aai thi, sab sulah hoe gai thi, doe din baad usne mere pe jaakar case kae diya, bilkul jhutha case ker diya, aap yaha kyo aaye, humkoe bula liya naa police ne, ghar aa gai police, tou yaha koi dikkat tou nahi hoti naa, hoti kyo nahi, 5 saal se aa rahi hu mai yaha court mai, her waqt paisa dena padta hai, woh babu koe, woh leta rehta hai, judge sahab dekhte rehte hai, camera lagna chahiye court mai, kis tarah kaa camera, jees tarah yeh dhyan rahe ki yeh babu kaise paise leta hai, sab bakwaas hai, koi nyaya nahi hai, jamanat thi tou pura din khada ker diya, joe murder case wala tha uskoe tou judge sahab ne jaldi chod diya, aur mujhe pura din bhitha ke rakha, thank you

Scene 3

and this is the third scene with the third party, last scene, Namasker Ji, hum log ek NGO se aaye hai, delhi based NGO hai, saarthak naam hai aur hum log iss legal system pe, justice system pe research kar rahe hai, bas aapki kuch raai janna chahte hai ki aam aadmi kya sochta hai iss baare mai, tou aap yaha kisi mukadme ke liye aaye hai, woh aise tha ki kisi nai koi crime kiya tha, haa uski maine jamanat de dee thi, meri wife ne dee thi, tou ab hum uski jamanat cancel karana chahte hai, tou humne application dee judge sahab koe, hum subah 10 baje aaye the, abhi 12 baj chuke hai, abhi tak

koi karyawahi nahi hui hai, judge sahab ne koi time nahi diya? nahi kuch nahi kiya, hume toe bola kab aayenge tab dekhenge, aapka kya sujhau hai, mera sujhau yeh hai ki pehle tou her ek case mai koi jab aapko lagta hai usme koi time dena chahiye, aap chahte hai ki aapko ek fix time per hee bulaya jai, haa fix time per, aapka bahut accha sujhau hai ki sab kuch online hoe jaaye, online massage mil jaaye, mai company mai kaam karta hu, bilkul aur judge sahab time bhi fix kare ki issi time pe aapko aana hai, aaj maine chutti li hui hai, m eri wife, techer hai usne bhi chutti li hui hai, ab kitna lose hai, nation koe lose hai, yeh koi nahi soch raha, baaki aur koi sujhau dena chahe, mere hisab se aisa hona chahiye ki pehle mera ek case tha jisme judge sahab aaye nahi, chutti per the, kon saa mukdma hai aapka? woh ek 138 mai dala tha, tou woh ek mera sujhau hai ki agar judge sahab chutti mai hai, tou website mai cause list ke saath woh kyo nahi daal dete, bilkul bilkul, bahut acchi sujhau hai aapka, thank you.

Group D

we had visited district court yesterday and talked to many police officers on how they feel about entire situation, what is the impression on the service condition those kind of things? sir i had words with few police man and i felt that they are quite happy in fact they are more happy with the court work then their own law and order work, one fact that they mention that when we are in court, our duty is fixed, while when it comes to law and order that time you never know, they were quite happy with the court work then the law and order duty. that is all i have to say.

yes this is really a cause of concern that the reaction which we got from the police man, courts needs to consider their situation, there are some cases like desecration of religious place, road accident, their primary duty is to control law and order situation and when these cases they put up before the court when they are extensively crossed examined, they do not mind, but some times questions such

as why you could not do panchnama properly, why you could not find independent witnesses, at time they could find independent witnesses in a situation where their primary duty is to diffuse the situation, control the crowd, this is really a cause of concern, we really need to think about this, practical reality we do not consider in the court, another situation which they shared with us that at times they get fired from the court for non execution of warrant they try their best they do not have any back up forces to help them, the accused is influential, even at time they get beaten up by the local mob, and after all these, the accused simply let out on bail, that very movement they feel really bad and demoralized.

what is their relationship with the court and judges? How do they, what is that relationship? relationship yes, its more or less cordial and at times it is painful, they are happy that court understand their situation also, particularly, property theft, and accused make false statement before the court about their treatment, some judges are accommodate, they are understanding, they ignore unless there is some serious complain. but at times courts openly reprimand them in the hole, how did you do that? at times they are helpless, how to go about a case, as regard personal relation are concerned, one thing is there that they are happy with the working wit judges, they do not have to many expectations, what do you mean happy with the judges? as compared to their superior, the over all mode is that they are not exploited much, hahaha

one of the reason in delay of disposal of cases is serving of summon on accused or witnesses and did they point out any difficulty in this, yes sir at times there are problems like there are issue of transfer, judge says i want this witness, even if witness is from Jammu and Kashmir or from Ahemdabad, they do not care about that, all they want is the witness should be present so then arises the problem when dead line is given and we have to see so many things apart from producing a witness and serving summon. that is there take on this. This is how we experienced, it was nice talking, moreover

they were like crime rate in Bhopal is not much so it is easy to maintain that comply with the court duty, easy to balance. Thank you.

Group B

Bhai sahab Yaha pe aapko pata hai koi lawyers yaa clerk, yaa joe munshi hota hai, aap kisi ko jaante hai, here i am working as a clerk of a particular lawyer, so we want to file case, actually lawyer will come next naa, first i will talk to you and thereafter will meet your lawyer, ok i will try to help you, now the second part was that we went to one police officer and then we asked for the, actually we were not able to find any clerk so we were wondering here and there so in that process we contacted a police man. bhaisahab kya aap kisi munshi ko jaante hai, aapko kya kaam hai, ek case file karna tha, calcutta se aaye hai, yeh jain sahab hai, yaha pe baithe hai, woh aap unse mil lijiye, nahut acche vakil hai, aapka problem solve kar denge, actually abhi kya hai saare lawyers tou aaye nahi hai, tou phir munshi ke paas jayenge tou woh bata dega naa kaha pe jaana hai,

next time we met an typist, ji madam, bhai sahab aapko koi munshi kaa pata hai, lawyer ke clerk hote hai naa, aapko kya kaam hai, ek case file karna tha, mai hu naa, mera beta lawyer hai Jitendra Sahu, woh kar dega aapka kaam sabhi, mai sab taiyaar kar dungaa, aapki petition, mera beta abhi aayega, aap mujhe bataiye kya hai, sab kuch aap kar doge, haa haa hum lob sab karte hee hai, vaise aapka problem kya hai, problem yeh hai ki meri bahan ki shaadi hui thi bhopal mai ek saal pahle lekin uske beech mai uske sasuraal wale, usko torture kiya, dahej manga, tou hum log soch rahe hai kya kare iska. tou joe ladki hai woh kaha ki hai, woh abhi calcutta chali gai hai or joe ladke wale hai woh kaha pe rehte hai, woh jawahar chock pe rehte hai, tou aap kya karna chahte hai, aapne koi criminal complaint kiya, yahi humko samjhna tha ki kya karna hai , woh aap 125 ke tehat maintenance ke liye dayar kar sakte hai phir aap dhara 498 ke tehat complaint file kar sakte hai, bas

aap case kaa detail de dijiye mai aapka case taiyaar ker deta hu, aap bethiye abhi mera beta aa jayega, aap mujhe facts de dijiye, victim koe tou bulana padegaa. aur mera ek bhai hai uskoe baat karke aap ke paas aate hai, aap bolenge tou 1-2 ghante mai hoe jaayega sab taiyaar, theek hai, thank you. finally we got a clerk, bhaisahab aap kisi munshi koe jante hai, haa mai khud munshi hu bataiye, woh hum logoe koe ek case file karna tha, tou hum apne vakil sahab se milwa dete hai, aaiye, nahi nahi, salah tou aapko vakil sahab denge naa, bahut acche vakil sahab hai, bahut accha kaam hai unka, yaha pe tou sab koi accha hai, tou aapko mujh se hee baat karni hai, haa, 2 minute phir hum ek kam nipta ke aate hai, haa bataiye kya problem hai aapki, meri behan ki yaha shadi hui thi bhopal mai ek saal pahle lekin uske beech mai uske sasuraal wale, uskoe torture kiya, dahej manga, tou hum log soch rahe hai kya kare iska, isliye hum ek case file karna chahte hai tou aap batau ki kis tarah hum iskoe kar sakte hai, dhekhiye joe kannon hai abhi woh 90% ladies ke favor kaa hai, hoe gaya, joe bhi hoga aapka mamla humare vakil sahab ker denge, accha uska fees kitna hoga, fees tou case per depend karta hai 5-10 hajar ke beech, case or client per depend karta hai, aapko kitna dena padegaa, hum ussi mai vakil sahab se adjustment hoe jayegaa humara, accha, tou phir aap apna number de dijiye, meri behan joe kolkatta mai rehti hai, uskoe hum leker aake vakil sahab se baat karte hai, number likhiye 012456789. ok thank you.

Last Group, Group E

we were directed to assess the response of ministerial staff in civil courts, we were three in numbers as such the topic is three strangers in City civil court, Bhopal presentation by Group E. our object was to asses the response of ministerial staff to a common man who approaches the court for the first time in connection with any case pending or disposed of by the Court.

Methodology: It was decided by consensus that the test of the system will be made at the copying section by trying to get the Certified Copy of a disposed of Claim Case.

Protocol Officer Salman Khan provided us with reference of a MACT case disposed recently by Court No F4 Presided by Mr DK Paliwal, the name of the parties : Gagan Paliwal Vs Prashant disposed of on 30th September 2015

Group E visited the Civil Court Bhopal at 11.00 AM on 2.11.2015

To avoid identification it was decided to move in the court campus by breaking the group. One of the member of the group approached the Court Peon and inquired as to how he could get the copy of the Order passed .

The peon advised to get the copy with the assistance of the lawyer by fixed payment of Rs 100 , otherwise it was not possible to get the copy of the same.

Thereafter the group member approached the main counter of the copying section for the requisite copy.

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No definite information was given by the person sitting overthere. The staff of the copying section was not responsive. On being pestered it was informed that the fees for urgent application was Rs 15 and for general application it was Rs 5, but the rate that was chargeable per page was not informed.

Thereafter the group member went to the counter wherefrom the prepared copy is received, but the person was incommunicative. It was a merri-go-round like situation as the staff from there again sent the group member to the copying counter. The application had to be made as per the number of pages of the order, but the same was not available. To get the number of the pages the member was advised to approach the court from where the order was passed.

The Second member of the group after hectic effort could trace the court office of Mr Paliwal and approached the ministerial staff to get the number of the pages so that application for certified could be filed . The particular clerk dealing with MACT cases was on leave and the member could not get the number of pages. Conduct of the Ministerial staffs : Not Co-operative but Courteous. Thank You.

There are so many things to be seen actually in this context, all of us given freedom, complete freedom, complete freedom was given, so what is the sole purpose of this exercise was a. how you utilize your time now this is relevant who are in state judicial academy, you can use this method for training of civil judge junior division, so you all know the utility of this method. what you do in this exercise, you observe, so this is one thing about this methodology, second is being an educator, it is also about disseminating the education. so now you know the importance of field visit so what is your observation, what you think?

participation in the training activity, that is one of the aspect, it is also about as a trainer, you all trainer now, you are in state judicial academy, you are not a judge, you are in totally different role, so also trainers needs to work in a team, i am sure in every judicial academy, 3-4 judges must be posted, in various capacity, all these people gather information and disseminate, also if there are 4 people in 10 minutes you get more information then what you get information from one person and last thing when you were interviewing police officials you were actually reflecting back what police think, as police is also one of the stake holder in the justice system, now it is very important, to understand other people part of the system as other do not know in which system you operate so now you know under which conditions other operate so if you know each other, more appreciation will come, there will be more trust in the system for each other and this is actually important when you are actually raining civil judge junior division so this was the whole objective so these are all technique, with this we will break for tea and we will come back at 11.30. so we will come back at 11.30 and start presentation on Cardozo.

SESSION 10

Impact of case study method for transfer of learning

We may get more idea on cardozo today so do we have with us from Allahabad Mr. Pradeep Kumar Singh,

Good morning everybody, i have read the nature of judicial process written Benjamin Cardozo, the books describe the method by which a judge reach on conclusion that is Judgement, if we ask any judge describing the process which he had followed a thousand time and more, book also mentioned certain kind of answers also of this question and the book, the first answer is what is it that i do when i decide a case, the judge will answer to what sources of information, do i appeal for guidance, judge will further answer in what proportions do i permit them to contribute to the result, another answer is in what way to contribute, if a precedent is applicable when do i follow it, if no precedent is applicable, how do i reach the rule, that will make the precedent for the future, another answer was given there if i am seeking logical consistency, the similarity of the legal structure, how far shall i seek it and last answer was suggested at what point shall the quest halted by some discrepant custom by conciliation of some social welfare by my own common standard of justice and morals, in his book on nature of judicial process, there are four chapters in form of lecture Lecture I. Introduction. The Method of Philosophy, Lecture II. The Methods of History, Tradition and Sociology, Lecture III. The Method of Sociology. The Judge as a Legislator, Lecture IV. Adherence to Precedent. The Subconscious Element in the Judicial Process. Conclusion. i discussed the methodology by which a judge has to give his verdict, in this process he highlighted as a judge, consistent and inconsistent with one another, he further highlighted where does the judge finds the law which he embodies in his judgement, he explained it further by mentioning the source from where a judge receives force to apply in judicial process, first one is one which fix the case may

be supplied by the constitution or statute, if that is so the judge looks no further, he further says, the constitution over-rights the statutes but statute it consist with the constitution it over-rights the law of the judge, he further highlighted that there are gaps, doubts, ambiguities and wrongs in the statute, mitigate to mitigate these problems, judge go for interpretation, discover the meanings, precedents, Mr. Cardozo also emphasis the philosophy first place in his book. in his first lecture in the introduction: the method of philosophy he said the work of deciding cases goes on every day in hundreds of courts throughout the land. Any judge, one might suppose, would find it easy to describe the process which he had followed a thousand times and more. Nothing could be farther from the truth. in next chapter on the method of history, tradition and sociology, he came up that The tendency of a principle to expand itself to the limit of its logic may be counteracted by the tendency to confine itself within the limits of its history. The directive force of the precedent may be found either in the events that made it what it is, or in some principle which enables us to say of it that it is what it ought to be. so these are the areas where without history no change is possible, if the history and philosophy do not serve the direction of principal custom may step in, he describe general custom, particular custom and certain particular laws also because time is about to finish so i am in hurry, next his concluding remark are in these words as i find Some remnants of the older point of view survive, but they are remnants only. The field is one where the law is yet in the making or better perhaps in the remaking. We cannot doubt that its new form will bear an impress of social needs and values which are emerging even now to recognition and to power. the third chapter we discussed where the judge act as a legislator in the starting he quoted there is no branch where the method is not fruitful. Even when it does not seem to dominate, it is always in reserve. Rulings upon questions of evidence are held with increasing frequency to come within the discretion of the judge presiding at the trial. Errors are no longer ground for the upsetting of judgments with the ensuing horror of new trials, unless the appellate court is satisfied that they have affected the result.

Legislation has sometimes been necessary to free us from the old fetters. Sometimes the conservatism of judges has threatened for an interval to rob the legislation of its efficacy. now i have shifted to chapter 4 where the conclusion i think in conclusion he draw the conclusion of whole the book, he said I have spoken of the forces of which judges avowedly avail to shape the form and content of their judgments. Even these forces are seldom fully in consciousness. They lie so near the surface, however, that their existence and influence are not likely to be disclaimed. But the subject is not exhausted with the recognition of their power. he further add that I have no quarrel, therefore, with the doctrine that judges ought to be in sympathy with the spirit of their times. he further said the work of a judge is in one sense enduring and in another sense ephemeral. What is good in it endures. What is erroneous is pretty sure to perish. The good remains the foundation on which new structures will be built. he finally opined and left the rest work to further generations by saying that The future, gentlemen, is yours. We have been called to do our parts in an ageless process. Long after I am dead and gone, and my little part in it is forgotten, you will be here to do your share, and to carry the torch forward. I know that the flame will burn bright while the torch is in your keeping. finally i conclude with these words that this book is collection of very important thoughts and on which the writer has drawn his own conclusions and describe the various method which we actually apply in our judgement and it is a very good book which i have read and thank you.

the emphasis of Benjamin Cardozo on his book judicial process was started from the question that from where the judge find the law?

There are times when the source is obvious. The rule that fits the case may be supplied by the constitution or by statute. If that is so, the judge looks no farther. The correspondence ascertained, his duty is to obey. The constitution overrides a statute, but a statute, if consistent with the constitution, overrides the law of judges. In this sense, judge-made law is secondary and subordinate

to the law that is made by legislators. It is true that codes and statutes do not render the judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided. Interpretation is often spoken of as if it were nothing but the search and the discovery of a meaning which, however obscure and latent, had none the less a real and ascertainable pre-existence in the legislator's mind. The process is, indeed, that at times, but it is often something more. The ascertainment of intention may be the least of a judge's troubles in ascribing meaning to a statute. Further Benjamin Cardozo stated in his book on court that Courts are to "search for light among the social elements of every kind that are the living force behind the facts they deal with." The power thus put in their hands is great, and subject, like all power, to abuse; but we are not to flinch from granting it. he further said that, I am ready to concede that the rule of adherence to precedent, though it ought not to be abandoned, ought to be in some degree relaxed but unless those conditions are present, the work of deciding cases in accordance with precedents that plainly fit them is a process similar in its nature to that of deciding cases in accordance with a statute.

It is a process of search, comparison, and little more. Some judges seldom get beyond that process in any case. Their notion of their duty is to match the colors of the case at hand against the colors of many sample cases spread out upon their desk. The sample nearest in shade supplies the applicable rule. But, of course, no system of living law can be evolved by such a process, and no judge of a high court, worthy of his office, views the function of his place so narrowly. If that were all there was to our calling, there would be little of intellectual interest about it. The man who had the best card index of the cases would also be the wisest judge. It is when the colors do not match, when the references in the index fail, when there is no decisive precedent, that the serious business of the judge begins.

In the life of the mind as in life elsewhere, there is a tendency toward the reproduction of kind. Every judgment has a generative power. It begets in its own image. Every precedent, in the words of Redlich, has a "directive force for future cases of the same or similar nature." Until the sentence was pronounced, it was as yet in equilibrium. Its form and content were uncertain. Any one of many principles might lay hold of it and shape it. Once declared, it is a new stock of descent. It is charged with vital power. It is the source from which new principles or norms may spring to shape sentences thereafter.

Those that cannot prove their worth and strength by the test of experience, are sacrificed mercilessly and thrown into the void. The common law does not work from pre-established truths of universal and inflexible validity to conclusions derived from them deductively. Its method is inductive, and it draws its generalizations from particulars.

The rules and principles of case law have never been treated as final truths, but as working hypotheses, continually retested in those great laboratories of the law, the courts of justice. Every new case is an experiment; and if the accepted rule which seems applicable yields a result which is felt to be unjust, the rule is reconsidered. It may not be modified at once, for the attempt to do absolute justice in every single case would make the development and maintenance of general rules impossible; but if a rule continues to work injustice, it will eventually be reformulated. The principles themselves are continually retested; for if the rules derived from a principle do not work well, the principle itself must ultimately be re-examined."

This work of modification is gradual. It goes on inch by inch. Its effects must be measured by decades and even centuries. Thus measured, they are seen to have behind them the power and the pressure of the moving glacier.

in the last three centuries, some lines, once wavering, have become rigid. We leave more to legislatures today, and less perhaps to judges. Yet even now there is change from decade to decade. The glacier still moves.

In this perpetual flux, the problem which confronts the judge is in reality a twofold one: he must first extract from the precedents the underlying principle, the *ratio decidendi*; he must then determine the path or direction along which the principle is to move and develop, if it is not to wither and die.

so this is the way how Cardozo like to impart the importance of precedent along with the philosophy, thank you.

the same thing as my friend has already read out and there may be some repetitions, i have prepared of course two book lets but i will be brief with the one which is very short, the question that may arise about the work of the deciding cases goes on everyday in hundreds of cases through out the land and they are, if the precedent is applicable when do i refuse to follow it, if no precedent is applicable how do reach that will make a precedent? If I am seeking logical consistency, the symmetry of the legal structure, how far shall I seek it? At what point shall the quest be halted by some discrepant custom, by some consideration of the social welfare, by my own or the common standards of justice and morals?

Our first inquiry should therefore be: Where does the judge find the law which he embodies in his judgment? There are times when the source is obvious. The rule that fits the case may be supplied by the constitution or by statute. If that is so, the judge looks no farther. The correspondence ascertained, his duty is to obey. The constitution overrides a statute, but a statute, if consistent with the constitution, overrides the law of judges. In this sense, judge-made law is secondary and subordinate to the law that is made by legislators.

The statute, they say, is often fragmentary and ill-considered and unjust. The judge as the interpreter for the community of its sense of law and order must supply omissions, correct uncertainties, and harmonize results with justice through a method of free decision. In countless litigations, the law is so clear that judges have no discretion. They have the right to legislate within gaps, but often there are no gaps.

The first thing he does is to compare the case before him with the precedents, whether stored in his mind or hidden in the books. Back of precedents are the basic juridical conceptions which are the postulates of judicial reasoning, and farther back are the habits of life, the institutions of society, in which those conceptions had their origin, and which, by a process of interaction, they have modified in turn. The man who had the best card index of the cases would also be the wisest judge. It is when the colors do not match, when the references in the index fail, when there is no decisive precedent, that the serious business of the judge begins. He must then fashion law for the litigants before him. In fashioning it for them, he will be fashioning it for others. Every new case is an experiment; and if the accepted rule which seems applicable yields a result which is felt to be unjust, the rule is reconsidered. It may not be modified at once, for the attempt to do absolute justice in every single case would make the development and maintenance of general rules impossible; but if a rule continues to work injustice, it will eventually be reformulated. The principles themselves are continually retested; for if the rules derived from a principle do not work well, the principle itself must ultimately be re-examined.

The directive force of a principle may be exerted along the line of logical progression; this I will call the rule of analogy or the method of philosophy; along the line of historical development; this I will call the method of evolution; along the line of the customs of the community; this I will call the method of tradition; along the lines of justice, morals and social welfare, the *mores* of the day; and

this I will call the method of sociology. For an analogy of law Lord Halsbury said in *Quinn v. Leathern*, said "A case is only an authority for what it actually decides.

But their judgment, the judgment of the lawyer class, will spread to others, and tinge the common consciousness and the common faith. In default of other tests, the method of philosophy must remain the organon of the courts if chance and favor are to be excluded, and the affairs of men are to be governed with the serene and impartial uniformity which is of the essence of the idea of law. If the method of philosophy is to be employed in the absence of a better one, some test of comparative fitness should be furnished. The directive force of logic does not always exert itself, however, along a single and unobstructed path. One principle or precedent, pushed to the limit of its logic, may point to one conclusion; another principle or precedent, followed with like logic, may point with equal certainty to another. In this conflict, we must choose between the two paths, selecting one or other, or perhaps striking out upon a third, which will be the resultant of the two forces in combination, or will represent the mean between extremes and on methods of History The tendency of a principle to expand itself to the limit of its logic may be counteracted by the tendency to confine itself within the limits of its history. I do not mean that even then the two methods are always in opposition. A classification which treats them as distinct is, doubtless, subject to the reproach that it involves a certain overlapping of the lines and principles of division.

The powers and functions of an executor, the distinctions between larceny and embezzlement, the rules of venue and the jurisdiction over foreign trespass, these are a few haphazard illustrations of growths which history has fostered, and which history must tend to shape. There are times when the subject matter lends itself almost indifferently to the application of one method or another, and the predilection or training of the judge determines the choice of paths. General standards of right and duty are established. Custom must determine whether there has been adherence or departure.

A slight extension of custom identifies it with customary morality, the prevailing standard of right conduct, the *mores* of the time. This is the point of contact between the method of tradition and the method of sociology. They have their roots in the same soil. Each method maintains the interaction between conduct and order, between life and law. Life casts the moulds of conduct, which will some day, become fixed as law. Law preserves the moulds, which have taken form and shape from life. Three of the directive forces of our law, philosophy, history and custom, have now been seen at work. We have gone far enough to appreciate the complexity of the problem. We see that to determine to be loyal to precedents and to the principles back of precedents, does not carry us far upon the road. "Our common law system consists in applying to new combinations of circumstances those rules of law which we derive from legal principles and judicial precedents, and for the sake of attaining uniformity, consistency and certainty, we must apply those rules when they are not plainly unreasonable and inconvenient to all cases which arise; and we are not at liberty to reject them and to abandon all analogy to them in those in which they have not yet been judicially applied, because we think that the rules are not as convenient and reasonable as we ourselves could have devised." A *constitution* states or ought to state not rules for the passing hour, but principles for an expanding future, This conception of the legislative power of a judge as operating between spaces is akin to the theory of "gaps in the law" familiar to foreign jurists.

This truth is powerfully driven home to the lawyers of this country in the writings of Dean Pound. "Perhaps the most significant advance in the modern science of law is the change from the analytical to the functional attitude. the judge in shaping the rules of law must heed the *mores* of his day. Thank you. last one is there and it is important i feel but since the, thank you.

Can we have Mr. Samir S. Kanthale

very Good morning to all, thanks for this opportunity, with my limited knowledge and understanding, i have tried to make presentation on nature of judicial process, the nature of judicial process, this is the compilation of lecture by Benjamin Cardozo, a renowned american jurist, and as a associate justice of supreme court for 6 years, there is significance development of american law, in the 20th century, in his work, nature of judicial process, Benjamin Cardozo does an analysis of Judicial process and its nature, according to Cardozo what is judicial process, its an its an intellectual process of sifting and analysis of facts and applying accepted rules or doctrine of law.

What is the Intellectual Process by which a Judge decides a case ? According to Cardozo it consist of

- I. The method of Philosophy. II. The method of History, Tradition & Sociology.

- III. The method of Sociology and the Judge as a Legislator.

- IV. Adherence to Precedent, the subconscious Element in the Judicial Process.

According to Cardozo Judge made law is one of the existing realities of life, Guiding Principles of Conduct are conscious They hover near the surface and another is Sub-conscious, Sub-conscious forces keep the judge consistent with himself and inconsistent with others. Cardozo also made an Attempt to State the Formula to rationalize the Process. the 1st Enquiry is : Where does the Judge find the law which he embodies in his Judgement?

The Sources of Law according to Cardozo are constitution and statute, If a statute is consistent with constitution, it overrides the law of Judges and Judge made law is secondary & sub-ordinate to the law made by legislators.

According to Cardozo, We reach the land of mystery when constitution and statute are silent. Its here, that the role of Judge assumes importance.

In arriving at a Just decision, the Judge has to resort to following processes -

1. Interpretation.
2. Use of Precedents.
3. Fill the gaps and clear the doubts & ambiguities.

For that Judge has to resort to the following process,

1. Interpretation – Ascertainment of the meaning and intent of law makers whose collective will has been declared.
2. The Judge as the interpreter of law, must supply omissions, correct the uncertainties, and harmonize results with justice through a method of Free Decision.

Use of Precedents -the first thing that a judge has to do is to compare the case before him with the precedents.

secondly Stare-decisis is the everyday working rule of law.

thirdly The work of deciding cases in accordance with precedents that plainly fit them is similar to deciding case in accordance with statute.

forth is Its when there is no decisive precedent, that the serious business of judging begins.

Filling The Gaps

In filling the Gaps in law, the Judge may make use of following methods in varying combinations.

I. Method of Philosophy or Analogy, which exerts a directive force along the lines of logical progression.

II. Method of Evolution, which treads along the lines of historical development.

III. Method of Tradition, which follows the lines of customs of the community.

IV. Method of Sociology – Turns the directive force of Principle along the lines of Justice, Morals and Social Welfare.

The Method of Philosophy

- It has primacy that comes from natural, orderly and logical succession.
- A Judge must be logical, just as he must be impartial.
- If a group of cases involve the same point, the parties expect the same decision. It would gross injustice to decide alternate cases on opposite principles.

The Method of Philosophy

- The method of Philosophy must remain the organon of the courts, if chance and favour are to be excluded, and the affairs of men are to be governed with impartial uniformity, which is the essence of idea of law.

The Method of History

- Method of history is predominantly an investigation of origins, as opposed to the method of philosophy or logic, which is mainly the work for reason.
- Method of history is limited to clarifying a problem in law, and does not extend to solving it.

□The duties of a Judge go beyond bare historical exegesis of the problem occurring in Judicial Process.

□Method of History has utility in interpretation of law.

The Method of Sociology : Judge as Legislator

Method of Sociology is larger and more all-inclusive method than the other three. When the social needs demand one settlement rather than another, we must bend symmetry, ignore history, and bend custom in the pursuit of other and larger ends.

Method of Sociology is most appropriate method for “filling up the gaps in written law”.

Constitutional law is most suited to the method of Sociology, since it extends to larger area than other rules and laws.

The Method of Sociology is the method by which end of law, i.e. social welfare is served.

Adherence to Precedent :

The Subconscious element in Judicial Process

Adherence to Precedent must be a rule rather than exception, if the litigants are to have faith in the judicial system.

Precedents are of two types static precedent and dynamic precedent.

Static Precedent

The outcome of a case which involves static precedent is not of great importance. Such case does not affect jurisprudence one way or other.

Dynamic Precedent

Are those, which when decided, will have an effect on jurisprudence, and would effect a development in law.

Creative element in the Judicial process finds its opportunities and power in 'Dynamic Precedents'.

According to Cardozo in conclusion Conclusion – Judicial Process

Judicial Process is a method of Free – Decision.

This free decision is the common law as interpreted by a Judge in a case where statute or constitution are silent and precedent is absent.

Free decision fills the gap in the scriptum, but it is balanced by stare decisis as an everyday working rule.

Free decision also gives a partial explanation of the phrase "Judge-made law".

Judicial Process is a methodology for applying the principle or rule of law to a case, according to one or more of the four methods, the method of Philosophy or Logic, History, Custom or Method of Sociology. Judicial Process balances the use of four methods of decision in such a way as to serve social interests.

The creative work of the Judge lies in his choice of methods of selection.

So the over all works deals with the Judge Craft, how a judge crafts a judgement and the principles that elaborately discuss in his work, thank you all.

Good morning everybody, in order to analyse the nature of Judicial Process, Benjamin Cardozo had delineated 4 respective lectures, at the inception while dealing with the philosophy with regard to the analysis of the nature of the judicial process, Cardozo has dwelt upon certain inhibition and asserted that I take judge-made law as one of the existing realities of life. THE work of deciding cases goes on every day in hundreds of courts throughout the land) Any judge, one might suppose, would find it easy to describe the process which he had followed a thousand times and more. Nothing could be

farther from the truth. Let some intelligent layman ask him to explain: he will not go very far before taking refuge in the excuse that the language of craftsmen is unintelligible to those untutored in the craft. Such an excuse may cover with a semblance of respectability an otherwise ignominious retreat. It will hardly serve to still the pricks of curiosity and conscience. In moments of introspection, when there is no longer a necessity of putting off with a show of wisdom the uninitiated interlocutor, the troublesome problem will recur, and press for a solution. What is it that I do when I decide a case? To what sources of information do I appeal for guidance? In what proportions do I permit them to contribute to the result? In what proportions ought they to contribute? If a precedent is applicable, when do I refuse to follow it? If no precedent is applicable, how do I reach the rule that will make a precedent for the future? If I am seeking logical consistency, the symmetry of the legal structure, how far shall I seek it?

The directive force of a principle may be exerted along the line of logical progression; this I will call the rule of analogy or the method of philosophy; along the line of historical development; this I will call the method of evolution; along the line of the customs of the community; this I will call the method of tradition; along the lines of justice, morals and social welfare, the *mores* of the day; and this I will call the method of sociology.

The man who had the best card index of the cases would also be the wisest judge. It is when the colors do not match, when the references in the index fail, when there is no decisive precedent, that the serious business of the judge begins. He must then fashion law for the litigants before him. In fashioning it for them, he will be fashioning it for others. The classic statement is Bacon's: "For many times, the things deduced to judgment may be *meum* and *tuum*, when the reason and consequence thereof may trench to point of estate." The sentence of today will make the right and wrong of tomorrow. If the judge is to pronounce it wisely, some principles of selection there must

be to guide him among all the potential judgments that compete for recognition. On methods of sociology, The method of sociology in filling the gaps, puts its emphasis on the social welfare.

On method of history, tradition and sociology Cardozo said the method of philosophy comes in competition, however, with other tendencies which find their outlet in other methods. One of these is the historical method, or the method of evolution. The tendency of a principle to expand itself to the limit of its logic may be counteracted by the tendency to confine itself within the limits of its history. I do not mean that even then the two methods are always in opposition. A classification which treats them as distinct is, doubtless, subject to the reproach that it involves a certain overlapping of the lines and principles of division. Very often, the effect of history is to make the path of logic clear.

You may say that there is no assurance that judges will interpret the *mores* of their day more wisely and truly than other men. I am not disposed to deny this, but in my view it is quite beside the point. The point is rather that this power of interpretation must be lodged somewhere, and the custom of the constitution has lodged it in the judges. If they are to fulfill their function as judges, it could hardly be lodged elsewhere. Their conclusions must, indeed, be subject to constant testing and retesting, revision and readjustment; but if they act with conscience and intelligence, they ought to attain in their conclusions a fair average of truth and wisdom. The recognition of this power and duty to shape the law in conformity with the customary morality, is something far removed from the destruction of all rules and the substitution in every instance of the individual sense of justice, the *arbitrium boni viri*.

On method of sociology: Judge as a legislator, Cardozo opined that We get a striking illustration of the force of logical consistency, then of its gradual breaking down before the demands of practical

convenience in isolated or exceptional instances, and finally of the generative force of the exceptions as a new stock, in the cases that deal with the right of a beneficiary to recover on a contract. England has been logically consistent and has refused the right of action altogether. New York and most states yielded to the demands of convenience and enforced the right of action, but at first only exceptionally and subject to many restrictions. Gradually the exceptions broadened till today they have left little of the rule. It survives chiefly in those cases where intention would be frustrated or convenience impaired by the extension of the right of action to others than the contracting parties. Rules derived by a process of logical deduction from pre-established conceptions of contract and obligation have broken down before the slow and steady and erosive action of utility and justice.

Mr. M.K. Gaur

Thank You very much, letter we have received at the academy, the time allocation was 20 minutes and therefore, may be i took that liberty to extend it little more so if you accommodate, i will be thankful, just a little more 10 plus a little more, why, i could finish mine, no way. Ok, i am feeling as if i am sitting in a examination and usually i do not score well in the examinations, so it is extremely squeeze Cardozo in 20 minutes but i will try my best to do it. the book is something is an attempt made at that time to understand the process itself like how does judges behave or goes in to making of judgement, another thing before we proceed further that two words that have been used one is philosophy and the sociology, now the philosophy and sociology is not the same thing as you would understand, generally speaking sociology and philosophy as they are talked about by Justice Cardozo have their own meaning which you can find in the book itself and you may not assign the same meaning to those things as you may find some where else.

one case came up before the Supreme Court on banning crackers on diwali as it causes pollution so three questions came up before the court as Cardozo would put it, that where the social welfare is in picture like what impact is going to have on general public in terms of the pollution it is going to create, other competing factor on the other corner is the custom then i read in a corner in the newspaper, there was lot of hue and cry made about this petition being filed, because it involves lot of employment, therefore three corners were there, now how the judges going to decide this process, what is this competing impact, how they are going to handle it but i thought may be the sociology would prevail about the economic factors going in for the traditional thing but ultimately sociology did not work, the petition was dismissed and other things prevailed but i thought may be the timing was not correct, the point i am trying to make is that the judicial process can be interesting subject in itself that how do you ultimately reach X decision on the basis of several factors which you have. in the end of the book, i was reminded of Brahmasutras, with vyas, brahmasutra is nothing but one liners at the end of it and for those one liners, there are commentaries and commentaries have been written so at the end of the book you will get some sutra but essence of it takes its own time to get assimilated in your unconscious part, that is the process which takes place.

This book is a compilation of lectures that is why it has texture, which will not have in any other book so that is the difference so therefore you need to look at the book in that particular sense of series of lectures going in and there are questions which have been raised and answer may be given in scattered form all over the book but you still need to understand where they are. in words of Cardozo is also important what he is saying and why is he saying, interesting part is his father is also a supreme court judge.

i have read the book but i am not sure whether i have fully understand it. now the contours of judicial process have been defined by raising certain question, there is question do judges make law? for some it can be a debatable question but you will say i take judge made law as the existing realities of life so you can not escape it, if it is already there. Now further Cardozo has said something on free decision, now what is free decision. in words of Cardozo- The judge as the interpreter for the community of its sense of law and order must supply omissions, correct uncertainties, and harmonize results with justice through a method of free decision — "libre recherche scientifique.", this is a french term to define meaning of free decision. he further say that- The same problems of method, the same contrasts between the letter and the spirit, are living problems in our own land and law. Above all in the field of constitutional law, the method of free decision has become, I think, the dominant one today. The great generalities of the constitution have a content and a significance that vary from age to age. The method of free decision sees through the transitory particulars and reaches what is permanent behind them. Interpretation, thus enlarged, becomes more than the ascertainment of the meaning and intent of lawmakers whose collective will has been declared. It supplements the declaration, and fills the vacant spaces, by the same processes and methods that have built up the customary law. one example i would like to give there was a point of time when A could do business as he pleases, even though the intent was to cause lost to B, this was possible at one point of time, but this principal applied did not always give the correct results, correct results means the sociological aspect, some times it did not result in to justice so you do is, in the course of time because if he failed the test of delivering the justice at one point of time it was abandonment and may be modified that you will not permit the abuse of rights. then there is this process like it is refereed by somebody else also that it is a process which takes its own time is like glaciour which slowly moves but changes for sure. thank you so much, ok so as i talked about it that the method of philosophy something drawing from somewhere as source, you draw something from

philosophy and this is what philosophy is all about then there is a method of evolution which you will find that in the process of the evolution, every law has its own evolution and sometimes restrict the scope of the application of the law itself which you call for example reality law then comes the custom also which are most of the time governed by the practices. now finally the method of sociology, the sociology as i talked about one would find it that what is the sociology, i said it is not the same meaning as generally assigned to it, sociology would mean at the end of it is something serving cause of justice that is what it is because of social justice that would constitute at the end of it the sociology, may be we have sometime we have more liberty to talk about lot of something just one more example then i end it, application of if there is a person who has murdered the person who has executed the will in his favor, now there are three principles in existence which are there, one principal is that he has executed a will therefore, it is a will of the person that it should go to X person, rule is in case there is punishment which is inflicted on a person, the civil court will not add in to that punishment which means that you want to deprive this person off the property by a civil litigation which means adding to the punishment which you will otherwise get having murder the person but the third principal is also in existence, that you will, no body will take advantage of its own wrong, obviously the answer would be you will apply the third one, the question is not that how will you apply the third one, the bottom line is why do you apply the third one, you apply the third one because it serves the purpose, that is how you pick up a particular law to defines what happens, now i wont go further, i will just lead to the last thing, within the narrow range of you search for social justice and he also talks about the social justice as final arbiter, when it comes to the competing interest, social justice becomes the final arbiter as we found in the judgement of the supreme court which recently dismissed the petition for banning the fire cracker, sociology was not the final arbiter but he wants the social thing to be final arbiter in those cases, now i will just conclude by saying that which is an excellent thing to understand which is says on his own

experience, sometimes we very about our self over much about the enduring consequences of else, work become little confusing for a time, in the end it will be modified, corrected or the teachings, it note that future will take care of such things in the endless process of testing. so there is nothing to worry about those filling gaps, apply your sociological principals, apply the principals you have, fill those gaps and let it happen, it will get corrected in the course of time, thank you so much.

Can we have Mr. Sudhir Kumar from Chattisgarh, the nature of Judicial process, this book consistof 4 lectures, According to Cardozo it consist of

- I. The method of Philosophy.
- II. The method of History, Tradition & Sociology.
- III. The method of Sociology and the Judge as a Legislator.
- IV. Adherence to Precedent, the subconscious Element in the Judicial Process.

some important he pointed out that In moments of introspection, when there is no longer a necessity of putting off with a show of wisdom the uninitiated interlocutor, the troublesome problem will recur, and press for a solution. What is it that I do when I decide a case? To what sources of information do I appeal for guidance? In what proportions do I permit them to contribute to the result? In what proportions ought they to contribute? If a precedent is applicable, when do I refuse to follow it? If no precedent is applicable, how do I reach the rule that will make a precedent for the future?

I have little hope that I shall be able to state the formula which will rationalize this process for myself, much less for others. We must apply to the study of judge-made law that method of quantitative analysis which Mr. Wallas has applied with such fine results to the study of politics.

The sample nearest in shade supplies the applicable rule. But, of course, no system of living law can be evolved by such a process, and no judge of a high court, worthy of his office, views the function of his place so narrowly. If that were all there was to our calling, there would be little of intellectual interest about it. The man who had the best card index of the cases would also be the wisest judge. It is when the colors do not match, when the references in the index fail, when there is no decisive precedent, that the serious business of the judge begins. He must then fashion law for the litigants before him. In fashioning it for them, he will be fashioning it for others. The classic statement is Bacon's: "For many times, the things deduced to judgment may be *meum* and *tuum*, when the reason and consequence thereof may trench to point of estate." The sentence of today will make the right and wrong of tomorrow. If the judge is to pronounce it wisely, some principles of selection there must be to guide him among all the potential judgments that compete for recognition.

Every judgment has a generative power. It begets in its own image. The directive force of a principle may be exerted along the line of logical progression; this I will call the rule of analogy or the method of philosophy; along the line of historical development; this I will call the method of evolution; along the line of the customs of the community; this I will call the method of tradition; along the lines of justice, morals and social welfare, the *mores* of the day; and this I will call the method of sociology.

THE method of philosophy comes in competition, however, with other tendencies which find their outlet in other methods. One of these is the historical method, or the method of evolution. Nowadays we may see the office of historical research as that of explaining, and therefore lightening, the pressure that the past must exercise upon the present, and the present upon the future. Today we study the day before yesterday, in order that yesterday may not paralyze today, and today may not paralyze tomorrow. thank you.

we will break for lunch but before that i would say some of you would be thinking that i am biased, that i gave somebody more time, some body less time, it is not about time actually also content is also important. you all read the same book why this session was taken place basically for how we present the information, what information is present that is not important, for adult it is important how you are presenting. the first and foremost point that is to be kept in mind while presenting any information to adult is that we must look in to adult, whether people are observing us, when i call time management expert to do time management, stress management courses, i never saw them that they are sitting somewhere, they always involved, they go to tables and then i realized why they do that, when a person go to your table he establish some connection. and when you give power point, power point is basically to remind our self so that we do not forget something that we wanted to say, only thing is that power point is only for bullet points, your presentation was good, excellent and when you are making presentation, there is another thing that there are resource persons so the resource person must do more study then what is given to them because from him any question can be asked and then as audience, you will feel more connected to a person who looks at you. isn't it? so these are certain methodology on how you transmit information because learning takes place when we feel connected to a person, reading does not help in adult learning. so to adult you have to engage more. so these are things i wanted to say and that is why this whole Cardozo reading session took place. so thank you very much and i am not being biased but i just wanted to here and tell you that also Mr. Gaur presented really well, he was talking to all of you so we all can take back for study for our self, you make power point, you make presentation, now we will break for lunch and we come back at 1.30 and then we do those presentations which are second part, which is like book reading of your choice, yes.

SESSION 11

Impact of documentary /film screening on transfer of learning

Mr. Hans Raj, yesterday i read the book Benjamin and Cardozo on the nature of judicial process, in this book i learned that he has explained 4 methods of Judicial methods, methods of philosophy, method of history, method of sociology, the judge as the legislator and 4th one adjunct of precedents, subconscious element in the judicial process, actually when a case is put up before us so as a judge, we have to decide what are the factors which are in our considerations so we have the information of the case with regard to the pleadings and the evidence and whatever put up in argument in the form of the precedent that is considered by judge and he actually evaluate from that source and we judge that what are the principles which are applicable to that and how from that precedent and facts of the case may reach to the conclusion so there is also a factors of some times logic then symmetry of the legal structure, customs, social welfare of the society are under consideration, this factor actually makes a judge consistent but all these factors makes the judge inconsistent with one another so the litigants and third party does not know that how a judge if two different judges are there then how will they react but so far as the advocates are concerned they use to study the judge, from the judgement they can study and they can come to the conclusion that even the given set of facts what would be our order, what conclusion we will reach so they have to consider the that our mind, though you have to be consistent but advocates does not get benefit from that so every one of us in this book there are different as Mr. Gaur said that there are maxims, sutras, so in these it is stated that everyone of us has truth and underlying philosophy of life, we all judges have our philosophy of life. so from that we judges, another aspect is whatever information and case put up before a judge he has to apply the law of the constitution or statutes or judge made laws, why judge made laws came in to play, whatever statutes are made there are some gray areas, it is not defined so on that aspect a judge has to come to a conclusion, he has to fulfill that gray area and there is findings on that so that is very important, judge acts as a interpreter for the community, one very good point

which i have noted that even if a judgement is different and is not in contest with the current affairs then also it is useful because it is in we can say that they reserve so if in future any sets of social circumstances or welfare of the society comes to at a side that particular judgement becomes relevant so therefore no judgement is irrelevant so that is also good point, thank you.

So i see a mark difference after pre-lunch and post lunch you have changed your strategy. one should not have any complex in life, neither superior nor inferior both are dangerous, one should have some as a trainer you should have some amount of self confidence, not over confidence that other person is good and i am trying to be good that thinking has to be developed because now you are in state judicial academy, as a educator i can tell you, even if someone performs excellent, fine, i can not perform that well but i can do something that should be your guiding factor so we can move to Mr. Hansraj

Mr. Hansraj- Good after noon everyone i am from Himachal pradesh judicial academy and prior to my joining as joint director i have put 16 years of service in courts, now i start my presentation with a story, one person wrote a letter to another person, the letter was quite long and at the end he wrote i am sorry, i intended to write a short letter to you but i could not get time, it was story to attract your attention what i mean to say i can interpret in two ways firstly so far as this presentation is concerned, in case he wants to take presentation in 10 minutes, i require to make lot of hard work because it is easy to write a long letter but very difficult to write a short letter that is why it is meaningful, secondly what i mean to impress upon we are judges, we have put many years in courts, no we have to educate judges, society expect lot from us, we are bound to perform, what i mean to say, are you able to cope with all that, yes definately everybody but what is required is how to manage time, how to manage doc etc etc that is tough by the every academy across the country.

i want to share one innovative idea with the other academy as if it could be implemented, it is my view i do not claim it is super view because i am a teacher, i am an educator, i must share something new with the academy what i feel why we have this polish off because we do not have those habits, we just called the specialized speakers for few lectures and what happens the induction judges they feel very good when they attend 55 minute lecture and thereafter they go out of the class room they start talking off the lunch they had, the places they visit because we have not worked those habits which we should develop. moving further i talk about this IAS academy, one book was taught the art of war, why it is taught, it is intentionally taught because it shows us how to develop habits which can help us in understanding change management etc whatever the management we are because the need of the ours is not the time management not doc management the need of the hour is self-management, now i suggest a book which we can include in the curriculum of those induction judges to make them positive, this is a wonder full book written by Stephen R. Covey, the 7 habits of highly effective people, i do not know how many of us have read this book, it describe 7 habits which successful person must possess. i want to discuss those habits, if a book like art of the war can be taught in the IAS academy then we must also use this book for judicial training. the author reveals the seven most effective habits that are following: 1. Be Proactive 2. Begin with the End in Mind 3. Put First Thing First 4. Think Win-Win 5. Seek First to understand, then to be Understood 6. Synergize 7. Sharpen your Saw

1. Be Proactive The most important things that the humans have is their ability to think. Animals do not have this ability. Only humans have the freedom to choose their thoughts. You can control your mind. You have the ability to control your moods, feelings and thoughts and by doing this you can change your circumstances and conditions. Proactive means taking initiatives. You need to become proactive, you need to take full responsibility of your life. You have ability to take actions and make things happen. There are two kinds of problems or obstacles we face in our life. First type are the problems you can do something to reduce them, while other

problems just occur in your life, you don't have any control on them. We should not blame why there is a lot of filing in my court because it is a matter of no concern, I have absolutely no control over the same. The author suggests to focus your time on what you can control instead of spending your time focusing on events that you cannot control. Take some actions to reduce your problems.

What is the second habit: personality? 2. Begin With The End In Mind In this chapter, you need to imagine, what the other people are saying and thinking about you if you are dead and they have come on your funeral? What character would you like them to have seen in you? What achievements and contributions would you want them to remember? The things you want them to say about you, are your core values so from now you should work on those values. You should develop a personal mission statement that focuses on what you want to be and do in your life.

Third habit is 3. Put First Thing First Put First thing first is the most powerful and effective habit, the author has written a whole book on this habit. This is the habit of time and life management. All the things you do daily can be divided in two categories they are either urgent and important or not urgent and not important. You should ask yourself this question "What one thing could you do that if you do on regular basis would make a tremendous positive difference in your life?" so the 7 habits are 1. Be Proactive 2. Begin with the End in Mind 3. Put First Thing First 4. Think Win-Win 5. Seek first to understand, then to be Understood 6. Synergize 7. Sharpen your Saw

Now we have Mr. Gautam Choudhary from Jharkhand Judicial Academy- good afternoon to all my colleagues, madam, Yogesh, it is true that I had a different strategy to present my presentation so taking a clue from what madam said I changed a bit, to begin with I would like to congratulate madam for selecting this book of Benjamin Cardozo, I was in fact not introduced to this book and I went through the book which is an excellent book with profound messages that every judge should

read, its application can be seen from day to day. how history and philosophy has a social conditioning and social imprints do influence, so i have a nice presentation on this so rather i will lead you to another book which i was very influenced by that book this is a book by Dr. Arun Mohan, Justice, Courts and delays, i know many of you must have read this book, Dr. Mohan is a legal luminary person, he earned a lot in his practice and i went through the book, when i joined the academy last year, i was going through the books, i found this book and what truck to my mind is the price of both the volumes, 250 rupees, two volumes 250 rupees, i thought it must be rubbish then i went through he book, in fact i have read any thing like that earlier as far as the civil suits are concerned, there is a frank discussion as to why there are lot of delays as far as civil suits are concerned, part of the blame lies on court and of course on the lawyers as well as on the litigants, but what was most beautiful of that book was that it says in 90% of the cases one of the party knows that he is on the wrong but he still persist with the case, what is the object of the litigants, he is not interested in justice, his purpose is to delay the adjudication because is the net gainer of the delay suppose i am a tenant and my friend from Kerala is the land owner and if my house is in the prime location delhi then i may prolong the trial and it night take 10 years in disposal so at the end of the day even if the land owner or the person who has filed a money suit, he does not actually get the recompense for the case he had bought so it is a win win situation for a person who is a tress passer or the person who is illegally continuing in the building, then he goes on economic aspect that how the growth of the country is affected by these suits now the people prefer the arbitration in Singapore and other cases and it is better to hire a goon then filing a case then the main points he hammer, there are provisions in the civil procedure code and the court are not willing to use that power but what is the motive for not using the power so what is the technique from which dialect tech tics of litigants can be minimized so the one of the technique is imposition of interest, cost and higher cost, we have the provisions there so section 35 B and 35 A is a letter amendment in the

statutes, 35 A is regarding bringing wrong claims or defense, another important amendment i will draw your attention is with respect to verification of complaints, pleadings, orders 7 rule 15, order 6 rule 15 so they are the amendment 2002 has been brought, it says that pleading is to be supported by affidavit so if you are, what is the affidavit, it is basically ex parte statement on oath so any party who makes a false or vicious claim and difference how many of us has prosecuted them then it comes the interest part he has dealt very wide, i thought he must have some economic backgrounds the way he has dealt entire economic scenario, so cut the matter in short all these powers must be invoked so there is also provision, order 17 adjournments, there also we have provision of imposing higher costs so in fact i acted on this book, i drafted on strategic action plan on the basis of what the matter has come in the book that is action strategic plan has been approved by the court so i do not know whether you have that book in your academy or not, i will recommend you that book is an excellent book. So thank you mam and thank you all my colleagues, the which is in my mind is the small one titled that 10 judgments that meet India Changed by Zia modi, who is the daughter of former Solicitor General Shri Soli Sorabjee and this has been forwarded by none other than Soli sorbjee and the duty of this is that if you read this book, you will having read all the 10 judgement say the authors view is very few in this book and in fact she had compiled the appreciations, the criticism and comments of other, in fact it is a compilation so the author has started from Keshvananda Bharti v. State of Kerala, as you know the keshva nanda bharti challenged the land reform act, the inclusion of the land reforms act and with this judgement overruled the judgement in the Golak Nath case which held that the fundamental rights can not be amended by the parliament and the authors notes that the importance of the judgement is it has laid down the principle of basic structure, he states that after this judgement, constitution shall be filter through the basic structure of the constitution, then there are few criticism also on this judgement by the author and the criticism she collected she said that the doctrine of basic structure doctrine finds no language in the

constitution, that is one criticism then there was more unanimity of opinion even among the majority and the author says the judgement has been contempt for being too lengthy thus crossing uncertainty about what the majority opinion collectively meant and she has discussed the effectiveness of the judgement and author has also considered the unsuccessful attempt of then chief justice to get this judgement reviewed and the author says that the bench was sort after two days of argument and according to her, what transpired in the secrecy, and for your information keshva nanda bharti still lives, he is running a ashram in the district called kasargod, which is northern district of kerala and if you go there, you will be given different exercises. then from keshava nanda bharti the author goes to maneka gandhi, the passport was confiscated by the morarji desai government, simply stating that it was necessary in the public interest and according to the author, this was the large judgement in a small case and the author says that the supreme court even cross the limits and this was criticized then book also refers to the fact that the constitutional assembly rejected the American theory of due process of law and inserted the procedure established by law and according to the author the principal of due process of law has been bought in to the constitution, although through the back door, that is what she said then from there she went to *Oliga tellis v. Mumbai Corporation* where the dwellers were attempted to be evicted forcefully and they were asked to take their residence somewhere else and the payment, slum dwellers filed the writ petition before the supreme court adopted a policy oriented approach and humanitarian approach and it was recognized that the right to life was invaluable then from there she went to the *Union carbide V. Union of India* and she criticized this judgement and she says that the not only criticized the judgement but also the settlement arrived by the supreme court and she says that as per the settlement if the compensation is distributed, victim kin will get only below 50000 rupees and this book is chapter under title justice delayed the loss through law, that was the expression she given then the according to her the supreme court did not avail the opportunity of explaining the law here.

she also questions the stand of the government of India that the Indian judicial system is under developed the Indian judicial system is not able to handle the tort of this magnitude and also that the indian lawyers are not that capable but the judge did not accept it and author says that when supreme court arrived at the settlement what was really proved was the stand of the union government before the foreign court and this was criticized like anything then authors considers the Indira sawney v. Union of India and this book the reservation policy from the british raj to the indian constitution was considered and then she goes to the vishakha v. state of rajasthan, lot of appreciation on this judgement and she also criticized the inaction of legislature on before and after the vishakha case, the other judgement which were discussed was Nilabati behra v. state of orissa, then supreme court advocated on record v. union of india that is all before the ring bells, thank you very much.

A.K. Mehbube Ali Khan

good afternoon everybody, i can see that everybody is very tensed because i have choose Cardozo again, how he dares to take the Cardozo again, yes , as our senior most Mr. Gaur said Cardozo is not a content which can be squeeze in half and hour, originally i prepared a presentation for half and hour but madam stated that it is only for 10 minutes so i squeezed and i got the concise version of cardozo shall i make, extra 2-3 minutes, ok right if you have enough of cardozo theory, philosophy, history and customs, traditions everything, right, let's play before entering in to the domain of cardozo, i want everybody including our madam to participate in this game, we will play a game of English and i want you all to take it back to the college days, whenever i go to the collage, i use this game, it is a very simple game, i will spell out the letters and you have to tell me the word, right, the fastest and the loudest will get the appreciation and i can recommend. ok shall we start? stepfather , stepmother, stepdaughter...see how this related to cardozo, i am coming to that just 5 or 7 words

converted your mind in to pronouncing stephen as stephen, if these 5 or 7 words have such a in our mind imagine what will be the of our personal instincts, now come to the cordozo, my understanding to the cardozo is nevertheless, our senior judge has explained everything ultimately in the conclusion, so the conclusion part he consigned so much, and from that i have culled out the most important thing, i will just skip through the what a judge has to say, He says that a judge has to interpret laws and fill up the gaps that are there by way of finding out proper precedents He wants the judges to decide cases by original thinking instead of following and applying the closest precedent available. New precedents are to be evolved to keep the system of law alive. Else it would wither and die. The idea of law changes according to the perception of the new and later generation. Precedents are the directive forces for deciding future litigations. So he has to decide keeping in mind the future developments also. Along the lines of 4 methods.

Method of Philosophy -Logical Progression

Historical development – Method of Evolution

Method of Traditions and Customs

Method of Sociology - Justice and Social Welfare

he has illustrated some of the things that influence the subconscious element, very good, as a judge i may adopt a method of philosophy, i may adopt the method of custom, i may adopt the method of sociology but even adopting that method has a influence it may influence by the followings.

Likes and dislikes, Predilections and Prejudices, emotions, habits and convictions.

These makes a man – Whether a Litigant or a Judge.

These influence his outlook of life.

These influence how judges look at the problem -

One from point of view of History,

Another from that of Philosophy

And yet another from that of Social Utility

While one is shy of change another dissatisfied with present.

so how to overcome these subconscious elements

Duty of judge is to find “objective truth”.

His own individuality, uncoordinated philosophies, personal weaknesses, prejudices must be laid aside and forgotten.

How to overcome these subconscious elements?

Training of the judge coupled with judicial temperament must emancipate him from the suggestive power of individual dislikes and prepossessions.

Law is never static. It slowly changes.

Little by little the old doctrine is undermined. It is so gradual that this significance is at first obscured.

Hence training is important in judicial academy, these can be work upon

Training is necessary

Proper and Effective Training to how should they overcome these influences by adopting these methodology so the duty of the judge as we all know is to find out objectivity

Coupled with judicial temperament will emancipate him from the suggestive power of individual dislikes and prepossessions. so to overcome these subconscious element training of the judge is very very important so this is my perception about the cardozo and this was prepared only yesterday, as my elder brother has covered a lot i thought i will discuss only aspect which is untouched, thank you madam, before the bells rings, I will take leave. Thank you very much. Now we will take a short tea break and meet at 3 o'clock..

SESSION 12

Impact of theatre play/drama participation on transfer of learning

Domestic violence, if they do not have any point, they should come to outer circle, exchange, ok what are the reasons under how to prevent domestic violence that is the topic, the reasons for domestic violence for avoiding, you can start, and develop the reasons for the, subject of domestic violence discuss among you and then if they are lost then outer circle people will come in inner circle, domestic violence not dowry. reasons. domestic violence, what are the reasons, now give it to next person, once you finished you have to go the outer circle, yaa, hahaha, that is why i stopped her, discuss among your self, everybody gets the chance, the movement you have contributed, you have to step back and go and allow the other person who is there in the outer circle to come and contribute, no nono, that is not the object, object is i tell you we all do group discussion, what you do, you must have seen break out group, if you actually walk in to those groups, you will see, one two people are taking and rest all are, you have said everything sir so they just sit like that so that is not the good way of dividing the groups, you should actually get involved and say this is what your group activity then real group activity will start otherwise, movement you say sir you are senior most, you are intelligent most, whatever most so we choose you as our leader so what happened the movement the leader is chosen. the responsibility is transferred to 4-5 people and and other are sitting there and enjoying, they will be talking this and that, everything under the sun but the topic, to avoid that thing, this technique is developed, this is called fish and bowl technique so this way whole group participate, this is actually real group discussion and this how you should do, so that you can adopt this techniques in your state judicial academies, this is he wanted to tell you, a technique, ok. he wanted to tell you this is the methodology that you must now adopt for your break up group exercise, no for example sir was saying if some body who does not want to go out , he would be taking actually whole idea, he would be taking and noting all the ideas

they will definitely taking one by one to outer circle right and people from outer circle would be coming so that way for say you are 20, so 20 jurisdictions will tell you or 20 courts will tell you, 20 issues with respect to their bail jurisdiction, this is how, rather than you are doing normal break out group, you just distribute and divide, its a technique.

now image exercise, that is also perception exercise, please come and sit here, can you all divide yourself in to two groups, so how many of you have the old lady? how many of you see both young lady and old lady but this is not clear this exercise is basically because if you have already prejudice that you will see, our picture is different, this picture is the same, what he wants to say is, but there is one another perception, it seems to be picture of soldier, wearing helmet and hiding himself in the bunker, hahaha, nice idea, this is about what we use to identify, first thing first, i will demonstrate it , two same size glasses, you have to tell me when it is full, is it full? no , is it full now? no, now it is full, is n't it? you know this exercise, it is not full, i can fill the gaps, this is an exercise, this is for time management and i will give you lecture after that.

SESSION 13

Impact of group activity on transfer of learning

Justice Manju Goel

Good morning, little louder, good morning, louder, louder, good morning, right, when we come to the academy, we have to forget our official status, getting in to academy and become a student, a learner, so demeanor here are to be different, not that you have become college students and becomes but all the same shake of inhibitions, that come up on us on becoming officers, what happened when we become officers, what changes do come upon us when we become officers, will any one share, what changes do come upon us, we carry the status in our mind, we seize to be what we were, we smile much less, sense of responsibility, more than that what comes upon us is that we are being watched, people are looking at us, people are commenting on us, so carry a particular demeanor, looks serious, do not smile, so to begin, to tell Dr. Geeta Oberoi, we struck a deal last night, so those who were not present at that time, let me tell you the deal is like this, today instead of visiting those three areas, for the sake of learning, we are going on a trip to bheem betika, which is a place associated with mahabhart, so having given us this liberty for an outing during the day we have decided to work in the night on our return and the three presentations tomorrow morning are going to be very very useful, this is the deal we have struck, we have chosen three leaders, 3 or 4, who will lead us, of course they will not work individually, they will involve their group, ok now Geeta can introduce me although, of course no body needs the introduction of Justice Manju Goel, Former Judge of the High Court of Delhi, also i do not know how many of you know that she is one of those 40 judges who are selected in year 2002 by Government of India and Supreme Court of India to do extensive training on gender justice and on which they are went for one month study to university of Warwick so these are actually trainers from India, who have been identified for

doing gender justice training so in fact you want to do any TOT at your place on gender justice, these 40 trainers you are suppose to call and hon'ble justice Manju Goel has always given back what she has learnt and she has also gone to canada and other country, and whatever she has learnt, she has given back to the system so this is very good thing about her and she is also see she is the member of NALSA at present, she also does TOT for NALSA, she has great contribution in that 40 hours mediation training for delhi High Court and in fact Justice Sarin was telling me about you that you were the main person who use to engaged in training of all those 40 hours trainers TOTs and mam is the regular resource person at National Judicial Academy since its inception so today i leave you in the company of mam, she will be able to tell you because as the directors of state judicial academies, how you should involve your judicial officer, how you should make them more participatory in the learning process because whatever you are leaning, you are doing for their benefit but at the same time, the transfer of learning should take place and how, what are those methods by which the effective transfer learning will take place would be told to you today by mam, with this short introduction mam i give you now, thank you so much mam, thank you Dr. Oberoi, i have been from the very beginning of this august institute, since then i have been seeing Geeta working very, Dr. Geeta oberoi, ofcourse she took a break from this place and got this degree, finished her doctorate and worked at various places including Mauritius as the chief of the their state judicial academy, so we got her back after her enrichment and she is of course giving back to us, particularly when we do not have full fledged director at the movement so the responsibility is on her which she is discharging with the best of her abilities, thank you Geeta, i start my formal session, well to begin with, we will get to know each other during the course of the day, i see from this much of andragogy and pedagogy has talked about and we all know by now the motivations for the adult learning who adult learners are different from the school children, we learn from our self, the basis difference is the school children learn because they really do not know why they are learning, they

know that they have to learn, they learn because they are sent to learn and motivation for their learning is not really much bigger than immediate you know this exams, you know they are very important, the peer pressure,

you know then gradually then they want to get status in their peer group and so they learn more and more, for adults, you know we all have a defined status but learning is self directed, we learn because we want to learn, if we do not want to learn, no body in this earth can teach us so we learn, we are motivated by inner drive to learn comes from some requirement of learning, very few of us now will go to learn say chinese, japanees language because we are not required to learn them but when we were students, we use to learn foreign languages, not knowing why we are learning this so this is the difference but now at the stage when we know that we can do without learning but still we learn, because we are motivated from inside now when we have cadre, whom we have to teach, so together we all learn and our learning is complete and one of the method by which we can do it is group discussion, now i have chosen for this, the topic of child custody, we are all here senior officers and we must have at one point of time or other dealt with problem of child custody, so we all know how we decide when the parents separate, and what is the underlying principle, pardon paramount interest, paramount interest is the welfare of the child but when it comes to,i mean it is very easy to say, but when there are conflicting claims, then it is difficult to say which way the custody of the child should go, now this is the question which involved information about the legal situation, also involves the perception of the individual because welfare is something which is to be helped in subjective manner, its not a quantitative analysis, its a qualitative analysis so here we have a combination of factors that involves knowledge and factors that involves personal perceptions

what should i say your invert knowledge about these things will work, your set of information and your own personality, how you look at things what is the meaning of welfare in your own perceptions so we have the legal pronouncement as to welfare and we will discuss all that at the end of the group discussion, i have come here to tell you how to develop a group discussion, right so as a trainer whenever we go, we have to keep in mind few things, the session plan which is the must, i would if the whole session is given to me like this then i meticulously divide the time for each part of the session, for today session i have taken 1 hour and 30 minutes, so how i have devised this session, before i go to time management, i must tell you what is my objective, objective of the session is to demonstrate one of the modules that is group discussion for adult learning through an every day topic that is today it is child custody, second objective of mine is to demonstrate how an exercise for group discussion or participatory learning can be devised and what is the outcome that i expect, the expected outcome, why i have come here to tell you all these, the participants shall use the technique of group discussion in the training of judicial officers so when i am telling you something, i must keep it in mind, what is my objective and what i expect you to do after i have finished the session, the participants will be able to convey the method of teaching learning to other trainers and other resource persons, you will yourself use but you will be resource person only on certain occasion, and the programme is going to be like this, introduction 5 minutes, the trainer will introduced the subject of child custody as also the method of participatory learning in the form of group discussion, now i have to tell you how group discussion goes, in every group there is a one person who is called as a moderator, the moderator duty is to engage the group in to discussion and to moderate the discussion, to encourage everybody to participate in the discussion and to see that the discussion goes ahead, it does not get stuck at one point and try to involve some kind of consensus in the group, then the group must also select the spoke person, the spoke person at the end of the group discussion has to present the views of the group to the whole group, whole group

means here may be 19 people so one group each will come and give their presentation on their view and when the views are presented, it may become whole group discussion so for group discussion, i have allotted 20 minutes for whole group discussion, the resource person shall pool all the points provided by the participants and will give conclusion at the end and then it will be followed by discussion on method, now importantly, when we see things and here, the true senses, you know the here and eyes both get involved so what we call an audio visual, which last longer, isn't it? so we try to make a audio visual thing, in group discussion you can make a audio visual discussion presentation, for that we can use the flip chart so each one of you we will give a flip chart, the movement you finish your discussion, immediately somebody will write out the points, not the whole discussion, three reasons you give and decide the topic so please divide yourself in to groups, i am going to bring the problem to you, you have 20 minutes, you will be asked to come by 10.10

20 minutes group discussion

come back, our time is over please join us, please join us, come back, please be quick with writing the flip chart,

good morning ma'am, good morning everybody, this was the case given to us, 3 minutes each group, the fundamentals points, it was considered that the child was the girl child she was a minor child and the main point which were considered that her mother was educated one and capable of taking care of the child and mother was living modest living and doing the stray job but at the same time we consider she is looking for a better one, better job also, it was also discussed that, paramount considerations would be welfare of the child, we will have to decide and we will have to take care of the welfare of the child, it is always consider by the society by the philosophers that the welfare of the child will always be in the hands of mother, father is about to remarry, this is one point, second point is mother is having a epilepsy feet, but we know this can be control after taking medicines so

we also considers this point, the next point was, father is a busy professional, indeed, if somebody is bust professional, it is very difficult to take care of child and we presume that during the day time he will not be present and he will not be taken case of the child, this was also consider and the second point was it is written here, point no. E that child had been particularly attached to the mother, she had been attached to the mother, this was also consider, contrary to this point, we consider that when the child was given to the fathers custody, mothers custody, she ran away and starts crying, finally we decide the case in the favor of mother, we decided that child would be given to mother with certain moderated amendments, excess rights periodically on weekends and on occasions and festivals would be given to both of the parents, at the same time the child should not be deprived of her right, love and affection of the either of the parents, it was decided by the group so this was the decision that we are going to hand over the child the mother, and came to the conclusion, thank you.

good morning everybody, since we all have the same problem, i am not going to highlight the facts and other things, we have decided to hand over the custody of the child to the mother because our consideration in favor of the mother as she was a female child of tender age and we all know that when the female child grows she has some physical things and that can not be looked after father and second thing is mother is not going to remarry and this fact is not being denied by the father, whereas the father is going to get marry, child has been attached to the mother admitted by the father and other thing is mother is educated, she is going to jobs and she is looking for better jobs also so being an educated female, she knows how to take care of her medical ailment so this can also take in to judicious notice of and another thing is these are things in favor of the mother against the father he is going to enter in to second marriage, he is busy in office and third is comforts, he says that mother can not provide refrigeration all other thing but paramount interest is the welfare of the

child not the temporary comfort and this can be done by ordering him to pay maintenance so that child can be taken care off by providing the comforts and more particularly the education and another thing is father can be given visitation rights and we have decided that custody of the child would go to mother and visitation right would be given to the father and so lastly the orders which are given in favor of the party who has refused custody that is in favor of the father is visitation rights, this is our decision, i thank you very much mam,

good morning everybody, without going in to details of the facts of the case, what we found out that the contention of the mother had not been denied by the father so we can take for sure that the contention of the mother has been admitted by the father, now we found out that the mother is educated so in future she can get some good job and provide good facility to her child, where as the father has given a probability of getting married for the second time and we are in doubt that the second wife might not take proper care of the child as her own mother would and in the formative years, emotionally, physically, mentally child is in the need of the mother, may be for the intermittent period, while the parties were separated for divorce and 6 months thereafter two child was not in direct attachment with the mother so got a bit emotionally inclined to the father but that is for a temporary period of a time, once she comes in contact with the mother, probably that cord will again revive so that way we have decided that the custody should be given to the mother and since child need both love and affection and care of both the parents, none of them should be deprived, the custody should go to the mother and visiting rights to the father so that in case in future somethings happens to the mother, the attachment of the child and the father still grows so that the father will be able to take care of the daughter, we can not deprive either of the parents of their right to be in touch with the child so as such the visitation rights goes to the father.

child to the mother and the reasons for this is the female child is at the tender age of 6 years and we all know that females are more attached to the mothers than the fathers, mother is living a modest living and this fact has not been controverted by the father in his petition, father has less time to spend time with the child, he is busy professional and this fact is accepted by him as well as the mother and a person who goes out in the morning and comes at night will not have the same time to devote to the child as a mother who is living a modest life and earning modestly, she would be able to devote more time and attention to the child, we found it very insignificant to equate with the welfare and the custody of the child, none of the contention of the mother has been controverted by the father so based on the facts of the case and points in favor of the mother we have decided to give child custody to the mother and visitation rights on the week ends to the father, that is it, thank you.

is there any discussion? let's understand the pros and cons, there is an aspect of remarriage of father who claims that this would be second wife, this is an aspect which needs considerations, a concept of share parenting which is abroad probably which invoked in many family courts in India, may be let the father remarry, let's see the situation, we can have share parenting 6 months initially with the father, let's see how the second wife deals with the child, whether father is able to spare some time for the child, and then we can consider the case after 6 months, as we have discussed child interest is the paramount thing as we have discussed so my humble view is let's not have extreme polarized views, see the contention of the father, she is educated and able to take care of the child then she is making a modest living by doing stray jobs and looking for better one, father is well placed and on point no. B also father has, marrying again does not mean that the child will be put to trouble so in my opinion, to live in family is better than alone so they in case the, every order under the guardian and wards act is of the nature of interim order, if there are change in circumstances that

can be reconsidered in appropriate petition when it comes then in case the step mother has step mother attitude to the child then it can be considered in appropriate petition, considering the indian standards, written statement or the counter statements denies every thing, so he might be a very good father who has conceded every thing and the father could have denied that the he could have said he has no plan to remarry, he did not do that and the child is very much comfortable with the father at present then why should be disturb now my duty is to complete the discussion, ok, now you all have considered every aspect and every aspect has both the sides, ok, this is pointed out in the end, father is equally capable, mother is educated but father is also educated, but if the problem is with me, i will think of few important things, first is that she is a girl child and girls need the mother, its not that girls are necessarily attached to the mother and boys are attached with the father, biologically child is attached to the mother, this is the common side, but the child is too young to make any referral, what we call intelligent reference, the child is too young to make any intelligent preference to make a decision, this has been taken from some ruling, because when you right the judgement, you need to empower, i need to empower to because you are going to take this decision to which i agree but if you have to right out a judgement, you certainly like to support your judgement with precedent so i will distribute it rather reading out to you, you can take it home and see for your self, there is a ruling on each and every point, ok, this is complete guide book on child custody, i have not suddenly done it, i have taken long years so in this you will get the ruling of the last at least of last 17 years so development of law through cases in 25 years in incorporated in this, now let me tell you some thing, there is something called share parenting or our law commission says joint custody, so now the law commission has developed this concept of joint custody which you will not find in this compilation, joint custody is concept in which both parents have custody of the child but for definite periods, since the parents are living apart and both parents can be legally and physically, if it is legal joint custody then both will be responsible for decisions to be taken for

the child and here we have the concept of parenting and we have a parenting plan so the law commission is saying that we may develop a concept of joint custody with a parenting plan so the parents may sit together despite their individual references as to decide their future plans vis a vis the child, so where does he go to study, you know, what are the subjects to be taken, what are the extra curricula activity, you see all these can be decided together so both parents are involved in upbringing of the child and another thing which was brought out by her that you know that the relationship with the father must continue, another thing which comes here if something happens to mother, the child does not find very difficult to move with the father so that bonding is very important, apart from this concept of joint custody for which you can read the law commission report, it added the concept of mediation and the law commission says that well the parents should be send for mediation over the custody of the child and mediator should bring the decision to the court and court should pass an order according to mediation settlement., with this i would conclude the discussion on child custody, now i will begin discussion on the method, i want your reaction, how did you feel doing this session, no no good se nahi hoga, if you say good, what was good, why good, there was sharing of ideas, there was sharing, discussion, immediate evaluation of ideas, involvement of all, anything more why you liked, optimum use of information, value information, this is very important in adult learning, what did we learn, and this is how much we learn, and if there is any gap that can be fill by the resource persons, now what preparation you make, first of all on the basis of fundamental case law and fundamental law, what problems would be created in place of among the group so these are three basis ingredients and then intelligent monitoring is also needed, there is a invisible work of the resource person, you know it look very easy for the resource person, but if you are the resource person for the group discussion then group discussion means how to create a problem, time management is extremely important, you see i can not create a problem which will take more then one hour to discuss, generally for any session in the judicial

academy we have 1 hour 30 seconds, ok, but if there is more than one resource persons and both have to divide the time between themselves, they won't get more than 15-20 minutes, so it is difficult to transfer the knowledge and convey the time so the resource person has to do this. Now this flip chart, when we make a flip chart at the spot please remember that the letters should be big and visible from the distance, you do not have to put so many words, only discussion on the pros and cons, the whole sentence is not required, only the moot point that only required.

Now to Geeta for closing remark, Dr. Geeta will give the closing remarks, I am not really prepared for this but as mam pointed out there are two methods, one is lecture method and these are andragogy, higher principals, in one of, I won't say drawback but when somebody has to lecture, you do not take much time, so that resource person will not take much time, so he is quite well versed, he knows how much he has to deal with in 15 minutes and it is an easy job for him as well as for you but think from the point of view of those who are listening, because when adults are forced to sit, they feel like going to bheem betika so you have to in your judicial academies, you have to use these new methodologies but in this methodology as mam rightly pointed out, it requires invisible work, there is a work, you may say that you have just divided the group and matter is finished, but it is not like that, you have to construct the problem and that requires time, they must know what kind of audience is there, so all these things they can think about and work upon so lot of invisible work goes on andragogy also, for all these 5 days we are sitting and learning how to transfer ideas, how to disseminate ideas so andragogy is one science where you get to know how learning takes place but then if you have to apply in your judicial academy then lot of invisible work goes on, lot of planning goes on, also yesterday we learn the fish and bound technique, you know that technique you can employ, it was very very participatory, and the one you does not want to participate can jot down the

notes and others can play the revolving chairs, so that is also one of the method, for this lot of preparation you need, like yesterday she was telling me, she prepare her plans so all these things, suppose mam had taken lecture on child custody, you would never have enjoyed, this is how adults operates so you have to actually make them participatory for JMFC, they have cleared the exam, they are magistrate so there is this i do not want to say, there is this that i am in the service, i have learned, i have done my LLB, what you are teaching is already there on the google and my i-pad and my smart phone so what are you teaching, so now with these gadgets the word of leaning is going to become more difficult, not in our time, when we were, there was no computers, no internet, and now we are in totally different world, when we were school, when teacher use to give us information, we were like haa its like that, no no more that, what you are telling, i know better then that, so how will you deal with that kind of resistance so therefore andragogy will help you as the mam has told you this group discussion is one of the principle of andragogy which will help you in your state judicial academy so thank you so much i think we should go for tea and coffee and back by 11.35.

SESSION 14

Designing game exercise for judicial training

Justice Manju Goel

done that successfully, so the whole group learnt more in fact, because each group not only came out with their solutions but also told the problem and naturally gave the law so the entire law of injunction they could take home, i also gave this 10 pages or 11 pages handout which incorporate everything for which a young lawyer should know, if he is coming with a suit for injunction and whatever may be the nature of suit be, he knows the law of injunction and he can apply the law for the benefit of her client, you can give one group, one kind of a discussion and a other group another problem, but at the end both the groups have learned about both the problems but the resource person again will naturally have to do double exercise, its a extra job for resource person, may be some time ex parte, may be some time on merits and wife wants to file an appeal and set the, and there was some delay in approaching the court, in the mean while he marries another because he has already obtained divorce and what is the fate of the women, i think he has to wait till appeal period is over, he waited and filed the con donation petition and delay was condoned by the court but the meanwhile he married another, ask gathering, why me?

there are two things, one is the validity of the marriage and another is the interest of the second wife, you see even if the marriage is invalid, the interest of the second wife can be protected, that way we have the law, you know in the law of maintenance and domestic violence and other laws. well, now we will begin with another method called quiz but before i start with a method, let's you know decide upon the plan for afternoon, at 1 we will leave, bata doe naa. you want to go to your rooms, you see we have to go to bheem betika but on way we are stopping to see the SOS

village. at SOS village we must divide ourself in to groups and we must see different aspects of that village and you are given 15 minutes to finish your visit, so that every part is seen not by all the person and tomorrow we will share our experiences about the SOS village, tomorrow we will find time, may be in the beginning or at the end to share our experience, is it done? so can we begin? ok, now we will see the efficacy of quiz and in order to know that do it practically, see how a quiz work as a teaching method, we have seen competition quiz, in competition quiz, learning takes place before the quiz and hardly any learning takes place actually during the game, during the competition, hardly any learn and in those where you say rapid fire, the viewer does not really understand what is happening, only the participants and quiz master knows what they are doing, which party is winning and which party is not winning but quiz can be a very good teaching method also, you see testing is part of teaching, testing is not a burden on the students, testing is a burden on the examiner as much if the exterminator is a teacher i mean, testing is a part of teacher learning process, quiz for us can also be a teaching learning process, when i give a quiz, i do not use it as examination, i do not use it as a contest but use it as a fun, you see its a everyday topic, you deal with it, every now and then you know almost everything but when you actually get a quiz question then you have to think and see whether we learn in the process and what is the job of trainer in this situation. this is an individual exercise, yes 10 minutes, 10 minutes is the time. over, now we will take the opinion, first is

1. Does the protection of Women from Domestic Violence Act, 2005 violate the guarantee of equality under the Constitution of India? No. Why? pardon, article 15 (c) what does it says, special provisions, what is the concept of equality? as we understand now, it is not formal equality, it is substantive equality, what does it really mean? can we expend this idea, any one of you, what is this concept of equality, how do we make two things compatible? that i understand, please expand.

it is the force that men uses against the women to dominate her to prevent such domination, to protect her from such domination, this act has been made, more concepts, its the instance of reasonable classification, protected discrimination, we have this document called CDAW, we all know about it, the convention and the declaration, right, the UN convention, convention on all forms of discrimination against women and there is this declaration for elimination of all forms of discrimination against the women, one is 1979 and the later one is of course more recent, ok why domestic violence discrimination? this is because the way the discrimination is defined in the CDAW document and we agree with that, India is a signatory to the document to the convention, this is how we now understand discrimination to be, anything that prevents a women from perusing her goals is discrimination, i am just saying in my language, generally speaking the core is anything that prevents the women from reaching the goals that she is pursuing will amount to discrimination so therefore, similarly in the workplace, if there is sexual harassment, it prevents her from pursuing her goal in the work life, not simply a criminal offence, similarly if a person is a victim of domestic violence, she can not live a useful purposeful life, therefore, it is discrimination against women and we can make special laws under article 15 of the constitution of India, now come to the second question.

2. as per the figures of National Crime Records bureau, the reported crimes against women in India is 2013 were:

a. less than 1 lakh b. more than 1,50,000 but less than 2 lakh

c. more then 2 lakhs

d. more then 3 lakhs

how many have marked A, how many have marked B, how many have marked C and how many have marked D, ok, mark D is the correct answer, as per the figures of National Crime Records bureau of 2013, the reported crimes against women in India is were 309546/ and we know this is the only tip of the ice berg. yesterday we saw that enormous movie, we could see how, you could see domestic violence, you could see discrimination against women, and you could see how they can take up as a part of their life. so we have to understand this that the reported crimes is 309546 but if it is only the tip of the ice berg, there real extent of crime against women is much much larger, now come to the third question,

3. Prior to the coming to coming to the force of the protection of women from Domestic Violence Act, 2005, women suffering from domestic violence could resort to: so what is your answer, Answer D, yes D is the correct answer, D is what

i) provisions of IPC such as section 498A IPC, 304 B IPC and offences relating to body,

ii) General Civil law relating to suits for injunction, possession, damages

iii) matrimonial Law

but the only difference here is that none of them has this protective mechanism vis a domestic violence has, the act itself is protection of women. so this is the major advantage of this Act.

4. Can a women 'married' to a man for about 2 years without prior knowledge of his earlier marriage seek relief under the Act? Yes. why and how? i would like to explain it, now the Supreme Court said that live in relationship has to be between two persons who can otherwise be capable of marry, now a married person can not, is not capable of marrying to a unmarried women so therefore, this can not be equated as live in relationship or the, that is the common law marriage, if it is not equivalent

to a common law marriage but at the same time if the women have been defrauded, husband has kept her in the dark that is why Hon'ble Supreme Court said in a recent case, Batra, ok as you can see this is a quiz, remember. this is a quiz prepared by Geetanjali, who is a district session Judge in delhi but i was the instructor for her to prepare this quiz and she has also prepared the key which i am going to hand over to you. it is no marriage because he was already married, therefore, he was not capable of marrying and the second marriage is bad, also extends protection to women who are in live in relationships and at the same time reiterate the legal position that long period of cohabitation between a man and a women raise a presumption of marriage and there is a case law given and the SC in D. vellusemi v. patchallyaman, 2010 (10) SCC 469, so we now know that even if it is second invalid marriage, the protection is extended to her by the Act,

5. Can a daughter in law seek a residence order in respect of the self-owned property of her mother in law?

NO, why? SC in batra case, which SC decision? Batra, yes that was the first decision, yes right to property is not there, you have only right to residence only but it can be claimed only against the husband and it can be claimed against the husband when husband has some interest in that property, if it is entirely self owned property of the mother in law, that right of residence can not be enforce by the daughter in law and in the key you have lot of judgement in this issue.

6. A women relative of the Husband can not be made a respondent under the DV Act. False. she can be, why? if she is related to the aggrieved person, no she is not relate to the aggrieved person, she is related to the respondent.

7. Can a husband file an application under the Act to restrain his wife from meeting the children?

NO

8. Can one kick given by a drunk husband be considered as normal wear and tear of marriage and not constituting domestic violence? Yes. it is domestic violence? or is it normal wear and tear of marriage? his intention is to be taken in to consideration, ok let's understand it, when it comes to matrimonial laws, say for divorce and if he says cruelty, one kick is enough for granting a divorce, i had one case in which the wife was doctor and the husband was also doctor and as happened some times, wife was more successful then the husband, which was difficult for husband to take and there were conflicts and it so happened one day, the husband walked in to the clinic of the wife and in presence of the public gave her a tight slap and she filed a suit for divorce and i was the judge, i thought enough is enough, very difficult to take that man as husband.

Let me request you to keep two things apart, one is cruelty and other is protecting a women from domestic violence, you see it may not be, you know good enough for granting a divorce but it may be good enough for granting a protection.

9. Can the police refuse to register an FIR for breach of a protection order? its a cognizable offence, the violation of the order is an offence, giving a kick is not a offence under domestic violence act, violation of an order is an offence and therefore, the police should not refuse to register an FIR, she can directly come to the court make a complaint or she can go to the police for registering an FIR,

10. Who can file a complaint under the DV Act?

A,c and D, yes, A is the women herself, B is the parents of the aggrieved women, yes of course and D is the protection officer, Correct, i do not think i need to further in to the details.

11. which of the following are the incidents of Domestic violence? a, c and d, any difference, unanimous, yes, ok, so i can move to the next question,

12. which of the following can be claimed in an application under the DV Act?

a, b and c, yes so answer is F, this is the answer. a is the husband be restrained from going to the school of the child, b is the the husband be directed to pay maintenance to the wife and c is the husband and in laws be directed to pay compensation for causing domestic violence.

13. Can an application under section 12 of the Act be filed before a family Court?

125 can be filed before the family court, in a pending petition it is possible even in the shape of interim application, if the matter is pending before the family court with other relief if you seek divorce or if you seek maintenance, this can also be done, so this is correct that an application under section 12 can be filed before a magistrate seeking one or more relief under the act, however, an application seeking any of the relief under the act may be filed in any pending proceeding in any civil court, family court or criminal court under section 26 of the Act and such relief may be sought in addition to the relief sought in other pending proceedings irrespective of whether such proceedings was initiated before or after the commencement of the Act, in case any relief has been obtained by the aggrieved person other then proceedings under the act she shall be bound to inform the magistrate about the grant of such relief, thus a separate application under the act can not be filed in a family court but an application can be filed under section 26 of the act in a pending case in a family court and in support there are rulings, which you will find in the keys which i am going to distribute you. Have you heard of parental child abduction, so if there is apprehension, if the parties are not living together, if the child is going to school and there is a fear of abduction then the court can pass

this order that you will not go to school and the school can be informed that the father will not be allowed to see the child, so in that situation this can be prevented by the court.

madam question 13, now yaa, question 13, can an application under section 12 be filed, 12 can not be filed, application under section 12 can not be filed under family court but if you are before the family court, you can take the root of section 26, ok now i conclude my session of quiz, Hon'ble lady ship i had one query if lady ship can enlighten, we were just talking of parental abduction, in fact there have been situations where the case is pending or yet to be filed , one strange parents are there, one parent abduct the child and application under section 97 is filed before the magistrate, so in such an event, the magistrate should ask the lady to file it where the actual domestic violation case filed or you can proceed simultaneously under section 97, no no i am trying to understand your problem, the child has been abducted by a parent, the other parent wants to file a criminal case under section 97 for the production of the child, abducted child, right, i can only tell you what the supreme court says, i have given the compilation of judgements, there you will find the case of sarita sharma, and there have been other cases in the same line, where the habeas corpus petition was filed by the husband, the facts were like this they were in America and there was this dispute between them, the husband and wife in America, the husband obtained a order from the American Court, preventing the wife from taking the children in a custody and perhaps also injunction against removing the children from that town but the wife managed to take the custody of the children and bring over them to India, in violation of that courts order, the husband promptly came to delhi and filed habeas corpus and the delhi High Court in view of the fact that the abduction has taken place in violation of the courts order immediately asked the wife to produce the kids, the wife goes to the supreme court and the SC says this is not the case for habeas corpus at all, SC said it is the child which is involved and the paramount interest here, paramount consideration is the welfare of the

child, who has abducted and who has violate the court order are not relevant considerations so parties were directed to seek a appropriate remedy from the court, seeking custody of the child from the appropriate court so this is what the SC says. if a case like this comes you keep the principle in mind, ok now only 8 minutes are left, i want to know your reaction to the method. have we learnt? we have learnt. and where we involved? and did we like it? what was good about it? why did you like it? so that we can exchange the views, and i myself learned so many new things, so many new perceptions, any thing more about this method, you covered a large area in a short span of time, every individual is involved, each and every participant could participate and do some activity, no body went to sleep, right? now what did the resource person do? key and questions both and when you will see the keys you will hey to know how much labor geetanjali has done to prepare this questionnaire and i tell you this was done under my guidance, this is the third attempt in which she is able to make it, first two attempts were discarded so it looks very simple i can also prepare a questionnaire but when we prepare a questionnaire, we have to keep in mind the participants, who are the participants, how much do they know? you can not put the question below their level, then quiz lost all its importance, isn't it, if i put all questions which you can not ever answer, it would also go futile so level of the participants has to be kept in view and the question should be such which can be answered plus questions which can not be answered, right so there should be some questions which are easy, some questions which are difficult and if possible, some questions of which answers are yet not known then the quiz has some interest. when i give the keys i give the analysis also including the international convention, the judgement, other discussion and reasoning in a case which is not tested in any court even that can be answered through logic so the key gives you answer to the every question in one of these methods, either by case law or analysis or by referring to international conventions so it gives you so much more then i remember there was one examination class 12 in which the mathematics paper was challenged in court, it was too long and no body could

answer that completely that question paper, i was also there, my son was there, the best student of the whole school was bitterly crying because he has never scored in his life less than 100, that was challenge in court and under court directions, a mathematics teacher was asked to answer that question paper in test conditions and that mathematics teacher took 15 minutes more, so when you set a questionnaire, you must keep the time in mind. ok so i have done my job, look at the watch and i have given you ample time to reflect, this has to be kept in mind, there has to be time for reflection that has to be built in to it so Geeta up to you, so we will break for, its lunch time but i would say one thing about this key that may be those people who have the residential training, like i know the maharashtra has, chandigarh has, i do not other state, if you have residential training, in your induction training, you can give judges two days, say for example negotiable instrument act, if you are doing that, may be 2-3 days you are going to study everything about the act about the latest case law and everything and then administer the quiz then the quiz will be actually instrument to access how much learning went when you left them alone to themselves to learn, that can also be you know one of the way to access, but do not take test, do not pressurize people that we are going to give you mark, we will take to High Court, we will take it to your ACR, ohh God, please, education should not be used for torture purposes at all so with this we will break for lunch and we all of us please meet us at at the most at 1.10, not more than that, yaa, mam case law relating to that child protection has to be circulated, ok ok.

Session 17

Justice Manju Goel

Good morning, so how has it been, the last 4 days, excellent, you liked it , ok, so today as promised we are going to have 3 or 4 or 5 i do not know how many are going to be presentations from you, each will give some sense oi achievement that we have been able to impart you some skills in training or in transferring knowledge to our junior colleagues, this is the sole aim of judicial academies, we are not like great man that every word fell from their lips became you know words of knowledge and wisdom, here we learn together but in this process i have to transfer whatever little i know to you and naturally you have to transfer to us and that is how the learning process goes when we are adult and i know for sure that some people here must be more knowledgeable then me but sharing is i may know some remote subject or i may not know which i have to impart and whatever knowledge you have, you have to impart so with this i think the first is experience sharing, experience sharing is the great way of learning particularly when we are in the job of problem solving, or developing best practices, now experience sharing can be done by somebody who is very senior who lives through all these years in work and have gathered you know some skills simply by way of experience so when he speaks those who does not have much experience can learn immediately, similarly when we all learning, the sharing of experience will enrich everybody, experience can be of two types, one we have succeeded and other where we have not succeeded so if you say that this was my problem and i use this method and i did not succeed may be one of the participant in this room may say, i had a problem and i succeeded or one may say i have this problem which i am unable to cope with, the other will say we also have the same problem and then we start the brain storming process to solve this problem which is commonly experience by all of us so with this introduction i will invite gaur to begin his presentation on his experience on the

administrative side, correct? or working as a director in the academy, you can come here, any power point? before that there will be, i give you a little lesson in feedback, we will give him a feedback, feedback can be on the subject which can be part of the session, feedback will also be on the manner of the presentation, OK, feedback is something very positive, feedback is not to criticize him, ok and not to discourage him, feedback is a `method by which we kind of tell our fellow offices or participants what was so great about the presentation and if something was not so great to tell, this part was not very great and one can improve on this by one method or the other, feedback should not be taken as a criticism and should not be given as a criticism, it is a great opportunity to receive a feedback because once we are adults nobody tells how i mistake, people live with mistakes and people criticize us for our mistakes, its only our parents who still may say what mistakes we make and if the spouse say that here it was wrong you, i remember once when i came to delhi as a judicial officer then many people wrote evidence in Hindi, now everybody writes evidence in hindi, it was preferred at that time that you write your testimony in hindi, in the same language in which the witness has spoken and i was very poor in hindi because i am educated in west bengal so with that i started writing my testimony in hindi and requested the lawyers please dont go away after this session is over please stay back and see whatever i have written and do correct me, i tell you no one helped me and i am sure latter on people must have great laugh for whatever i have written so i discontinued, i learned that you know that once we are adult no body is going to tell us, i have seen very senior lawyers making mistakes in their english, i have judgments in which grammar is wrong but who is going to tell them, nobody is going to tell them so this is the great opportunity of being with your own colleagues and to learn from them the little mistakes which we can correct with just little effort so with this over to Mr. Gaur, thank You, morning so who are the people who will give feedback, choose two, who will choose him very intently, two persons must opt that we are here to

give feedback, yes the other one, you are giving feedback, koi tou, ok two persons there and i will give feedback on feedback, ok, ok let's begin.

Mr. Gaur

thank you, morning again, the administration when you talk about it is all about solving problems and also creating a process or mechanism by which you solve the problems so in the process you create a hierarchy by which the problems are solved so i will give step by step what we have in our academy to resolve the issue and learn day to day affairs of the academy, now administrative set up, what kind of administrative set up do we have, so this is the hierarchy we have on the top of the ladder you find that the head of the department who happens to be our hon'ble chief justice then we have educational judicial training programme committee, which also the judges of the High Court then at the academy level we have chairperson who was the professor of law then we have, director, academics and the director, administrations, they also have their work divided, we have director, academics, who is generally involved in the training aspects of the matter and research activities then we have administrations, yours truly we generally look in to the day to day affairs of the administrations of the academics then we have additional directors who id there to assist the director, academics then the director, administrations then we have chief administrative officers who is there to supervise the work of all the branches or we can say branch in charges to look in to the branches work, now transaction of administration is very important, we do have branches and these branches broadly is this one is accounts and budget branch we have and then we have general administration branch, then we have establishment branch generally to look in to recruitment, leave application and all those things then we have a training branch which is our core activity where we have the bulk of people working then we also branch research branch which has allying with the training branch itself then laboratory computer branch, now the decision making at the level of

academy which i would say is the, there is a faculty which is cryogenic engine which do everything in the academy, this is also the think tank of the academy where the progrmmes, how they organised and then in the course of time you review the earlier programmes as well now if the decision making is high at the level of the High Court we have the conceptualization for lot of things which is done at the level of judicial education programme committee, now coming to there is another level of hierarchy which is available, which the government need to deal with them, for that purpose the department of law and justice is our nodel agency and the secretary law is our administrative secretary for all kind of sanctions we need to do through them. we have three committees, permanent committee, the purchase committee, staff grievances committee, besides these we have temporary committees working on work specific like you have for destruction of records that also you have, that is also possible or may be making a stalk inventory, so those committee you constitute time to time, now i think i have done it in 5 minutes may be, a very happy Diwali to all of you, experience sharing, i said it is about the process, i said the faculty remains the focus point, it is the place where we innovate about the things for example we have completely shifted in the course of time, delivering the material paper we are sort of in to the drop box and we compile that material and after compilation we make links to it so that we can reach to the paper you want, last time we were able to you know give about 2000 pages in that fashion which would not have been possible otherwise to keep printing those material and we have gone still further in that, we all sending all those material to e-books also that perhaps may be coming in the next programme, we have kind of experimental and it is working, the other things we have introduced recently about the feedback again which we also think that it is extremely extremely important issue for which we have designed the privacy policy which would mean that our experience would be like many of you must be also having, feedback is the area where lot of time reluctance is there on the part of the participants and they tend to be little diplomatic when you have the High Court judges coming in so

to take care of that to eliminate all those kind of fears we have designed a private policy itself, making it absolutely clear that what you give us is only used as a bundle of information. in feedback we also using what you call the google forms so it is again paper less, you do not require paper for that purpose, what you do is you designed digitally so if you have the smart phone, once my session is over you do not have to reach out the paper and write it down write at that point of time you can give feedback write away and the advantage is that immediately in terms of the percentage, bar charts, everything the movement it is done by you at the other hand it gets compiled so if you asked that information to the one year that what happens at what point of time, we will be able to give you that information at that particular point of time itself so that is another innovation we have done at this point of time. Thank You, Claps, sir, i had a question regarding, i am poor at answering, no no it is not, i just wanted to know about your experience regarding class 4 staffing pattern, because we had a issue in our academy, you know government is denying the to increase the strength, they are not agree to increase the sanction of class 4 and there are lot of maintenance problem arises so how you are coping with that issue, as such the staffing issue is concerned, i think at that level there is not, what we are talking, there is MTS, multi tasking staff, not necessary 4th class, we call them MTS, what happens is like i have come from judiciary so we allow to carry our own staff with us so they all add to the academic staff itself, now the real issue is with the branches that we have and the difficulty had been that in our academy the pay scales which were there earlier would not revised but on the other hand we find that the pay scale for the staff of the high court as well as district court has revised, so we have also asked to revised the pay scale and designation so that they sound equal to each other and there is no problem on the record and i have a feedback that this is being done on a urgent basis and may be we will have the parity coming in place and to meet that deficiency, right now we have already initiated the process of having people on deputation so like this we are managing our ideas and other things. Thank you.

Sir, i do appreciate your ideas about e-book and taking feedback from electronic medium and i am taking this idea from you and apply in my academy. now the material becomes easily available to you whereas if you give them in printing material, they generally remain lie in some shelf and in the end of some 5-6 months they ultimately gone, like i am working in X jurisdiction now if get shifted to Y jurisdiction, this material is still available with me and can still be used in some point or the other, so that is why we thought about it, e-book is something i like in terms of its utility as a reading thing, we use to read a particular way of reading, now everybody has laptops, i pads, its becomes easy for you to flip papers and reach that material, another small thing what we have done is we are extensively starting our nice mail account for sending SMS, like for example we are coming for a training programme, you likely to get one SMS from us that this is what it is so what we have done also is embedded link in the messages itself, if you click there, it will give you the directions so it is as simple as that so if you are driving and you do not have to ask any body for that matter that how do i reach this academy so there is SMS thing already in hand for which there is a link if you click and the google map will open for you and guide you to the academy, and we also give them reminder also so this services also we have started that for the resource person, this is the programme, this is what it is go as a reminder and you can link it with that, thank you.

i have the appreciations, i like your idea very much, what your academy sending the reminders to the faculties, in fact i was making call, hence forth i will also follow this procedure, thank you sir. thank you, thank you.

Feedback session. he has very well explained the administrative set up of the delhi judicial academy, the complete hierarchy from the head of the department to the last branch in charge and the duties of the different branches, accounts general administration, he has also explained very well decision making at academy level and he coined that term cryogenic engine, how the decision making takes

place and what is the core of decision making process, decision making at High Court level, at government level and also at the academic level, he has also explained us the financial powers of the chairperson of the academy and now financial things, further approvals and permissions are required to be taken, he has also explained the planed and non planed expenditure also and the various committees constituted in the academy on administrative side, it was really nicely explained but i would have appreciated few things which would have been added to it, like encountering problems at administrative level, we encounter problem at every level, right from class 4 level, managing the residential facilities to organizing a programme. how to go ahead with these kinds of eventualities, another thing is financial constants which is usually of concern in every administration if we talk informally among each other we would understand that we ask for 100 rupees and we get only 60 rupees plus x, y, z constraints, how do we get through it, another thing which Hon'ble Choudhary sir had pointed out is of staffing pattern, in fact we would have love to hear more about it but in any case you have covered it later on because this is the problem which everybody faces at some places we have permanent class 4 member or class 3 members who have hardly any interest in the running the administration properly and this causes great deal of concern, in fact we all are from the judicial background, non of us are MBA or management experts, running a big academy requires surely a management expert, despite this we are managing out academies at out best possible extent and in fact there are few more things like there are government finance commission, government has provided funds to it, funds to various academies, how things were manged in that 13th finance commission, for example any constrained from the state government level, so these are the aspects which could be covered but in any case sir you have explained it very nicely, how the administrative set up is and who looks after whom, the SMS facility that you have stated really it is a innovative thing and it will be our minds to implement it as soon as we get chance, we get funds to implement this policy, it was really overall a nice presentation, thank you.

mam, i am little bit confused, feedback regarding this session or the whole training programme, about me. actually i was preparing to give feedback for the whole training session but now i am cutting it and coming back to your experience sir, in our judicial academy we have administrative officer post is there, feedback to Mr. Gaur as to what he did very well, i am coming to the point, there is a rule for feedback, two things you will say, two aspect, i am coming to the point, sir when you were telling about your budgeting system and budgeting locations and financial aspects, sorting out in academy that is brilliant, and rest of the presentation was marvelous, thank you.

well, may i give you feedback on feedback, i have already given you feedback on feedback, it should not be too long, positive first negative latter, negative less, positive more and on presentation by Mr. Gaur, i think it was excellent presentation, even i was there as an administrator empty number of times i have been going there as judicial officer, so far as this power point is concerned, you have gone to the core of power point presentation, power points are actually points to be shown and excellently done because if you have too much written on the power point, you are torn between speaker and the screen, but only one slide i would like to improve, this is the decision making slide which was full sentenced, something like that, but if you have so many things written on the slide, i do not know which part to read and i do not know, so may be i t could be written in the words rather than in sentence it could have, you know i could have given 100/100, today i will give you 99/100 for this power point presentation, so who will share experience on the administrative side, you said, on the academic side, thank you.

very good morning, this is gautam kumar choudhary, Director, Judicial Academy, Jharkhand, Ranchi so i have a small presentation on academic activity in jharkhand judiciary, our experience, it was the part of the deal we struck yesterday with my lord to go to bheem betika, so judicial academy, runs in our state, it is not very much different from other state, we have jharkhand judiciary regulation and

regulation 3 defines the object of the academy and the brought parameters have been laid down in which it is to be done, in any case the broad as far as the subjects are concerned they are induction training programme for civil judge junior division, apart from that we have refresher training programmes for judicial officers as well as public prosecutors then it is intermittently it is, seminars and workshops that are being organised in the state, apart from this we have also capacity building courses for the civil court and high court staffs because capacity building is something it is to move from the individual level to institutional level, if the training is only confined to, it is some where sinking to the system so as a part of that exercise, the ministerial staff being as much important in the system because either it is the service of the summon or anything so they have to be considered as a integral part of the training, then we have another experience this is the introduction, we have introduced, we are also organizing circuit training programme, delhi is a small state but when it comes to larger state, of course the jharkhand is not that large but it is difficult for one judicial academy to cater so lot of judicial times also to be saved so that officer time not to be misused, so basically we are following a policy that refresher training programme only takes place on Saturdays and Sundays holidays, we have our holiday on monday, further to save the court working ours, 4 circuit programme on pilot basis, this year has been designed and we had one circuit training programme at dhanbad, apart from this we are also in some research activity, in order to facilitate this research what we have done, we have tide up with national law university, ranchi and we got the dr. shaymla and dr. murti to research they are the professors there, they have the expertise in the field, we have devised different forms, we sent it to the district and we got the inputs from them and now that research is in the advance stage, we hope to submit our report by may-june next year. now coming to the methodology to prepare the academic calendar, in order to access the needs of the, there are 2-3 methods, because we are getting the evaluation forms after the programme, there we are asked to suggest the subjects regarding which they need training, apart from that we have called

upon from the districts, the district judges to gather the information, but i must confess that it did not help much because what the district judges did that they sent all the topics, civil procedure code from top to bottom. I am also getting faculty from patna, we have some good faculty from there also and also from Calcutta and regarding reading material as we had discussed the last day we are also asking the participants to make contributions, we have requested them to send contributions regarding on reading materials and we have received very good material on that and in participatory and in induction course we ask the inductees to make presentation on individual topics and that was very excellent experience, i also set through the presentations, i must confess that very informative and it had some thing more then i had expected, very in depth analysis, because now it is very, now we are getting very bright officers and i must also say that there presentations were even better then some resource persons and it also involve all the officers that was also good exercise then we have practical session on legal topics, i am running short of time so be enlarge my experience is really as far as office, i learnt much here regarding androgyny classes, it is really needs to be a trainee exercise because to much of training even for the in service officers, it does not go well with them, only very self specific and areas where it needs improvements, in urban area we have that civil laws, civil laws is an area which is the, most of the officers who have joined early so regarding that we make specific publications and all. thank you.

who will give him the feedback. good morning everybody, sir you are excellent in getting us along with the scheduling the calendar as well as the, technology which you are inculcating, training to the judicial officers in jharkhnad and that was excellent and another thing which i appreciated was where you involve the participants getting there themselves preparing and getting their presentations, that was an excellent idea and we do follow in our academy also but i would also improve to that one and i will not say it is my negative feedback but what i learn from this presentation is i should test

my presentation earlier, i must give it to the staff and i was make them test it and that is one thing it would have been even better and enriching everybody and thank you very much sir, second feed back, your presentation was really very nice and i said it was really excellent, i am really benefited by the, knowing that you have started research programme and collaboration with the university that is really new concept for me and i think i will also go and transfer this learning to all my seniors who are actually working in this field, preparing the modules and all. sir i would have been more benefited just to know that how the training module is prepared, i mean who prepares and what is the procedure it goes through because it is not one man task and your presentation was also really nice, thank you.

madam, as far as the training module is concerned, there are different sources from where we get the inputs, one is from different state calender's because we ask for the academic calendar of different states then i told you regarding the, already we have received plethora of huge mass of topics from the district judiciary on which they wanted training but critical decision is your own experience but we have to take in to account the requirement in each particular state

sir you spoke that the training programmms are held on Saturday and Sunday so as to prevent the office time to cut and curtailed, what i say whenever such programmes are held on Saturdays and Sundays, the reaction off all those adult judges bit different, they come up with lot of anger that our holiday has been curtailed for nothing and then they, irritating since morning because they are, their holidays has been curtailed, what you have to say about this sir, as far as i will respond the common sense is that the largest number of holidays are in the civil courts so if Sundays goes in one month or two month then it is not a big deal

we are responsible institution and court working hours can not be sacrificed, the other comforts are less then the people who direct their way to courts and you are from Himachal, you are from hilly area, we have also hilly area where travel is difficult and when people come and know that their judge is gone for training, imagine their plight. thank you.

i think it was excellent session, feedback was also good, so far as the manner of presentation was concerned, i think it is very nice way of presenting, his language was simple, it reached all of us and second thing which we have learned which my friend says, ok one thing i would like to add, can we device a mechanism of sharing the reading material with the judicial academies, we have no problem with the resource persons for various reasons, we have the high court, we have the supreme court, we have senior advocates in the supreme courts, senior advocates in the high courts, in district court there are many experienced advocate, and we have the academies, we have the separate universities so we have plethora of resource persons, recently i was in manipur, in manipur its is a bigger problem, it is not easy to approach so if they want the resource persons from delhi or Calcutta so they have to wait for the resource persons so i do understand there is problem but how do we solve this problem, mam what we do in our judicial academy mam, what we do, suppose some obscure topic is there we generally our retire judge, district judge or retired high court judge or a advocate of the high court or senior advocate of the civil court and one academician and we offer them to sit collectively in the class and there is a joint session and all of them try to find out the solutions and the problems are discussed in the class so we know one faculty be the district judge or be an academician, if he is unable to solve the problem we go by this way, we select one person from judiciary, one from litigation and other from academics and composite class we conduct there in the academy, there is no solution.

hon'ble lady ship we at our institute we keep on interacting with even the senior member of the bar who are good at some field of law, we keep on consulting our academy, in addition to that we keep on searching the net, there are many resource persons who have uploaded their resumes, first we contact them, in such process we come across one expert in cyber law from pune so when we contacted and when we got very good feedback from various departments, very expert in cyber law who has given training in maharashtra, he must have visited NJA also the problem is that the honorarium they charge they quote, at times the decision making body decide that it is too exorbitant but i believe that good things do not come for free and if you want to equip our judge and prosecutors properly we need to spend money for that also and precisely for that purpose there is 13th finance fund and 14th finance fund, the things are under way, our proposal are immediately approved by high court but it is the state government who puts the cog in between so these are the issues, i myself looking for a resource person who can take on communications skills. yes lady ship at our institute we have been dealing with some professionals, one of the professional in maharashtra, we came to interact with him, he is specialized basically in parent counseling and child counselling, he is an expert, one mr. prof. Raja akash there, he has been certified as a recognized trainer even the government of maharashtra, i have his resume also, harish shetty is there, he is excellent, he is excellent, in fact the problem with the harish shetty is that he was not inclined to come down to nagpur, he is otherwise very excellent. in fact mr. harish shetty conducted one session for staff also. please give me the details how to contact, sure, so can i call off so far as session one is concerned, the tea has arrived, so we will take tea and come back immediately. thank you.

Session 18

Justice Manju Goel

OK friends, can i call you all back, who is the leader for this session, yes, basically we wanted to share a problem but since we did not have much time so will do drawing, we will circulate the problem with the participants, it is the methodology of group discussion as well as making them solve the problem. OK so who is taking, after that you will take it up, ok, introduction first, Lal from Chandigarh Judicial Academy so i am associated there with revenue training and of course some other topics so we have selected one topic on the, introduction of the subject, this is revenue records, the land records and today we are going to deal with one problem arising from the interpretation of revenue records and then a particular case which can be decided on the information derived from the revenue records, facts are taken from an actual case, now the question is can we discuss, can we decide it that we will demonstrate, now the case is like this, now this is one peace of land which belongs to the defendant, now this is the peace of land which belongs to the defendant, the land of the plaintiff is on this side, now this is the land of the plaintiff, now as per the field book and field map, the dimensions of the land, this is a khasara no. let's say this is 5 over 12 over 1, can anybody tell me why i have written this in red and why the lower portion in black, anybody can tell, yes, 5 is representing rectangle which is 25 peace acre of land and then this is the khasara no. 12, i will make a mustatti, haa yes, mustatti is bigger division of land which measures 200 karams and 180 karams, this is a rectangle, mustati is a urdu word for rectangle in English nothing more then that, now this mustatti divided in to 25 fields no. like this, now each of this khasara no. would measure 40 karam into 46 karam that would be 8 acres, each khasara no., now karam is a unit of linear measurement of land and different karams are used in different parts of the state so this karam which is used here is equal to 66 acres inches, this is post consolidation village, karam is 66

inches and where the karam is 55.157 inches, area would be bigha biswa, i will demonstrate it little latter., now this rectangle 5, khasra no. 12, now this has been divided in to two parts, this is one, this is 12 over one, 5 is the mustin, so now let us see the problem here, as per the field book and field map, the area of 5 over 12 over 1, 3 canals, 8 marala, this is the area of this khasra no. and as per the field book, the dimensions are 12, 37, 36 theses are the dimensions of these khasara no., right, now the plaintiff has filed the suit for possession saying that this has been wrongly recorded, therefore, this area is in wrongful possession of the defendant, this is the case, now defendant comes to the court and says 30 karam recorded in the record, presumption of truth attach, therefore, you can not succeed, since the time of consolidation, now can you find out, who is right, some method you can think of, now from this figure itself it can be found out who is right, this i am telling you, we will demonstrate you letter but can you yourself find out who is right from this figure, now for this i will give you few clues, the area of 5 over 12 over 1 is undisputed 3 canals 18 bharlas, there is no dispute on this, so we have now to find out if it is 30, what would be the area, if it is 318 then defendant is right, if it become more then plaintiff is right, now can you calculate the area from this, yes anyone. Yes first you attempt and then I will explain you. Now I will give the formula also, now you have to find out, now you have to work out the area of this khasara no. which belongs to the defendant, the only thing is what is the dimensions of the southern side, is it 30 or 27 that is all, area is not in dispute, area is 3 canals, sir basically i have one doubt the case is filed by the plaintiff, we are going to the extent of the land own by the defendant how he was forcing and instead of first of all the plaintiff, what is the extent of the land of the plaintiff as he claims whether it is there on the land or not, it is to be seen, whether defendant is more in extent in a occupation is not the criteria, this is from the actual case, now the case was plaintiff says he is the owner of this khasra no., true and this should measure 13 yes 28, 36, according to the plaintiff this is 27, therefore he should be given possession of this peace of land, true, but first we have to calculate the land in the possession

of the plaintiff by looking at the measurement of his land, what he has given and the field, you do it either way the result would be the same but you are putting burden on the defendant, you can do it either way the result would be the same, you do it, the question is can you find out the area from the dimensions that is the question, in trail court these kind of problem would keep on arising, yes who can do it.

Now who is right, that is the whole question, a judge can decide this case if he knows the revenue measurement, this is what i want to say without relying on patwari, they can also mislead so if you can yourself decide this problem in 5 minutes why we rely on others, that is the question, now you have got the point but let's calculate it, now this area, first we will divide in to two parts, this is triangle and this is rectangular as mam rightly pointed out, now the area of this triangle is 36 in to 12 which comes to how much 432 now this comes to 432 square karam and area of this if take it as 30, the area of this would be 36 in to 18 over 2, believing defendant case to be correct so this will come to how much 324, now if we add them this 6, 5, 7 this is the total area of this peace of land by taking this as 30, so this will come to multiply by 9, this is 84 marla, this would be 4 canal, 4 marlas, if defendant measurement is taken, the area of this would be 4 canal, 4 marla, actually it is 318, therefore, this 30 figure is wrong, now we substitute this with 27.

yes how much, $270 + 270$, one question that arose at the very beginning was that confusion between bigha, biswa, karla if you permit 2 minutes, i can explain that because you may need that, now if the karam is 66 inches, now see karam, karam is known by various names, it is called gattha and at some other place karam, so karam if it is 66 inches then as we have already seen, one square karam is sarsahi, 9 sarsahi one marla and 20 marla, one canal, 8 canal, 1 acre, with this it will be calculated in this manner but area in which karam is 57.157 inch, there one square karam is known as bismansee, 20 bismansee is equal to one biswa and 20 biswa is equal to one bigha, one canal 30 barla, now but

these known as kachha bighas, this i am saying because in certain area, they measure the land in pakkha bighas, there the karam is 99 inches, third system where the karam is 99 inches, one square karam is again a biswa but of a pakka bigha, and 20 biswa 1 pakka bigha, 1 pakka bigha in 3 times bigger then a kaccha bigha, and it is one pakka bigha is 3 kaccha bigha, 5 canals, one kaccha bigha, this is all for today, this topic i teach for 6 months in my academy but the methodology which we use is these two days in the class, we keep on preparing everything in the class itself. Everything is done by student themselves in the class itself. Thank you.

Justice Manju Goel

Feedback session, who will give feedback, we are still in problem solving mode, this method is known as problem solving method, yes yes, it was a excellent presentation in a very complex subjects and as i have stated earlier that these are the areas where the state judicial academies needs to focus and my colleague from Chandigarh judicial academy was thorough, very difficult to find any fault with the presentation, i have only words of appreciation, i am lost to find any shortcoming in his presentation, thank you. so this is the area where andragogy and pedagogy are one, you have used pedagogy principle in andragogy, because they beforehand do not know the subject, yes, this is the nice way of presenting in our induction training judges because most of them are directly coming from the university, they have no practical knowledge, even we do not understand it unless we learn it so i appreciate this Mr, Lal and i am planning to call him at my academy shortly because we are also going to do induction training there, i will be calling him for day or two so that our judges could also learn this from Mr. lal, because otherwise we are dependent on the village officers, i am thoroughly a urban based person so even this words give me shiver..heheh..you know these terms will give me shiver but today like a mathematics class student i have learnt it quite well, well i do not think any comments are required, all that i can say is presenter that you have to larger board, you

have to use larger letters and preferably write in capital letters so in the end we can do that without any difficulty, that is all i have to say, so can we move to the third presentation today, forth presentation today, yes, because we are planning to take break for lunch at 12.30, so let's finish the presentation and the feedback, what you need, i have prepared a quiz

good morning everybody, i myself pradeep kumar singh, i am from JTRI, Lucknow, and i am posted as additional director, i have joined there in 7th of April 2015 and today topic which i am going to deliver is dying declaration and i have prepared certain quiz which you have to solve in 10 minutes, there are only 15 questions, you have to solve in, questions are very easy, not very tough and very useful for our day to day work in deciding session trials, where dying declaration are recorded, every question is based on case law of hon'ble supreme court, only 2 minutes are left, if every has done we can start in 2 minutes, i would like to get distributed answers first then we will discuss it, it will be better. so the first question is very easy, whether conviction can be recorded on DD alone, answer is very easy, yes, i the dd is reliable, inspire confidence, in all sort of circumstances related to it in favor of the dd then we can rely on it alone, i have mentioned the latest law which i have come across and this is Umakant v. state of chattisgarh, reported in SCC 2014, vol. 6, 6655, i have also mentioned the latest law behind it, second question is dd may be recorded as answer form, dictation form, in style of story writing, in shape of letter form, the answer is all above, go through that key, E all above, one law was also mentioned in other question where it is given ki dd is recorded in the language other then language known to the diseased, that is why this answer is given all above, that law should be mentioned, left out hoe gaya. we move to next question whether carbon copy of dying declaration is relevant, answer is yes, subject to the condition, we may be followed the procedure for secondary evidence, the forth question is whether the oral dying declaration is relevant, answer is yes, this is old law but 5 judges bench has decided this so i relied on it, 5th is dying declaration is

recorded by police, magistrate, doctor, public or any body can record, because oral dying declaration is recorded by public, dying declaration may be relied if not recorded in the language of declaration, this is the question on which i based the answer of that question in which several laws i have mentioned, in the last case law, hon'ble supreme court find it doubtful, three dying declaration which originally recorded in Kannada, according to learned party to appellant, credibility if 3 dying declaration above mentioned facts creates doubt as to truthfulness of the dying declaration as the possibility of diseased being influenced by somebody in making the dying declaration can not be ruled out but in the law mentioned before it, the doctor certify the translation that is why supreme court rely in that case ki that translation is as good we can consider it, the whole crux of the matter is ki if the dd recorded by anybody, by any person, in any language, if it is reliable otherwise then we can proceed accordingly, next question is whether the dd record in the few of the relatives of the diseased, standing in would be relevant, yes there the same principle would apply, next question is 8th one, whether the certificate of fitness issued by doctor is necessary in recording dd, no, not necessary, as a rule of cation, it must be there, but law does not require as necessary step because the satisfaction of the person who is going to record, or who had recorded the dying declaration is sufficient. next question is whether the cause of death mention by doctor may be treated as dd, no because it is not necessary that the doctor has recorded, field the form on the information of the diseased, it may be that the near relative who carried him, who bring that victim, they told the doctor some facts and doctor recorded it, that would be the another case, simple question is this, the conditions are not mentioned, exception conditions are not mentioned, we will decide the case, considering the exceptional conditions as per the facts of the case but generally we do not, you can change answer of all the questions putting in to once, but you can change the answer of all the questions, here the question is regarding most probable situation which occurs in the cases where it is explained that the doctor has recorded all the information of the diseased and thereafter, that

diseased changed his version, further i will show you the law, where the diseased first said some other story and in dd she narrated another story, even then supreme court relied on the second story, the next question is whether the examination of doctor in who's presence the dying declaration was recorded or who endorsed it, answer is no, i think no explanation is required for it, whether putting thumb impression on some declaration at dd is doubtful, no, because in burning cases where both hands are burnt how she can put sign her dying declaration, if thumb is remained uninjured she can put thumb impression, which of the following is correct, two contradictory form of dd would not always be reliable, is this correct or wrong, both are wrong, it depends upon circumstances, two contradictory statement will not always be reliable is wrong because, if the second one is fulfilling all the requirements of law then we can rely in any one, although they are contradictory, although they are omissions, that was the law i mentioned earlier where she omitted certain facts in first one and then supreme court relied on the second one, whether FIR can be treated as dying declaration, yes everyone knows, from old laws to new law, i have mentioned, which i found, i am not discussing laws at length, answer is yes but with certain reservations that similar case is with the FIR also, all sort of FIR are not treated as dying declaration, all sort of 161 will not be treated as dying declaration, there are certain reservations, those reservations are the FIR is recorded on the information soon after the FIR without any hindrance of outer material then it will be treated as dying declaration, similarly with the statement of 161, if it is recorded without any indulgence of the outer material, any person who prompted the diseased one and his/her statement was going to be recorded, if this kind of circumstances comes with us, we will not rely, but the general answer is yes we can rely, last question would be very interesting, whether the dying declaration of one diseased could be relevant for the death of other in this same incident, most of the answer i think it should be no, but the correct answer is yes, the latest law has mentioned, in this case, two persons were died in same incident, hon'ble supreme court said ki ok, dying declaration of

one diseased would not be relevant under section 32 for the others death but because the death has been happened in the same transactions so we will apply the principle of that law and we will make it relevant for others death, so that is all, thank you.

Feedback session, i have a question regarding dying declaration, should the dying declaration given in a case of suicide and the dying declaration given in a case of, they deferentially treated, am i clear, in a dying declaration given by a diseased, who's death was because of suicide and in another case, the dying declaration given by the person in the event of in homicidal death, should they be equated and taken on the same way, you see as far as my knowledge is concerned, whatever i have studied about the dying declaration, whatever kind of dying declaration is there, hon'ble supreme court says only one bottom principle we have to go through the all circumstances connected to dying declaration, whether it is reliable or not reliable, such as fixed state of mind, there is no any indulgence of outer material and subject matter, the facts mentioned in it are in collaboration with the other evidence so these are the basic principle on which we have to testify the dying declaration, other it is given in suicidal case, or whether it is given in homicide case, so far as the suicidal case is concerned, as i assumed, it is very difficult to have, because the person has already died, he has no time to give any dying declaration but he lives suicidal note, that suicidal note we can treat as dying declaration. As far as the practical working experience goes, my perception in this matter is, although what you stated is the law of the land, no difference is maintained between suicidal and homicidal cases but both the dying declaration, the last statement, whatever it may be are product of the different state of mind, in a case of homicidal death, you can not attribute bitterness to the person who has died so the element of truth in that naturally will be, suicide is all together is a different thing, a person committing suicide, if the other evidence proves that, the lady has in fact committed suicide, or any person has committed suicide, the suicide is an act which is a product of the very

bitter state of mind and as sigman froyed has stated that suicide is not committed to heart one self, he has gone on record to say that, suicide is committed to heart others so we can find cases that in persons who are committing suicide, they have tendency to implicate the entire family but the law as it is, but the trial judge should have this in mind because factually to my mind that both can not be just equated, that is my view, you are true and that is why supreme court categorically mentioned in several laws that not in case of suicidal notes also, in case of dying declaration also, a judge has to be conscious about other circumstances, it is true that the person who is going to die will not tell untrue facts, especially regarding cause of his death but hon'ble supreme court i think something in their mind that there is a possibility that a dying declaration also may implicate some false persons so that is why the rule of caution is given by Hon'ble Supreme Court ki that we have to check all the circumstances, facts mentioned in dying declaration with the help of other evidence also, we have to keep this in mind, similar is the case with suicidal note, that thing i have already underlined so next any other question, i think everyone is satisfied.

Feedback time, who will give feedback, yes, and he still managed to go through the case laws and put a question, it required a lot of effort, i can see that, mistakes here and there are always possible, but full marks to him for having prepared this quiz, anything where he can improve, i think nothing much to say on that aspect, may be, i do not see any thing wrong, yes ananya any feedback, he did a excellent job within such a small time frame, going for a research and compile it and apply his mind and everything then we also have to learn something that in such short period of time, we have to concentrate on the details to be very specific so that not much mistakes happened, ok, ok, now to speak on the dying declaration, it is a peace of evidence, right, it is a peace of evidence, it is not a conclusive proof, right, and the reason we rely on the dying declaration is that no man will made the maker with a lie in his lips, so with this principle, the dying declaration is accessed, 161 is recorded at

a particular stage with a particular view, it may also be a dying declaration so the dying declaration may be in the form of 161 so i mean what i mean to say is that the questions are excellent, you have evolved us all and given time, you could have discussed all the law of dying declaration based on this questionnaire, may be for the whole week, but because i am compelled to say something more, i will say that in the given time or may be in the next attempt, this questions could be refined as i said questioned prepared by Geetanjali which was on domestic violence was questionnaire prepared on the third attempt, first attempt she made, i rejected, second attempt she made, i rejected but both the times we discussed, what should be the form of questions and when we make the questions and decide on the form, we take the level of the participants in to considerations, what is the considerations of the participants, question can be more complicated and then you can still raise the discussion to a higher level, you see, when we make this questions, we must also take in to considerations our own experience, as a judge you know, you have some kind of experience, put those questions in the questionnaire, so it will become richer, much bigger, you know in dying declaration, one lady said my parents in law are excellent parents, do not take any action against them, so i asked will it be a dying declaration, then i read section 32 again, it says about the cause of death so this statement was not because of the cause of the death, isn't it, my parents in law are nice people is not telling us about the cause of death, therefore, this can not be treated as a dying declaration so this are practical thing which you may not find in rulings, so be sometimes it adds more flavor, makes it more spicy and i am really proud that you have adopted the method which is preferred by me, which is also now preferred by many academies, i mean law colleges where i go and teach methodologies and i find it is easily picked up, its a good starting point for ant education for any class, suppose you are going to a class of first year LLB, they know nothing about dying declaration, you just introduced the subject and give them a small quiz and they answer without having knowledge of technicalities, they will make some answers then you teach the subject and then

you give the same questionnaire again, ok so it evolves lot of interest, you know giving the quiz to people who have very little knowledge, giving quiz to people who have all the knowledge like we all have dealt with dying declaration and even then you know there was lot of nervousness when i was ticking this, i was not very sure, whether i was taking the right answer or not and i am not very keenly hearing you what is the answer given by the courts so this is the importance of quiz, although it is a everyday subject, we do it everyday but when it comes to very specific A or B, you are thinking before you are ticking so it tells us where we are and the journey ahead, i have written in that short notes also, short notes for quiz, have you got that short notes, that we tells us where we are and how far we have to go so with this i will finish and Geeta will give you the feedback forms for the session, ok, thank you, we start our evaluation session, can we all have big round of applause for Justice Manju Goel, thank you so much ma'am, so your sessions are over, your feedback, you can give, your lunch and journey ahead.