



Workshop on Adjudicating Terrorism Cases (P-1170)
Implementing The Hague Memorandum in India:
Good Practices for the Adjudication of Terrorism Cases

In collaboration with the CEELI Institute, Prague and the Federal Judicial Center, Washington D.C.

28 - 29 September, 2019

Programme Agenda

Day 1: Saturday (September 28, 2019)

9:30 AM – 9:45 AM	<i>Introduction by the Hon'ble Director, NJA – Justice G. Raghuram</i>
9:45 AM – 10:00 AM	<i>Program Opening: A brief overview of the Program by Justice Sanjeev Kumar</i>
Session 1 10:00 AM – 11:00 AM	<i>Fair Trial – Justice Sanjeev Kumar</i> The session will cover the overarching concepts and mechanisms by which a judge can ensure a fair trial in spite of the inherent difficulties of a terrorism case. Concepts including ensuring a speedy trial, open vs.in-camera courtrooms, and subconscious bias will all be addressed.
11:00 AM – 11:30 AM	Tea Break
Session 2 11:30 AM – 12:45 PM	<i>Laws relating to Terrorism Cases – Justice N. Kotiswar Singh</i> The session will introduce participants to the important facets of Indian law, both substantive and procedural, concerning terrorism related cases. Judges will gain an appreciation for the differences between ordinary criminal laws (substantive and procedure) and laws specifically governing terrorism and terrorism-related cases; gaining an understanding of the peculiarities and significance of the latter.



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12:45 PM – 1:45 PM	Lunch Break
Session 3 1:45 PM – 3:00 PM	<i>Framing Charges and Unique Features of Terrorism Trial</i> – Justice P.N. Prakash The session will assist participants to understand how to begin a terrorist trial by framing appropriate charges and ensuring adequate defense for the defendant. The session will include a discussion of charging provisions in the Unlawful Activities (Prevention) Act, as well as the burden of proof under the Indian Evidence Act and special burden requirements under terrorism laws.
3:00 PM – 3:30 PM	Tea Break
Session 4 3:30 PM – 4:45 PM	<i>Case Management in Terrorism Cases & Offences Against National Security</i> – Justice G.S. Kulkarni The session will cover methods of effective case management including judicial leadership, mastery of the record and law by the judge, the ability to setup a pre-trial conference quickly and adequately, use of a continuous trial, witness management, and the use of courtroom technology for improved organization.

Day 2: Sunday (September 29, 2019)

Session 5 9:30 AM – 10:45 AM	<i>Evidence, Mutual Legal Assistance Treaty (MLAT) and Extradition</i> – Justice Atul Sreedharan The session will introduce judges to the complex process of assessing evidence in terrorism cases. We will also discuss the MLAT process, how to access evidence from foreign sources, and the impact of confidentiality. The discussions will also cover procedures and steps to acquire relevant evidence from international sources.
10:45 AM – 11:15 AM	Tea Break
Session 6 11:15 AM – 12:30 PM	<i>Judicial and Courtroom Security</i> – Justice Joymalya Bagchi The session will focus on the importance of providing security to all stakeholders in the justice delivery system. This will include a discussion on the role of judge as a facilitator to prepare and implement a security plan, including



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	witness protection measures, and to continuously monitor and supervise the security plan execution throughout the trial.
12:30 PM – 1:30 PM	Lunch Break
Session 7 1:30 PM – 2:45 PM	<i>Forensics and Digital Evidence</i> – Justice Raja Vijayaraghavan The session will highlight broad aspects of the collection, preservation, admissibility, and relevance of forensic and digital evidence. The session aims to enhance skills that will be valuable for a trial judge when tasked with assessing relevance and admissibility.
Session 8 2:45 PM – 4:00 PM	<i>Managing Media in Adjudicating Terrorism Cases</i> – Justice S. Talapatra The session will confront the difficulty in managing media attention in a high-profile terrorism case. Understanding that timely access to accurate information of court proceedings increases transparency and public confidence in the fairness of the Justice System, participants will formulate a comprehensive media plan through which they can implement strategies to regulate conduct of the proceedings and maintain decorum, prevent distraction, and ensure safety of courthouse personnel.
4:00 PM – 4:15 PM	Wrap-up



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Participants are requested to read facts of the hypothetical case (below) and frame charges. The hypothetical study will be used for discussion during the Session 3: *Framing Charges and Unique Features of Terrorism Trial* by Justice P.N. Prakash, Judge Madras High Court.

HOMEWORK

'A', a leader of Al-Qaeda in Iraq decides to blow-up Taj Mahal on 26.01.2019 in order to disrupt communal harmony in India as part of Jihad. He discusses the plan on 01.01.2019 with his protégé 'B' in Delhi, pursuant to which, B enlists the cooperation of 'C', 'D' and 'E' who are also in India. C procures RDX from Mumbai on 12.01.2019 and hands it over to D at Mumbai on 13.01.2019. D transports it to Delhi on 15.01.2019 and gives it to E on 20.01.2019. C and D enlist the cooperation of F to give them asylum in his house in Delhi and accordingly C, D and E stay in F's house. On 26.01.2019, E blows himself up with RDX strapped around his waist in Taj Mahal. Taj Mahal does not suffer any damage but five foreign tourists die. B, C and F are arrested by the Indian Police on 28.01.2019 when they were attempting to cross-over to Pakistan.

A is absconding. B, C and F are before you.

Frame charges.