

**COLLOQUIUM ON COURT PROCEDURE AND PRACTICE FOR JUDGES HEADING  
THE STATE COURT MANAGEMENT SYSTEM COMMITTEE AND MEMBER  
JUDGES OF THE COMMITTEE [P-960]**

**12<sup>th</sup>-13<sup>th</sup> December, 2015**



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**VERBATIM REPORT**

**PREPARED BY:**

**RUCHI SINGH**

**LAW ASSOCIATE**

**NATIONAL JUDICIAL ACADEMY**

**BHOPAL**

## Session 1

### **Prof. Mohan Gopal:**

I would like to wish all the honourable judges a very good morning, and ones again on behalf of all of all my colleagues I welcome you to your Academy and for me personally it's a great not only privilege and honour but a great pleasure to be able to meet many of the honourable judges here after a substantial gap. Although I keep coming to the academy but did not had a chance to meet and I am very happy to see you and I am specially happy that we have a very senior and very distinguished group of honourable judges in this room and to spend 2 days on a very important topic also very privileged to have chief justice Jayant Patel who is also very graciously been working on all these issues for many years in Gujarat as well as the National level and so it is a great honour and privilege sir that you kindly consented to be here with us and consented to our request to kindly chair the proceedings and also a great honour to have with us from the in NCMS side Justice Reddy and justice Dutta who are both members of the NCMS and Mr Bora who is the Deputy Director General of the ministry of statistics and programme implementation who is also a member of NCMS and the chief justice Ansari who is also a member of in NCMS took ill in Delhi he came up to Delhi and then contracted a flu this morning and so was unable to get the flight this morning to come here and Chief Justice Khanwilkar who was also a former member of the NCMS and we had specially requested him to come and he had graciously agreed to come but he had to face a flash strike of the bar apparently and so at the last minute he expressed his inability to be here and another former member of the committee chief justice Rohini was also to be here and Justice Badar Ahmed and then they both been asked to attend the National Lok Adalat in Delhi. Justice Ahmed is a member of the committee and he was very keen to send and has agreed to come and I am sure his disappointment is equal to ours that he is not able to be here he actually has a very along with the other judges hear but of the authors of the report we have Justice Dipankar Dutta here and Justice Ahmed in the committee and they had very detailed reports on which they present wonderfully. I'm disappointed that Justice Ahmed is not here but others are here to carry that burden as well as we can. With your permission sir we can begin with the words from you and then I can give a little introduction about what we have done so far I just want to say that our purpose in requesting and organizing this discussion for a day and half is really to get orders from all of you on what NCMS should be doing, so will give you some detailed presentation

on what NCMS is now doing what you're thinking of and We will also present you the documents we are working with because the main purpose of NCMS is to strengthen collectively , to provide a forum where all the high court can come together discuss together and collectively work to strengthen each other and at the national level and so unless we are guided by the high courts on cross cutting issues which are useful to you we will not serve our purpose. We will really be looking to you to guide us in this day and a half after hearing from us about what we are doing. What you think can be corrected, improved what are the areas where we can help you to strengthen the efforts of the high courts to improve judicial administration in the country. I will also make a short presentation on the ten or twelve areas on which we have worked in the last 3-4 years and where we have made progress and what we are planning to do in future so that is the main purpose of our being here. So after we have few words from you and any preliminary comments from any of the honourable judges, then I can describe what NCMS is doing in a few minutes. Deeply privileged and honoured to have all of you here. Thank you Sir.

**Justice Jayant Patel:** Good morning to everybody. As such I was one of the participants in the conference, but at the request of Prof. Mohan Gopal I am asked to chair the portion. By now everybody knows in the whole high court that till now prior to the constitution the NCMS the courts were being looked after in a traditional way. There was no systematic planning. Ofcourse in budgeting and planning of course there was planning but in the professional point of view, in managerial capacity there was no effort. You all know that the Supreme Court constituted NCMS and it has been decided that every state, every high court will have SCMSC. In the last conference that was held in Supreme Court under the chairmanship of Justice Thakur, now CJI and Justice Deepak Mishra. So there were certain deliberations and certain issues were discussed which may have different method of working different types of litigation and even lawyers, even to some extend judicial officers.

Therefore it was suggested that every high court would have its own SCMSC. The broad parameters are being given by the Supreme Court, in that NCMSC report, and by now I am told that 17 high courts have already provided their vision document, including our Gujarat High Court. Still that means that about more than 10 high courts have yet to prepare their drafts, their vision documents. We have the model, and if the model is there you will frame your ideas, the architect will guide. Therefore if the vision statements are prepared by each high court, there will be some

improvement or some modification on account of some typical situation arising in that particular high court. There are certain issues, more particularly of the standardization of the units for disposal of the matters. We could see that there is a lot of difference between our high court standardization in comparison with the other high courts. Let us say for admiralty suit, only a limited high court will have that jurisdiction, so you will see the litigation of that types only. The typical types of suits such as testamentary suits, you take it the Bombay High Court will have more litigation of that types. Ofcourse the unit system is not considered for the purpose of high court, but it is constituted for only the subordinate judiciary. But when you consider the matter or disposal, I would suggest that so far the high courts are concerned as it has been standardized by the government of India, for the sanctioned strength of each high court that should be taken into consideration. So far as the district judiciary is concerned there is a lot of difference. Therefore I would suggest that the NCMSC, and you can also express your view that some minimum and maximum criteria has to be provided for unit disposal, and each high court has to provide the nature of litigation and the normal time taken to module it. Thereafter if you compare the performance of any state unless there is a standardization it is difficult, only otherwise you will go with the figure. It would not suggest that, let us say as I said admiralty issues, initially for interim injunction it is all right but for final disposal it takes a long time, same is for testamentary succession suits, which is the original jurisdiction of the high court. Election petition more or less the same time is to take place in all litigation. This were broad points which I thought i should put to the House, ultimately we will deliberate on this and prof. Mohan Gopal who is the chairperson of the NCMSC would be in a better position to throw lights and express his views.

**Prof. Mohan Gopal:** Thank you sir, I was wondering if Justice Reddy and Justice Dutta would like to say anything in the beginning

**Justice Reddy:**

Good morning to all of you. We have today by way of introduction three papers, copies of which are given to you. One is on the case management, second is on court development and third which my brother Deepankar Dutta has made is on human resource development strategies. These three we thought were important, and you go through all these papers you would get to know what is the policy that is required to be considered by each of the high court, because jurisdictions are different and ground understanding of things are totally different. What is good for Karnataka may

not be good for Gujarat, as my brother Patel has mentioned, there is a need for standardization for certain things. Admiralty jurisdiction is available by all the states which are peninsular, that is on the original side of the high court, but I would like to deliberate on what could you do when the jurisdiction lies with the district courts, at the district level the original jurisdiction for testamentary suits are there, and certainly the kind of dispute that are brought before the court, so it is not that in Karnataka an admiralty suit is proceeded in a manner that is different from any other states. We do have commonalities, so we find out these. Whether all of you can help guide the NCMSC to standardize is one aspect of it. There is this other aspect of construction of buildings itself. These buildings have to be constructed, what should be the interior, how do you expect the litigant to come there and then to feel very comfortable, and then what are the requirements of these constructions depending upon the size. We do understand that in Bombay there is very limited space. We can't expect the construction there as has come up may be in Karnataka. We dint have to go high rise. but I can tell you we had the same problem in Mangalore in Karnataka, where my brother Gauda is the administrative judge and we dint have space, and so we had to go high rise, spreading in on a large area, but then we did confine ourselves to the court halls which were almost on the basis of whatever brother Badar has said to us. Now these are standardization at different levels depending on different circumstances.

We need to do that also. If we bring it down to all this, we can certainly say that in a given area this should be the standard. These are the inputs that we expect from all of you because in your area you will know the different things that I will tell you for example in a place called mercury it is a very cold place, there is hardly any sunlight at some point of time during the year, we need artificial lighting, whereas if we come to a very hot place in Karnataka, like Raichur we have enough sunlight, we make use of solar light. These are few things which you can think of out of the box and we can make certain changes. as far as the building construction and things are concerned, then we have ofcourse the case management which is a very big issue, day to day as administrative judges we get into what our judges are doing in the district courts, how many cases are being hurt, how many witnesses are being examined, these are the things that might pass your mind, but what happens is that unless we make a note of these small things it is almost impossible for us to look into it at a given point of time. I will give you a straight example in one of my districts a very senior district judge he takes only bail petition, he clears almost 140 bail petitions in a month and says look I have given you much more units than anybody else. Now he forgets all

the regular appeals, the session court, now somebody has got to monitor it. Just because you have been given units for bail petition you cannot avoid everything else. It is a different ball game, a very senior district judge, these are things that come to light to the administrative judge.

human resource development, I am sure brother will be able to tell us much more than i know but as far as my understanding goes in our high court I tell you most of us we are not professionals in HRD, we know how to write judgment, or may be adjudicate cases but when it comes to this we need certainly some advice from some persons and what we have done in our court in Karnataka is we have engaged some court managers, they are all MBA graduates, we have engaged them to give us some idea as to how the human resource development must take place in each of our states. In our state particularly we have 2 or 3 court mangers who are very capable and they give me a feedback and when they give me a feedback that is when we start working on it. We should be able to place it within the four corners of what Justice Deepankar Dutta has tried to say in his report, invariable it is not that there is a standard formula for everything. We cannot have that. We have to change depending upon the needs of our states. There is a transfer policy that brother is going to certainly highlight. Transfer policy we have discussed in the NCMSC. See i have eye for one, it is for the Chief Justice to have the last veto power as far as the transfer is concerned. Ofcourse brother would disagree but never the less my experience says that one fellow who is absolutely unfit cannot be removed but at the same time can't be kept in a place, becomes pain in the neck, so we have to give to the Chief Justice the pain that he should transfer such an officer, if we have certain set standard for judges as well. I thank Prof. Mohan Gopal. Thank you Prof. for giving me this importunity to say few words as introduction as per my understanding of certain things.

**Justice Deepankar Dutta:**

Good morning friends. One who takes up the profession of law seriously becomes a lifelong learner. As a judge also we are learning, here at the NJA it is judicial education that is normally imparted, today we are not here for that purpose, today we are here to discuss and to take forward the movement that was visualized by one of the former Chief Justice of our country, Justice Kapadia in 2012 has conceived the idea of NCMSC

Now what is the objective if it has to be said in one line? The objective is to make the system five plus free, meaning thereby that there should not be any case in the docket that is 5 years older, but

that is a herculean task, how can we achieve that, now for that purpose the action plan of the NCMSC charted out six elements and friends if you have the copy of the policy and action plan you have the six elements here. We as the judge members, Prof. Gopal as the chairman and Mr. Bora as the statistician, we have prepared certain individual baseline reports this is only the discussion to throw light on ideas that we have incorporated in the report. Brother Reddy has just now observed that it is not possible to implement for each and every high court, but the policy that we adopt should be adopted by each and every high court as a result of federalism each and every high court has its own power. Therefore we are only trying to give a policy that would act as a guide for the high courts to adopt and apply as far as possible.

So today we are here to invite and solicit suggestions as to how we can improve the system of judicial administration, and also the reports. If you feel that some parts are not at all important then please express your views, we have sent all of you the reports. I have at least received the reports from Himachal and Delhi High Court. It is very illumination and we shall be taking the views, because on one aspect I find what Himachal has said, Delhi has said just the opposite, when my session comes in the afternoon I will definitely pose this question to you as to whether we should follow a particular track while dealing with the problem or we should leave it to the high courts to choose for themselves.

I think we should carry forward the discussion.

**Prof. Mohan Gopal:**

Thank you so much Justice Reddy and Justice Dutta. Any of the honourable judges would like to say anything at this stage. If not with your permission shall I get into this more technical aspect?

Participant Judge (from Patna High Court) I would like to say that as far as judge strength is concerned I think Bihar would take the lead because we have doubled the strength in five years, but unfortunately that in on paper, because with doubling the strength promise they issues a letter just 10 days back that they will not agree to any fresh appointment in the subordinate court till the high court agrees to full reservation policy of the state. So we had to get an interim order from the Supreme Court just on Monday last so that we can proceed. We have got about 400 vacancies, and they are not ready to consider appointment at all. So I don't know where we are heading.

**Prof. Mohan Gopal:**

I think that is an important point. I think we will come to points where specific actions had been taken. Justice Dutta is proposing that there would be a round of self-introduction if that is ok.

1. Good Morning sir. I am U. Durga Prasad Rao from Hyderabad. From High Court of Andhra Pradesh and I am also one of the members of state committee.
2. I am Justice Narayna Swami from Katrina High Court.
3. I am Venugopal Gowda from Karnataka High Court. We both of us are members of the state committee.
4. Dilip Gupta from Allahabad High Court, chairman SCMSC.
5. Deevendra Arora form Allahabad High Court, sitting at Lucknow.
6. I am Koteswar form Manipur High Court member of SCMSC.
7. Akhil Kureshi, Gujarat High Court.
8. Vinod Chandran form Kerala High Court
9. I am Nitin Jamdar from Bombay High Court.
10. Justice Sanjay K. Agrawal from Chhattisgarh High Court
11. Justice Prashant Kumar Mishra, Chhattisgarh High Court
12. Justice Sunil Gaur from Delhi High Court, member of SCMSC.
13. Justice Suresh Kait from High Court of Delhi
14. Justice Ujjal Bhuyan, Gauhati High Court
15. Justice Dhiraj Singh Thakur from Jammu & Kashmir High Court
16. P.P. Bhatt from Jharkhand High Court
17. Justice I. Mahanty from Orissa High Court
18. Justice Navaniti Prasad Singh from Patna High Court, chairman of SCMSC
19. Justice Deepak Sibal from Punjab & Haryana High Court
20. Justice Swapan Chandra Das from High Court of Tripura,
21. Justice Vijai Kumar Bist from Uttarakhand High Court

**Prof. Mohan Gopal:**

Thank you very much sir. As I said we are privileged to have distinguished senior judges. So what I will do in about few minutes, is what I think is first we had this introductory discussion and then we go on to the individual reports. In few what I propose to do is to give a little bit of background

so that we understand what, we put on the table the purpose of this gathering, because if the purpose is understood, we will get certain direction that makes sense,. The second is to describe the structure and the activities of NCMSC to solicit your feedback. In terms of the purpose, the background is as per Justice Dutta pointed out, our starting point and our most overriding principle is that the high court is the sovereign authority when it comes to setting policies on judicial administration, court management policies for each high and the subordinate court under each high court, and that is our starting point. Now exercising this constitutionally vested authority to administer the judicial system as all of you know much better than me, over many years many high courts initiated many proposals many policy changes to improve the system of judicial administration and court management over the years. That is separate from legislative reforms and other types of government reforms, but the high themselves have initiated a number of ideas and proposals over the years. It was not later than 2004 that Prof. Menon came over here to the judicial academy that we started to have at the NJA for the first time a systematic process not an ad-hoc process of judges coming together and sharing information about these initiatives that are going on in different high courts, and there is a night and day difference from then and now, because I was involved from 2003 in the NJA, and at the time when the judges came very few judges knew each other, and specially at the high court and the Supreme Court extremely well, they have met a number of times here at the academy in Bhopal and if you ask me just that is of great value to the judicial system.

Now it is that process of judges coming together in this room that has made the judges become aware in detail, taking one or two day off in a year, of what is going on in other high courts. So we have for example the honourable justice from Kerala who will be happy to hear that on number of occasions we have talked about the list management system that is used in Kerala, under the court management system. Here most of the high courts did not know about this at all.

But when we started to talk about it, lot of people came to know about it and many of them have adapted this kind of system in other high courts. The e-courts initiative of Karnataka when justice P.V Reddy was the Chief Justice, and I was also living in Bangalore at that time that is what actually culminated in the entire e-court project of the country and again we played a role in getting justice Bharuka to talk about it, to make presentations and that initiative in the Karnataka High Court had a huge impact which then became a national mission. The Bombay High Court initiative

on creating an extraordinarily wonderful case information system. Again we brought them here, we made them make many presentations which helped people to the point to the point that the NIC people called the young men who was working on it and threatened to punish him if he went and made any more presentation because you know they felt that he was getting a lot of credit and the big bosses were not happy. So we saw from this experience that when judges come and talk to each other they gather a lot of good things that are going on in different High Courts.

A Madhya Pradesh judge on his own initiative created an automated app, to prepare a warrant, where he just feeds in the information and out comes the warrant, so again we got him to make presentation to many judges and many people used that. So we know that there are lot of very good initiative going on at the level of individual judges and also at the high court level. Justice Bhatt is here, so much of initiative when he was the registrar general of the Gujarat High Court, bringing IIMs in and so many discussions taking place. So we found that when this is shared it is actually helping the high court a lot because they are frankly more interested in knowing what each other are doing that is helping them than to listen to some expert from Canada, because they know that these things are working in our own countries.

And so we felt that we need to institutionalize it and that is the idea behind the NCMSC, that we bring together a few judges from different part of the country on a regular basis and Justice Dutta and Justice Reddy and other members of the committee, but Justice and Justice Ahmed has been there from the very beginning and they have put in enormous amount of time, on top of all the other work that they do, into facilitating this exercise from their high courts. So we have a very good representation from the high courts of the country who meet regularly to exchange views and ideas, and this is really a compilation of the experience of many many high courts for many years. It is out of the discussions that has taken place amongst judges that has resulted in a lot of initiatives that have developed for the infrastructural investments, the finance commission reports etc.

So the idea behind NCMSC is to share experiences, share initiatives which are going on so that we can all come together and improve the system. That is the core purpose.

So it is a sharing of experience between, I used that word sovereign high court talking to each other about what they are doing. It is not at all an attempt to create a national set of rules or policies that high courts will have to follow. It is exactly the opposite that we are doing. Second point is , it is seeking to address another institutional lacuna and that is it is hard to believe that but it true that

of all these years after independence until Chief Justice Kapadia established NCMSC there was no institutional space inside the judiciary to take up the issue of refining and improving the judicial system systematically. A full court is an administrative body, the academy is an academic body, judicial reform became the responsibility of bureaucrats sitting in the Jaisalmer House in the department of Justice who really don't understand what they are doing, they will do something experimentally here and there, and then someone will suggest something in a completely ad-hoc manner but there was no capacity to collect statistics to analyze data scientifically and to have statisticians and other experts involved on a permanent institutional basis where we can systematically understand what the challenges of the judiciary are and how to solve them in a scientifically and rational manner. And the blame for that failure was on the head of the judiciary, and no one except chief Justice Kapadia recognized that this was a big gap and that the judiciary did not have in-house capacity to undertake analysis, review, problem solving for the development of the judicial system. In contrast in the last few years in many other countries they built up very strong capacity doing analysis, and doing all kinds of studies.

So the second objective was to create a research thinking space inside the judicial system under the control of the CJI and if possible to mirror it at the state level, where the SCMSC comes in, so that at the state level and the national level there is capacity to understand analyze and come up with solutions.

So issues are raised from the high courts, the NCMSC does all the technical work of preparing the documents data and analysis and all that and that is approved by the judge members of the NCMSC and then from there it is presented to the advisory committee of the two next CJI's of India, and then ones they approve it is then sent to the CJI for his approval and ones he approves then he sends his approval to the government and we find that this is very fine and powerful mechanism for identifying and solving problems faced by the judicial system.

So this is to facilitate this capacity and which I believe that if it will stabilize, I am very optimistic that it will have a profound importance on the performance of the judiciary, because for the first time the judiciary will have the capacity to analyze all this, in terms of technical support and technical skills to move forward. So these are the two main purposes. So now very quickly, on one hand there is no doubt that all the branches of the state have

lot of respect for the judicial system and people turn to the judicial system to solve the most intractable problem and it is very important to maintain that faith, and on the other hand there is no doubt about that there are concerns about delays and arrears, to improve the responsiveness of the system and there is also sometime the concerns about the technical nature, the correctness of the decision is a sound technical way. People have these questions in mind when sometimes they find decisions reversed, and they don't understand why it is going on. These are symptoms. So in the NJA in the last seven years we are having very detailed discussions of the symptoms, and we have identified three core concerns, underlined concerns, systemic concerns, on which the system need to performs well on, and those are quality, responsiveness and timeliness, we call it QRT. If these three systems work well then the systems will not appear the symptoms of discontentment over this and that.

And so then we started to ask that how can we move forward to build stronger system to enforce QRT in the judicial system, then we realized that a very big issue for the Indian Judicial System is that we don't have a clear standard, performance standard for QRT and unless we have performance standard there will always be disputes over performance. If you are a student and there is no performance standard I may believe that I am a good student and my teacher would believe that I am a bad student and nobody would ever know the answer. So we realize that there is a measurable performance standard. Because they can say that no you are irresponsible, you are inefficient and then we cannot respond because we have not set of standards against which management can be based. The other judicial system of major countries have come up with measurable performance standard. Now why do we not have a performance standard because we did not an institutional set up to develop those performance standards? It is very complex exercise, other countries have that institutional space. And you just cannot leave it to the bar or to the executive branch because there are conflicts of interest. They will distort the standard in the way that will benefit them. So NCMSC became the space under the judiciary where these standards can be developed. So that is where we identified after Justice Kapadia set it up in 2012, so we picked 4 areas where we feel that there must be standards and policies that are clearly set on the basis of which the system can be strengthened and the QRT can be strengthened, and for that we have developed the baseline report.

To facilitate the enhancement of quality, responsiveness and timeliness of the judicial system and, in particular, to enhance excellence of the above four court-systems, the work of the NCMS mechanism is divided into six focal areas (“elements”) first being A National Framework of Court Excellence (NFCE) that will set measurable performance standards for Indian Courts, addressing issues of quality, responsiveness and timeliness, then A system for monitoring the performance parameters established in the NFCE on quality, responsiveness and timeliness.

A system of Court Management and Case Management to enhance efficiency, effectiveness and user friendliness of the Judicial System. A National System of Judicial Statistics (NSJS) to provide a common national platform for recording and maintaining judicial statistics from across the country. A Court Development Planning System that will provide a framework for systematic five year plans for the future development of the Indian judiciary. A Human Resource Development strategy setting standards on selection and training of judges of subordinate courts.

The main activities used by NCMS would consist of the following:

Mutual sharing of experience, best practice and vision of High Courts and district judiciary courts across the country on court management systems policies so as to evolve minimum national standards on of the judicial system for the consideration of the Supreme Court and the High Courts; research on the effectiveness and efficiency of court management systems and the development of new and innovative ideas and analyses for strengthening court management systems policies; and based on the above, development of proposed policies for the consideration of Supreme Court and High Courts to enhance the excellence of administrative aspects of judicial systems.

And the first step toward that would be to establish what do we mean by quality what do we mean by responsiveness and timeliness, and for that purpose we have these baseline reports. Now here I would like to suggest that the SCMSC should also try to prepare not exactly the same but some baseline reports on the main issue that needs to be addressed such as quality, parameters and standards on QRT, within the context of your own state, so the NCMS reports can be used as background report. It can be adapted as the Himachal High Court has done agreeing and disagreeing with some aspects, the Delhi High Court has done, or you can prepare something completely fresh, but these baseline reports can be easily adapted, changed and then you can have a baseline report for your own state, that will be a permanent guidance to the future generations because judges I have seen, they are moving their administrative responsibilities very frequently

that is the problem with our system. I have to use a phrase of Justice J.S Verma who said that the best judge would be a person without a past and without a future and so people like us are without a past and without a future so we are permanently here, and so he wanted that kind of continuity but sometime continuity can be made by having documents, so if you can think of developing some baseline report, that will provide some standards and clarity on what we mean by QRT at the state level. I think that would be a great contribution because we cannot forget that some of our states are bigger than most countries in the world, so it is not at all unreasonable that each of the states should have its own sets of standard, and we get easily to this when we do each of these reports more frequently. So this is the background to our main session. Because these one and half days are structured around these reports, so I just wanted to give you a background of what we are trying to do with this baseline report.

the structure of the committee, is again you can consider whether the SCMS should have a similar structure should not have a similar structure, but basically Justice Kapadia designed it as a two tier structure. One at the working level. Both at the working level and the advisory level there are judges and others working together, but at the NCMS level we have a very large list of potential members, but we have not appointed many of them, we will go forward. But at the NCMS Advisory Committee consists of

- a. Two Hon'ble Judges of the Supreme Court of India nominated by the Hon'ble Chief Justice of India
- b. Such Chief Justices/Judges of High Courts as may be nominated by the Hon'ble Chief Justice of India;
- c. The Chairperson of the NCMS Committee;
- d. Secretary, Department of Justice, Government of India;
- e. The Secretary-General of the Supreme Court (Convenor).

So whether you want the same constitution at the state level? The main point here is that the external skills and resources we are able to draw in.

At the NCMS level we have:

1. Four Sitting Judges (preferably one from each zone in India) nominated by the Hon'ble Chief Justice of India.
2. Secretary General of the Supreme Court (ex-officio).
3. Joint Secretary and Mission Director (National Mission for Judicial Delivery and Legal Reforms), Department of Justice, Government of India (ex-officio).
4. Registrar Generals of three High Courts nominate the Hon'ble Chief Justice of India.
5. Director, National Judicial Academy.
6. Two practising Advocates nominated by the Hon'ble Chief Justice of India.
7. An expert Statistician, nominated by the Chief Statistician of India. That we have.
8. An expert in management of decision making systems and process re-engineering, nominated by the Hon'ble Chief Justice of India. (We have not found a suitable person as yet) With the help of Justice Bhatt who has lot of experience in this area we will find one.
9. An expert in Computer Technology relevant to Court Management, nominated by the Hon'ble Chief Justice of India.
10. A representative of a NGO working for improving access to justice and user friendliness of courts, nominated by the Chief Justice of India.
11. Additional Registrar, Information and Statistics, Supreme Court.

Based on the concept and work of NCMS, the annual national conference of Chief Justices of High courts recommended that High Courts may establish State Court Management Systems Committees corresponding to NCMS. The goal is that NCMS and SCMS Committees should work closely together to facilitate sharing of knowledge and experience on strengthening. As Hon'ble High Courts are the highest authority on the administrative side of courts in each State, the SCMS may have a decision-making role where High Courts consider that appropriate. NCMS does not have any decision making role.

SCMS members have actual administrative powers which even our Supreme Court Judges do not have. And so the SCMS can be far more effective than the NCMS, we can only recommend and ultimately this recommendation comes back to the High Court for their approval. So the SCMS

structure can be very effective. The series of discussions are now going on to share their respective visions for sharing their respective vision, goals and structures. We had the first meeting which Justice Patel also attended where Justice Thakur has made a very meaningful intervention and with great clarity about all these aspects, and we will try and circulate a copy of his remarks that day. Justice Deepak Mishra was also there who contributed a lot. So we had tremendous support from the honourable judges. So in terms of SCMS one thing we can discuss is what would be a good structure for your going forward. Now another limitation that we have which we have which you don't have is the division of responsibility between the National Mission of the Government of India and the NCMS. When Chief Justice Kapadia proposed this the government objected and said that no you should not have this because it will duplicate the work of the national mission, so Justice Kapadia said no we will work on policy issues you execute the policies. But the policy issues should be set within the judiciary and not by the government and so the difference between them and us was policy and implementation. For SCMS it is not an issue, you can implement. You have the decision making power. We can talk about it more.

In the last four years NCMS focused its work on seven aspects:

(i) Establishment of the basic institutional foundations of the NCMS and SCMS mechanisms;

In fact in Karnataka what Justice Reddy was saying is that every week in the court complex the judges meet, identify issues and send it to the SCMS and then the SCMS decides what to do about those issues. So issues big and small, the policies, implementation, there is now a mechanism to deal with it and this is now an example of sharing of knowledge and experience which other high courts can also consider.

(ii) Developing baseline policy benchmarks/standards on the six core elements identified in the NCMS policy paper which I just discussed, and that has taken an enormous amount of work particular on the part of the honourable judge members who have prepared the papers.

(iii) Clearance of backlog, delay and arrears, which is an area of very big concern to the public. We will talk about it a little more later.

(iv) Shortage of judges; this issue is of great concern to the public and also to the judges. So we have put a lot of time an effort into those two problems.

(v) development of national best practice on case and court management; we are in the process of compiling information and I would like to discuss between today and tomorrow how to do it best, along with the SCMS, we want to develop together the national model case management handbook which can be given to every junior division senior division, and ADJ, DJ, In many other countries they have a manual they will say this you are supposed to do, so if we develop a national level manual that can then be adapted and modified and issued by the high court in each state, so both national and ofcourse each state.

(vi) Monitoring court performance; we will talk about this also. As Justice Patel said we suggested that the goals of the high court must be clearly identified in the vision document so that we can develop system to achieve that goal. In this regard a lot of progress has been made, the vision document has been prepared in the last chief justice's conference on justice for all a vision for Indian Judiciary. We have prepared for NCMS a model sample framework where we can actually monitor the progress in the objectives identified by these vision documents on each High Court. We will send it to you and again you can take it or leave it or use it as you think appropriate. We are like a technical assistants to you, if you want us to do something you let us know and we will be happy to do it for you.

(vii) Improving a scientific understanding of the state of the judicial system. Most people in this country believe that there are 3 crores of delayed cases in this country which is not the fact there is a lot of misunderstanding. So we need to prepare something like a statistical handbook in every high court at the national level, and issue this every month so that people can understand what is going on with much greater clarity and we will come to this later. We are proposing some research projects on that so that we get a better understanding. But I always talk to a lot of audience on the judicial system and I tell them that it may not be as great as it should be but it is certainly not as bad as people say it is. It is a system that is doing a lot of productive work.

So these are the broad areas of priorities that are public issues of concern, are of concern to the judges and systemic issues, and if there is something that is wrong or if anything you would like us to add then please do let us know.

The other thing that we have done is we prepared is the baseline reports. Each baseline Report sets out suggestions gathered from various High Courts across the country, as well as suggestions from concerned subject matter experts and comparable global experience, on what may be considered

minimum national common standards on each of the focal areas. Each Report was prepared by a sub-committee headed by a NCMS member and including other judicial members as well as subject matter experts as needed. Each Report is a detailed and comprehensive dynamic working document, subject to revision from time to time as needed based on feedback received from State Court Management Systems Committees of High Courts and NCMS experience and guidance. May be Justice Dutta can tell us the strategy that he followed so that we understand the process.

The baseline reports have been distributed to High Courts and are also being placed on the Supreme Court web-site. At NCMS request, SCMSs are reviewing and giving detailed comments on the Baseline Reports which will be modified in accordance with suggestions received from SCMSs. One example is a very detailed analysis of Baseline Reports recently submitted by the Himachal Pradesh High Court.

SCMS Committees have been successfully been initiated and started working in almost all the High Courts. The first-ever joint meeting of National Court Management Systems Committee and the State Court Management Systems Committee of all High Courts was held in March, 2015 to discuss issues covered in these baseline reports and to take stock of progress of SCMS Mechanism. Follow Up meetings on each of the Focal Areas of NCMS are planned.

### **Preparation of Vision Statements on Strengthening Judicial Systems**

A clear vision of the Supreme Court and High Courts on judicial system development is an essential basis for discussing and developing policies for judicial system development.

To this end, a Vision Statement was developed at the last national conference of Chief Justices (Justice for All, “Indian Judiciary: A vision Statement for 2015-2020”). This Vision statement, developed by a committee of Chief Justices of High Courts, and endorsed by the Chief Justices’ Conference, now provides the anchor for NCMS’s work and may also be duly considered by SCMS committees.

As a follow up, Hon’ble High Courts have also developed their own Vision Statements which will not only be useful guidance mutually for them, but will also provide guidance for NCMS in its work.

As a framework to ensure that the work of NCMS is guided by the Vision Statement adopted by the Chief Justices Conferences, NCMS has developed a suggested review framework that will link NCMS (and, should any of them so wish, SCMS) work to advancing the National Vision Statement as also the Vision Statements of High Courts.

On Policy for Assessing Judge Strength of High Courts; Increase in High Court Judge Strength. NCMS has carried out detailed work to develop a scientific methodology for assessing the required judge strength of High Courts. The NCMS work in this regard led to an initial increase of 25% of the judge strength of High Courts after a gap of many years. Work on this issue is ongoing.

Also on Policy for Assessing Judge Strength of Subordinate Courts; Increase in Judge Strength of Subordinate Courts. NCMS has been doing extensive work on methodologies for assessing the Judge Strength for Subordinate Judiciary. NCMS work in this regard was instrumental in increasing the judge strength of judges in subordinate courts by 50%.

Review of Law Commission of India Report on methodology for assessing judge strength of subordinate courts. In an order issued by the Hon'ble Supreme Court of India in *Imtiaz Ahmed vs. State of U.P.*, Criminal Appeal No: 254-262 of 2012, the Hon'ble Supreme Court directed that NCMS provide to the Hon'ble Court its comments on the recommendations submitted to the Court by the Law Commission of India at the Court's request on the methodology for assessing required judge strength of subordinate courts. This methodology was discussed by NCMS in detail. In so doing, NCMS has suggested an approach that is different from that proposed by the Law Commission of India. NCMS subsequently discussed the NCMS approach with the Law Commission and, as suggested by the Law Commission, the two methodologies were applied to sample courts to enable a comparison of the two methodologies. Approval of the NCMS Advisory Committee is awaited for the submission of the NCMS view to the court.

Another major initiative that NCMS has worked on is the "Five Plus Zero" policy initiative. Under this initiative special focus has been given to reducing cases before every court that are more than five years old in that court. As a result of the initiative, figures on "Five Plus" cases were compiled for the first time, and are being regularly monitored. Some six High Courts have become statistically "Five Plus" free. States with exceptionally high concentration of "Five Plus" cases have been identified and follow up action is being developed with respect to those States. The concept is that states will progressively advance from "Five Plus Zero" to "Four Plus Zero", "Three

Plus Zero”, “Two Plus Zero” and eventually to “One Plus Zero”. Needed infrastructure, human and institutional resources, budgets, etc. for progressing on this path will be identified and steps taken through SCMSs and NCMS to make these available.

But certainly the citizens of this country are entitled to expect that at some point of time they will be able to have their case resolved like anywhere else in the world normally, normally, not in every case, normally within one year of filing in court, normally, not in entire system but in no court will a case languish for more than one year. But for this to happen, the court needs a lot of infrastructure, a lot of facility, so if we set this vision, which now has been set and with court development planning system we have the methodology and identify the requirement for achieving this vision keeping in mind, quality, responsiveness and timeliness, then I think we have a clear vision about how we should move forward for the judicial system and the methodologies for doing so, so five plus zero is only a beginning towards improving the issues of quality, responsiveness and timeliness, we have also proposed a national Arrears Elimination Mission, that has also been considered and discussed for the last Chief Justice’s Conference and the simple idea is that we have come up with a very detailed proposal including the cost involved. The cost is not very huge of appointing a fixed number of judges on a one time basis, setting a date like twenty and clearing cases more than three years old in one sort and it’s more difficult in some states than others but it is doable, it is constitutionally doable, feasible, and financially doable. So we hope, Justice Thakur have been guiding us a lot and we hope that now under his leadership we will be able to take this forward and will be able to tell the country that by X date, all cases filed on or before say, 2015 December, will be cleared. When you say all, statistically Mr. Bohra says if you do 95% you say all, you don’t say all, it is not 100% possible so statically we would clear all the arrears. We have got a very detailed proposal on that which has been circulated and discussed, then we are also proposing a research proposal for causes and remedies on arrear reduction which we would like to do along with SCMS in different states. So we would come up with a methodology, do research in different High Courts and come up with much more detailed study of causes for arrears reduction. Going forward there are three, actually three not area of focus, one is quality and responsiveness, to understand with much greater clarity what we mean by good quality judgement. You must have some objective, measurable way of measuring, what do we mean by quality in judicial system not only in terms of judgement, but in terms of quality of legal assistance, quality of judicial proceeding. In some country they see whether the proceedings are audible, the courts

are assessable, so we look at quality, not simply from judge centric point of view, not that quality of judge alone is enough, but all the different duty holders of judicial system must deliver quality and they we will be able to improve quality. Court development Planning System, including infrastructure development planning and quality development of other duty holder, how do we improve quality of the bar, I don't think any of these will be possible unless we deeply understand about how we improve quality of bar, of investigation, of prosecutors and we cannot take a very narrow view of this, we have to come up with a framework. So these are the arrears which we have to work on in future. And as I said this is get feedback from you, to request you to identify contributions which you wish to make to the National discussions on strengthening Court management system through policy initiative. Let me stop here, I wanted to give you very detailed explanation of what we are doing and what we have been doing so any questions, I will be glad to answer and then we will move on to the Framework on Court Excellence. Should we take a break? And then move on? Any questions now?

**Participant:** Is it possible to set out targets like Judge Litigation ratio that this is the target, so that at least we have something to look at and then move towards it.

**Prof. Mohan Gopal:** This is a very good question. This is a question which we have been dealing with when we are discussing the Judge Strength requirement. So there are two ways of looking at it, one is to look at simply the number of cases and the number of judges, but the trouble is ,I you know much better than me that cases are very different in terms of amount of judicial hours you need to address a case and so we will have to understand a weighted approach to cases.

**Participant:** One of the reports that I have, it gives a quiet alarming figure, like in Allahabad High Court as it comes from that report, the case to judge ratio is, one judge to One lakhs ten thousand cases.

**Prof. Mohan Gopal :** You see, the point is, what we have done is assessing the judge strength in subordinate courts is, as suggested by the law commission, we have got two states including Patna High Court to apply this to two three courts, we have converted the case load to units, right so rather than saying ten thousand cases, we have taken the units that are applied to that cases for the purposes of deciding the weight of a judges work and we converted the case load into units, so suddenly ten thousand cases become may be hundred units.

Participant: I was coming to that, like Patna High Court has broken all the records, now we call it Patna High Court of Judicature for Bails. We are dealing with 60,000 bail applications. There are five full time benches just for bails and still we have arrears of six months. Now a judge can do, we have judges who are doing 125-150 bail applications in a day. But if you come to writs it is difficult to do 20 writ petitions in a day.

**Prof. Mohan Gopal:** So what we are thinking of is that we have to improve the unit system as number of deficiencies. It does not give same weightage to all cases, if we can improve it and talk about units to judge ratio, not as a obligations that you have to dispose off number of units, but these are the units which a judge can handle. So from the judge's perspective we are also arguing that the system will assume that the judge will work 10 hours a day, 8 hours a day , 14 hours a day, so we look at how many judicial hours are available from an judge, what a judge has top do in addition to disposal of cases, administrative work, like coming and attending conferences and meeting, seminars, Lok Adalats, so many other functions, so we say what are all the functions that a judge has to do, not just disposing cases and then look at available judge hours, look at units required on the other side and then come up with a approach, so that is the approach we are trying to develop. Initially there was lot of resistance from the part of the government but now they are appreciating it, they are also seeing that it is reducing the number of judge requirement that the other methodology is producing. For example the law commission methodology said that we require 40 or 50 judges in some courts and in the same court we apply our method it was 3-4 judges because actual weightage of case in that court was not very high, so this is an example where we need to do lot more work to set standards on what is the kind of responsibility we can expect a judge to handle.

**Participant:** Is there some mechanism or standardization based on past experiences or it is because if suppose if you take 100 writ petitions, then in last 5 years for 100 writ petitions, how many hours are required, or say in last five years for original side suits how much judicial time is required. Is there any study undertaken on that .

**Prof. Mohan Gopal:** This is the kind of thing we would like to study . No it has not been done. And again we cannot say writ petitions, as you know better than me, there are so many kinds of writ petitions.

**Participant:** I was just giving example. That once you standardize the category then per category how much judicial time is required. If you have to find an standard then you have to take last 5 years stud or something like that. On the basis of that it can be said that for this litigation, this much hours are required or judicial time is required, on that basis if you take total number of matters then you know that this much time is required. But is it that last 5 years judicial time consumed for the matter is considered.

Prof. Mohan Gopal: No. What we are saying is. You may look at 5 year, 1 year also. What we have found in our discussion so far is, when we talk to judges, they are able to say that for a murder case, the assumption almost everywhere in the country is that it will take full 4-5 days, full doing nothing else . So it may be spread out in few weeks. So there are assumptions about how much time a particular type of case will take. There are two or three categories. One is very predictable, you know that this type of case can be done within this time. There is another category where is many be unpredictable and there may be another category where it is reasonable predicable. So we cannot be , every case cannot be predicted. But if we have broad category it will help us to know human resource requirement. At this point we are not talking about how much work a judge should do, we are simply looking at human resource planning, how much judge we need.

**DR. Bora:** Just I want to intervene what you have asked, Five year average, judges should be, we are taking an assumption that all judges are equally efficient and the system in the particular state is also uniform, but it is not there Sir, if we have to take research project we have to take each High Court at least one judge, how much time he take for each case then we average it out, then we can find out that unit, then we have to impose that unit for all the judges, it will take time.

**Participant:** Otherwise whatever yardstick is provided that will be un realistic, because you need to find out what is the judicial time required for particular category of matter . Broadly, suppose you categorise into ten and then you have to find out in last year for X particular category, how much judicial time was required on that basis the requirement can be visualised.

**Dr. Bora:** In fact you cannot take only judges, because the police is there, one part,

**Participant:** I want to exercise my constitutional right to have break

**Participant:** hahah...coffee right, ok sir

**Prof. Mohan Gopal:** It is very good question which you have brought up, because it gives us the flavour of the kind of complexity involved. We have started to get into this, but we don't have answers, we are trying to find out what is the best way to find out required judge strength. We don't have to get into efficiency and all that, we have to find out approximately how much judges we need . We don't have to find a precise number and there are ways . We will be very happy if we can get your inputs in doing that and we can meet after tea in about 10-15 minutes.

### Session 3

**Prof. Mohan Gopal:** With your permission maybe maybe slowly begin with any other questions or comments on what NCMS has been doing which is what I was trying to summarize. I will also distribute a short note with the information that I have put I've been presenting here any questions comments on.

**Participant:** Now all the high courts have various parameters for performance analysis of the subordinate judiciary

Yes

**Participant:** Now through NCMS could we get a sort of tabulation?

Yes

**Participant:** That what are the parameters and what are the point's allotted under which heading because what we noticed while doing certain exercises in the last 1 year yes that most of the civil judges were getting penalized in High Court

Yes

**Participant:** When it came to promotion they were found to be poor performers

Yes

**Participant:** Now once we saw that it's a pattern then it could not be an individual judge to be responsible. Then we started investigating and we came up that there were lot of areas where they were not being rewarded, points were not being given. We tried to ask from other High Courts, we got a very few responses and from that now we are working out and maybe next week by the next week we will finalize reschedule the whole thing but could the NCMS, they collect all the figures

from each High Court and circulate so that we know what other High Court is doing, what should we be doing we be doing not to standardize it but at least rationalize it.

**Participant:** I think that's a good idea we can do that we already have a lot of the information we can put into it.

Yes Sir! Yes Sir!

**Participant:** This is on the same topic which my learned brother just spoken. our experience is similar not this similar than what was being stated here but unfortunately our conclusions appear to be dissimilar especially among the district Judiciary, we are not talking of the high court here. Whether you call it unit or whatever measure that we implanted unfortunately the yardstick that has been fixed for units whatever have actually become a roof.

Yes!

**Participant:** It is now no longer the foundation yardsticks instead of being incentives for better performance have by themselves become disincentives for performers. I hope I am getting my point delivered. It needs a relook as to whether my suggestion is whether the other should be a yardstick at all. We can discuss what are the other methods of evaluating performance but my view is and our High Court and our colleagues have discussed this in in-depth because we had a subcommittee formed for the purpose of redoing doing the unit system and our conclusion was let's get rid of all yardsticks and we have also suggested other methods of evaluating performance because you see as my learned brother says in criminal side it is very easy to achieve the yardsticks. Thereafter what go to sleep so only request is if we are really committed to the institution that we serve no matter what level we may be it is not only the quantum of work but the commitment shown. We can request our colleagues in the subordinate judiciary cant a methodology be applied where timing, the amount of time spent in court on a particular proceeding is recorded because we don't know a trial may go on for 1 day or it may go on for 100days. There may be multiple witnesses multiple documents. Now when we give units or yardsticks we ultimately label it with one, then we have to seek an exclamation from that personas to why is your performance so low. So rather that going for yardstick or units vis a vis assessing performance of an individual we can ask for something like a self-appraisal report on a monthly basis where the magistrate and the judges concern explain what they have, the manner in which they spent time

and one last thing I wanted to suggest if the national committee could consider requesting the states to revive their working timings because unfortunately in areas I am not sure whether my learned brother said the subordinate courts starts working at 11 o'clock. Now there is no reason whatsoever today as to why we all should not be working from 10 o'clock. You see all the conveniences are available, uninterrupted power, now every district has become much smaller, the convenience of travel of witnesses and claims have become much easier. At least in the states where these districts have administration becomes smaller. There is absolutely no reason why we should not start work at 10 o'clock.

**Prof. Mohan Gopal:** That is with the standing committee of the High Court subordinate court.

**Participant:** No no I am just saying on a national level, there are various parts of this country Sir which have ridiculous timing. So we have to have a proper evaluation method. But my suggestion is to get rid of the units and the yardsticks we study them on their performance.

Yes Sir! I have one thing to add because if you are going to the target of 5 plus zero pend-ency then tomorrow 4 plus 0 and whatever, what is being done is in the subordinate Judiciary on account of the minimum requirements of the points they pick up the fresh matters which can easily be disposed off.

**Participant:** Absolutely My lord!

Justice Jayant: Resultantly the highly contested matter remains in arrears and if you take your statistics in every place old matters and all contested matters are shown as pending.

**Participant:** Absolutely!

**Justice Jayant:** In Gujarat also we had that problem and in our vision document we have added that if it is a 10 yrs old matter 3 times disposal will be rated. If it is 7 yrs, 5 years like that, because you have to give special encouragement for the old matters otherwise nobody is taking demand

**Participant:** I am not saying that that should not be given special emphasis, all that I am saying is that if we get rid of yardsticks and ask them to file monthly reports, their self-evaluation reports our registry can evaluate it on the basis of what your Lordship is suggesting. That multiplier applied by the registry will tell the High Court who are the performers who are the non-performers.

**Justice Jayant:** In absence of Unit being marked or it would be very very difficult.

**Justice Reddy:** No I'll just clarify myself. I am saying there has to be a method of evaluating a person's performance and there should be a yardstick for persons who do better in contested cases and less so for fresh cases. I agree! But if we say this is your yardstick, my lord in whatever form Your Lordship may formulate that is not necessarily it is becoming a ceiling instead of the floor. Now for evaluating a particular persons capacity and performance these what your Lordship has said have to be put into consideration. But if we say that this is the yardstick you must achieve then each one is finding a shortcut to achieve that. So, what I am trying to say Sir is if we can concentrate on the time of work a self-evaluation report at the end of the month and the measurement My lord has said, these measurements can be applied by the registry to give a pointer to the High Court to Chief Justice of the High Court of how they have performed. On the basis of that either their promotions, or their transfers or their location appropriate can be taken. But even Sir this yardstick has become a ceiling I am repeatedly saying this 3 times because the yardstick is no longer an incentive for work and this I can show statistically also.

**Participant:** Off course this standardization, this measurement of the performance but what about this integrity area? because the problems which we are facing with those small state some Judges are doing very well in that censury term units they are getting, integrity wise we are getting lot of reports. Unfortunately we cannot act on and verify it, yet we also know and we are convinced this particular judge is doing something which is not supposed to be done. How do we assess his performance, otherwise he is very good, his is excellent but we just can't give him any kind of assignment, I mean very sensitive assignment because we know his integrity but how to evaluate this integrity. This if you could kindly enlighten I shall be very thankful.

**Justice Reddy:** My brother Mohanty was saying about the performance limit becoming a ceiling, I ll just illustrate because this problem we are having. Now if a person subordinate he has to get minimum 9 marks as per the yardstick in a month. The moment he calculates ke I have got 9 marks he stops work. He prepares and keeps cases ready to take it up in the next month so that next month he has to do less work and that is the cycle that is going on so his aim is achieve 9 and no more so that becomes a ceiling.

**Participant:** 9 is the minimum. That is the minimum.

Suppose it goes up to let us say 18 then at the time when the further promotion is to be considered the marking is being given on the basis of that disposal

**Participant:** No actually no no

**Participant:** So the moment he makes the minimum mark he is through, so he doesn't have to get..

**Participant:** He is through means that his performance is adequate but he will not reach to the excellent or good.

**Participant:** No even if he goes to excellent doesn't make a difference, the seniority is maintained.

**Participant:** No no no at the time of promotion naturally the marking is methodical.

**Participant:** From Junior division to senior division it is seniority cum at junior division to senior division so seniority is maintained so he just has to make minimum mark.

**Participant:** In Jharkhand Sir one suggestion is there, one method, 20 old cases every district has to identify accordingly the allocations was made to the Judicial Officers made available in the respective districts.

**Justice Reddy:** Now I'll give just two more examples how, I don't know we have to now one particular judge in Patna sub judge. Now he got whole lot of contested civil matters, now they are very time consuming so what he did was he in sighted laws and asked them *ke bhai* districts judge may file a petition for transfer and the moment they file a petition they said get rid of this because he said the time I spent on these two cases in the mean time I'll do ten cases, now that went to another court, now that is one. The second no one wants to touch a controversial matter purposefully that unnecessarily I'll come into the highlights people will start watching my performance people will start watching me, so underplay everything sop keep it under the racks, *jo daily apna hai* contested uncontested, do this do that get your marks be satisfied, so that is what I agree with him that instead of becoming of benchmark for the lower limit it has become a ceiling. We will achieve only that much and that is the end.

**Participant:** I think in Gujarat Sir to avoid this we are trying to introduce 30% of minimum disposal from civil side that will ensure. That 70 30 we did we got it down to 50...but if the gentleman concerned is not interested in promotion you can do nothing about it.

**Participant:** He is interested in promotion but only getting the optimum marks for promotion that's all.

**Participant:** These are base lines we have to maintain them. You cannot eliminate otherwise it will not work at all and as I said if he is not interested in service, he is not interested in promotion no amount of pressure is going to work.

**Participant:** We have adopted another system in Andhra Pradesh is concerned our point in issue is as raised by our learned friend some of the judges are passing the buck in respect of the world and critical and difficult matters, this was the situation in Andhra Pradesh also. Few years back we had invented a methodology to see that the judges should invariably touch those matters also.

A calendar year has been divided into two semesters, 6 months 6 months for evaluation purpose of the subordinate judges. Before commencement of this calendar semester they have to identify 100 old matters from the oldness onwards as is pending in his respective court and submit to the High Court and at the end of that semester at least 50 matters from the old point of view have to be disposed off then only the Portfolio judge will give him the ratings, average, good, very good, excellent etc. If a judge fails to decide on merits at least 50 of the identified matters then the portfolio judge makes his remarks. Unless he gives reasons, he has to give reasons for why he could not be able to dispose off the remaining 50 matters even if he performed 50 and disposed off 50 matters why he left over the remaining 50 matters, he has to give in tabular form, why that particular suit could not be disposed off and why he it cannot be attributed with any latches. That is what exercise we are performing and another thing for interlocutory petitions etc in particularly bails etc, no unit was prescribed in Andhra Pradesh is concerned, bail applications, other petitions except those interlocutory matters which involves some sort of inquiry like inventions, receiver applications and in execution stage third party obstructions claim suits, they have the trapping of almost suit. Therefore those type of interlocutory petitions are only awarded with .5 that is half a mark so by this I don't say that it gives a wonderful result but it gives them to show their responsibility to do the old matters also, every judge. This is the methodology we are adopting.

**Prof. Mohan Gopal:** Thank You Sir, I think we may want to come back to this issue when we discuss the HR report, a base line report of Justice Dutta because it pertains very much to that. But very briefly I think we all may remember the Delhi High Court had actually given up the unit system and they went back to it. They realised that it is even worse without it and they went back to it and restored it. They said it is it is a difficult issue and we can talk about it later. Bombay High Court not the lower courts actually has a system to keep track of how much time you are taking on

every court so that can be put in place and Bombay High Court has all the system to do it, so any high court is interested Bombay High Court will be able to help you to do do it and then honorable justice from Kerala will be able to enlighten us more that in Kerala they have a different approaches to unit system which seems to be on the whole working in my view better than in other the unit system in other parts of the country and Sir please correct me if I'm wrong but the way it works is that basically you ask a Judge, the subordinate Court Judges you look at all the cases in your portfolio, no you identify, no your not given the judge gives.

**Participant:** not audible

**Prof. Mohan Gopal:** yes yes yes yes correct.

**Participant:** So there should be an incentive, what we are trying to say is there should be an incentive to perform, to do better than that. The moment we put a ledge which we say is adequate and then seniority come, merit becomes the level of promotion, that ceiling will never be, there won't be an incentive to overcome that ceiling.

**Prof. Mohan Gopal:** So I think we may have to show one thing is to have a system you are already doing that okay so that is a little bit better because people have that sense of responsibility they have choice on the cases.

**Participant:** asking each individual to give his or her plan.

**Prof Mohan Gopal:** excellent! and that also may have come from all these discussions, yes yes over the over the years because this has been discussed many times but maybe the other HR experts feedback I have received sitting in this room is that we should not mix up two different things. One is how do you want the system to perform so if I want the system.. so if I am a vice chancellor of University I want to teach 3 Masters courses..

**Participant:** I all just add, wherever the plan requires to be changed because of the objects which the Supreme Court or the High Courts have said for them they are asked to take their planning.

**Prof. Mohan Gopal:** No Sir, I am making slightly different, my point is that one institution says I have to deliver 'x' number of cases and achieve the standard for this court I don't care who the judges is I have to do this in this court you set that standard, if the judge performs up to that standard then you know that that institution is working properly. Now separate question unrelated

related but separate question is this judge good to be promoted or not, for that for that you need a separate exercise of which one aspect is has he been delivering in his institution responsibility that's not the only aspect so you may look at a number of other parameters working more than this norm if not you will you will not get promoted, so that's a separate discussion, so when if you delink these two things and you have one set of norms to ensure the court is working.

**Participant:** The two should be linked. I think it should be linked. It should not be delinked, I am suggesting you why, the plan comes and the object is set. Now in the plan and the objective let's say hundred cases are to be disposed off, now individuals have given their priority, now wherever that priority needs to tweaked to achieve that 100 there the administrative judges of each respective district will do so, so that the numbers are achieved and the targets have been set by the officers themselves. So you marry the two together then only I mean we can expect a growth from everywhere, the moment you disjoint it then one becomes a statistics and the other becomes the reality.

**Prof. Mohan Gopal:** Because that question of whether a judge can be promoted then to take on different...

**Participant:** To give an incentive for performance we are not saying about performance..

**Prof. Mohan Gopal;** No no incentive for performance whatever it is.

**Justice Singh:** Now I will give a concrete example at the junior division level a person was selected, he was third on the merit list, now being third on the merit list in the junior division he said my day is made, my destiny is already written, I am third in the merit list, I'll be the 3rd person to enter district judges cadre and everywhere I'll be the first to get promotion. The result is right through his career he was just an average performer because that is what he had to meet because everywhere it was seniority cum merit seniority cum merit at both the stages where as a person who was 50 places behind him he had excellent performance all along but at the end of the day when it came to district judges entry level he was disheartened that here I have slogged for 20 years excellent and this person is average 20 years he still goes up so why am I doing this. So that system of seniority come merit has to be reversed to merit cum seniority at both the levels because they get only two promotions.

**Prof. Mohan Gopal:** So may I suggest the following, I think it's a very wonderful comment to take us into the main thing we have to cover before lunch which is the national framework of court excellence and the issue of of case management system so that we keep track. Now justice Rohini was the author of that report she unfortunately could not join us and Justice Khanwilkar of the next report he also unfortunately cannot join us but we will I will just say that the purpose of our discussion Hercules we don't have time within one and a half days to discuss all these in detail so as we see it and as we planned it the purpose was only 2 fold. One is to look at the way in which this baseline report has been approached and request you to go back and in your State Committee or with your other senior colleagues and others to review this this baseline report and give suggestions on how to move forward how to change how to modify for the national baseline report and to see whether you can it would be useful for you to have a baseline report on national framework of court excellence and case management in your own state or not so its up process and methodology issue rather than get deep into the particular reports because there's no time. The second thing is to really pose the more difficult question which is what Justice Singh was just talking about which is, how do you define excellence? So when you talk sir of the example you talked about 'x' was excellent, do we have adequate clarity about water parameters for Excellence are and who is excellent and who is not and what is merit so very big concept we use in our country but actually we don't really understand what is merit and very often we misunderstand it, we don't have we don't have you know don't have enough basis to really come to the conclusions we are coming to on the basis of merit so there again this. Is it will it be useful for state court management systems committees to also discuss questions of excellence using this as a baseline report getting another experts in other areas not just Judges and lawyers but other experts and asking how can merit excellence merit excellence of a Court not of a judge be determined. Again we have to make a distinction between a judge's excellence excellence of judicial work and and and the court, so we ask a question what is a court and we have spent lot of time discussing this issue. We have asked many judges this question what is a court and the typical response is, a court is a place where your eyes are protected, it's a temple of justice. I asked a *Dalit* very brilliant illiterate, uneducated dalit the same question, he said, " the court is a place where the poor are taken by the police to be punished, no one goes to a court voluntarily, it is a place you are taken by the police against your will to be punished that's a court." You can see the distinction between, from my my own perspective I I take the CPC CrPC so on definition and I understand the court as an activity which

is carried out in accordance with certain rules with certain function functional functions necessarily involved in that activity. So for example it's an activity that cannot be begun or carried out without the presence of a Judge, it has to follow certain rules, when an activity is carried out in accordance with that with those rules then we say that activity is a court actually, that's why you can hold a court anywhere, you know it's not a building it's just an activity. Now if we understand it that way then we have to say what is the excellence of a court, so we have to break down the different functions, that constitutive a court and then for each of those functions say what is the excellence? So if you say the excellence of the procedure for accessing the court for different people, for getting legal legal assistance, assistance of counsel the excellence of the the efficiency of the processes are you asking for information that is necessary redundant or are you asking for information that makes sense that is useful, is it efficient, is it affordable, is it accessible and terms of process. Then in terms of the of the manner in which that activity is organized in terms of timing, availability, peoples, convenience being taken into consideration, is is is it being organized in an efficient manner then the role of the judge comes in in that activity then we can break that down and say what is excellence for a judge, so if you identify if you say a court is an activity carried out in accordance with the rules, we break down that activity into its major components not every component and then you identify what is, how is the excellent, what is the quality, should be the quality of that activity and the word quality as you know comes from the Latin word '*qualis*', it simply means what is the net *qualis*, what type of so when we say quality what is the type, what is the manner in which an activity should be carried out. If it is to be considered well carried out and good activity, so if we can clarify four or five elements of court excellence what should be the nature of those activities which can be either measured in a physical way or through a survey of some kind. It can be a perception survey and so there are we are happy to share with you and separately and send with you parameters used in other countries to measure Court excellence which range from sometime 50 or 60 parameters to 200-240 parameters are regularly monitored to ensure that the court is working in an excellent way one and with great respect I've been one of my struggle has been to change the thinking in the interest of the judges from judge to court. Judge is the most he is like, forgive me if it's a wrong example, it's like the conductor of an orchestra conductor of an orchestra you can't orchestra can't function without the conductor Zubin Mehta but but every musician has to perform well if the orchestra is to perform well not just Zubin Mehta can be an excellent conductor but the musicians are no good then the orchestra won't be good. No? So

similarly we have to understand that when we talk on the court it is like the orchestra every performer must perform well then the court performs well, every person must... so we have to identify the main elements including the judge but not only the judge and they have like in an orchestra they work together that's so a judge can't be excellent unless some of the Other elements are excellent and and the other. It's a team, the court is a team activity not a solo activity. So if we can.. now if you look at Justice Rohini's, if I may bother you to kindly just take a very brief look at this volume, then we have a very good set of materials put together this is not the whole report that she prepared but the main elements are here and you can see that she's she is you know involved, she has named a few people but she's involved number of people in preparing the report and she's looking at the idea court excellence in every comprehensive Manner, looking at the background to this and the she is talking of performance areas for Court excellence, support staff, judge strength, call work and how time is used, adjournment of cases. So even if the judge is judge gets an excellent ratings or how many people... so it's Bhopal judges used to get irritated with me but I use the CJM court of Bhopal as an example, you may have the best CJM but you ask the local people in Bhopal is it an excellent court and they may say no it is not an excellent court has not been for many years because when you go there you know there are touts and then there are this, there is that, it is not properly organized. So you may have a judge who is doing excellent performance but who is monitoring the excellence of the court today no 1 is! That's what we're trying to change because ultimately the people are interested in the performance of the court not of the judge alone.

**Participant:** Actually nowadays the concept of excellence is something different because as you said Court is an institution, now the excellent lawyer would be one who can delay the trial.

**Prof. Mohan Gopal:** Sir I would not say that in all cases, I mean there are many litigants who wants the matter to be decided expeditiously.

**Participant:** Now one side wants it, the other side wants just the opposite.

**Prof. Mohan Gopal:** Sir not in every case, not in every case, you know you are far more experienced than me but I have used examples here of 138 cases and all that which have gone from lowest Court to Supreme Court and come back in 2 years because neither party is interested, in some cases you are right they are interested delaying some cases they may not be, I agree with you and lawyers are being paid to delay I agree with you but then we have to identify that and say that

look here there is no excellence then the question is who is responsible for that Sir. Today if what you're saying is correct which I'm I agree that it is correct, then the citizens' question is who is responsible to fix this problem? Judges are saying lawyers are out of control, they are causing delays, litigants are delaying. if the judges the presiding officer saying this then who do I hold accountable as a citizen? So someone has to put up his hands and say I am responsible to fix this system or if no one is responsible then we have to tell the country that nobody is responsible for the system, then the country will have to say ok we want to fix responsibility for this system. Can I having been in that position if I m a vice chancellor of the university can I have can I say I have no control over the institute teachers are delaying classes you know blah blah blah and I have no responsibility for it. So when we think of national framework of court excellence can we identify the elements? can we fix responsibility, sub responsibilities and an overall responsibility because we want this court management system at state level to really be able to transform and improve the system otherwise it becomes an academic exercise. So if you look at what she's done she's gone through these different level civil matters, criminal matters, delay in service of summons and execution of non nonailable warrants. Now again that in Kerala we actually had a police officer a senior police officer from Kerala come here and make presentation to judges from across the country because in Kerala the police has its own system of monitoring the progress of criminal cases so separate from the IO there is an officer who actually goes to junior officer officer specially selected who goes to every date of that case and and cracks down the cases and reports to the senior officers whether the witnesses have come or have not come, whether the judge has come or not come, whether adjournment has place or not so that there is somebody else who is monitoring the progress of the cases, so the excellence of the police department in monitoring the the the progress in criminal cases from FIR stage right down this goes through to the appellate stage is necessary for court excellence of a Criminal Court, so someone has to say that look the police have to do, you have to make sure that is being done. So we have in our own country examples some good some not so good of of good practice but can we develop a Framework as if you look at this you know if you look at page 14 she talks about the areas in which courts have to excel in their performance in terms of quality, timeliness and responsiveness can be identified as under:

One - well performing court shall be accessible to Litigant public.

Two - well performing court shall be efficient and effective in court proceedings from institution to resolution of cases.

Three - well form of performing court must possess adequate resources to deliver quality and timely justice must be fair transparent and accountable in all its activity judicial and non-judicial. Now is there any possibility of being able to convert this in any High Court through the SCMS to actually monitorable even a few pilot courts, initially take two three courts as a sample Court pilot Court take some of these ideas and try to see if we can actually measure the excellence of that court and learn from it so that then we can build on it and then if we can move now if we can do this then we will be able to convince the country that we have a system for defining and measuring Court excellence and we're actually measuring it and our performance is up to 70% or 80% so when you say the judicial system is not working well we can say look we have a system in place to define excellence to measure it and monitor it, then people cannot simply irresponsibly blame the judicial system frankly today there is a from the media a relentless attack on the credibility of all the major Institutions of the state Judiciary, politician you know sorry legislature bureaucracy and people are starting to be sort of brainwashed to lose faith in these institution and the next step will be the Republic will collapse, except there is no attack on the corporate sector and there failures. Sponsored by them every there there's no questioning of their performance as if there is no market failure or no corporate failure all other officials as a classes as a group not individuals are being attacked as being you know the failures. We don't have any counter to that, if we have a system where we define what is court excellence, we measure it and produce performance result...won't happen overnight then this the institution will be safer. That's my submission. Sir!

**Participant:** not audible

**Prof. Mohan Gopal:** Sorry Sir

**Participant:** Sir in Gujarat we have prepared a questionnaire and at the district level the users, the litigants and the visitors of the courts would be requested to fill up the questions like a sample. How easy was it to find the place? Was it easy to find places inside? Was the enquiry counter properly assisted you? Were you satisfied with the cleanliness, standard, response, noise everything and on the basis we would have periodical survey done every 6 months or so and select courts we will be trying to find out what where we are going wrong what requires to be improved. For example cleanliness, water is not there, sometimes toilets are not functioning sometimes the inquiry counter is not there at all but at least we would know what the visitors tell us our shortcoming. Prof. Mohan Gopal: Wonderful Sir, may I request you to consider sending that information

to all the SCMS that will be very useful along with the forms and all that so that they can use it and that's another example of how this effort can help to improve the system for everyone and secondly Sir I also wondered whether you might consider posting the results of this on your website and then getting some people the media people to write about it because it will enhance the credibility, even if its a bad result it will enhance the credibility of the system that you are talking care about this. I know that we know that you care but people don't know that so these kind of initiatives will be very helpful.

**Justice Qureshi:** Coming back to the four criteria's at page 14. Now don't you think the first and the fourth are concepts?

**Prof. Mohan Gopal:** Sir she has explained that Sir if you go forward to fifteen she has explained that accessibility of the court shall be..

**Justice Qureshi:** No what I am saying is that the concepts can it be measurable?

**Prof. Mohan Gopal:** So the challenge is exactly as Justice Qureshi pointed out to extract some indicators some indicator so how which can be measurable so you can't measure the whole concept but you can find indicators that are measurable.

**Justice Qureshi:** Because so far as accessibility of the litigants to the court is concerned that court has hardly anything to do. The subject matter or the jurisdiction is already assigned.

**Prof. Mohan Gopal:** No no but within that jurisdiction our people whose you know who have a list within that jurisdiction exactly as Justice Qureshi was saying are they able to find it do they have help, do they have you know is there information on the website about how you file a case and if you go to websites of many other democratic countries you'll find a lot of information available to the citizen about how you know what my jurisdiction is how you can access my jurisdiction what steps have I can help you. We can take some indicators and start the process and then build up further but I think the fact that we are moving towards looking at Court excellence not simply judge excellence and that's really one small part of it one important part of it but very often even the best judges are defeated by lack of excellence. So if we can get a comprehensive picture of the five or six which is what she has done five or six elements what is measurable, start a process of measuring like Gujarat is doing then I think we will start to make progress and so if you look at the next page she's gone through it in some detail.

**Participant:** About the earlier topic I just wanted to add one thing, most of the judges would go to the court room and then preside over the court and they only see the view from the dias. Once in a month a judge should go when there is a holiday and take a entire round of his court room and fix up all the possible small things that may be bothering the litigants sitting in the court room, that would also change the perspective of the judge and it will bring about an improvement

**Prof Mohan Gopal:** It's a wonderful suggestion and I think when we think of this model court management and case management handbook we should put that idea into that I think Sir great idea because you your perspective is very much influenced as you are correctly saying by your exposure to this knowledge and so then she talks about page 19 she talks about measurable performance standards and then she talks about expeditious justice. He has said Justice Singh she's giving some parameters time taken for numbering and placing a case before the court right so these are measurable things. Service of summons being affected only by conviction being sought.

**Participant:** One thing may make a big difference if we have a sort of case sheet pre-defined case sheet put in all files just giving a few dates like for example title suit when the suit was filed when it was reported when notices were issued when issues were framed. Just these broad dates on every case so that the magistrate whenever he gets or the judge whenever he gets the file he doesn't have to go through the bulky records he has to reflect on the first page and the moment he sees the first page he knows issues were settled three years back where are we because otherwise in the bulk of the order sheet there is absolutely no knowledge when the issues were framed all he knows is issues have been framed but when he doesn't know.

**Prof. Mohan Gopal:** So you are also suggesting Sir particular parameters which are verifiable which which...

**Participant:** No that should appear on the first page of any litigation records so that the judge whoever is conducting it he has to see just the first page to notice that where is the delay where is he stuck because otherwise ha has so much of work he doesn't bother when cognizance was taken when witness was examined, when last witness was examined. Now if that is condensed into one page which he has to keep entering as and when the event takes place revisiting the facts in the process.

**Prof. Mohan Gopal:** My suggestion is that if each of the SCMS Hon'ble members here can when you go back sit down and focus on this put the specific ideas and circulate it amongst all of us then we compile all that together and that becomes like the National Model rather than have to do something at the national level and go downwards I think it should be the other way around that you should because you have vast experience you should make suggestions we can then meet again discuss, we are proposing to have at least once in 6 month or so a meeting a joint meeting of all the SCMSs and the national court management systems committee where we will start getting into more detail into each of these areas. So I think if we can do that so that's where on page 20 she put a number of measurable parameters on time and expeditious justice and she's looking at whether Public Prosecutors and government, it will be wonderful actually if you have a record for every criminal court in every high court as you said as she is also suggesting here a current database on how many public prosecutors are there in every Court and how should be there. So that then you are you pointing out all the parameters which are actually effecting the quality of justice and you are saying here are the weaknesses on quality. Something Judge can fix Judiciary can fix somethings it cannot, government has to fix that so she suggesting whether forensic science laboratories are available, whether sophisticated technical methods are being used while recording section 161 of CrPC, so she's making a list of all these things if we can systematically track down all these things in every High Court aggregate it and then compare the states where this is better and the states where this is worse then you'll start to get progress in solving this problems. Then she goes on the quality of justice page 22 Justice Rohini and then she says quality of justice may be assessed on the basis of quality of the Judgements, approach of judges, I am speaking so much only because she is not here and I was requested to do that otherwise I am not intending to present this report I am just stepping in for on behalf of Justice Rohini inadequately. The quality of Justice may be assessed on the basis of quality of judgements, approach of judges to decision making process, there legal knowledge, professional skills of members of the bar in assisting the the courts, efficiency of the supporting staff and more particularly Strict adherence to professional personal code of conduct by all stakeholders. So even if we can take in every state 1 pilot court with a presiding officer who is willing to experiment with this and develop a Framework for assessing quality in that one court. Then it be interesting to see.

**Participant:** Can we not assign this work other than that of conducting of the matters, record managers because

**Prof Mohan Gopal:** a very good idea Sir.

**Participant:** Because the judges may not be able to spare time but this work can be looked after by the court manager.

Participant: very good idea Sir may be we each SCMS committee can consider finding one very good Court manager well qualified young good court manager and as Chief Justice has suggested to entrust to that court manager the task of setting up the system, monitoring it in 1 court and we can learn from it.

**Participant:** Because he'll be in better position to spare time he will be also in a better position to take up follow-up action.

**Prof. Mohan Gopal:** So then you can look at this what she's doing in terms of performance of quality of justice following performance measures can be adopted whether adequately reasons are being assigned while disposing of IAS, periodical refresher courses are being conducted for judges. So actually in a good system all this must be ideally monitored and I think you're right the court managers under the registrar general supervision can actually set up the system for all this.

**Participant:** As per the report shows that they are having very little work court managers. Off course for each court there is no court manager but suppose a principal district area is there one or two district can be assigned to 1 court manager.

**Participant:** No the system is one court manager per session's division per district.

**Participant:** No but we have not appointed for all the districts.

**Participant:** You see this administration part can be taken care of by the. Including that of the procurement of certain say tendering process and other thing. At the High Court level they are doing. I see..

**Prof. Mohan Gopal:** But in Orissa they have taken an initiative I in fact I myself have gone and talked to the court manager in one session the training program they have taken a lot of initiative. Sir if Justice Mohanty if you could Sir please also circulate to all the members SCMSs what you are doing with Court managers, how you have systematically trained them, you had a very very systematic training program program for them.

**Justice Mohanty:** and its going on every three months we have a review and we take inputs from them at the academy.

**Prof. Mohan Gopal:** So this you can kindly describe and circulate to everyone.

**Justice Mohanty:** Huge benefit to the judiciary. At least the presiding judges, sessions judges etc the administrative work they have to do significantly reduce and we use to have a post called registrar who is a judicial officer now the registrars have been now effectively made special Judges for women related offences. So we freed them from the administrative responsibility because of the management available and they are now all doing judicial work.

**Prof. Mohan Gopal:** Actually I think Orissa maybe one of the best practice states in terms of using Court managers effectively because I had myself had the opportunity to come and participate in the training

**Participant:** We had the privilege of my lord Justice Gopala Gowda coming from Karnataka and his Lordship brought with him the experience of Karnataka, and he expanded it to all our districts.

**Prof. Mohan Gopal:** So if you could share that with everyone that will be very helpful thank you sir then adherence to court values also she has brought in 24 independence, fairness, impartiality, certainty. Some of these are perception oriented little sensitive but she's talking about how to how to look at this and then on page 29 she comes to system for monitoring and enhancing performance standards. I'm doing this partly to point out that in every one of these base line report there has been a lot of effort and a lot of specific suggestions and details have been put in which can be considered for implementation actually and in various High Courts if appropriate. So since the nomenclature of cases and procedural aspects designed of a separate monitoring system for each state specific modification shall be made. One of the established court management systems committee for each state, look at para 6.3 that has been implemented now so as to regulate and monitor the effectiveness and performance standards already prescribed So she is suggesting here that one of the responsibilities of the SCMS must be to monitor the performance standards already prescribed and to take measure for necessary modifications, very important functions of the SCMS. As already suggested empirical study of the function of the courts in all States by making systematic research in data collection about the performance levels is essential. Now here I would like to make a suggestion for the Honorable SCMS chairpersons and members to consider that you

may want to do what the Supreme Court is concerned actually Justice Thakur is actively working and asking that this be implemented to us and we are trying to help to establish a small research cell under the SCMS. And if you want that research project to be funded the central government has a fund the national mission for funding the research projects so what Justice Thakur suggested which I thought was a very good suggestion was for us to have a research cell which will be jointly supported by Indian Law Institute maybe Delhi University you know some some academic Institutions with research capacity so that for them also it is a good research opportunity and so you don't have to have so you only have to have one or two people who will co-ordinate that but you can draw in actual active academics who are engaged in research to carry out their Research and collect the data and judicial Academy. No but SCMS, the point is judicial Academy should have much broader issues of research also but SCMS must have a research capacity as she suggesting here in Para 6.4 empirical study of the functioning of courts in all states by making systematic Research and data collection about the performance levels is essentials. So you find that in each of these aspects in the SCMS is functioning SCMS must have a research capacity which is for the SCMS now Judicial Academy can help you to do that but they'll also have to do much more than that separately but you must have your own capacity to ensure that this data is collected on how courts are functioning on this different parameters. There you can also look at the kind of issues on performance evaluation that both the Honorable judges have been raising about their performance. So this is a suggestion Justice Rohini has made which is very important suggestion while deciding final NFC it is also necessary to design the formats for receiving feedback on performance of Courts. Gujarat is doing and for maintaining periodical statistics for revaluation of the performance of courts and how far measurable performance standards admit. We will talk about that when Mr. Bora Bora makes his presentation tomorrow on the National system of judicial statistics, he has a very interesting presentation on how to set up a system of judicial statistics at each high court level. Now if you go on to the attachments you have seen the guidelines for the training of judicial officers and strengthening of state judicial Academy which the government sent out was basically taken exactly from NJA had, it was also in the 13th finance commission yes, it has been taken almost verbatim without even correcting some small typographical mistakes from what National judicial Academy had had produced. So government does not apply its mind to any of this they just send it out...aa One small idea that had come up in our NJA discussions in the past on quality of judgements a measurable quality of

judgements with a simple Idea, if you take the the within of the definition of relevant facts and fact in issue and say from that you derive the principal that ultimately what a court does is to determine the existence non-existence nature or extent of right liability or disability, that is the basis of the definition of relevant facts. Then can we make right protection the indicator of quality and how do you do that? Suppose a junior division judge senior division, ADJ, District judge writes a judgement can we take that judgement and give it to some retired judges, professors, researchers and ask them in this fact pattern identify all the rights that arise for protection. So they will list the rights so you can give it to different people each of them will list the rights, let's say there are 8 rights that they can identify under different statutes that arise for protection in the given fact pattern. Then next step is you look at how many of those rights were actually protected? it may be the rights of the accused of the process of the defendant of the plaintiff of the complainant whoever but how many rights were protected so if there were 8 rights and six rights were protected then the quality of judgement is 6 by 8.

**Participant:** It need not be measured on the basis of judgement confirmed or reversed.

**Prof. Mohan Gopal:** Sir that maybe that maybe like you know we have famous..

**Participant:** No it will be an end of the litigation so far as that particular litigation is concerned. Suppose we take it like that a judgement is delivered by the high court SLP dismiss that's all, so that means that at least it is not reverse by the higher forum.

**Prof. Mohan Gopal:** Sir that is definitely one indicator.

Participant: Otherwise what will happen an academician will decide whether rights are properly protected or not.

**Prof. Mohan Gopal:** No not an Academician can be retired judge but it is very verifiable Sir, if somebody says in this fact pattern there are 8 rights that I can identify that arise for protection that is objective statement either those rights arise or they don't arise anybody can debate it and then you identify the rights and you see were those rights protected or not it becomes not the only but a parameter you can also look at reversal but the thing I said you take ADM Jabalpur which reversed a lot of decisions but today the dissenting judges picture is on the wall of Supreme Court and and so can you say that because it was reverse that judgement original judgement which was reversed by ADM Jabalpur we can't say that was wrong.

**Participant:** But professor all that you are saying is history. But we can't judge it today.

**Prof. Mohan Gopal:** So my point is looking at a measurable practical parameters then it can be anybody can be a lawyer, can be an academician, it can be a judge can be...

**Participant:** we have to keep in mind that to what extent it can be practicable to get that judgement assessed through a former judge. Suppose you want to rate any judicial officer how many judgements you'll give it to the person concerned. Otherwise it is on numerical basis or figure wise those data reverse would be easily available on the record.

**Prof Mohan Gopal:** Perhaps what you can do is Sir we can look at the number of this parameters we can see how many reversed how many are not reversed as one parameter, we can look at right protection as one more parameter, so whenever we can get objective data what you're saying is it is objective was it reversed was it not reversed was it upheld, so that's a good parameter because its objective. Sorry sir!

**Participant:** One issue would arise supposing there are 8 rights in a particular case now the lawyers wish to argue only 4 of those rights. Should the judge also be deciding those four rights also which have actually though maybe arising on the facts but have not actually been argued by any other counsel.

**Prof. Mohan Gopal:** Then you can say that look at the rights to be protected in terms of the remedy that is sought within that Framework, you don't look at the fact pattern you look at the relief that is sought and how many rights arise in those issue.

**Participant:** I may just share a very scandalous truth if I may say so, we just conducted, we were having a class in Judicial Academy of the CJMs and ACJMs just out of the heart I said ke each of you kindly write out order of cognizance. To my surprise I waited for 10 minutes not one could write I was wondering what happened order of cognizance is something very routine, it had become so routine that no one writes it it's the *peshkar* who is writing it. They have forgotten what the ingredients is.

**Prof. Mohan Gopal:** a question of law is framed by my predecessor, substantial question of law what happens is here it I find there is something else so I raise other substantial question of law this is because again there is no application of mind. You must conclusively decide the issues

before proceeding further like if there is something in the CPC which says you can also frame this issue at later stage so this gives room for non-application. If you look at page..

**Participant:** In a civil suits often it is found that the issues are framed on the basis of the claim raised by the defendant, actually issues should be on the basis of the right claimed by the plaintiff which is conflicted by the defendant but often we find that issues are framed on what defendant had raised.

**Prof Mohan Gopal:** Two submissions I'm making is no. one we are looking at the excellence of the court not just a judge so what we are saying is for whatever reason has the court failed to protect my rights maybe I did not plead the right thing maybe I didn't get the right lawyers, there are people who have actually been sentenced to death, look my Conviction and sentence should be reassessed because there was a failure of legal representation and I did not get proper legal advice my lawyer was sleeping when the trial was going on, these are actual cases, in the US and all in the appeal they say that my lawyer was asleep now and then so to have another trial because you're looking at the court and saying the court has not protected right.

**Participant:** What is more important what you're looking in the future to have more litigants in person appearing before Courts? Yes yes! Now what is the court going to do what is it that we have told the litigants that look these are your rights these are the procedures where have we set down the procedures. When we are talking of court excellence you are supposed to make available all these things the moment the litigant comes and says I don't want a lawyer I'll do all by myself are you going to tell him about his rights or not. So this is an important thing.

**Prof Mohan Gopal:** If you look at page 39 she's sir Justice Justice Rohini has reproduce put the photocopy of the international framework of court excellence which has been developed by us Australian and Singapore Judiciary together and then done by others as well and there is an international Consortium that is joined as part of this, if you go to Page 43 you'll see the table of contents of court values and court Activity the court values and court activities so areas of court excellence, leadership and management planning and policies, so here now they are taking it one step further they are saying if you want to be an excellent court you must have planning and you must have leadership and management you must have human resources then proceedings and processes, client needs and satisfaction, affordable and accessible Court services, public trust and confidence. Now these are all things that are being done by courts in this countries. Question is

should we as a country start thinking of this of these kinds of of measures and activities we have had few years of discussions here at National judicial Academy and I can tell you that my experiences lot of the judges are very keen that these things should happen but they are waiting for the high courts on the administrative side to actually put this in place.

**Justice Reddy:** Professor in fact all these things has been done unknowingly many a times we do it we dont record it exactly not systematic so now we need somebody who can just jot it down as and when it is done.

**Prof. Mohan Gopal:** this is where I said that the very opening I said lot of good things are going on but it's happening Ad-Hoc way in individual initiative NCMS SCMS gives us the opportunity to institutionalize it permanently and that will really enhance the quality of Justice. Yes there are many of these things that are being done sir so you are absolutely right and so in fact whatever justice Rohini has put here is based on her own experience of other judges. So if you look through that you can see the 7 areas of court excellence and court values all that is given in detail here and then if you look at page page 78 you can see the questionnaire on self-assessment questionnaire on Court excellence, court leadership and management and you can see some other criteria there. Court establishment its Vision and Mission is setting time in service standards and review judicial and administrative performance. So in the next few pages 80, 81, 82, 83 they're all these forms which are produced there, than this is all available on the Internet also. The 87 is the sample template for an improvement plan for all these different elements checklist and these are all produced by courts and frankly Singapore courts are very similar to Indian courts because they were administered of Calcutta and they follow the Civil Procedure Code and Criminal Procedure Code just like us and so many of these ideas are implementable by us so I just wanted to take you through the whole framework of national framework of court excellence not just judge excellence and I think the country will start to appreciate the complexity of this whole court when they realise it is more than just the judge who has to do well to produce a good court all this gives a Framework for that

**Participant:** Professor can we therefore ask one of the High Court, take one court their and try to implement in whatever fashion that it is going to assume including the points. Then lets examine.

**Prof. Mohan Gopal:** So I think Sir I would maybe be a little more ambitious and and suggest that every state court management system committee can locate a suitable court with suitable court

manager and try to put in place is these parameters and share that experience with us so that we can then build on that and these things take time but we'll actually implement this we can take one court and try to apply as many as different base line reports as possible not only excellence, one court in each state and then see how it goes and we can learn from that experience. Geeta shall we break for lunch now and then when we come back we can look at the the the come back on schedule and pick up case management at the end of the day so that we don't disrupt the schedule. So we'll go on to go on to, No I think we'll be continuing sorry we'll be doing court development planning and human resource development and then we can pick up case management either at the end of that session and request it to say that we may kindly have a group photograph before lunch on the way to lunch at the entrance and after lunch if you wish we can shift the venue to the other squad table conference room or we can continue here, whatever Hon'ble justices wish. We can go there it may be easier there in which case you may leave your bags here and take it later or so we'll meet at 2:15 after lunch and in which room? In the library conference room. Conference room next to the library. Thank you!

#### **Session 4**

Justice Patel: Good Afternoon again to everybody, we had a nice lunch and I think we have regained the energy to do further work and as suggested by Prof. Mohan Gopal, we will first take up session four on the issue of Court development planning and then human resources development and then at the end of both the sessions, we will touch the issue of system of case Management, may I now request Prof. Mohan Gopal to take over on sessions four.

Prof. Mohan Gopal: Thank you sir, again on session four we are substitution for to extent possible Justice Badardurer Ahmed who has prepared a very detailed exhaustive proposal on court development planning and infrastructure, I would invite your kind attention to page 239 of the volume and once again our attempt is to now to see to what extent we can implement these ideas or change these ideas, but we have to move towards implementation phase, we have done a lot of research on all these issues now we have to start operationalizing but not necessarily what is written here but the idea should be there, now the two aspects to court development planning, one which is the simple idea that every court should have a court development plan for 5 year plan, it may be a magistrate's court or senior division court or junior division, the idea is every court should have a plan where the plan is for the court not judge, so the CJM court of Bhopal should have a five

years plan, how it sees itself 5 years from now, may be PPS will be better, may be infrastructure will be better , may be witness room will be there , may be some of the difficulties that they are now facing will be over, how long will it take, what are the issues to be dealt with over next 5 years , again the attempt is to slightly shift the focus from judge to court, as a permanent institution and see what should be the role of court , what should be, how to make the court meet all the other performance standards that we are talking about. So the court development idea is a plan to implement the other elements, national framework for court excellence and so on, and we have some templates on court development plan, but those are not necessarily followed in every case, the simple idea is that there should be a vision, every presiding officer must look at the court he is presiding over as an institution for the next five years and write it down.

I am happy to say that many times we have discussed this in the National Judicial Academy, we had a few judges who volunteered and made five years plan for their courts in consultation with the bench sorry the bar and administrative and court staff and we also organized for two years, what I found to be extraordinary and successful meeting, where we called, choose hundred of the worst performing courts at the lowest level and we called here from that courts, the presiding officer, the prosecutor, defence attorney and the administrative staff from those courts and in two and half days programme we said can you develop a vision, what will the court be five years from now and what will you do one year from now. First time this programme happened we called people from five six courts, some of the people who came here , President of the bar association was sent of that court, he came here and initially he was very hostile and when he left, I am not exaggerating, he was in tears, he said I had never had the experience of sitting down together and having the experience that we are working together for this institution because I have never been sat down and said that look we are working for one institution, the court staff who came here not one court staff raised any issue about himself or their own issues, they were all, taking about how to make court better for poor people who come to court.

After one year we called them back, the same courts to see did you implement what you said you will and in most cases they had implemented, with no additional budget resources nothing, they cooperated and implemented and the presiding officer said that he received more cooperation from all these people because they suddenly saw him as a leader of the community and the fact that we called them here and we treated them very nicely at the National Judicial Officer, the presiding

officer felt that his family is inviting his in-laws or something like that, he felt that he was...like a host here. So we felt that when we talk of court development plan developed around stake holders, I use that term duty holders of the court rather than stake holders. It is very difficult to do at the level of High Court, because High Court is not a court presided over by one presiding officer, But up to the district judiciary the advantage is, it is very individual oriented court, one judge, few lawyers, it is very easy to get them together. So the idea is to have a five year vision for institution called the court and get the current presiding officer to apply his mind to think where do you want this institution to be five years from now and then to develop that vision in a collaborative manner with all the stake holders and for them to suggest to have a vision for the court and how to realize that vision, so this is how we did on court development planning...aaaa....so I on court development planning...aaaa....so If you....look at page 247..justice Ahmed says "once objectives are clear and development plans are in place, state government would have to provide requisite infrastructure and finances to see the plan is through so the plan must identify what the requirements are, infrastructure, court staffs, all these aspects, if the government does not do so the blame would be on the government as it would be obvious to all that the plans have not materialized because of the missing contribution of the government, the absence of developmental plans, as it is today, the judiciary draws all the flack for the mounting arrears and delays, whereas in reality, the present position is entirely due to resource crunch, which is foisted upon the judiciary by state government, there are not enough judges, there are not enough court rooms, there are not enough computers, there are not enough stenographers and so on....As a part of court development plan, each High Court is required to set out the minimum standards of court rooms, this is very crucial.

What justice Ahmed has done is that he has set out the minimum standards in a very exhaustive manner in his report for physical infrastructure and if these can also be implemented on a pilot basis wherever possible, working with the state government and the architects, again not necessarily using Justice Ahmed's standards, using any standards, but to have a set of standards for the state. and why Justice Ahmed's standards are useful to look at in my view is what I feel personally is, that the **judicial system in India is very unique it is a transformative institution that is trying to bring about a social change, from a hierarchical society to a more equal society** therefore I feel that it would be wonderful if all the court room in India had a similar look and feel so that if you enter a court room in Kanyakumari or Gujarat or Kashmir or anywhere you

know that you are in an Indian court and the look and feel will give you a practical exposure to an idea of equality, idea of freedom, idea that your dignity is respected as an individual, and in many places, court rooms are places that even if you are convict or criminal you are treated with respect and dignity. In many countries, the convicts they wear normal clothes, they sit at the desk, along with the attorney, they are not put in a cage, like in Egypt, they are like an animal in a cage, here we put them in a dock like the British, but now those countries have move beyond that and they treat them with dignity so you are telling them that these are the values, even for the worst type of people we treat them with some respect. So advantage of taking a national approach as Justice Ahmed's has suggested that there will be a similar look and feel for the courts and he has provided lot of detailed information for that.

Participant: We have standardized even the residents, senior division, junior division, district judge, residential multi story plans are there, so all we have to do is, requirement is this plan A similarly 10 court building, 13 court building, we have standardized.

Participant: My state, that is Karnataka civil judge has a bungalow equal to that of deputy commissioner in a district . New bungalows that are being constructed are so huge for the residential purposes of the officers, they are no less than that of district magistrates and court complexes they are all mini High Courts in every place. Infrastructure wise no issues, we have adopted all issues except parking, that is one area where there are problems, otherwise infrastructure is in place through out my state.

Prof. Mohan Gopal: Wonderful sir.

Participant: We have standardized court rooms and we have standardized basic facilities. I think they are absolutely fine, may not be at par with Saket but you can say facility wise no less than saket and there is a standard architectural plan for each court room.

Participant: No land, land is a problem, our Prime Minister is opposed to the land acquisition so he says I cannot acquire land for you, buy your own land. Now from where does a civil court buy land we don't know.

Participant: More the comfort less the commitment, balancing factor I don't know how it can be achieved but the trend appears to be, what was lacking earlier, the commitment was there, everything else was lacking, when I was practising I saw the district judges, travelling by public

transport vehicles, now everyone comes by cars even a junior division officer comes by car, he has a bungalow, e-library, well furnished court house , everything, but if you ask in return what is that you are putting back to the institution, it is a big question mark.

Participant: What is the budgetary allocation?

Participant: Each quarter that is being constructed is of crores of rupees

Prof. Mohan Gopal: point six five percentage, the budget is huge.

Participant: Nothing is sent back by the government, whatever is proposed by the High Court, that is cleared.

Participant: In Bengal for sports it is one fourty crores, not a single person from bengal, has been on national scene, except Sourav Ganguly who comes from a affluent family, did not require government funds, there is one twenty crores for youth services, now this is donated to the local clubs, these local clubs have younger generations of people, money comes in their hands, some money is diverted to party funds, they organize elections, so this is what is happening, for judiciary , whenever we send requisitions, not even fifty percentage is spent.

Participant: We have to decide priorities from the High Court's angle, if the land is available then immediately that can be put into planned items and 33% or 60% provision can be made, if land is not available we can minimise the provision and next year when land is available we can give priority to that district so accordingly by these manners we can develop infrastructure within a period of five years, but it is required to be planned out according to budgetary provisions, especially the budget available under planned head.

Prof. Mohan Gopal: Very correct sir, it has to be coordinated.

Justice Reddy: As far as It infrastructure for courts, the E committee has already given them funds through the central government and there is no need for he state government to make any payments.

Prof. Mohan Gopal: That day Mr. Gulati was informing us that now only two teams are left now, the E- Committee and something else

Justice Reddy: The E committee payment has already come and it has been sent through the states.

Prof. Mohan Gopal: But the other payments are no longer being made by central government.

Justice Reddy: no what they have done is...yes yes..correct..it has been done straight to the High Court but what ever has been enhanced for the state's share that includes part of waht has been spend on the judiciary. That's what Mr. Gulati was telling us.

Prof. Mohan Gopal: But the other schemes are no longer there.

Justice Reddy: They have been given to the state

Prof. Mohan Gopal : But there are no markings, no year markings. You may look at page 326 onwards where your questions has been answered about allocation to the judiciary, there is a very detailed table there page 326 onwards and you will see that the highest allocations, if I remember correctly was Maharashtra, page 332 201- 11, 3.96 % of the budget was for the judiciary in terms of percentage that was the highest. You aid West Bengal was 0.65, Kerala is 0.43, this was prepared by Justice Ahmed. but Maharashtra seems to be highest 3.96.

Justice Patel: In one meeting someone was saying, we have sanctioned this much amount, we have given this facility but what the High Court ha given to us, then in a lighter way we said that we have demanded in writing, you also demand in writing , we will see whether it can be given or not...hahahah...

Prof. Mohan Gopal: So if you look at states where infrastructure, like West bengal, Justice Dutta was saying that the infrastructure is not at all adequate and he is not at all optimistic that the government will be pursuing it by base line report but I was suggesting that in such case we make a survey and prepare a survey of the state of the physical infrastructure, that information will become public and that will have its own impact .

Participant:...let that average be taken, that will be base line , otherwise if you see the percentage of allocation, it is no where matching some of the states, I was just looking at Chhattisgarh it is 0.28% but if you see Delhi 1.41%.

Prof. Mohan Gopal: and look at Maharashtra, the highest

Participant: SO a base line should be prescribed, so much percentage should be earmarked in the budget for the judicial department allocations.

Prof. Mohan Gopal: Sir, that may not be constitutionally possible

Participant: No it is a suggestion

Prof. Mohan Gopal: Suggestion we can give

Participant: Suggestion may be taken as directive, let us hope for that.

prof. Mohan Gopal: I fully agree sir, we can do that, but if proper, or approximate court development plans identifying the needs of the judiciary is developed for major courts, then you have a concrete basis to tell the government look these are the needs, otherwise they will say why are you asking for so much money what will you do of that, some years ago I used to be member of planning board of my state on honorary part time basis so I saw that when ever departments came and asked for specific needs then they got much better positive response than saying that I want X amount of money that is not taken much seriously, so if we can do a combination point out the level of allocations plus have a court development plans that can identify the needs, then we can improve the resource allocation to the judicial system, so again the question is can be have a pilot, pick up one of two courts, same courts, make a court development plan and see how can we develop an also look at infrastructure needs in terms of common development so that we can take these baseline reports to the next level.

Justice Reddy: You are right Professor, what happens is, I have seen budgeting invariably for last 10 years in the High Court, what we do, we ask the budget department, what was the last years budget and add 10% more, there is no question of looking to what, it is just 10% plus and what the government do add 10% and when we ask for more, come next year, this is not planning.

Participant: And when the release they release only in the first week march which we cannot spent and they say that you have not spent for last year. This year we will not enhance.

Participant: Sir, I would like to share my experience, similar was our experience, till last year when we learnt what happens, since last years we started system where we collect information from district level, exactly what Prof. Mohan Gopal said, we asked the district level authority to identify what their needs are, what is the on going projects, what is the additional projects, what is the man power they have, what is the projects for next 5 years, on those information first time in the history of my High Court we created a budget unlike the 10% and this budget was approved by the full

court. The Chief Justice along with three of this colleagues we met with the Chief Secretary, Home Secretary, Finance Secretary and the Law Secretary and just ten days ago the meeting went through and the Chief Minister has talked to the Chief Justice, thanked him for the detailed worked out and as my learned brother said it is planned for next five years but each year what will be the budgetary requirement, we have broken it up and they have in principle approved, so if we undertake that very exercise as Justice Reddy is pointing out, we learned about last year and started working on next year's budget since last year so we under took, 5th December was the last date for presenting the request for the budgetary allocation and our Chief Minister has congratulated our Chief Justice that we have never have come across a budget of this nature from the judiciary.

Prof. Mohan Gopal: Very Good, very good example

Participant: Budgetary allocation had to be split into revenue capital because capital will not be a recurring expenditure, like this year we are building places in whole number of sub divisions, so our requirement goes up to thousand crores, though it will not be spent in this year but within two or two and half year but after this it is only the revenue expenditure that is salary and other costs so after two years it will come down to something like 20 crores or 30 crores thats all

Justice Reddy: Thats precisely, you have to plan yourself . planning into development of building infrastructure and planning also in how many years you will have it, in five year plan seems to be very optimum, you see when we started doing something on the E- Committee in the High Court, we wanted a totall new E-filing system, we had some information we had to spend 10.5 crores and government was not willing to give to us, no we will not give it to you, you plan and give it to us, it is not just one day somebody scomes and places it there and 10.5 crores is over so the planning has to go, so what we had done is over the period of 5 years we are going to spend that 10.5 crores, unless we give this meticulous detail about planning and for the next five year things won't happen. I am sure if brother Deepanker try something like that, West Bengal, didi may give you that

Participant: how can we proceed, without money nothing can happen.

Participant: We are trying a new experiment, from January we will implement it, we are running into, we have been stone walled because our Chief Minister has opposed to land acquisition, he says we will not acquire land you go and buy it , we will not acquire it because I am opposing land acquisition I cannot do anything. What we are planning it that from January we will have a

infrastructure bench, a judicial bench and get a PIL and start by judicial orders because there is no other way we can do it because this is the basic requirement we got to do it, it is the sovereign function, sovereign obligation.

Justice Reddy: if we have an infrastructure bench which meets once in a month with the concerned PDJ appearing on one side and the Chief Secretary appearing on the other side, here pass judicial order because they are fundamental state has to provide it. Infrastructure bench was constituted in the Supreme Court, I had suggested to my Chief Justice that we should have such bench, his lordship's have agreed but did not come into force but infrastructure bench is required in every high court otherwise it is not possible. We have judges who are meant for infrastructure but they have their own limitations. Some are good but others are not able to get things done through the government, it is only judicial orders which they will be able to implement.

Participant: On a lighter side in the Gauhati High Court, it is called extortion bench...hahah..

Prof. Mohan Gopal: Sir I think one of the points I wanted to submit is that main responsibility for SCMS not NCMS may be for NCMS in future, SCMS is to be the focal point for High Court to prepare budget so we should try SCMS to have a role in that with the blessings with the Chief Justice because you cannot leave it to the accounting people , I also had experience with two Chief Justices where I was here who after hearing this kind of discussion asked us to help prepare the budget and both time it was very successful, they got huge increases allocation after we went with experts and helped them prepare a proper budget but I met with accounting people who did exactly what Justice Reddy said 10percent increase from last year and so on. We had assembled some people who had some expertise in budgets, they came with us went to these two states and were able to help a lot. So can SCMS think of getting an expertise on some temporary or ad hoc basis of people who can help to prepare budget, now this is ideal time this is December, so from next month can SCMS pro actively help their Chief Justices.

Participant: We are taking help of court managers also and because first the account branch will submit the proposal then SCMS will do, then court managers will also weight it and again thereafter the budget is finalized, so court managers are the best persons to assist.

participant: there is also one representative from the AGO's office who will also assist in order to see there are no audit problem.

Prof. Mohan Gopal: So these are excellent examples of Gujarat and Orissa of how to help High Court prepare a proper budget many be next meeting of the SCMS , one of the items you may consider is budget and how to prepare a budget. So these are the main aspects and detailed aspects of infrastructure are provided you have seen that, the architectural drawing and all that are there so if any state have problem with infrastructure you can either use Justice Ahmed's design or approach Gujarat or Jharkhand. I think Jharkhand has a good allocation, stable , I think may be because Justice Bhatt moved there... hahaha the allocation moved up.

Justice Reddy: Prof. would you consider because it is one of the elements and if it is an implementation important to dispensation of justice, I think we should endeavour to consider some kind of an allocation based on some 5 years budgetary allocations if possible at the NCMS level.

Prof. Mohan Gopal: Its like Gujarat and Orissa and some other, it will be like counterproductive if somebody else comes and intervenes Karnataka, it may not be helpful but in other states we may engage. Now this happened in my own state Kerala when i was in national Judicial Academy, at that time Justice Kurian Joseph invited me to go to High Court and make a presentation to the Kerala Finance department officials on the budgetary needs of the judiciary, that i knew some of the people because I was in the planning board and they did helped a lot and it was helpful. So what we can do is where and SCMS feels that any intervention from NCMS would be helpful we are very happy do to whatever we can do to augment your own resources, Yes Sir.

participant: One more point I may add, for augmentation of income or more funds, recently we have come across a situation in Andhra Pradesh where government had sent to the High court AP treasury code any amendments were to be brought into it, in that amendment we had suggested that amount of court fees received as fine may be permitted to be retained by High Court for implementation of its projects as a part of allocation of funds, the state government says it will try to consider it, so nay other state may think on those lines if the government is helpful and constrained on this point it may allow. We are getting a considerable amount through court fees and fines also, if they permit us, it is only negligible I am not saying it is sufficient to meet our infrastructure but some ways it can meet. We are getting a good amount it is not that we are getting pittance in the form of court fees and fines, we can think of

Prof. Mohan Gopal: Will there be any risk involved in this.

Participant: No risk

Prof. Mohan Gopal: No risk in the terms of that the people will think that when the court imposes fine it will benefit by having more money.

Participant: See instead of giving some money to the judiciary they will say now we will give you A minus what you have kept, that's all, it will be a matter of accounting.

Participant: No sir, there will be three problems, one is High Court is a constitutional entity, funds from High Court come from consolidated fund. Point number two is any state enactment court fees or stamp act, under their audit rules, it needs to go into their audit account, otherwise there will be a audit objection of the state government, whether it is court fees or any other fine or anything it has to go into state funds, that can be basis of asking for some funds, that is another matter for High Court cannot retain that money.

Participant: I am coming to that, my friend is correct, all the amount it must be first put in the consolidated funds then only allocations can be made as per the budget proposal of the concerned departments, High Court is only one department as far as government is concerned, that's why the recent amendment to the AP treasury code, each state will have its own budget, finance and treasury code, so when they want to amend the treasury code, certain items are related to court fees as well as the fine amounts, these fine amount High Court will not retain straight away but by mingling them in consolidated fund they will year mark it and they will send it to the High court, that is what we requested for, of course it is in the mootings, it is not finalized. All other states make a similar request to the government, probably all governments may at one day agree for it.

Participant: Then one day they will say, as you are retaining X amount of court fees, your budgetary allocation to that level will be reduced.

participant: No in addition to it.

Prof. Mohan Gopal: No I think what the Andhra Pradesh example is, an amount equivalent to the court fees will be given

Participant: That they will not agree because court fees is fundamentally collected to meet the cost, that is the fundamental of court fees.

Participant: What I would like to bring to notice is, lawyers convenience is not much being thought of, so also litigant public, nobody thinks of litigant public's infrastructure is concerns, also lawyers, they spend whole lot of their life in small accommodation. The bar room are so small, they do not cater to the requirement. As against requirement of 200 square feet they will have 20 square feet and the women lawyers are increasing day by day and for them, the public convenience are so bad, so that aspect there is need for NCMS to address.

Prof. Mohan Gopal: That we have done sir

Participant: Yes I have noticed but that has to be emphasised

Prof. Mohan Gopal: If you look at page 266 for examples for litigants, for common public, common amenities, for judges. Very exhaustive document which has put all the documents here. There are photographs on page 268 and 269

Participant: In Bihar, the government has agreed, even for the lawyers, advocate associations building they have agreed that 75% we will give, but unfortunately everything is on paper and paper. They have provided and we are designing now. Of course new construction where ever it is, we have witnesses shed, litigants shed, and we allocate a place for advocate association. Of course we tell them you build on your own or you talk to government and build it, we are not going to take the responsibility and most of the place they have been running for last two years in spite of promise nothing is coming. No No this is the shift, five years ago state government said, lawyers are not our responsibilities, they make money they should provide for themselves, then it took us, it took me quite some time to convince that this is a family. There cannot be court without lawyers. As there cannot be court without litigants, there cannot be court without lawyers, they are part of the institution, they got to provide for them, they have finally agreed but till now...

Justice Reddy: It all depends upon, how the lawyers association, go hand and hand with the, the

Prof. Mohan Gopal: So on the court development planning the other thing, for all the base line report but in the context of court development and infrastructure and infrastructure, one point I would like to submit the ncms suggestions are intended to be a common minimum National standard ...it is common minimum National standard and ideas by calling them common minimum National standard we can create a situation where the state government can be told you cannot go below this standard now if you are any of the other states are below the standard that is a suggested

by justice Ahmed then we can certainly use this document to tell the government that these are common minimum standards. no this is not saket bases. But saket also as Justice Singh has pointed out is actually very efficient in terms of land use

Participant: where 14 acres would be available for establishment Court area. Nowadays not exceeding 10000 square metre so you have to go for a raise building only.

Participant: One thing I had mentioned in the vision statement which I was drawing when I took over as a portfolio judge was as we cannot expand in the district headquarters we have to spread out and establish in sub-divisional quarters so that to the extent of sub divisional headquarters the file move. It's a twin object, decongestion and second bring litigation to the door steps. Because otherwise people had to go to the district headquarters, have the courts there itself. It is a matter of acquisition, unfortunately we have run into a stone wall because our chief minister has opposed to amendment to land acquisition act and under the new amended provision, it is virtually impossible to acquire.

Prof. Mohan Gopal: So the suggestion is simply to mention that these are the minimum common minimum standards so they can be used as such a necessary can we now in the next 25 minutes a cover the case management aspects and then move to human resources at 4 o'clock as we have planned. And on case management on your table you have some bullet points distributed by Chief Justice Khanwilkar today with cross references. And I think these are cross references also so we can quickly go through them and here again a practical suggestion I would like to make is , as I said one of the post activities of NCMSC is to try and developer National Model court and case management Handbook manual and this will be based on partly on what is chief justice Khanwilkar has said and your inputs and guidance and suggestions on that would be extremely important one of the most important issue is that time frames must be established and so he talks about reasonable time frame and procedural safeguards and so on but the time frame must be introduced and the judge is expected to draw schedule for ensuring timeliness in the case processing. I would say management system this is probably the most important or difficult proposal which I think there is a Supreme Court judgement on saying that you can't have time limits for cases and all that , maybe that we are not saying time limit but we're talking about a schedule a process. is it possible? If yes in the pilot court we try this system to see whether in one court it can establish time schedule for cases and then see whether it works or not any reactions?

Participant: I think theoretically it is possible because the only variable, for Example the time and number of defendants, the time taken to serve , so we can quantify is, so much time taken per defendant. If notices go simultaneously, I do not see a reason for that but in asny case contingency can be provided. Then once they are served, the act itself says 90 days written statement, then once the written statement is there then what are you waiting for, come to the next step, frame issues, then what are you waiting for, list of witness is already there, they have to be summoned, there you can provide that witness summoning and examination, per witness this may days, so that way we can give whole time frame and see. For example, if someone dies in between we can give separate capsule, the substitution it should take this much time, ad interim injunction this much time, ad interim injunction this much time, so different case wise it can be provided and I think it can work out.

Justice Reddy, in UK it is already invoked. If notice comes to you from a court, if you are responded or defendant, time schedules are made out, you are supposed to complete your pleadings within a certain time and issues will be framed, trial starts, the notice itself says so, we can try the same thing here itself, it is possible in some cases.

Participant: With the amendment of CPC, case flow management rules have also been made by all the High Courts, they provide for schedule and all, so there is no need, it is already there, Supreme Court gave the draft of the time schedule and on basis case flow management rules have been made by all High Courts, the only thing is that has to be faithfully obeyed.

Prof. Mohan Gopal: We have gone through lot of these case flow management rules, they are very useful and very important point in them but they are not very comprehensive framework for case management. Again I have asked a lot of people and reflected on that, what the difference between case management and court management is. I used two words in following way. Court management is like hospital management, case management is like patient experience management. So case management is looking at the process from point of the view of the litigant not from that of court or the judge. So in that case I feel case flow management is a third category, it is really part of court management

Now when we talk of case management we're trying to see how can we make the experience friendly responsive helpful from the point of view of the litigant. If I am a patient I'm only interested in my decision going to hospital I Don't Care Hospital has 8000 people or 500 people

but my experience is a reasonable experience. so how can we construct a handbook or a manual that will look at Court management and case management both from the point of view of the court and point of view of the litigant, it is the question and I don't think we have adequately well understood perspectives on the on case management from a litigants perspective , for example witnesses are not told when when they will be called, they have to come and wait the whole day and then go without being call come back again another day, litigants are, their time is not respected, the litigants feel that they Don't Matter at all in the India judicial process , that they have to, on the other hand if there if the judge or the lawyer has a marriage engagement then the litigant has to wait but if a litigant has a marriage or personnel engagement, then the judge and lawyers will not wait. They feel there is a lack of reciprocity mutuality can be restored that respects of the concern of the litigant is the question.

Participant: Sir it is not difficult to lay down the time schedule but somebody must tell us, how we are going to follow it, if a judge has 10 cases and he has time only for two, eight are going to bounce and every system is overloaded. So unless Justice Datta in the last session tells us about resource development and proper ways of overcoming these difficulties, laying road map is one thing, how are you going to achieve those targets, we must set sustainable targets what I can do in long term and how are we doing to do it. Laying a target may not be very difficult. Surveying may take 2 months , summoning may take two months, rejoinder may take some time but on the day on which I have to hear notice of motion cases there are 20 listed for that day and I have time only for 5. So 15 are going to get delayed. And that is entire problem of system.

Participants: For example prevention of corruption cases, the officers do not dream of presiding over such courts, the voluminous recording of evidence is so much, it is impossible for him to give required units. CBI Courts, prevention of corruption act courts, it is difficult, the cannot manage the court at all, one witness might take one hour, one witness might be good for whole of the day also and may spill over. Laying down cut and dry formulas is impossible. The only thing is we can emphasise these things at the Judicial Academies to our judicial officers as to how best they can manage their courts and their cases also.

Prof. Mohan Gopal: here Sir, with your permission, Hon'ble Justice from Kerala will be able to communicate on this that the list system List system is a good example of how in civil cases, it was introduced in Kerala by former Chief Justice, Justice Nair, he introduced it in the 1960s

Participant: Long back they issued a circular to subordinate judiciary, I can circulate the circular

Prof. Mohan Gopal: We will be circulating it here also. I don't know if you still have copies we use to have copies which we use to circulate

Participant: On how adjournments should not be encouraged. But still then litigants should be given due weightage.

Prof. Mohan Gopal: See what happens in a nutshell in the list system pictures original introduce in Kerala in 1960s, now for followed by Tamil Nadu also. Effect of it can be understood in following statistics. I've not checked recently but one or two years ago, roughly speaking Karnataka and Tamil Nadu have a similar number of judges of subordinate Court Judges around 800 or so, there is , they have almost exactly for several years almost exactly the the disposal of criminal cases, it is very interesting number that too and very large diverse States same number of judicial officers almost identical disposal of criminal case . But on the civil side Tamil Nadu judges dispose of 50% more than Karnataka and Kerala judges also. but it is not the exact number, why the difference because both states follow up the Civil side, the list system. List system means when a case come for trial, the presiding officer will talk to the the lawyers on both sides and decide on a trial date, six month from now, 3 months from now, 5 months from now sometimes 2-3 months, sometime I am told 4-5 months also.

Prof. Mohan Gopal: No, what they do is, they put up a notice, that's what I meant by consultation , they consult a lawyers that notice is put up they also give the notices to the law clerks Association, advocate clerks Association. Then there is a period of time is in which advocates, Clerks can respond and say 22nd of January is not suitable for me because my grandfather is going to pass away for the third time on that day or I am going to fall sick whatever objection Once the objections are given, the date is settled then the copy goes to bar association to go back to all these people, placed outside the courtroom also and High Courts get a copy. Most judges in Kerala and advocates treat that as sacred If the date changed the trial date is changed then there be a lot of consequences. High Court is informed. So high court has to yield to the list case. Now the final thing that the the judges do, suppose they post it 3 months from now, 5 months from now whatever. They posted for steps every week in those 3 weeks 3 months, so 3 months from now is a trial date every week they will post it and see there are steps being taken, service of process to witnesses, what is the process. The Kerala High Court come here to this Academy and they cannot believe that in other

states, the first time a judge opens a cases is on the trial date. This is of course it will not work. You have to fix the date 3 or 5 months in advance you have to post it every week for steps, you have to monitor it, then the trial will happen. so we have experience in our own country of having schedule and following that schedule and that culture has been built.

Prof. Mohan Gopal: What I am saying there is that this list system was the creation of the judiciary, of the judges, not of the bar but they have created the culture they've got the acceptability and so on. So these are all examples of how the, the court can be managed that this is producing productivity and output at much significantly higher rate. It is a very very important area, perhaps the most important area. Case management from the perspective of the litigants, court management and as you correctly said sir, case flow management, all are very important and right now we just want to draw your attention to this few points and then later we can have another separate meeting what I feels is that we should develop a draft of this handbook and then have a meeting of all the SCMSC to consider and discussion and have detailed discussion

Justice Deepanker Datta: One practical problem which we must not ignore, you know what we have been facing in West Bengal is that there is only one business that is flourishing, that is real estate, and all the lawyers now find easy money in drafting deeds, no body attends chambers, no experience, and there is dearth of lawyers who have mastered the art of cross examination. When trial starts, the judicial officers says, if we have to look after the interests of the litigants then they pray for time, we have to give time, because we know my good does not have more than 3-4 good lawyers who can cross examine the witness, therefore inevitable result is prolong of the proceedings.

Participant: This is the biggest road block in case management.

Prof. Mohan Gopal: see I think one area which NCMSC and SCMSC should take up together is legal education, training of the bar, bar it's very very fundamental issue, nobody is taking it up, so we must.

Participant: Actually it is a grey area we were trying , in judicial academy there was a time when we were trying, there was a time when there were no appointments, no training going on, we were exploring the idea whether we could invite the bar and invite courses for training the bar. Whether we could use the Academy for that purpose.

Prof. Mohan Gopal: Yes why not, actually the best thing is to establish a separate academy but there is no harm, see you can encourage law schools to do that, you don't have to use the academy for that, bar council, law schools.

Participant: No my understanding is that, they bare part of the system, the whole purpose of academy was not to train just the officers, and State is giving huge funds to train PPs, they are not part of judicial system that ways. But when PPs can come why not private lawyers. That will improve the system of litigation.

Participant: Bar Counsel of India and All India Reporters they have organized a joint lawyers training programme just a week before and we facilitated the hearing of that. State Judicial Academy facilitated the delivery of that.

Participant: Professor Mohan Gopal, since last 4 years, ever since our Judicial Academy was established lawyers are not only welcomed, they are invited. The only problem is we do not become part of their training process. We provide them accommodation, whatever support they may require, high Court bar council, and for last 4 years we are allowing all judicial activities, training and miscellaneous activities we are providing. We have been doing it for 4 years, ever since we established our Academy.

Participant: But you cannot convenience them not to seek adjournments.

Prof. Mohan Gopal: So if we can go back to this list of information, if have just identified 2-3 important points, which are also there in the book, this is taken from the book, page 23. Design a prototype case management information system. So one is creating the schedule of the time table for the case, very very important ,second this case management information system, here the model is at Maharashtra Bombay high court model which is now been mainstream by your E- Court committee and so right now we will very soon have very good software available, if not already available, already available to enter the data significant pic 1 model court, pilot court in each High Court and implement this idea of a case management information system , as further explained by chief justice Khanwilkar that would be extremely good. Another thing is to have a professional administrator with knowledge and experience of court management as a court manager which is also now been put in place. And Orissa has I think very good example of training of court managers and so on. Then court should be assigned to stakeholders , such as advocates, litigants judges,

These Court can be linked with unique ID numbers with information can be made available to other state agencies. We should be able to track down you know who's doing what case, so that delays are not manipulated by them, by lawyers and so on. Sorry Sir.

Participant: AC is not working.

Prof. Mohan Gopal: They will just put it on. There's no Central AC. There is AC for this room which will be put on. Also there is no thermostat. Now it is on, we can open some of the windows, if you like. Then he has also put, if you look at the bullet points that chief justice Khanwilkar has emphasised the importance of 5 years development plan for courts for effective management. Plans must be linked to requirements at the Grass root level, financial autonomy much be ensured. Get expert assistance, expenditure on administration of justice must be treated as planned expenditure, case ratio and staff case ratio determination. Here it says constituting a court management committed at High Court level that is now done. The NCMS, elements for determination of performance index for judicial performance, ability to control proceedings, including, for example controlling the kinds of questions asked, you know the evidence process, admitting evidence which may not be admissible or relevant.

Justice Reddy: You see I have something to say on that. Very recently I had this information from one of our district Judges, the moment some lawyers put questions and he asks for times first refuses. So he says its al right, I have a field day today , he puts the witness in box and goes on and on, the moment the judges stops him and says look this has nothing to do with the dispute. He says, sorry, you better record mine and you pass your objection. Objections are done. Then he goes the next day files a petition under section 24 and ask for a transfer of case from one court to another and this has become a big problem for district judges. You see the the difficulty is if you don't train the lawyers to understand that this is a system where they are also part of the whole game you can never achieved anything. if you would say this non-cooperation of the advocates, this is just nothing, all this is just paperwork you have to sensitize them, you have to push them into it, that's when the court, this case management system will ever work. Otherwise you know, we just talk about it. It is just one of the things that I mention. The other 7 + and 10+ cases, we just try to force them , we were trying to tell all the judicial officers, look here, the NCSMC has told this , you better dispose of all the cases. Learned jusges take it all upon themselves and say alright we will hear it. First thing is all this application is filled before the principal district judge. We don't

want this judge, we don't want that judge. This judge seems to be biased, so on and so forth. These are the practical difficulties that are arising in courts. That's because the judge is unable to manage his court. So where do we start this work. Where do we start?

Participant: If all the judges, that is all the courts, put up the same attitude. Then a message will be sent to the advocates that things are sending. But then it has to be a concentrated effort, it cannot be that one court will do it and other court will be as usual, so he will get branded. Now we see this in High Court every day, there are some courts where lawyers know that they won't get any relief, won't get any time, so whatever it is get over with it. Other, if I will pester I will get time. Third they say we have so many matters, if one goes, what difference it will matter, I will do second case. But if everyone decided to work in a particular fashion, the lawyers are able to adapt very quickly, they will change. The problem is when one court becomes strict, the other liberal.

Justice Reddy: The Court management committees must constitute themselves in such a manner, that they invite all the lawyers, ask their cooperation and strictly tell this this is how it is going to be.

Participant: At lest let them know.

Participant: One way is since lawyers are controlled by litigants, we must win over the hearts of the litigants. The system must infuse confidence in the litigants so that he will create pressure on the lawyers not to seek adjournments and assist the court in effective trial.

Participant: The other day, some time back, while inaugurating a sub divisional court, there was a huge crowd, so I said, in this sub division, I don't think there are so many lawyers, so why this huge crowd? I was told they are all the litigants, who have come to see that the sub divisional court being opened, all the case from Rohtas is going to be transferred here and they have come to thank the High Court for doing so. I took the opportunity to talk, I talked about delay and nothing else, I said see one way of looking at it is the traditional way, where father retired from practice gave the files to son, now I am retiring. 15 days later the son comes and says look father you have doing this case for last 20 years in 15 days I have wound it up. The father says you will never a successful lawyers, I told them that those were the old days, now it is other way around, even if you do one case per day, the number of cases pending in the sub divisional court are so many that you will have a fresh engagement every day,. So why are you praying for time, argue the case substantively

you will get five time the fees. You are agreeing for 20 rupees for filling hazris and all, if you argue the case you will get 200 rupees and you will have a case to argue every day, so what is more beneficial. I don't know how far it went but a beginning has to be made.

Prof Mohan Gopal: The last point on this is very important point, on which E- Committee is also working and one with Mr Bora will speak about tomorrow which is common nomenclature for different types of matters, this has been discussed for a long time, I don't know if any High Court is making any progress on this or just been left to e- committee.

Justice Reddy: E-Committee has taken over and we have had some information, in fact in our High Court, we have made this the common nomenclature among all the districts, we had different normalisation in different district and of course we are trying fall in line with what Supreme Court has done in terms of common nomenclature and put it within those codes itself, so that later when the matter goes up to the supreme court the code will remain same. We have only discussed it and in the stage of discussion we found it has to be done, and in Karnataka we have done it.

Participants: The E-Committee has done it for the district courts, But so far as the High Court is concerned, Justice Lokur said it is difficult to ask all the High Court to come in line with the same pattern, because different High Court has got different practices, so I gave a suggestion and they have been working on the same line. I said you have a back end integration without disturbing the High Court, you go ahead

Justice Reddy: That is precisely what have been done in the district courts, some pending cases with old numbers and old identification, we said put that in the back end, in the front end is what CIS provided for, identically we can do that in the High Court, this time I went around, litigants are having numerous problems, whenever they generate their case status on CIS platform they don't know what it is. Because it gives a 16 digit identification number instead of title suit number so and so. Now I am told you have to know the 16 digit CIS number and you have to forget the title suit number

Justice Reddy: You see that is unique number, 16 digit number.

Participant: yes it is, but initially if you show any lawyer any paper, *oo acha title suit ka hai, sub judge key ha hai*, now you show this unique number, no one should know, the unique number should be at the back end.

Prof. Mohan Gopal: They will get used to it. Because that number will be there in every court. The disadvantage with court linked number is that it will change if you go to higher court, but unique number will be the same. for the state for the district and for the High court.

Justice Reddy: What happens is that in different states if they have original suit is OS, that number tags along with some other number it becomes different, so we thought a unique number.

Participant: That is as per international Convention, 1<sup>st</sup> two denote the country, next two the level, the next two the sub level, then nature of case, then number of case , then year of institution.

Prof. Mohan Gopal: In any case, that is done by E-Committee, so we don't get into that, the last point that I would like to make is, not in the main report but in the summary justice Khanwilkar talks about creating . We have to create system of court management, case management or case flow management. That can be done for civil cases, criminal cases, different kinds of civil cases, put them in tracks based on what Justice Sinha used to call, simple cases, medium complexity and High Complexity cases and put them into tracks. The Secretary General of Supreme Court issued a press statement, and Supreme Court has an officer from Indian Information Service on deputation who is also the Secretary of NCMSC, MEMEBR SECRETARY, he is also the RTI information officer, he could not be here because, today, tomorrow or Monday he is writing a LL.B paper, he is doing a part time LL.B, writing an exam so he has to study.

Participant: When we are saying we must win hearts of the litigants, what I meant is, like we are taking 5+0 initiative, 7+0 initiative, through SALSA or District legal Service Authority, we can issue releases that court are taking this initiative and litigants should take this opportunity to get their cases, decided at an earlier date, that is what I want. Unless they are informed that these kinds of initiative are being taken by the judiciary, they will not visit their lawyers to get their cases decided.

Participant: Even press release is for this matter. Nowadays what happens is these judgements are read by the reporters and they are presented in different manner in newspaper and often what is there in the judgement does not come out in the newspaper report. We can think about a public relation officer who will issue a press release. That will be a good interpretation of what the judgment says.

Prof. Mohan Gopal: That is a good idea we will take a follow up of these activities. We will take a 20 minutes or so break and will then come up for the human resource segment then we will have completed everything for today. Thank you Sir.

### Session 5

#### **Justice Jayant Patel:**

Brothers Now the last session. Brother Deepankar Dutta will address us on that session for human resource development.

#### **Justice Deepankar Dutta:**

A very good afternoon to all my friends ones again. We are all tired and mood is a bit different so I will not take much of your valuable time, I will try to stick to my schedule.

Out of the six elements Human Resource Development Strategy was one of the elements, and the report had to be prepared keeping in mind 3 chapters of the action plan, and those chapters were 5, 7 and 8 titled personnel, Annual Confidential Reports and Investigation and Inquiries. My presentation is the summary of my report. Those of my friends who were present in Delhi in March when we had the 1st meeting of the NCMSC and the SCMSC, we have seen this presentation. Certain points of difference were brought to my notice and I would also request you to give your inputs about other points on which there was no disagreement atleast in March. This is one point which I feel I need not stress upon it because in hindsight I feel that the proposal might not work, so I will point out that point, we need to consider as to whether we can evolve a better policy, there is one particular matter on which the Himachal Pradesh High Court has taken one view and the Delhi High Court has taken another view, I would invite your inputs on that particular point and may I proceed.

The 1st is why there a need for Human Resource Development?

The success of any reform initiative depends on the people who manage the system sought to be reformed. Thus, it is essential that the judiciary's human resources are well capacitated to address the demands of implementing the envisaged judicial reforms.

Human Resource Development, therefore, is at the core of judicial reforms, both as an end and as a means of attaining other reform objectives.

The areas that have been covered in this report are:

1. *Selection of judges.*
2. *Training of judges / members of staff.*
3. *Transfers, postings & a.c.rs.*
4. *Investigations & enquiries.*
5. *Training for public prosecutors and government pleaders.*
6. *Manpower requirements.*
7. *Revamping high court registry.*
8. *Curb on menace of adjournments*

On selection of judges, the point that was made in the meeting was: All India Competitive examination for direct recruitment of District Judges

Now in the meeting that was held in march the general consensus was that the recruitment should not be in excess of the 25% quota that is reserved for the advocates, so this is one point which we need to include in our report subject to the house agreeing to it, that 25% must be reserved for the advocates if there is to be any All India Competitive Exam for direct recruitment, that must be to fill up the quota. Now so far as the selection process is concerned, we stressed on merits.

Participant: Can I just interrupt. This All India Competitive Exam for direct recruitment, if I remember correctly, most of the high courts have opposed, that there can't be an All India Competitive Exam for direct recruitment, because you see like district judges, they have to conduct a trial in let's say Bihar, if we have a person from Kerala coming and he has everything written in Hindi, he will be lost.

Participant: But language can be learnt, because IAS, IPS officers, when they.

Participant: no, no, no, they are not conversing day to day and mostly of their work is in English.

Participant: Brother is right. To the extent that majority of the high court have opposed this to the extent even Gujarat High Court.

Participant: We know for example there were two people from Bihar who got selected for Assam, i.e lower judiciary, but after two years they had to come back, because they couldn't pass the Assamese paper.

Participant: correct

Participant: But sir, in West Bengal this time out of 5 candidates that have passed 3 are from other states.

Participant: No, No they will pass the exam alright, but local language exam is compulsory for the subordinate judiciary. Judgments are written in local language, witnesses are recorded in local language, the cross examination is in local language and the entire police document are in local language only.

Participant: All the sessions' proceedings are conducted in local language only.

Participant: Our High Court has also opposed.

Participant: In any case Justice Dutta could you not suggest zone wise, s that something can be common.

Justice Jayant Patel: Whether we can go ahead with All India Competitive Exam for direct recruitment or not is a separate issue but it will be governed by the decision of the respective high court.

**Prof. Mohan Gopal:** I think the IAS officers are managing, they also have to handle things in local language, they are studying or they are managing.

Participant: We are informed that in Delhi lawyers from all over the country are allowed to make an application for consideration as district judge. There is no restriction on lawyers.

Participant: In Delhi the district court language is English, that is the difference, Like on Wednesday I got a habeas corpus application in my division bench, we deal with civil matter, so I was surprised, I asked the chief and then I found that the entire lower court records are in Hindi, the writ petition was in Hindi, I heard him for two minutes then I made up my mind.

**Justice Jayant Patel:** Sorry for the interruption but possibly we are only on the point that if All India Competitive Exam for direct recruitment will be there then what should be the scope. It may be anything, so let brother proceed.

Participant: Sir please listen to me, I will give you an example, Criminal roaster was given to justice who came to our high court, lordship said no I will be not decide matter because all the

judgments are in Kannada which language I don't know, if this goes to Supreme Court, in one line they will set aside. Without understanding the document how can I decide?

**Justice Deepankar Dutta:** Selection only on merit, not by the process of elimination of the absolutely unworthy. System may not be clogged by selecting sub-standard candidates for appointment. what we intended to convey was that just to fill up the vacancies let us not fill it up by substandard candidates, let merit be the only criteria. Another thing that was emphasized was good health, a judge has to perform for atleast 12-14 hours a day on an average, a judge who has the sincerity to perform can only do it, therefore if good health is not there i personally feel that would be a deterrent for dispensing justice.

There has been some debate as to whether the selection should be done entirely by the high court or the public service commission. In most of the state's high courts are conducting the selection processes, so this was considered at the meeting, the general consensus was that the high court should be holding this selection process consisting of high court judges, Expert nominated by Chief Justice, with adequate & efficient support-staff. Directions/schedule in Malik Mazhar Sultan case to be strictly followed. Avenues for suitable in-service candidates.

Moving on to Training of Judicial Officers / Staff, there is Stellar Role of Judicial Academies: State Judicial Academies may be manned by judicial officers who have penchant for academics and knack for research work. Involvement of all judges is necessary. Programmes and courses for all round training, orientation and motivation of judicial officers. We have been finding that in judicial academies when lecture sessions are scheduled, not all the judges are approached, so we felt that all the judges should be involved so that their experience and skills may help the judicial officers.

On Training & Development courses for court staff:

1. Sound technical training, at Judicial Academies or at administrative training institutes.
2. Development of intellectual faculty.
3. Performance appraisal and monitoring.
4. ACRs for members of staff.

In number of states the staff's ACR's are not maintained. Therefore this is also one of the issues that we have highlighted.

Next on Transfer, Posting and ACR's, we found that there are no written policies for fair process, so as high court judges we thought that there should be:

1. Written transfer policy, to ensure fair and transparent process.
2. Avoidance of patronization and penal postings.
3. Zone-preferences may be permitted.
4. Introduction of inter-district transfers of staff

Now it was felt that if it's necessary for a judicial officer to have peace of mind, now if a transfer is effected not in accordance with the laid down policies, then it gives rise for frustration and ultimately if a judicial officer is not in a position to discharge his function with peace of mind, then it is ultimately justice that is the casualty. Therefore a written policy should be placed that would also avoid patronization and penal postings.

In the morning my learned brother Justice Reddy said that the chief justice should be given certain veto power. But being a judge and taking of certain rights of judicial officers, should transfer be used as weapon of punishment. If there is a black sheep let us find out if there is anything against him or not, then initiate proceedings, that is the procedure, but giving a veto power to the chief justice to transfer a black sheep, in my respectful submission will not be a amicable solution.

Then we had also suggested introduction of inter-district transfers of staffs. It is often found that staff in a particular station they develop the tendency of corruption. Let us be very clear. It is in such conditions that transfer policies should also be put in place so that the staff can be transferred beyond the district.

Participant: I have one suggestion. With regard to introduction of inter-district transfer can I take it as, that as a measure of punishment you wanted be or regular basis?

**Justice Deepankar Dutta:** No, no it should be on a regular basis. That is why I have not clubbed it with that. There should be a regular transfer of the staff also. Why a particular staff should be placed in a particular place.

Participant: Again a question comes. A PDJ in a unit, he is now effecting transfer of his subordinate or staffs. He cannot. Directly high court has to introduce the transfer of PDJ, because PDJ cannot

transfer to another district. And another thing is that are you suggesting the transfer of all categories of staffs for inter-district transfer, or leaving the fourth grade staffs.

**Justice Deepankar Dutta:** This has to be worked out. If it found that the transfer would be in the interest of the institution then why not the class four staffs.

Participant: but having regard to their lifestyle and payment and all, severe resistance may come into.

Participant: So far as transfer is concerned the high court would say that fourth grade is non-transferable, they are district cadre, class 3 is state cadre which is transferable, but for most of the high court's 3rd class is also district cadre. Now we have amended our rules and made class 3 state cadre, so automatically there is transfer, and it will have to be handled by the high court, there is no other way out.

Now moving on to Objective Evaluation for ACRs this is the point that I wanted to make. I had made a suggestion which in hindsight I also feel that should not be carried forward. I had suggested ACR's to be written so far as the judgment assessment part is concerned on the judicial side. in the meeting which we had in march 2015, presided over by Justice Thakur, and where Justice Deepak Mishra was also there present, it was the general consensus that it is not at all feasible so therefore it has to continue at the administrative side, but having regard to the concern that was expressed by the Honorable Supreme Court in a number of judgments, saying that we should evolve something new, I would be very respectfully soliciting your suggestions on now the ACR's that will be made, because this is a very vital part, effecting judicial officers, future. In so far as my court is concerned, only if he is to be graded excellent or poor, then only we give the reasons but not for average, good or very good. In assessing the judgments we not call for the records. i have found out that only 2 judges of my high court they call out for the lower court record, look into it and then assess. Therefore by mere reading of the judgments writing of the ACR's it appears to me not to be a very good proceeding. Now I have suggested on the judicial side but there is no guarantee that on the judicial side also there is a proper assessment. Here I have got a suggestion from the Delhi High Court, the manner in which the Delhi High Court assess, they have personal interaction with the officers, I am not too sure as to whether any other high court has this procedure, there is a committee of 3 judges, and they interact.

Justice Jayant Patel: So far as our high court is concerned, district judges ACRs are written by the portfolio judge and senior civil judge and the junior civil judge by the district judge.

Participant: In our high court at Patna, we have framed about 5 years ago, and we found out how the ACRs of IAS officers are written, there are some fundamental differences, but we have adopted those standards, and they have a full statutory rules as to recording of ACRs, now if one takes those instructions there is no problem, there is one problem that is, when you know as officer is dishonest, everybody knows it but he never comes up to record, then how do you pin it, how would you deal it?

Justice Patel: In our assessment there is a clause for reputation too.

Participant: Even for reputation, even in civil law there is got to be some evidence.

Justice Patel: Now that is ultimately for the administrative judge to decide.

Participant: that is the problem, if 10 people come and say or the president of the bar association comes and says that he is dishonest that is a good enough evidence, but the problem is that none turns out, then what do you do.

Participant: Justice Bhattacharya was in our high court and he had this list of 20-30 people known corrupt but not on record, what he did was that in whichever district that judge was working his unit judge was confidentially given the name and asked to keep a watch, and what they did was for a year or two all significant judgments of those judges was called by his unit judge for perusal so two things happened that the unit judge watched everything written by this tainted judge and the tainted judge know that his performance was watched, for everything was quite thereof. see if there is no concrete proof then you cannot punish him but it is the only way in which you can control him for 2-3 years, for he knows that all his judgments was being read by the high court and if there was slightest fishiness he is going to be caught.

Participant: Another was we were thinking was judicially but random, for example I am portfolio judge of district A, at random 2 or 3 bail applications were coming from my district, some order in civil cases some order in criminal trial which are filed in the high court, there I would have all of a sudden the opportunity to look into the order, because otherwise if you ask them for the judgment they will send the 5 best judgment which would be written by some advocate and given

and they have signed it and keep it in record, so each time you ask for best five judgments it is those 5 judgments that will come.

Justice Patel: When the record is called by the portfolio judge, one will be of his own choice and the other will be random.

Participant: No it depends, some of the committees say that you send 5 best judgments or whatever.

**Justice Patel:** No I am talking for Gujarat, whenever the portfolio judge feels that there is something doubtful or the reputation is not good he will at random call for 50% and 50% judgment of his choice, and thereafter if something is wrong, he will get because 5 is random.

Participant: The only solution for all these problem is suppose when we are dealing with the matter, we 3 are there in the committees, and that judge is looking after civil cases, he has service matter also, writs also , criminal matters also, then none of us is observing what he is doing, in that case every judge has to see if any such type of order or judgment comes and we feel the soil of corruption then that judge also should keep one side, and when his ACR is written, in full court then judge should point out that this is the material we have please send it to the committee and thereafter you assess.

**Justice Patel:** brother this might not be practical when you have 700-800 judges

**Justice Reddy:** See what brother was trying to tell us is supposing judge who has some other roaster in the high court and the district judge, like suppose of a particular district all the judgments emanating from there to the high court that should come before the administrative judge, this is one way of looking which we use to do earlier, we have done away with it now. The second option is when those matters come before any other judge on the judicial side, and he finds something wrong in it, though he can set aside the judgment but he can make a small note of it and send it to the administrative judge and say that have a look at it.

Participant: This is the practice that we have on Patna.

Participant: brother weeding out is not that easy, we did all this and it came back from the Supreme Court, they said that his record must be consistently inconsistent. (Laughs), and all of them were set aside, and they were back.

Participant: uncommunicative remarks must be relied upon and he could be checked out, but how can we do it.

Participant: weeding out is practically gone now.

Justice Reddy: yes that is right, when you are talking of the judgment and its quality that is one aspect, you are talking of the reputation and the integrity of the person is another aspect, these are two different things we cannot club them together.

Participant: the thing is that without having anything as evidence, you cannot act upon, otherwise your ACR given will be set aside on the judicial side, because there will be no evidence.

**Justice Reddy:** Fortunately or unfortunately in one case what happened brother, there was a judge who used to write 2 judgments in 1 case, 1 was for and 1 was against, we rushed to the spot, the registrar general went to the spot, took over the drafts of both the judgments, he was supposed to pronounce at 3 o'clock of the day, so we had enough handle to throw him out, that kind of situation is different.

**Justice Dutta:** the case which came from supreme Court from the Patna High Court, Pandey Gajendra Prasad, you must be knowing, so the supreme court has said that this is the concluding sentence, there is need for standardization therefore if we have follow the judicial mandate then we must come up with something new, if no other reform activity is possible then we will have to continue with the existing process, but if any of the brother judges will be inclined to send me some input on it we can discuss it in the NCMS meeting and make necessary improvements in our reports.

There is one other area where judicial officers have some grievance, it is with reference to the grievance redressal petitions which are not disposed of, we must be fair to them also, they work in trying conditions, in West Bengal the temperature is 40 degree, and the ceiling fans are some 40 year old, these people have to discharge their judicial duties, so to be fair to them we ought to speed up the disposal of their representation. Next is investigation and inquiry. Here I have suggested that on Judicial Accountability Office in each district & Judicial Accountability Committee at the high court level, there is need for:

1. Need for disciplined and corruption free system. Proposals of the management experts may be examined.
2. Ensuring judicial officers act within their bounds.
3. Strict adherence to judicial hours.

And if the judicial accountability office find material against the judge against whom there is a complaint then it must be definitely be on affidavits and not anonymous complaints and they will be forwarded to the judicial accountability committee at the high court level for taking appropriate level.

**Justice Reddy:** The CJI has sent a circular that unless the complaint is in form of an affidavit, the action must not be taken.

Participant: we have discussed it in the full court and in fact the concluding meeting is on Monday, now we are not strictly following that the reason is very simple, not always the litigant is ready to stick their neck out or the lawyers, they know what is happening but they will not give their names, it has to be an anonymous petition in many cases. Now we have to use our discretion, which petition to proceed, which to throw out, some are just scandalous, you can identify, and we do not take action immediately, you ask for an explanation, you write to the district judge, that in view of this kindly inquire and let us know, then if it comes out to be correct then you analyze it, because otherwise you will be throwing everything indiscriminately.

Participant: If there is some verifiable information and it is not on affidavit, then we can do.

Participant: Now another thing that used to be there is the moment you got this anonymous petition an inquiry was started, the moment inquiry was started the promotions got stayed, now ultimately we have decided that till a disciplinary proceeding is ordered it will not affect any other promotion or anything, otherwise what we found , the inspecting judges had got complaint, they started inquiry, for about 5 years they just kept the file, so for 5 years he was denied of promotion and after 5 years when he cleared the file, the promotion was prospective, this was absolutely illegal.

Participant: This is totally wrong, it is against the judgment of the Supreme Court.

Participant: It is because of the abuse.

Justice Dutta: Next is the need to Revamping of Vigilance Cells, as Allahabad has a cell as you said, the stress must be on:

1. Bolster infrastructure and manpower.
2. Surprise visits to District Courts.
3. Reporting to Inspecting Judges.
4. Stricter and effective disciplinary control over court-staff.
5. Zero-tolerance to graft. Woodpeckers inside the system are more dangerous than those outside and only a no-nonsense approach would prevent further damage.

The next chapter is on Training of Public Prosecutors / Govt. Pleaders:

1. Formulation of schemes for training and educating Public Prosecutors in line with developing criminal jurisprudence.
2. Periodic visits to police stations, remand & correctional homes, juvenile /women homes and shelters to broaden their perceptions on various facets of criminal justice administration.
3. Objective and merit-based appointments, astute training programmes, electronic networking and continuing assessment of their performance and participation.
4. District-wise seminars on advancements in civil laws as well as on emerging frontiers thereof.
5. Interactive sessions of Public Prosecutors and Govt. Pleaders with NGOs and other stakeholders to boost understanding and further exchange of intellectual competencies.

Now, on Man-power requirement I have found that it varies from state to state, therefore no standardization would be possible, because what I found that in West Bengal it is sufficient, but we have got report from Himachal Pradesh and Delhi saying that we need more people, therefore it should be left to the individual high courts, to decide the number of requisite staffs, that would be sufficient for the discharge of the duties.

Participation: in the pattern that we follow, now we are trying to get it statutorily because we had a lot of friction with the state government, they sanction district courts and this and that but no staffs sanctioned, suddenly when we started working on it they said that they will not pay the

wages, because there are no sanctioned staffs, we asked how can you have a district judge without staffs, now we are formulizing it so what we have done is we have graded it, in a court up to 500 files yes, but for every additional 500 or part thereof then we go on adding staff.

Justice Dutta: this is the formula that I have indicated in the report, you can give some other suggestions, please be free. Now this is the next topic on which we have got divergent views, I thought that the registry should no longer be manned by judicial officers, judicial officers should be kept in courts for discharging judicial duties, Himachal Pradesh High Court has objected saying that it is not acceptable, Justice Deepak Mishra also in the earlier meeting said that it is not acceptable. But in Delhi High Court I felt that the system is different, there are 10 officers who are trained in management skills, and apart from there are only registrar general and the registrar vigilance who are there from the judicial service.

Justice Patel: Majority of the high courts are having judicial officers in registry, even our high court, because of accountability.

Participant: Actually I received divergent view, in the last conference that I attended in Bhopal, Dr. Mukundkam Sharma, retired judge of the Supreme Court, his lordship said that it is time when we should get the registry manned by the persons who are skilled in management, and we should do away with the judicial officers.

Justice Dutta: everyone has a different view, that is true, but when we are laying policies, we can formulate policies and leave it to the high courts to decide which course of actions to take.

Participant: Presently my chief justice says that we have a very incompetent registry, this was the same version of the predecessors chief justice.

Participant: but, it will be very difficult to understand the system of the high court by any outsider or MBA graduate, whatever it is.

Justice Patel: One thing can be suggested that the judicial officer who is taken in service from the administrative side on deputation, the period should not exceed 3 years, after that you should be sent.

Participant: but generally it does not exceed, either they retire or they are elevated.

Justice Patel: but nowadays we have so many registrars, everybody will not be elevated, only registrar general might be elevated, so after 3 years they should be sent back.

Participant: see, over staying in High Court has its own disadvantages, and specially when their names are recommended, we had two occasions when it has been sent back, he has to have more judicial experience at the higher level, because he became district judge, he was there as 6 months, then he became registrar appointment, after that he became registrar general, so for 6 years he was at the top level, and so it was turned down by the center.

Participant: there is dearth of judicial officers, why should we send our officers on deputation as legal advisers to different corporations, we should not send our officers on any deputation in governmental service, to mingle with the executive. the moment he comes back he will be a different person, the reputation should be put on ends, otherwise we are ourselves spoiling our officers, the reason is the working atmosphere is different their culture is different and our culture is different.

**Justice Dutta:**

I have concluded by saying that while proceeding to achieve judicial reforms, futuristic goals ought to be set which are realistic and capable of being accomplished. Even though the system has to be made 'five plus free', it must always be the paramount duty of the justice delivery system to 'save the dying' rather than 'burying the dead. Thank You

**Justice Patel:** I know everybody is in a hurry to go, so I thank you very much and ii thank you Dr. Mohan goal to chair the colloquium and i hope that tomorrow will be better suggestions.

**Prof. Mohan Gopal:** On behalf of all the honourable judges here and Mr. Bora and myself we extend you all a heartfelt vote of thanks for having chaired the discussions today. We look forward to your continued support in taking these ideas forward.

**Session 6 & 7**

**Prof. Mohan Gopal:**

Welcome back to the 2nd and last day of our discussion, and once again I must express my deep sense of gratitude that you have spared from your very busy and punishing schedule, a very precious weekend to be here with us for this purpose, travelling all the way to Bhopal and it is a great honour and privilege certainly for me and for all of us, and I am very conscious therefore that we must have your presence here in the most effective manner, one practice that I followed for the 5 years when I was here at NJA was that all judicial meetings here were always chaired by a judge, because then the judge will be there to regulate and control the proceedings, so keeping the tradition I made a request to honourable Justice Dilip Gupta, informally we request the senior most judges to kindly chair and so we request him, and most graciously honourable Justice Gupta has kindly agreed to chair the morning session because chief justice Patel had to return to Gujarat for unavoidable reasons. So thank you sir for accepting our request.

I was hoping that today we will hear the very interesting and important presentation of Mr. Bora, I think one of the most important requirements for effective management of any system is to have reliable data to know what is going on, without data we really do not know what is going on, and today we are in a situation where frankly on one hand India has progressed to a point where the chairman of the railway board wants to know, he can find out if any train anywhere in the country is 2 mins late by pressing a button on his desk, but if the CJI, or the CJ of a high court wants to know what is the operational performance of his system there is really no proper method. I had the unique honour of being asked by the supreme court to write a chapter in the supreme court's annual report and it was on this work of the supreme court in the 21st century after the year 2000, and so I contacted the registry and I said I want to know exactly how many cases the supreme court has received and disposed of during this period and they could not give me the statistics, there are no reliable statistics, if you ask them how many appeals are you getting from different courts, they do not have the statistics of any meaningful nature, so somebody wrote an article saying that this is really the supreme court of Punjab & Haryana and Rajasthan and U.P because most of the cases come from these 3-4 states, and M.P, then the Supreme Court does not have the readymade statistics to respond to that and give a reply saying that no these are the states with the highest population, but here is the response to that, all this can be compiled but it will take a long time and by then it is too late. So we have that one of the weakest areas in the judicial system from a management point of view is the lack of a management information system, we have information on one hand and nothing gets lost, it just has to be compiled, gathered together, calculated. The National Judicial Data Grid

is coming, it emerged from our own work and discussions, it came from the judges themselves, but we still have a lot of progress to do at the base level. We have the data, the data need to be converted into information, that information needs to be converted into a management information system, which will be responsive to the needs of those who are managing the system and those are ultimately the high court judges who are not only judges, but also under the constitution are vested with supervisory authority over the district judiciary, and are also therefore responsible for the efficient management of the entire judicial system, so what we thought of us was to create to underpin the national judicial grid and the national system of judicial statistics, now NCMS deals with only the policy framework, not the implementation framework, so even the development of the national judicial data grid was not backed up by a policy on judicial statistic, which is what we need and the policy has to be adopted, cannot be adopted by the supreme court except on the judicial side, it should be adopted by full courts of high courts, so here are some of the thoughts that we are developing on what should be the policy framework of the system of judicial statistics every state which can then become the national system of judicial statistics, and at the right time the SCMSCs should consider whether they should develop a state level policy on the judicial statistics, and the take it forward, so this is the 1st session, in the 2nd and last session we will have an open session, so I was requesting Justice Gupta to come to some operational consideration on what should be done to institutionalization this mechanism at the state level and at the national level, what are the steps we should take? So we can have an open discussion on that and you can also give us guidance on what NCMS should be working up. Thank you sir, I give it to you sir.

Justice Dilip Gupta: Good morning everybody, I am here by default because Justice Patel is not here, so initially as Prof. said Mr. Bora will be speaking, so Mr. Bora please.

Mr. Bora: Good afternoon justices from different high court, before I start this statistical framework I just want to tell that there are two types of statistics we are collecting and one is through survey and through MIS, this is how we are collecting, and actually it is generated in so much now a day, these days a new concept has come i.e. big data that means data are everywhere from your mobile phone to google, very where you will get data, but these data are not processed properly, so processing data is a big deal and unless you process the data, one survey with few people you can give information to the place and they will according to their choices they will represent the case, so that is problematic, and judicial system in India is also suffering from that,

unfortunately everyday news comes in paper that cases are pending but they never say that how many cases have been disposed of after filing, filing is also very high, then there is disposal and then pendency, so for clearing the pendency you must have a system where not only judges will do anything unless you increase the number of judges, because in this system at the top judge is there and below there is staff that means for an efficient system or for anything everybody has a role from police, PP, lawyers etc. My presentation will not be a long one we can discuss, and you can interact.

The objectives of a policy framework for judicial statistics are

- to promote and safeguard - quality, credibility, independence, transparency, accountability and accessibility of judicial statistics;
- To facilitate comparison of data on the judicial systems Nationally and Internationally

That means now the problem is that, every high court is self-independent from each other, but there is no standardization within the country also, so we cannot expect that with other countries our judicial system will be comparable, but that is a necessity, so what we propose is:

For development of any statistical system, the following considerations are to be made:

1. Maximum Use of Existing Data sets
2. Identification of Important Data Requirement
3. Identification of Indicators
4. Identification Data Gaps
5. Appropriate Methodology
6. Efficient Data Dissemination System
7. Timeliness
8. Capacity Development
9. Ownership and Accountability

We do not get human resource to collect data, now we are having lot of problems because of that, we cannot do any survey on new topic. We have to use the existing data therefore in a way that it has some meaning otherwise data is available everywhere but nobody can use it, that should not be the position.

On selection of indicators, we have to identify the indicators, and the gaps.

The selection of indicators may emanate from the following questions:

- ✓ What
- ✓ Who
- ✓ How

Broad indicator domains for the proposed framework of NSJS:

- Accessibility
- Expeditious justice
- Quality justice
- Availability of Human and Material Resources
- Adherence to court values
- Public trust and confidence

Criteria for selecting Core Indicators:

- ✓ Relevance
- ✓ Feasibility
- ✓ Comparability
- ✓ Timeliness

Indices may be used to analyse and monitor the duration and other factors important for the understanding of timeframes in the court:

1. Clearance rate (CR)

2. Case Turnover ratio
3. Disposition time (DT indicator)
4. Efficiency rate (ER indicator)
5. Total backlog (TB indicator)
6. Backlog resolution (BR indicator)
7. Case per judge (CPJ indicator)
8. Standard departure (SD indicator)
9. Demographic Data on Community Served by each Court

Proposed list of indicators:

### **1. On Accessibility**

- Number of courts
- Spatial coverage-Distance to the farthest point in the jurisdiction of each court
- Population covered by each court.
- Number of new cases (by nature of cases) for each court.
- Cases filed by women
- Cases filed by SC/ST/OBC
- Cases filed by residents from places other than where court is located
  - Less than 100 km
  - 100 to 200 Km.
- Number of requests received for legal aid
- Number of cases in which legal aid was provided
- Whether court has infrastructural facility friendly to differently abled persons
- Whether cause list, decisions etc. are available on internet
- Lag with which decisions are available on internet
- Total number of Lok Adalats organised
- Total number of Lok Adalats organized at places other than that where the court is located
- Number of cases disposed of by Lok Adalats

- Whether ADR mechanism available

## **2. On Expeditious Justice**

- Age profiling of pending cases
  - a) With that court
  - b) Life Cycle
    - Number of cases disposed of during 1 year/ 6 months/ 1 month
- Availability of time table for cases
- Data on compliance of time table
- Important causes of delay
- Whether the cases are grouped
- Number of Non-Judicial Officers
- Number of Public Prosecutors and Government Pleaders
- Whether independent prosecution agency is available (yes/no)
- Number of Districts not having functional Forensic Science Laboratory
- Percentage of criminal cases in which day to day trial is taking place.

## **3. On Quality of Justice**

- Number of appeals against judgments by the reporting courts
- Number of cases in which Appellate Courts have stayed the proceedings
- Number of Refresher courses / professional development courses organized for judges
- Number of courses organized for advocates
- Number of cases in which judgments have been reversed by superior courts
- Availability of Court Manager
- Is error index maintained

## **4. Availability of Human and Material Resources**

- Number of judges
- Number of other judicial staff
- Number of non-judicial staff
- Number of rooms
- Do all the judges have separate rooms

- Other Infrastructural facilities
  - a) Photocopying machines
  - b) Fax
  - c) Pc with Internet facility etc.
- How many cases were referred to Forensic Science Laboratories
- Average time taken by Forensic Science Laboratories to respond
- Number of trainings organized for supporting staff in the last one year
- Number of staff received training in the last one year
- Whether libraries/ e-libraries are available with every court
- Number of Personal Computers
- Number of Personal Computers with internet facilities

#### **5. Public Trust and Confidence**

- Number of complaints received regarding corruption
- Is there any mechanism for availability of feedback from court users (Yes/No)
- Number of persons against whom action has been taken for corruption or malpractices

The following recommendations were can be made:

1. It is recommended that existing data sets in different codes, web portals may be examined and stock of the situation may be compiled in such a way that addition of new data sets may be incorporated in the existing data sets in a seamless manner.
2. A proper dissemination policy may be formulated for providing data to the general public and to the selected group(s) of people.
3. In the framework, time frame may be indicated for group of indicators selected for the judicial statistical system.
4. A statistical Unit with Professional Statisticians need to be established by each High Court for collection and processing of data.
5. It is necessary to post data on website of High Courts giving details of institution, filing, disposal and pendency of different type of matters.

Part two of my presentation has a small exercise on few data sets: (The following slides were shown)

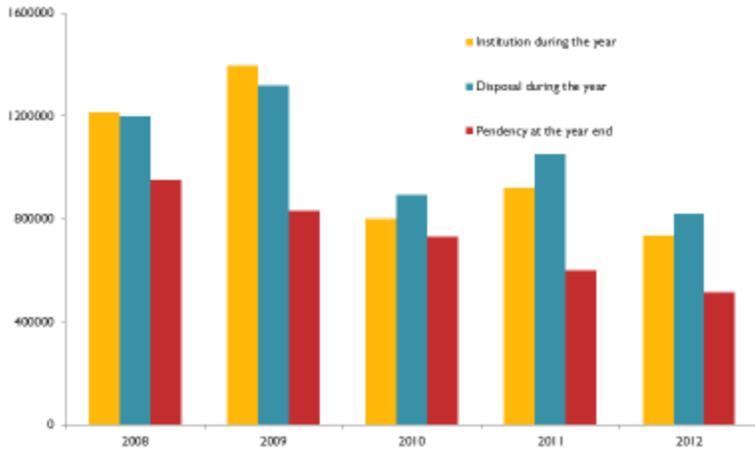
## Data received in respect of the pendency of cases pertaining to various courts

- The following relevant data/information has been received by SSD
  - A set of tables showing the number of cases for the month of August, 2013 for a variety of bench/judges under various courts of Delhi(court-wise)
  - The institution, disposal and pendency of criminal and civil cases in the District Courts of Delhi (Consolidated) during 2008,2009, 2010, 2011 and 2012
  - The institution, disposal and pendency of criminal and civil cases in the High Court of Delhi during 2008,2009, 2010, 2011 and 2012 – category wise & consolidated
  - Consolidated Statement of family Court functional in Dwarka, Rohini, Saket and Patiala House for various incomparable periods.

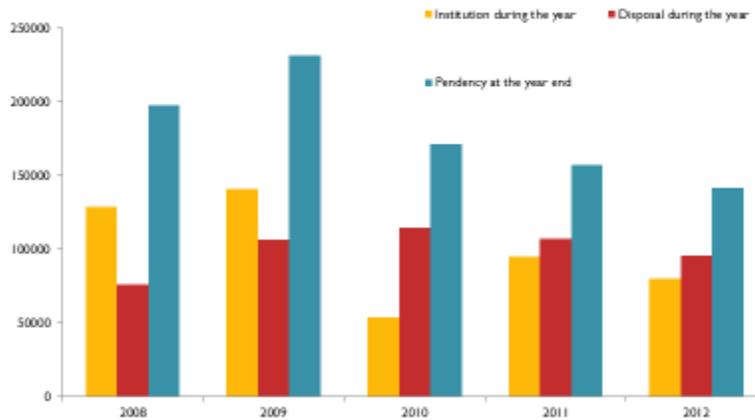
**Table: number of cases for the month of August, 2013 for each of the following types of judges show the number of pending cases under respective type**

Type of Judge	Max Pending Category & its %	Followed by
District / Additional District Judges	Suits (42%)	Arbitration/Conciliation Act (12%)
District / Additional Sessions Judges	Electricity (30%)	Other than murder cases (19%)
Presiding Officer Motor Accident Claims Tribunal	Injury (45%)	Fatal (28%)
Presiding Officer Industrial Tribunal	U/S 101(DC) (78%)	Section 33-A (10%)
Presiding Officer Labour Tribunal	Industrial Dispute Act (79%)	LCA (15%)
Senior /Civil Judges	Regular Suits (68%)	Execution (15%)
Rent/ addl. Rent Controller Judges	Eviction Cases (64%)	Deposit of Rent (28%)

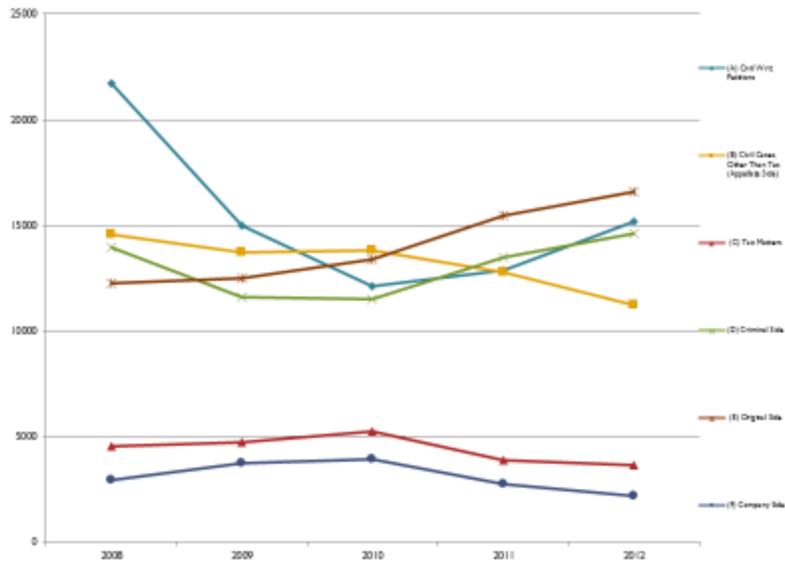
### Status of Pendency in Criminal cases in District Courts of Delhi at the start & end of each of the five years



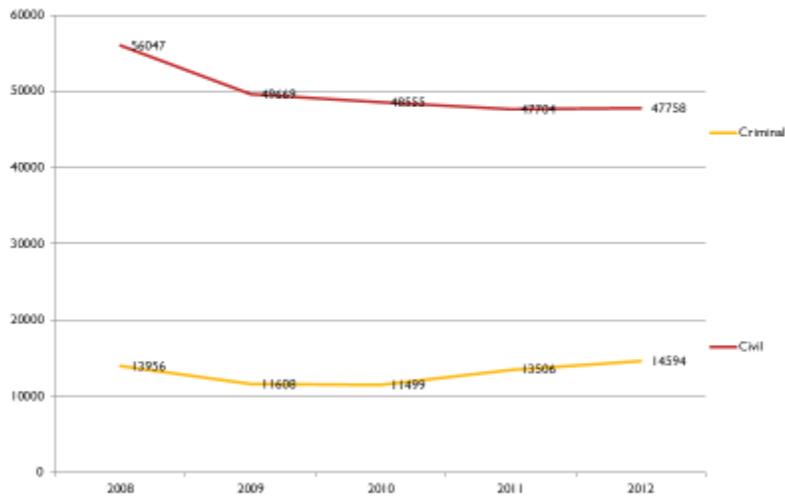
### Status of Pendency in Civil cases at the start & end of each of the five years



## Major category wise Pendency of cases from 2008-2012



## Over-all pendency in both the civil cases and criminal cases



Prof. Mohan Gopal: I should take this opportunity to say that young K.K here is one of the most wonderful resources of the NJA, he is really a very very brilliant person we have.

Mr. Bora: You see in civil and criminal cases the pendency of civil cases is going up even though the number is less, and consistently criminal cases are coming down, so you can analyse these thing according to your backgrounds, you cannot analyse according to my knowledge, because my know;edge is very limited.

Prof. Mohan Gopal: just to supplement and agree with what justice Akil Khureshi said, the difficulty we have sir is that unlike in other countries this is the only data available to us, in other countries we can track how many cases are delayed in relation to the appropriate period necessary for their resolution, so if it is a complex case the appropriate period assigned to that case on a case to case basis, at the beginning of the trial will be that this will take 3 years and only after 3 years you will say that it is delayed, whereas in a simple matter you will say that it must be disposed off in 2 months, after 2 months you will say it is delayed, so you can then take simply the number of delayed cases, and say is it going up or going down as against, but we do not have such a system, so today not a single person in the country can say, how many cases in India are delayed cases, we can say that cases take a long time, cases may take short time, but as you pointed out that cases that take a long time are not necessary delayed cases.

Participant: Another practical difficulty is that in high court we are having two stages, admission and final stage, with less number of judges it is very difficult to attend final hearing cases and that is sometime we have delays.

Prof Mohan Gopal: my point is that unless we establish time standard for any case, we will never know that the case is delayed or not.

Participant: It varies from case to case basis, say for example, in a 498 matter, in one case there will be only 2 witnesses in the other case there will be 10 witnesses we cannot have a standardized norm.

Prof Mohan Gopal: no sir, I am not saying that we should have a standard, I agree with you, I am just saying that in other countries and with comparable system, for every case at the beginning of the case, in consultation with the lawyer after looking at the number of witnesses and evidences there will be an assessment of how long this take, and sometime standard and then you will track that case with its own time standard, and then you will be

able to say, how many cases are delayed according to the applicable to each case. Actually the Indian Legal system, there are 5 crore cases, 2 crore cases are disposed roughly, 5 crore of cases look like a big number but every case is being handled by a judge, so for each case if the judge says given the number of witnesses this case will take 18 months, and then you measure if it is delayed beyond that 18 months or not and then you can say it is a delayed case, and then easily we can have an overall statistic for the country that 10% of the cases are delayed, or 20% of cases are delayed against the case to case standard, then the impression of the country from change to the thinking that there are 3 crore of cases that are delayed. So having a proper statistical system that will track the data, time-line, actual delay, will help to clear up and have a more accurate understanding of the judicial system, that is it.

Justice Dilip Gupta: now that all of us are here and we have discussed, we would like all the learned judges representing their high courts to give their views so that all of us can have the benefit of it, so we can break for tea and come back and then have the views of all the high courts from this issue, so that we can improve upon and get the best out of it. We will come back after tea.

Prof. Mohan Gopal: we would like to hear from everyone sir after tea, and we learn from each of you.

## **Session 8**

**Justice Dilip Gupta:** Welcome back. Now all of us are here, can we begin? In an organised manner we will begin clock wise, and each high court as its turn comes, can speak.

Participant: Thank you sir. So far as this judicial data collection

**Justice Dilip Gupta:** Welcome back. Now all of us are here, can we begin?

In an organised manner we will begin clock wise, and each high court as its turn comes, can speak.

Participant: Thank you sir. So far as this judicial data collection is concerned, I have 2 aspects to speak of. What I can understand from the discussions is that, whether the judicial data collection as the heading goes on is confined to the judicial aspect and not the data collection needed on the administrative side. We have many aspects where data is to be collected and goals have to be

analyzed on the administrative side, I will give few examples, in a very broad length and breadth of the country, so many employees are going to be retired, but there can't be planning in advance for postings to be completed.

Justice Dilip Gupta: because of shortage of time we would like all the honourable judges to just concentrate on the SCMSCs recommendations to the national committee.

Participant: my recommendation to the committee is that this data collection should be on the administrative side also, because these inputs will help us, yesterday we had been discussing that the performance is not judge wise but as an institution, which includes the administrative performance of functions also. Second aspect I would like to tell is with regard to the importance of having a data entry operator. I give a small example, when the meeting was going for the implementation of e-courts project, in CIS software who would make the data entry was put over, there they 1st said that the court officer should do it, as said by judge from Patna that our courts are overburdened by regular work, so from Andhra Pradesh I have suggested that for engaging people in data entry operators, so they have given funds, but that is a one time fund that they have given under the e-court projects, they will not fund it again, therefore we need a data entry operator for every court, so my request is in the NCMSC make it a point and stress that each high court should convince their respective state government and the court complex should have a computer operator, so that now we are tagged to national judicial data grid, we will be getting only stale material, so my request is that let the NCMS take it that it may suggest.

Prof Mohan Gopal: just wanted to say if I am not mistaken and your point is extremely correct, needless to say, Justice Ahmed's report on court development planning I think he has emphasized the need for IT and infrastructure and also in the human resource module of Justice Dutta and also in the case management module of Justice Khanwilkar, so I think the point is already there, so if these baseline reports are considered by the SCMSC, and each aspect there is taken up and considered and conveyed to the government then no further action is considered at this point from the NCMSC, as the baseline reports are already there, so we will only be repeating that, so I think this last session is on what is the agenda for NCMSC and SCMSC to do, so I think one of the ways of responding to your comment for SCMSC is to consider the baseline reports as has been done by the Delhi and Himachal Pradesh High Courts that we agree on this point, this is ok, that is not

a good idea please reconsider this, so they have come back to us, so now Justice Dutta will update the human resource report basing on those comments, so if SCMSC can consider these reports including aspects that you have mentioned and then take it up with the government, anything more needed from us we will be very happy, but I think these aspects are covered also. But I think your comment is very important to me, because it highlights the point that baseline reports must be considered very carefully by the SCMSC.

Participnat: So far as Punjab & Harayana is concerned at this stage we have made a vision document after considering data that we have, we have increased the strength of judicial officers and court officers by 20%, and further in relation to the infrastructural and other issues of arrears which are common to all, extra points that we were discussing for ten years and above cases has been given and now I have noted down the negative points, we probably will consider that. Refresher courses are now back, not only for the judicial officers but also for the staffs, and to bring about a change not only in the judicial and administrative competencies but also attitudinal changes, So far as the delay was concerned and caused because of the lack of forensic reports, and then we took up the matter with the government, and the government favorably responded, and 3 forensic labs have come up and 1 in UT, and this certainly will have good impact. So far as the issue of sensitization of all stake holders this issue is again back on the drawing board, the issues are gain looked back, of sensitizing the judicial officers, the lawyers, the jail officers, the jail inmates and then to get feed back from them as has been done in probably Gujarat. We have started video-conference technology for recording of evidence of doctors and other officers, the nodal officer have been appointed. We have also requested the retired honourable judges to go into the issue of making amendments into the high courts rules and orders, so that the issues of serving the witnesses, the issue of serving the parties to the litigants can be done in more speedy manner, the introduction of technology, certain drafts have been proposed and presented before the rule committee and in some time it will be over, then we found out that the number of public prosecutors that was not the required number, so we have taken this issue, now there were certain issues with regard to certain powers, that were not with the district judges and they had to go back to the government like for example, getting stationary, they had to go back to the government every time, get an approval and then they used to start procurement of stationary, due to our intervention powers have been given to district judges, to procure their own materials as is necessary.

Justice Dilip Gupta: Thank you so much.

Participant: In Kerala I must confess that we have not been doing much. In fact I am chairing the duties from recent past, more due to ignorance, in fact these 3 reports are advertised before me only before I came here. We have been collecting disposals and sending reports, and I am told that recently registrar of the Supreme Court wrote to us that you have to give your comments also, but however this colloquium had been very enlightening, in fact what I would like to express is role call that is one big problem in the subordinate courts, specially in the magistrate's court the roll call goes on till 12, 12.30. Roll call is calling the cases, by 1 o'clock when it gets over, the magistrate has to get each of these, they have to write the posting dates, after that taking depositions also that has to be handled, so this in fact puts the magistrate to a stress, so time should be more, but when do they do start, in fact our office starts at 9 o'clock but the court sits at 11, then our administrative judges should be sensitized regarding the working of the committees. A junior judge would be able to instruct a senior judge, so what I would suggest is the committee probably I would in fact tell my chief justice to invite the committee member, because if the committee members come and talk, that would be good, in fact I was surprised to hear that in India there are 6 states who do not have cases pending 5 years, our case is different, in fact the district I have charge, there are cases from 1995 onward, minimal cases, even in my jurisdiction, I sit in service jurisdiction, there are cases pending from 1995 or 2000, so this is a very major issue, in which I feel that if NCMSC sends some of its members to give a talk to our judges, in fact I would ask my chief justice to invite them, then it will be very sensitizing, that would be a communication regarding what the committee wants to do, in fact I would frankly say that I had been very skeptical regarding this court management, only in the colloquium I knew that some inroads can be built, and specially hearing from the other judges as to what their high courts have said.

Justice Dilip Gupta: Thank you so much.

Participant: friends I have quickly 2 or 3 points to make. Yesterday we were discussing about timeliness, quality and responsiveness of the judiciary, how so ever it may be to define and quantify these two parameters, in my submission it must be done, its controversial but it is very crucial, how to do may be what Dr. Mohan Gopal says might work, another way could be to pull in retired judges of the supreme court, they will take a cross-section of the judgments and rate them, as in promotion cases we do. How was the language, how was the logical sequence, how

was the law applied, but we must do it, otherwise it will become a disposal document in disguise, and that is not what our aim is. One learned judge, very nicely had put that the judiciary is becoming figure conscious, we don't want to do that, we want disposal with quality and responsiveness, second aspect is of all the reasons that we have tried to brainstorm in last 2 days, we don't need rocket science to tell us that the sole reason for delay is not having quality sufficient number of judges, high court downwards 30%-40% of vacancies have remained un-filled for consistently more than 10 years, be it district, be it magistrates level, be it high court level. Provide all judges, at all level and there will be no pendency in next 10 years, the cause is easy to find but difficult to address, at high court level people are not coming, at lower level efficient or quantified people are not available, in my opinion long term planning can only be through quality legal education, because today we do not good lawyers, and therefore we do not have good judges, should high court not involve at policy level in providing quality legal education, today all high court's patronize the NLU's in their states, should they not play a role to ensure that 10 years from now there should be good lawyers who are willing, as long as there are good lawyers they will support the system, today in the lower court the biggest problem is the assistance that the judges are getting is extremely poor, and that adds their burden, and the last is the specific point that the civil cases are now being categorized as criminal cases, like the NI Act, is playing havoc in our criminal justice system, 138 NI Act are the cases which account for nearly 30% of the pendency of criminal cases, the lawyer at every intermediary stage he takes the matter to high court, where the matter is compromised the Supreme Court has said that you must pay 10%, 20% depending upon which stage it is being compromised. The person who has received the cheque of 1 lakh compromises for 50000 i not going to pay me 5000 rupees of court fee, or fine or whatever, so what they do is they abandon the case, the complainant simply stops coming to the court, the matter remains pending, somebody has to think about this in an integrated manner, how do you tackle this menace.

Justice Dilip Gupta: Thank you sir

Prof. Mohan Gopal: Thank you so much.

Participant: In the Bombay High Court under the leadership of Justice Khanwilkar, who is now the chief justice here in Madhya Pradesh, we did a lot of progress, in fact we started digitalizing all the records, at the high court level, but in several cities, specially in Bombay, we have a chronic

problem of space because of the property prices, particularly in the high court, now as per as my personal suggestion to the committee, I have a document here, but it is in draft form , our suggestions are in manifold in this report, i don't want to read them because it will take time, the committee is meeting next week, I will forward this so that we will save time. On personal level i have one more suggestion that we should have a training programme for all the court masters, because they are the one who actually administer the courts, may be judicial academy can actually train them at case management, so that they know the difficulty in the other ways, in the same way the judges interact, let the court masters also interact with each other, may be that will also help.

Participant: Sir, so far as the state of Jammu & Kashmir is concerned I must so tell you that we are lagging far behind then other states, and high courts. From one of the letters that I find from our proceedings was last written as early as July, 2015, for the first time taking note of the NCMS and the base line reports. The problem was that the honourable chief justice has also constituted a committee by the name of arrears committee and the functions assigned to this committee was akin to the functions assigned to the state committee, so our chairman of the SCMSC has addressed the letter to the chief justice saying that either you allow both the committees to sit together to deliberate upon these baseline reports to make recommendations or to clearly define the functions of the committee so that they can function independently. Now having said that the committee has yet to come to grip with the baseline reports to collect data to collate data and to recommend to NCMS, and so far as the issue of dealing with pendency of cases is concerned, whatever may be the goals set, 5+0 or whatever, the issue is that judges ultimately are the human resource so long as number of judges are not increased, things may not proceed further, if the effort is to dispose of 5+0 cases, then are we not by necessary implications ignoring those cases which also should have drawn our attention at the initial stages, therefore by one inverse proportion we are ignoring the newer cases, say which also need attention. I am talking so far as the high court is concerned, but the arrears committee is concerned, as I see from my records, did an effort to balance the two. Therefore the first 10 cases in the cause-list would be the oldest cases, so having dealt with this type of system in the cause list my experience is that that 40% of the old cases, clients come and says, that this has become so because either the litigant is not interested or she has died, now that also reflects somehow on our system, that because of the delays in our system, somebody has lost faith, either on the account of delay or whatever. Number 2 what I would like to suggest is we must suggest on how best to even frame a cause-list. Somebody was saying that the honourable

judge from Kerala has made some headway in suggesting how even a cause-list should be framed, may be that experience is shared with us so that we might also know that which type of cases in what proportion should be decided on a particular day or taken up for disposal. Ultimately it comes to how productively one can use the court time that is available to a judge in the court, if we perfect that science the ofcourse depending on the capacity of that individual judge results can be seen, otherwise no amount of data collection would be a good substitute for clearing the pendency. As far as the subordinate judiciary is concerned, under what pressure the subordinate judges are working sir, we know. In our district courts when I was practicing as a lawyer I would see that a judge was recording evidence himself, even his clerk was recording evidence, it used to some sort of influx on the judge, who was single handedly doing 10 different jobs. Therefore my request is we need some more time to deliberate and make recommendations, may be they are found useful at NCMSC level and something comes up. Another thing that I would like to discuss with your honourable lordships is, if there are 100 cases which are listed in the cause-lists, 40% are those cases which are miscellaneous in character, so atleast 30% of court time is consumed in judges doing miscellaneous works, if this work is assigned to somebody, say to the registrar level in the high court with appropriate modifications of the writ courts rules then 30% more time will be available exclusively for deciding cases, today you see judges have no time to decide cases, you may have 200 cases listed in the cause-list but a judge reaches only 40, and there is a capacity to which a judge can work, a judge cannot be asked to decide 100 cases in a day, so sometime judges are very happy in adjournments, they say that ok we will hear it the next day. Ultimately we must see that what science can enable the judges to do their work and use their time more productively, effectively and to the best benefit of the litigant also.

Justice Dilip Gupta: Thank you sir.

Professor Mohan Gopal: In my own view the policy and strategic role and the operational role are both important and should be kept a little different, and so I will be in favour of continuing the two as a distinct committee rather than merging them but my views were not sought on the merger and I don't know now, if that has happened or not, so I do not want to comment on the factual situations, simply because I don't know.

Justice Dilip Gupta: Yes, Justice Koteswar.

Participant: I do not have much to suggest and I have come here basically to listen and listen and learn from the views of various high courts who have done work in this area, just to share a few words about Manipur as we are aware that the Manipur High Court was created in March 2013 only and we have been fully engaged in building up of infrastructure, when this high court was created we had only 2 districts out of 9 revenue district, so far we have created 4 district and sessions court and other buildings, and we are fully engaged in construction of building of subordinate courts, we not been able to give much attention to court management, we are also in the process of setting up the e-court system, and there are various hurdles including the connectivity, therefore I have not much to say. But we are in touch with our bar council, our local bar association, we are having long programme for training of lawyers only, because we see that we tend to ignore most of the management system, because we are confined to our courts, our judges, but we are fairly neglecting the role of our lawyers, to bring in lawyers is I think one of the most important aspect, in my state the problem is not that much, therefore we are engaged in the process, and I have also felt that the success of this management system depends on it. For this we are undergoing massive training programmes, and also for computerizing the system.

Participant: We only have in our high court only 5% more than 5 years old cases, in the subordinate judiciary also the infrastructure is alright and we have mentioned it also in the vision document, I would suggest to NCMSC that the vision documents of all the states may be looked into and after compiling all the thoughts and idea, it may be disseminated and a guideline may be formulated which may be given to all the states. Regarding this ACR is concerned yesterday Justice Dutta had discussed about these writing of ACR, every high court is having its own parameter to calculate the performance of a good officers in the subordinate judiciary, but one thing i would like to suggest that no doubt we should not consider the anonymous complaints, but sometimes this is also a fact that some black sheep are there in the judiciary who cannot be easily identified, and they are so intelligent that they do not keep any evidence, so in that case some sort of powers should be there with the administrative judges or the portfolio judges, now it is very difficult to come to uniformity in respect of the assessment of the ACR is concerned, but to some extent there may an uniformity on some particular aspects throughout the country. Now regarding the subordinate judiciary, as far as our state is concerned we are suffering from paucity of cases, we have no such pendency, our form total 104 posts, almost all are filled up and we have kept it open throughout India, even in direct recruitment also, in Tripura we have appointed 2

judicial officers direct recruit, 1 from Delhi and another from Uttar Pradesh, in grade 3 also we have appointed officers from throughout India, and we give them particular time to learn the local language etc. and they are coming up very well. Regarding what Prof. Mohan Gopal has insisted that the time frame to be fixed, we have not applied our time to that, and we will be looking into it, regarding the time frame with respect to the particular category and class of cases. And one thing that we have introduced in our high court atleast is information of every case about the fixing of dates while the cause-list is fixed the information through sms is going to the particular client. In subordinate judiciary we have yet to put this in place. All the data entry operator are appointed and it is already in operation, only in some of the newly established courts it is not there, but it is also in process. In the vision document everything has been mentioned in details. Another aspect is regarding quality and responsiveness what has been discussed yesterday will enrich all the judges of the committee. Such conferences must be organised ones or twice a year it will be very useful. Also I think it is a good idea to induct district judges in the committee.

Prof. Mohan Gopal: Yes sir.

Participant: In so far as Gauhati High Court is concerned I share the views expressed by my learned brother, in addition to that I would just like to point out certain things that have taken place in Gauhati High Court. We have the North Eastern Judicial Officers Training Institute (NEJOTI) in addition to the State Judicial Academy which is the first kind of its own in the country. When Justice Sudarshan Reddy was there we constituted the infrastructure bench and since 2006 this bench is running. A division bench regularly sits and looks in the infrastructural issues. Including High Court 107 posts has been created, starting from registrar recruitment. Number of ADR courts have been set up, suggestions have been given to set up the fastbacks court particularly for crime against woman and children. Transfer policy is in existence. E-transfer of record to district court is soon going to start. One of the major problems in the state is of illegal migrants and to deal with them a separate foreigners Tribunal is set up. Writ from this tribunal comes to the High Court and hence it is suggested to increase the strength. In some of the districts solar energy is also used for cost cutting. NCMS should review progress made by SCMS at least once in 6 month and give revisionary notes. One third of the litigations in Guwahati high court are on Motor Vehicle appeals. It was suggested to have an Amendment in Motor Vehicle Act and NI Act.

Justice Dilip Gupta: Thank you so much. We now just have 20 minutes left, so we request everybody to just concentrate on that state court management system committee report.

Participant: good afternoon sir.

so far as court management and case management is concerned, our state committee chairman Justice Rammohan Reddy has said all, in fact I will not repeat anymore, and also since yesterday another brother has also participated and discussed, only one aspect that I would share with you is statistic is basis to address our progress and our problem. In this regard we had a programme called the pilot project in our state, in any district if it is said that there is more pendency, then this committee goes to that district, stays for months or weeks or whatever it is as per requirement, and huge pendency will be brought down, thereafter again it goes to another district, like this most of the district we have covered, and heavy pendency was brought down. Now that pilot programme or project is not silenced, but it is kept like that only, and any moment if it is found out that the district is suffering with huge pendency then the project goes there. If this is adopted in any district of the nation I think it helps in reducing the burden

Justice Dilip Gupta: Thank you sir

Participant: time is constraint, I will not elaborate, adhoc system must be stopped, adhoc must be stopped, it has lack of continuity, so there must be filling up of vacancy at all stages, so this is one thing, and also the NCMSC should review the progress made by SCMSC, ones in six months, and give revised guidelines, so that there will be process re-engineering, thereafter infrastructure benches are constituted and the inputs of the SCMSC becomes the basis for them to translate into actions, nothing much could be achieved. The infrastructure benches could be of lot of help to all the courts, the inputs can come from the SCMS side. There was arrears committee constituted by the Supreme Court, i was one of the members, we have given a detailed report, submitted to the Supreme Court directly, our radical ideas also we have given, now it is up to the Supreme Court to take up the matter. As per as quality education is concerned unless quality lawyers come, the system cannot improve. As per as our high court is concerned, the motor vehicle appeal is the bane for us, one third of the litigation on the civil side is the motor vehicle appeals, this 138, the trials take their own time, there is an appeal, revision and SLP and I find some of the matters are sent back by the apex court or the high court to the trial courts, this has become a never ending problem,

this is chocking the criminal justice system. Now unless this one tyre is removed we cannot achieve anything in this 138 matters. Both these acts need amendment.

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Participant: So far as Delhi is concerned I have nothing much to add except that court managers must be trained so as to make the system effective, I agree with my brother Justice Thakur, that work of the magistrate who are overburdened can be assigned to assistant court managers, somebody who is well qualified, on whom we can repose trust, brother said 200 matters are listed, 250 matters are listed and half of the time is wasted in all this, so it is better that giving of dates are assigned to assistant court managers, except in contemptuous matter where the grudge can increase. Thank you.

Participant: I will favour the view taken by my esteemed brother justice Gaur, we have taken the views of the baseline reports prepared by NCMSC, and prepared a vision statement, that report is already submitted, because we are 5 member committee, we have prepared the National Vision and Mission, Justice for all, 2015, and there is a notification of July, Delhi witness protection scheme, i.e issued by Delhi government, and one more the instruction given to district judges is for witness room in each district court premises so that who so ever has any difficulty can get some assistance, and apart from the protection scheme, we have given Delhi High Court vision 2018, I have copy of the same is available with me, otherwise report is already submitted to Justice Dutta and that is also available on the internet.

Participant: In Uttarakhand out of 13 district 9-10 district the pendency is below 2-3 years, all other care has been taken, in fact infrastructure committee is there, 90% appointments are already made, almost every court is connected with national judicial data grid, no problem. Two things I want to share with you, one we are not concentrating on execution cases, one case I found in Dehradun, 1976 execution case was pending, the judicial officer was dealing the case, therefore we issues circular every month for execution cases, another thing I want to share with you, that we must also realize the difficulty being faced by district judges, judicial officers, on how they are living in their court, we cannot compare with Saket court or Delhi court, the judicial officers are working in such pitiable conditions, they in fact cannot say even a word about their suffering. So I request our brother judges to be realistic about the problems of the subordinate officers.

Participant: So far as state of Jharkhand is concerned, on the basis of baseline reports, the SCMSC started working and accordingly vision document, 2020-21 has been prepared. 1st of all we asked all the PDJs to take the exercise of physical verification of cases and accordingly simultaneously data entry is also made, in most district I think that task is likely to be

over in couple of months, then we also constituted a committee to revise the norms of disposal, and the committee of honourable 3 judges has been finalized and now the work has been undertaken, and we also invited views of PDJs before doing the same. So far as infrastructure is concerned, 1st of all we identified our requirement district-wise and at the state level we had a meeting with the senior officers of the PWD and in a phase manner we asked them to develop infrastructure in the state. So far as judicial training is concerned, our new judicial academy complex has been inaugurated in the recent past and 106 judicial magistrates are taking training there, there was a requirement of 116 judicial officers at the lower level, and we recruited 106 CJJD and those judges are now taking training there. So far as recruitment of staff at different level is concerned, in district judiciary this deposition writer post was not there, we had a meeting with the state government and requested them to have this post, and accordingly now state has created 150 posts. Another important area is state litigation policy, because in most of the states, state is the biggest litigant and therefore on these areas we have to focus. So as public prosecutors concerned we felt that there is a need of director of prosecution accordingly state was asked to undertake that exercise and now the interview is over, and shortly we are likely to have director of prosecution with his team. 2016 has been declared as year of excellence by our chief justice and therefore now we are making concentrated effort to see that this SCMS works and goes ahead in a proper direction. Thank you very much.

Justice Dilip Gupta: Thank you sir.

Participant: we have saved approximately 69 lakh rupees on electricity in the High Court because of solar power. Every month a meeting is held and a report is submitted to SCMS. State Judicial Academy has undertaken the task of training of staff of subordinate courts, young lawyers. Digitalization of records of High Court and then district courts is also been done.. Then constitution of district court management system committee is under way. In every district we have directed that district court management system committee should be constituted and once in every month they should hold their meeting and submit their recommendation views, response whatever to scms committee. Then in the high court level we have constituted this internal complaints committee. There are grievances which are outside the purview of service law relating to employees and judicial officers. To deal with those kind of complaints we have constituted this internal complaint committee in line of...having wide powers. See more forensic labs have been instituted

Chhattisgarh its a mid size state having two crore population but addition to the one forensic lab at the state level there are three regional forensic science laboratories is under way about 7 crore rupees has been sanctioned by the government within 3-4 months all will be established. Then SJA has undertaken the task of training of young lawyers with the help of bar council of India and this all India reporter as well as the training of staff of the sub-ordinate courts. We have already conducted one session for training of staff of the sub-ordinate courts. Then Digitization is underway the tender have been issued by the end of January will start digitization of the entire high court record. We are going to have our own Server our own server located in the high courts and once that is done the district court record all will be restored in the high court also. The second stage of digitization would be in the accord of the district court. Then that's is all thank you.

Participant: Now without wasting time I would just suggest there is one software dragon now I am sure high courts can try it for the sub-ordinate courts because we are finding there is lot of difficulty in getting stenos. Now the older generation judges won't touch it, the new they are two new to it...it's always the middle line you catch hold of them and they will pick it up quickly and we are finding slowly slowly the number started from 20 40 more and more people are getting interested and that's a big help once they know that they will start doing it. Second what we have started is that we have made a form which every judge individually has to file every month and send it by email that's give a break up of 5 7 10 of cases number disposed off with his comment that why he could not do it. Now each judge sending it individually every month by email makes him conscious of that then we have tried web linking because what is happening in Bihar is connectivity is not good at sub-division level or even at the district level we are experimenting and we have made Pune version we have made it web enabled. Now we have got our san server in the high court we are trying to make court itself a cloud for the district courts. So we won't need all the lan networking or connectivity directly from the district court or rather from the officer table the entire information is going to come down to high courts stored there and from there it will be linked to the national judicial data grid. Now so far as our request would be to the NCMS one the case chart if they can prepare that just giving the details that in a title suit these are the relevant important dates or events. Now that can be inserted as a first page of any case record and the magistrate fills it from time to time so he is reminded without opening the whole thing that on this date this has happened this the next step. Similarly, the manual to be developed for each case type. Now the third thing which we want is different high courts have got different performance evaluation

standard for the performance of the subordinate judiciary. If the National Judicial Academy or the NCMS could collate and circulate it so that we get the best practices that we are missing out we can pick up. We can share that information amongst the all the states. That's all Thank you.

Participant: We have 150 young so there are lot of efforts and done by our high court improvement of the system. Justice Gupta being the chairman of the CMS and digitalization committee is the better person to tell about all this thing. But the member of the infrastructure committee I will just share the step taken by the committee. First of all we have decided not to open a any new court in a rented building until unless the complete infrastructure is provided secondly we have created 5 zonal committees for the entire state headed by two judges of the high court along with the concerned district judges to take care of the infrastructure facilities and the requirement and thereafter there is a three member committee which supervise the ultimate infrastructure facilities. We have re standardized the court rooms as well as the residence of the judicial officers and now the judicial officer will get a type 5 house in a new construction so that along with a study room so they may have a better environment even at home for their working. Then committee is also very pushing hard for acquisition of the land for re construction and repair of the buildings. We have also taken steps for solar system in the court room buildings so that the electricity is sufficient. Steps are also taken for the facilities of the litigants: proper waiting area specially for women and for their drinking water, their wash rooms etc. Now the one step has also been taken by the court not by the centralized infrastructure committee i.e. of the centralized recruitment. Now the recruitment even in the district court is to be centralized and done by the high court level by specialised agency so that it done in a free and fair manner and we are getting results we are getting good candidates for the post even for class three posts. Now as far as the since we are discussing these issues my personal view is that lawyers training is very necessary because what we are expecting from the coming generation may be a more efficient. Older generation is very competent but there is a gap there are certain persons who came in between their approach was very different. They don't want to cooperate in the disposal of the cases. So changing their mindset we have do certain efforts. And definitely for legal education it is rightly said that we have to take care of the legal education so that in future good and efficient lawyers are join in the profession. Thank you so much.

Participant: State is a major litigant before the courts today. Especially in the high court and our experience from our high court is that state is represented by lawyers upto the level of say senior additional advocate generals with less than three years of practice. Now while deciding cases we sometime feel handicap in the level of assistance that has been rendered some we were reading the reports in the newspaper that may be the supreme court has come out with some sort of guideline but I think it means to be brought from the government also as to the experience and the level of competence which is required of a government advocates with a view to rendered proper assistance so that the quality of justice improves.

Before we wind up a word of caution whatever changes the future is going to bring we must always remember that justice must be assisted not it should be dominated by the technology. In all judgements you get assistance but let us not become slaves of technology.

Mr. Sinha had mentioned about the connectivity in various sub-divisional level is not good and you are planning to have this cloud system in high court but how do you have cloud access to cloud without connectivity.

That's very simple brother what is cloud. It is just a cluster of servers you get all the material keep it in the server from everywhere from the district judiciary, from the taluka judiciary all you have to do is with internet connection you have a PC standalone PC it has a hard disk. Some judge is going to type into it. He is going to push it onto that the moment it is pushed on all he has to do is to give a command and it will come into the server. There is nothing big about the technology is very simple. That how it is done.

With your permission...sorry sir...I am actually you know a way forward what should be doing. So what I will just read in very quickly what we are proposing and I would love to I need to have your correction or endorsement.

Implicitly and explicitly many of the Hon'ble judge said that the ultimate objective is to improve quality responsiveness and timeliness of justice delivery and as justice Qureshi said all this needs to be much more clearly understood define that will emerge very much, but at least there is a clear focused and I keep thinking this in mind the simple..... that they put forward is to move from 5+0 to 4+0 to 3+0 to 2+0 as an indicator. Because when you want to move from 5+0 to 4+0 ensuring quality responsiveness and timeliness all aspects should be taken care of, so the simple machine

is to because from the public point of view delay is the biggest concern for them, so if we can systematic in a responsible way move from 5+0 to 4+0 then the whole system will have to improve to achieve that provide we also don't do it mechanically and we do it with quality and responsiveness and for that we identify the four big areas to address performance standards court in case management court development planning and human resources development these are the arrears where the system must be well functioning to achieve these goals.

This is the first big picture which .....In terms of what is SCMS can do going back after this this discussion. I suggested the following and the two broad heads what are institutional measures and what measures can be focused on a day what systems build will SCMS have to set up on the institutional strengthening one is I think to rationalize membership of a SCMS in all the states provide different models and the main ideas is it should be inclusive not just limited to one or two judges and I think justice from Kerala is emphasize the need to have senior judges in SCMS also so that they will be able to be effective and others have emphasize the need to include district Judiciary in the SCMS other responsible bar members could also be included in the following the SCMS model which is being circulated.

I prepare a short note describing SCMS and I think it's being circulated to everyone today and my presentation yesterday so the first.....for all the SCMS to rationalize membership. second is secretary for SNCMS to be rationalized we have a full time secretary member secretary of SCMS I would recommend based on my experience that there should be a full time member secretary of SCMS to support the judges who are leading it if not full time at least one of the registers can be given that additional responsibility to be a secretary of SCMS that will also give a focal point contact point for our member secretary of NCMS to work you have that excellent. Third is that a regular meeting at date should be fixed for monthly meeting for SCMS, so we have seen that happening in Karnataka and Allahabad every month there must be meeting of SCMS and if we can also shared the proceedings of the meeting by email with all the other members if we can prepare anything that we should take responsibility for prepare an email list of the SCMS. So that all the work done by all of you only for examples Justice Gupta has this wonderful compilation if you could kindly send a copy to all the members it because a lot a very very useful information there on suggestions from district Judiciary on various aspect, so if you are can kindly share your meetings records with everyone I think that would be very helpful.

Participant: we can make the groups

Prof. Mohan Gopal: We will do it sir will ask our member secretary kindly do that then I think at district is CMS Court management systems groups or committee should be established as a another suggestion at every district level we have heard that. Then inputs and feedback to be regularised the system for the district meeting to send feedback to the state meetings and state meeting to alert NCMS on issues that you wish NCMS to take up. Format for this report should be develop so these are the five institutional measures that I think can help to stabilise SCMS that I would suggest for your consideration. then there are four or five system that SCMS should develop in my my recommendation one is the biggest priority I see for SCMS is to identify and prioritise the issues relevant to your High Court and your State that you should give you should work on, but will vary from one High Court to other.

So you need a system for identifying and prioritising issues it could be a system where once a year you call the District Judge and all the entire Judiciary what are the priorities issues which you speak and consider important and we should work on and that should be the priority areas which the district meeting send state meeting should also focus on so you need a system for identifying everything one example is when I came here I found the calendar of the NJA was being prepared in an ad-hoc manner so I started a National Calendar Meeting where every year you know senior Supreme Court judges preside the chief justice's and other judges of high courts come and they all discuss together what should be the calendar of NJA and so this a lot of ownership and lot of relevance before that they used to wonder What what is this in this calendar after that we don't get such feedback and you know the calendar is responsive to the need of the High Court similarly I think if SCMS must be responsive to the needs of the Judiciary then they must have a system where they are going to give you the feedback in a year on what you should work on and work on that. Second corresponding to that a system for monitoring weather this issues are actually being addressed or not because the credibility will go down unless these issues are effectively tackled and feedback is given so system for addressing following up issues. Third very important I would suggest every SCMS must have a system for brainstorming and exchange of ideas so at the district level and the state level.

The state level maybe once a year you should have a seminar or a workshop on Court management case management where people can come and give suggestions and ideas just sit around and look for one or two days one weekend and brainstorm on how to improve the issues then the System for monitoring the performance of the court there is a huge misunderstanding of this countries as I have been repeatedly saying about the performance of the court and I think this cannot be corrected accepted the level of local court and state court and then accumulated at the national level. So you must have a system for identifying the main parameters of performance of the courts in your High Court and keeping, and monitoring it and reporting on that.

Then system for sharing experience across states SCMS should do that we should all regularly meet in and share experience system for involving very important that every court level district level and state level involving other duty holders, the government officials as I said is very very important for the judge to be seen as a team player amongst others we still have with great respect feelings, but actually the judicial system is ..... game where everyone from administrative staff to Judge is equally important and unless you take everyone on boat the system is not going to work so you must have a system for example periodical meeting of a SCMS with bar with administrator staff with others to consult them like an open house and take up issues will be I think help to build that.

Lastly we in order to better involve the state judicial Academies have spoken to Geeta Oberoi we will also in February 24th to 26th you may kindly mark your calendar subject to approval of NCMS advisory committee and Chief Justice of India we will propose to have a meeting of all the SJS and the SCMS members on Saturday which is a Saturday on which were the Saturdays is so sometime in February will be at your convenience fixed the Saturday and have a meeting with state judicial academies directors and SCMS one day meeting so that we can tell them about what are the training and other responsibilities here then I would say that SCMS may consider based on this issues of national priority one is delay in arrears which we are also working on the second is judge strength I think Hon'ble Justice Thakur also raise the issue of adequacy of judges very very important issue and thirdly monitoring of court performance on and you know how well we doing to have a better understanding of it related to that data and Research.

So if we can sort of take these three priority issues delay in arrears, Judge strength and having the data and Research to have a better understanding how courts are doing in your state I think we'll be able to have a work program that can be useful this is for this and then a project I would submit for all the same message to consider one project that is what I call a pilot court quality responsiveness and timeliness Pilot court and in the pilot court to implement as we discussed yesterday national framework of court excellence, court development and planning, court and case management, Court performance report from that pilot we learn and change these national framework of court excellence and make it more realistic. So if you could consider taking up a pilot project code that would be helpful.

Lastly on NCMS side we have got follow up number of follow up things to do from this discussion one is I think we should prepare a report on performance of the judicial system in the national level for which we need inputs from all of the SCMS.

Second is we must prepare the court and case management model manual which we can also do together and can be adapted and changed and implemented in your states.

Third is we must provide guidelines on approved by the Chief justice's and so on to the High Courts on SCMS on these aspect which we now have enough material on constituting membership and all these aspects.

Fourth is we must also be always we do that, but we must also co-ordinate with our own other committees for example Supreme Court area and E- committee and so on and we must also prepare and circulate some guidelines on budgeting and go to High Courts which will be useful, guidelines on HR issues including performance review system, unit system and HR aspect on recruitment and performance management of judges and then I think we need to work on this issue of government lawyer qualifications some kind of guidance can be developed and given, which you just raised sir and then follow up on vision document for that we developed a matrix where we are looking at performance indicators that can help to implement the vision document that is already being prepared and already send to the High Courts if not we will send it again. These are follow up activities for NCMS the last and concluding question is this I will circulate by email to everyone

as a note if you approve and if there is something to change I will change it I am sorry to rush through it.

The last is when should we meet next may be in Delhi that is the next meeting of the NCMS and SCMS meeting the first meeting was held in march I think next meeting is now due sorry June, but last was in the month of march ok we will meet in march so February can be here and then the next one in march ok so April that will be fine sir and so any retraction on nothing is binding nothing is a decision but the suggestive follow action are broadly ok for SCMS for emphasis is actually is now to institutionalize the SCMS set up the system and process and then I think we will be able to move the next step let me just say on my own behalf and on behalf of NCMS and if I may on behalf of the National Judicial Academy my profound gratitude to every one of the Hon'ble Judges for being here and contributing so much to this discussion on and it is extremely helpful and useful to give directions and content to our work in NCMS and I think I am inspired by the wonderful work that is going on in many states and very hope to learn from you more as we go forward thank you again sir Justice Gupta for having kindly chair the discussion today and thank you to everyone again.