

WORKSHOP FOR COURT ADMINISTRATION

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Prepared by:

Mr. Rajesh Suman,

Assistant Professor,

National Judicial Academy

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SESSION 1

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Ensuring Optimum Use of Court Managers

Mr. Atul Kaushik

Dr. Geeta Oberoi: So this is the first program in New Year 2016 and for you it has entailed a travel, New Year travel to Bhopal. This workshop on court administration is not about application of laws or procedures as such, legal procedures but it is actually about administration. We are going to have introduction from all of you as to what position you are holding what are you doing currently, your current assignment. But to give you brief, the program schedule is before all of you. Program schedule will give you an idea that this is more about administration skills or about some issues which can actually help us in thinking about different perspective about the way we administered our courts. Being senior judges you must be in charge of administering whole district before you. So the skills which we are going to give you are about those ones which will going to help you in your administrative work, not about judicial decision making but in administrative decision making.

So if we see the first program is about court managers because if you remember the whole scheme of court managers was launched under 13 finance commission scheme and most of you have court managers in your courts. Some high courts like 13 high courts have sent us rules also. They have formulated rules for court managers. Three have not formulated others are sending. It is about how you are using these court managers in actually your day to day work so that more time we get for your judicial work and less you have to involve yourself in non-judicial work. This is a whole idea behind setting up the scheme of court managers. The question is this proving successful. We will have your idea and we will have inputs from Mr. Atul Kaushik, Joint Secretary in the Department of Justice. Then we will have session on case management by former Justice of Bombay high court Justice Roshan Dalvi. She is a recently retired Bombay high court Judge. Like you she has gone from district judiciary

to higher judiciary and she knows your problems that you face at your district level and she can actually guide you how to swim through those problems. Then we have session on time management and then somebody from government of India now currently with the chief economic advisor with the government of Madhya Pradesh is going to come and tell you about budgetary issues. We know that all of you in March will be engaged in making budget proposal for your courts. So if you could have some inputs before this exercise of budget preparation for your courts. This is whole day how this program will going to be. We have program coordinator Mr. Rajesh Suman who has prepared this reading material which all of you have with you. He will be there throughout program with all of you. We will have a brief introduction about you as to which district you are handling and also because for the first session it would be good idea if they have court managers with them. So just briefly introduce yourself tell whether court managers are there in you district.

Good morning. I am Uday Kumar, Chief Judge, Presidency small causes court, Calcutta. In Calcutta there is no court manager appointed and functioning. None is functioning there although rule has been framed, but none has been appointed.

My Name is Tyagi. I am District and Session Judge, Pithoragarh. In our court for time being a person was appointed as court managers but his duration was not extended beyond 3 months. He could work only for 3 months in our court. I have little experience with working of court managers.

Good Morning. I am RP Shamra, District Judge, Bilaspur, Chhattisgarh. We have court manager, full time.

I am H. Sanjeevkumar, Bidar District, Karnataka State. I do not have court managers in my district. In some districts court managers are there but in my district he is not yet appointed.

I am Gautam Debnath, very recently I have joined in high court as registrar. In our state there is no court manager. Our high court is new high court. So we are just building our high court.

I am H. Sharma from Andhra Pradesh. In our state there are court managers as far as our court is concerned the post is vacant for the past 6 months. We are waiting for appointment.

I am Sunitha from Andhra Pradesh. In our court there is one court manager.

I am Chandrashekhar Jha, Registrar Information Technology cum CPC Patna high court. We are in process to appoint court managers at the high court level and for all the district of Bihar.

I am Baldev Singh from Himachal Pradesh. Court managers are appointed in every district. I am also having a court manager.

I am Mohan Lal from Jammu and Kashmir. We have no court manager.

I am AS Tomar, District and Session Judge Umaria. My district not appointed court managers.

Myself Satyendra Singh. District and Session Judge, Alirajpur, Madhya Pradesh. In some of district we have court managers. I don't have court manager.

My self Amarnath from Delhi. There is no court manager in my court.

I am district and session judge, West District Tis Hazari court. We don't have good managers there.

My self S. Bakshi from Gujarat. Principal District Judge. We are having court managers.

I am Dilip Yadav, chairman administrative tribunal, Lucknow.

I am Harjeet Singh ADJ, Ludhiana, Punjab State. Earlier we were having court managers. Now the post has been abolished by the Hon'ble high court.

Myself Subhash Sroai, ADJ, Palwal, Haryana. There is no court manager in our court.

I am Rajiv Goswami, Dobri Assam. We have a court manager but this is for temporary period. He has been extended for the period of one year only. After Finance commission has abolished the post.

I am District and Session Judge, Johra, Assam. We have a court manager.

I am BU Debar, Principal District Judge, Ratnagiri, Maharashtra. In our state, some places court managers have been appointed but in my place yet not this appointment is made.

My name is Shrikant D. Kulkarni: Principal District and Session Judge, Ahmednagar from Bombay high court. We have court manager and he is providing good services to us. Practically looking after the computer department and the new projects. Particularly the new court building which are taken up, looking after it and it is very usefull for us to have the assistance of court managers.

My self Gaurishankar Satpathi, District Judge, Kalhahandi, Orissa. In our district there is court manager who is assisting like anything and his services are very much useful to us in administration as well as in budgeting and other works also.

My Self is H Bisnoi, posted in Kandhmal, Orissa and our honorable Orissa high court has appointed the court managers in every district and their appointment is helpful to us.

I am Narendra Singh Chawla, District Judge, Chhattisgarh.

Myself JPN Pandey from Jharkhand. We are having court manager in each district and they are helping to the some extent only not as it was thought about the court managers. They are temporary basis, on contract basis because of the fund firstly allotted during 13th Finance. They are uncertain so they are not devoting full time.

I am from Tamil Nadu. We have court manager from all the district and high court has framed rules for the court managers and we are effectively implementing it. The court managers are of much use in court administration and they are taking care of the IT

department completely and we are also using them for inspection purpose also. They are also taking care of the statistics of each and every court. So whenever we go for inspection it will be useful for them to give a correct feedback to the PDJ with regard to the maintenance of statistics.

I am Nakkiran, District Judge, Ooty, Tamil Nadu. We have court manager.

Dr. Geeta Oberoi: This one is interesting that court manager is taking care of inspection work with respect to statistics in the Tamil Nadu. Is that happening in other states as well? It all depends on what work you allocate right.

Participant: But however in Tamil Nadu it is specifically given that whenever we propose inspection to any court there would be a team of senior staff attending that inspection work and court manager shall be part of that inspection team and he shall ascertain the facts and statistics given by the particular court during each quarter or monthly. He is also taking care of human resources also. The capability of staff, their ability to handle bench or not. He used to recommend imparting of training so when the right time come we give them some training.

Mr. Atul Kaushik: I will take you to what was the original intention of the government and the National Judicial Academy in experimenting on having court managers in the districts as well in the high courts and then we can have a discussion on how it is performing and whether we need to continue with the guidelines we initially formulated for court managers. If you look at the global position. I will give some ideas on other countries but all developed countries at least and many developing countries they realized long time back that judges needs to do justice not administration particularly because there is a burden on the court to dispose cases more efficiently and therefore they wanted administrative and managerial inputs into running of the court. Taking a cue from many other countries. The judges of the Supreme Court and the department of Justice of the government of India thought about introducing managerial inputs into the running of the court, we wanted the central government to give some assistance. That happened with the 13 Finance Commission. We have asked the National Judicial Academy to prepare some guidelines based on these international.

Those guidelines were sent to the 13 Finance Commission along with the number of other activities for the improvement of the Justice delivery and the 13 Finance Commission accepted the proposal and allocated some money for court managers. Now what it did was that it gave a generic recommendation saying that in order to improve efficiency and improve disposal of cases all high courts and district courts should have court managers. . So the finance commission we are allocating this money 300 crores which you can use to deploy court managers for the period of the award of the 13 Finance Commission which is five years and then based on the actual experience tweak it as necessary.

The National Judicial Academy also developed a certain eligibility criteria for the court managers. I joined the department in 2012 we are in the process of implementation of 13 Finance commission award and we had feedback on various high courts and the number of high courts have lot of challenges in meeting the eligibility criteria. One of the reason was that when the proposal was being prepared, the market allowed it to recruit a management graduate at Rs. 50000. By the time the rules were made by the high court and the state government and it was decided that for availability of such people. Bombay high court took upon themselves and they got some money from the state government and increased the remuneration to 70000. Maharashtra is one the state where the judges are saying it is functioning very well. Those states that decided not to have a regular cadre of court managers but to induct court managers on contract basis. In NJA itself we are facing these challenge in some of the activity that we are performing. Some of the tihings can be outsourced can be contracted.

Introduction

- For enhancing the efficiency of court management, and resultant improvement in case disposal the 13th Finance Commission award recommended and financially supported having Court Managers
- Funds made available only up to 31st March 2015
- Functional only in 14 States
- Enhancing the efficiency of court managers would result in improving case disposal

Eligibility conditions for Court Manager

- Degree or advanced diploma in management
- 5 years experience in systems and process management
- 5 years experience in IT systems management, HR management, financial systems management
- Excellent people skills
- Excellent communications skills
- Excellent computer application skills

Benefits of Court Managers

- Court Managers deployed in each judicial district to assist Principal District and Sessions Judge
- One post created in District Court and two in High Court and one for each bench of the High Courts
- Court managers assist judges with a view to enhancing the efficiency of court management and resultant improvement in case disposal
- Court Managers would enable judges to devote more time to their judicial functions

Roles and Responsibilities

Policies and Standards

- Assist courts to establish the performance standards
- Create modalities for evaluation of compliance of courts with standards and identify deficiencies
- Maintain such evaluation on current basis through annual updates

Planning

- Prepare and update annually a 5-year Court Development Plan (CDP) in consultation with stakeholders of courts
- Monitor the implementation of CDP and report progress

Information and statistics

- Create mechanism for efficient compilation of statistics on all aspects of the functioning of court
- Ensure compilation of reports on such statistics

Court Management

- Undertake studies on compliance of the systems and procedures for court management as laid down the High Court
- Suggest mechanisms to ensure that court management system safeguards quality, ensures efficiency and timeliness and minimises cost to litigants and to the State

Case Management

- Create mechanisms to ensure that processes and procedures of the court are compliant with the relevant statutes and the policies established by High Courts for case management
- Suggest improvements in case management system in consultation with presiding officers and their staff

Responsiveness Management

- Ensure that the court meets standards established by High Courts on access to justice, legal aid and user friendliness

Human Resource Management (HRM)

- Keep HRM of ministerial staff in the court under review to comply with HRM standards established by High Courts

Core Systems Management

- Advise the court on effective document management, utilities management, infrastructure management and financial systems management

IT Systems Management

- Set up compliance mechanisms for effective use of the IT systems of the court (e.g. eCourts)
- Create mechanisms to monitor disposal of cases through NJDG

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Status of 13th FC Award on Court Managers

- Rs 300 crore allocated, only Rs 100 crore released;
- Delays in appointing court managers
- utilisation certificates received for only Rs 40 crore
- Only 128 court managers appointed
 - Haryana(88), TN(70), Punjab(46), Rajasthan(39), Odisha(32), Bihar(32), AP(27), Jharkhand(24), Assam(23), Maharashtra(22), Karnataka(21), Gujarat(14), MP and Chhattisgarh(12each)
 - Monitoring stopped after award ended in March 2015

Court Managers internationally

United States

- A court administrator plans and oversees a courthouse's administrative operations, facilities, budget and case management procedures. They can also run the court's communications, which includes speaking with the public about the court's activities or acting as a liaison for the court

South Africa

- Court managers are responsible for the overall management of courts and act as a support to both the judiciary and prosecution. The duties of the court manager include business planning processes, managing the facilities and physical resources, as well as information and communications, Implementing departmental policies

United Kingdom

- A court administrator is responsible for dealing with enquiries from the public, preparing lists of the day's court sessions and keeping ushers informed of these, updating of court electronic systems with the decision of the court

Canada

- The general purpose set out for the organization in the Courts Administration Service is to enhance accountability for the use of public money in support of court administration while safeguarding the independence of the judiciary

When you have somebody on the contract then the principal district judge will not be having the confidence to leave a lot of responsibility to the court manager because he is on contract. He doesn't have job security. He is probably going to spend a part of his time in office searching for jobs which are more permanent. So it is for you and the state government to work out whether you want to have court managers on a permanent basis or not. So far as the idea of court managers are concerned lot of judges gave us the feedback that they have to spent a lot of their time on administrative work. Some of the administrative activities can be transferred to court managers.

The idea of the 13 Finance Commission proposal was to at least transfer those activities which through automation and through management practices can create efficiencies in the court and case management. So that is the biggest benefit. I am sure all of you have seen the guidelines during the time when 13 Finance commission was under implementation because your high court were all trying to establish method of recruiting court managers. Let me take you to through some of these. The first is at policy level there are certain issues that you can outsource to them. The court manager does not know what the court is. The court manager cannot understand why which procedures have been evolved for running court. But he is a manager. So once you train him to understand why we have this procedures is probably hoping to able to establish in consultation with you certain task.

For each type of court and case can give you nomenclature which are better, probably give you an assembly line kind of an operation. How to use court procedures both those which bare coming from CrPC and cpc or evidence Act as well as those which are coming from the high court rules to give you an idea of how the process can be made more efficient. He can also help you to monitor to evaluate performance of the court. One of the feedback which we got during the implementation of the 13 finance commission was that the court manager who is a mere manager cannot second guess how a judge should perform. Some of the smart PDJs have used the court managers not to judge the performance of a judge but to judge the performance of the court and there is distinction between the two. So if you look at court as an office and you give him only those responsibilities which are required for the office to function better then he can set those standard, he can enable you to monitor those standards and he can evaluate at the end of a certain period the performance based on those standards.

All high courts based on the resolution of chief ministers and chief justices conference and he vision document that the judges and government signed in 2009 were required to develop core development plan. A number of high court were benefited by having these court managers. Manager does not know what is a good court so he cannot develop a court development plan of his own. But if you can tell him what exactly is the objective that you want to achieve through a plan he can give you input to make those plan everything from what kind of building you need to have what kind of facilities in building you need to have, what kind of court manager you need to have, what kind of case management procedures you need to have, what kind of process service branches you need to have. These managers are very good in making log frames, charts, timelines, triggers, alerts stuff which is their domain so they can be used for that purpose and they have been used by some to the benefit of the courts. Two of the PDJs have mentioned that they are very good in preparing the statistics. I think for a judge it is the worst activities if he want to achieve his self-actualization as a judge that he has to prepare statistics.

There must be somebody else to do it and herein one role that you can assign to court managers. So the main responsibility of a judicial officer is fully discharged by him, he is not encumbered by these requirements. Now court management is actually the domain of judicial officer. But once the judicial officer determines, how the court is to

be managed, then again setting of that standard, monitoring of that standard and evaluating to what extent you are using the norms set for the court managers. What are the areas the improvement can be made. There again the court manager can help.

Case management is tricky and basically a judge's work because a manager would not CrPC and cpc which only a judge can understand who is hearing adversarial arguments about how any provision of CrPC and cpc has to be interpreted. Even is case management once the mechanism has been created like the civil rules and criminal, laid down by the high court, all of you PDJs sometimes make your own sub rules for your establishment it is not like office of district magistrates. It is office of the district judge. No court manager howsoever accomplished can do it for you. So that is the point I am emphasizing. Nevertheless what he can do is that once you have created those procedures. He can help you analyze how far you are doing well. Again in creating a log frame in creating some kind of assembly line, operation of how things have to go. He will tell you the three adjournments, fourth adjournment which I think should not have been granted as per cpc.

You can assess whether the analysis which he has done is correct or not and take corrective action accordingly. Responsive management, there are lots of activities as I said in the beginning that a PDJ has to do which is not per se judicial work. Access to justice making sure that district legal services authority functions well. . So that is the kind of responsive management that can be transferred to the court manager. How to make things more user-friendly. We can tell the court manager go around the campus, is water tap running, is chai wallah functioning well, is he too dirty. This are user-friendly issues. He can come back and say that I found a disable guy struggling to get up those two steps to go so why don't you built a ramp. So these kind of responsive management issues can be transferred to court managers. Human resource management can be completely transferred to court manager subject only to advice from PDJ and establishment heads on individual performance of individual officers. The court manager can tell you how to create the management structure. Similarly document management, record room. How to develop a system where the 20 years file or 10 years old file as per the court rules can be brought back to the chamber for review and destruction.

These kind of things also you can do. Finally IT system as some of you have already said that they are useful in IT particularly at the current stage where the 14 finance commission has urged the state government to spend the money, central government has not given any money for the technical manpower that you require to implement the eCourts project. These court managers would come very handy. In holding the forte till the technical manpower start flowing in from state fund. I need not labour on how much support they can give on IT. At the time of selection of court managers, rather than looking at purely their managerial qualification experience if you can also look at the IT experience which is also mentioned by NJA as one of the eligibility criteria these court managers can really help in implementing lot of activities that you have to do as part of the eCourt project. Some high court did well some did not. Haryana does not have any court manager, now it has the maximum number when the 13 finance commission was providing money same for Punjab.

Tamil Nadu also brought some money from central government but later on it felt and talk to the state government that we want to continue these people. So now they have state funding. So this is the score card we have for ourselves at the end of the award period of the 13 finance commission as to how many court managers have been appointed in each of your high court. I am not counting the three new high courts because they started in 2013. It is for you to give your feedback to your high courts and the high courts in turn can give the feedback to the state government based on what type of court managers you need, what kind of money you require to have those court managers whether they should be contractual or permanent and so on. I will not go into these international experiences. In your book there are two very good articles that have been taken out by NJA which explains how internationally court managers have been successful. In fact the first slide that I have showed you is also a part of the research that we did found that not everything is hunky dory in terms of that court managers performance of the 13 Finance Commission award. I found that US is making very good use of it. Singapore is making very good use of it and the judges are benefiting by focusing on the judicial work. We can have a short discussion if you permit.

Dr. Geeta Oberoi: Now it is time for question answer so now you can ask questions. You all are working with court managers. What has been your experience? Those who

have court managers what has been their experience with them. Good, bad, not so good everything needs to be shared and then way out has to be found out that how we can make optimum use of their capabilities.

Participant: Such person should be expert in financial rule also. If he has knowledge of financial rules of high court rules and other district court rules. He may assist district judge effectively. We have with us system officers nowadays he is preparing computer charts and he is handling all the computer work. They are well versed with the computer rules and they are also assisting our system officer. I also felt that if we have a person who can assist us in financial side we may get more assistance.

Dr. Geeta Oberoi: See on page 244, there are skills and competencies requirement, South Africa, they spelt out. May be when you give advertisement, you have to specify these and you will get what you are saying.

Participant: Persons who are appointed they were experts in management skills, they were MBAs and having other diplomas like other administration but they were not well versed with the financial rules. High court has framed the scheme and asked us to follow the scheme for court managers. You have to look at this scheme and you have to work on instruction given in the scheme. He dont know general rule civil, general rule criminal. Then we asked to go through the book of general rules civil and criminal.

Dr. Geeta Oberoi: But are we supposed to teach them or are we... why should they know these general civil and criminal rules.

Participant: They can be used for the court datas, correction of datas and updating of datas. Even the high court, even the central government, state government has asking for certain datas of the cases like the POCSO and other special Acts.

Mr. Atul Kaushik: Let me give you my experience because you are right you have been struggling

Mr. Atul Kaushik: Let me give you my experience because you are right you have been struggling. You are right you all being struggling with how to optimize use of court managers. We did lot of catharsis on what is happening. You mentioned that they

should know finances. Somebody mentioned that they should know sales and marketing. The court manager cannot be be all and end all of everything you dont want to do as a judicial officers. You have to optimize his availability as a person with managerial experience. One of the eligibility criteria is that he should have experience in financial management. Suppose you end up as a PDJ getting one of those recruits of the high court who doesn't have financial management. Then you have your own financial people.

Your account department who take care of finance. Dont burden him with a work of which he doesn't have experience. But each individual have certain core competencies. If you can identify those core competencies and make them work on those. They could have been better used. We have received collective grievances from court managers. Not a court manager in one PDJ or a court manager in one high court. I dont know how they got together where they identify the problem they are facing and one of their grievances to my surprise was that they are being used as data entry operators and making statement. Making statements was one of the assignment we thought we need to outsource to the court manager in a district. But that was not the only thing they wanted to give. They felt that their core competence is management. They could have helped the court in improving court management and that competence was not utilized at all. So it is more a human resource issue. You cannot get everything done from a court manager in a district or even in a high court but you can find out by interacting with him what are his core competencies and you can use him for that. So far as the larger questions as to who should be a court manager. What should be his qualification and experience and whether IIMs or any other management institutes should actually run courses on court managers. It is a decision that market forces will decide.

If every district in the country, if you have 600 court managers at the district level if you have another 500 court managers at the high court level. So if you have something like more than a 1000 court managers in the country and if you have regular secure environment for these court management to function I am sure that lot of institutes will start courses on court managers. But today what is happening is that government has washed its hands of on the 31 March 2015 because we didn't get any more money to send it to you, to employ court managers, you are not probably able to talk with the

state government to continue to do this activity. Some of us did not want court managers, they don't want the experiment to succeed. As a consequence we have a very mix picture whether the court managers is a thing to stay in India or not.

If you give these experiences like you said about finance and somebody said about. I don't know how marketing can work but nevertheless whatever experience or needs are you can send it your high court that the high court work with the state government and some of the change of these guidelines. These guidelines were suggestive guidelines drawn up by the National judicial Academy based on the international experience at that time. Things have changed now as this material given to you itself will show various new kind of activities so these are not written in stone. You can make changes and make the suggestions and let the high court work out a better profile of who they want as court manager and then you optimize the use.

Participants: In Tamil Nadu court managers are doing excellent work with the help of senior staff, so unless they are given some ideas, they cannot do the inspection. Unless they are imparted some knowledge of cpc process of service of summons they cannot think or decide. So it is the duty of judicial officer after they are inducted having the skill in management and IT they may be given the necessary training about the high court rules. The requirement of court managers or research people in all the high court are not same. In our state I don't think that there is requirement of more than 5 court managers for 5 districts who will be helping the PDJ posted in the head quarter. In case of necessity they will go to other stations. But at high court level in our high court there are four judicial officers who can effectively manage the court. What is required instead of court managers may be two research officers' law graduates who can help the judges in finding out different important judgements.

Dr. Geeta Oberoi: Law clerks are there.

Mr. Atul Kaushik: I think both are required because both serve different functions as I mentioned in my presentation there are certain amount of skills that these court managers are expected to have based on which certain roles and responsibility have been decided for them. All the court managers may not have all the wherewithal for all. Each individual court manager which you get as a matter of chance, you may get somebody who is IT savvy. In one district you may get a person who is very good

manager in the sense he can make flow sheets very well but he doesn't know the back end of an IT operation or IT platform. So then obviously we will not use him for e-courts you would rather use him for court management or case management. They had to be trained.

I am a science and law graduate. I was sent to the department of commerce when I joined the government. It neither related to science nor to law. So it was my bosses who told me what I did. KPM Sunadaram was a book that I never read that I read after I joined services. But reading KPM Sunadaram did not give me the confidence of running my section my division my branch in the department of commerce. It is my being in practices, asking questions from bosses and getting answers. There can be some bosses who don't give answers. So you have a struggle there. I have court managers like outsourced assistance to run the e-court project in my department. They don't understand courts at all. They come with wildest ideas. The way is to make him sit and tell these are the constraints in which we have to work. These are the realities that we have to take into consideration. How can you change the roles and responsibilities or the triggers that you are creating for log frame accordingly? So like you said ok you have to give them the court rules to read. He can never be expected to come up to your expectations on so far as court rules are concerned. You can tell him that this is how such and such provisions are implemented when you are sitting in your court. So that interaction will give him the confidence and this I am saying from the feedback. Prime minister office have received the bunch of complaints from the court managers. We felt that at least if these people been given the dignity of being taught what you want to get out of them they would have probably done better.

The first slide talked about financial constraints in the US. You can't run the court manager and ten other assistant and still say no I don't care about whether I need to optimize the operation of my court complex. Within the constraints what you are getting how to optimize is what we need to work on and based on that may be I thought I will listen to some success stories on how you train a court manager.

Justice Roshan Dalvi: Though I understand that court managers are widely underutilized I don't know why. Because as a judge I thought when the court managers came I would be relieved of that unnecessary burden which doesn't make me a judge.

I am proud to be a judge. I am not proud to be a manager. That is what I thought. Judge is a judge and I thought that all judges will feel better as judges than as managers. Judges love to be managers somehow. They feel they have power this is the ground reality I am telling you about. Now I was a guardian judge of some court. My court manager. A lady court manager came and told me Madam let's have a green court. I said go ahead, give me your plan. She has given me the plan of a green court. By the way nothing has happened. I don't know how many years it will take to fructify.

But she has given that plan and she says that now she goes to the collectors office and the collectors office seem and say Madam a has come. Now we have to do something new. The thing is that the management is an art and a science. They learned the science in the college they learn the art at their workplace and in every company also managerial work is different. You may go to a Birla company or a Tata company but everywhere a manager is required in different ways. So if we work as judges we work with managers and try to extract the best out of them. In court we use law and we became good judges. Where do we learn judging? We learned judging on the spot. So managers should also have some training. A lot can be outsourced so that we can do more judgement efficiently.

Participant: Sir in Tamil Nadu high court has issued four booklets. One is with respect to role and responsibility of each and every staff and the other one is regarding important legal provisions and the other one is with respect to effective district administration and the other one is with respect to maintenance of registers. All the books have been circulated to each and every one of staff. In that booklet it has been very specifically mentioned the roles and responsibility of court managers. He reads his responsibilities and he reads the responsibilities of others also.

So I used to interact with court managers what he has learned what he needs to learn. It is benchmarking I need to know what is the requirement of my district. After knowing that we have to see that whether things are being up-to-date and how to rectify the lacking. So when we have a joint discussion with the court managers, we are able to find a solution out of that. In a particular court the roll call is being done for near about two hours. Lot of people and advocates complaint that we are getting delayed in the court. So I deputed my court manager he assessed and found out that the person who is calling the cases is not that much efficient. So the court manager is

able to assist the capability of staff and he is able to report back to me. Then I can call the staff as about the difficulty or even I can the give the staff so in this way court managers can help us. In our district he is doing very efficient.

Dr. Geeta Oberoi: So maybe we can have the copy of our booklets and give to others who want to share best practices.

Participant: The power hunger of the judges to be managers as madam has said in lighter vain. The other side of the coin is that the staff when the judge says anything about management they feel comfortable. Now the court managers have come their position is not defined as that of other staff members'. Their employment is more guaranteed as that of the court managers. They know that the court manager will go within one year and these will be permanently staying in the institution. So they may care they may not furnish the required information to the court managers. There the definiteness of their role, power, arena are required so far as court managers are concerned.

Mr. Atul Kaushi: That is the general feedback on court managers but this is a very important point that he has made that the staff member take the PDJs word as law why should he care about a court manager who is coming and going. I found a very good example of how the PDJ helped the court manager acquire the necessary seriousness, or his procedures or whatever he sat down as practices. This was in Jharkhand. So this court manager has recently been appointed. He came up with an assessment manual with triggers as to when this should be discussed. So he brought the assessment manual as the paper that he prepared to the PDJ. The PDJ signed it as a working document for the court staff. So after that all the readers, whether he is CJJD or CJM.

They filled up those forms which were appended to that assessment manual and they gave it to the PDJ and PDJ said that I don't need to worry. The judges coming tomorrow without telling me I am very happy because I have got everything ready. I can tell him from this manual what is that. Then once that became a practice the court manager got further confidence and converted that manual into an extra sheet and he put it in each computer. So nobody has to do those long sheets of paper every

weekend. They just punched in, there was a process. Something happened a case has been adjourned so he just punched in to that sheet. What we are doing now as part of CIS 2.0 in e-court project.

He did for his district way back in 2013 through an excel sheet. He was not trained in IT but he was trained as a manager so he knew how to use various word processing tools. You are very right he cannot be taken seriously because he may not be a permanent judicial officer and he doesn't have any promotion prospect so he may not even want to be a permanent staff even if you wanted to employ him. He can't become district judge at any time in his life. So how to give him that authority is in the hands of the PDJ.

Dr. Geeta Oberoi: So we now break for tea with one conclusion that is all dependent upon your grooming. How you will groom your court managers to do what. With this we take a break and we comeback at 10.30.

SESSION 2

10:30 AM – 11:30 AM

Case Management

Justice Roshan Dalvi

Justice Roshan Dalvi: We will consider in the first lecture the role of one part of our community, the court managers but most important part of our community are the judges themselves and we have to consider management of judges as a very important topic as judges we have come a very long way in our country and at par with so many other developed countries. Our judgements of the Supreme Court and high court are being actually taken up and considered by various courts in America, Canada, England Singapore etc. But this is all on substantive law. That is a very difficult aspect and in the difficult domain we have come up at par with the best of the world. The lesser important aspect perhaps is the procedural aspect but we are so much lacking in the procedural aspect that we go right down at the bottom of the international scene.

My husband is a solicitor and he had one international matter where he was representing an American company with an Indian company on the other side and there were various discussions on the contract that they will go to have because of the technology transfer etc. And we are not concerned with whatever was the contract but we are concerned with one clause of that contract and that is the clause that my husband spoke to me about when they came to see the draft which was prepared by the solicitors the client told my husband. You draft whatever you want about our handling of the contract. We are agreeable to do it in the best possible way. But don't give jurisdiction to Indian courts.

We want jurisdiction in New York. So my husband comes in the night and tells me this is what you all do. This is the image that you have created. So far as our commerce our economy, our business, our contracts are concerned they want it. They just want to come but they don't want our judicial system. He told me the truth and I liked the truth because only then we can introspect because as they say that there are no successes because we will all be complacent because we are not critics when we must have critics and the best critic of ourselves is ourselves. We have to critique our management capability because we have none and we must accept that we have none without having that management capacity we have to think about evolving our best system of management and that is case management and as they say management is an art and a science.

So even if we have not learned the science we must have some art in ourselves because there is creativity in every human being. Now we go to this management. What I would say that management is required in every activity, everywhere in the world. We only think that when there is something big then there is a manager. So now Indian judiciary is really big. We have got at least 20000 district judges, 25 states about 1000 and all high court judges about 30 Supreme Court judges. So it is a huge undertaking of a huge number of employees but no everywhere management is required. Please consider the kitchen in your home. Even as a judge you require management. We all have seen ants how well they manage to collect food in winter or in summer for that matter. The cheetahs, they learn how to manage their prey. The

whales they communicate over long distances under oceans and under seas and they keep in touch.

These monkeys they have fun at play. These hyenas manage by finding out where is their prey which has been taken by the lion and left because they don't prey themselves. So they manage how to find it and all this involves team work. In our court also we must have team work if we must succeed if we must succeed in management. If there is only person in the court he can't do everything. Therefore we have the whole department. We have got various department and there are sub heads. There is a team work there are many people down below and there is one person at the top and that is team work so we extract the best of the people whom we know and we delegate it to them. Suppose there are no court managers also we had registrars. The registrars are actually judges.

They are not managers. They know how to judge. But they come there to judge. They become good managers but they become bad managers. What the government thought was that the judges are overburdened with administrative work which they are not trained to do. So give them a secretary. The government used the word manager. They are expert in management and not in managerial work and then we feel we feel kind of intimidated. It is not so. If we work as a team then together the judge and the manager will achieve more. That is the real thought behind this exercise. So we must thank the government for giving us helping hand and then we must make the helping hand help us.

I am not a management graduate. But in graduation I did take up management as a subject. I know management at graduate level. So from this little knowledge I can tell you we have to do planning directing and coordinating. Now the young IAS officers they are going to be sometime big time officers of the India and they will require management in whatever work they required. So in your work also everything you require is to plan to organize to direct to coordinate and to control.

Let us take a simplest example we have to write a letter to the high court, you have to just write a letter. What do you do for writing that letter? You require management principle. The first plan what you have to write. I am going to write to him that I have

got this I want that. Then you organize your thoughts. Which is the first paragraph which is the second paragraph. Then you direct after you do that tell your secretary this is my dictation take down that. Then you coordinate with your secretary. Have you done it show it to me? Then you read it then you sign it. Simplest coordination and then you control it. You ask the secretary have you posted it has it reached. What have happened? All that is controlling. In every single managerial situation you requires these five principles only. If you have to write a letter also then it is required. Let us see in court what we have to manage. What do we require? You will require plan what to do.

Then you will have to organize what to do it. Once you plan you may have the time you want this particular thing. Then the end result how to organize. You cannot do because you have got five or six judicial work. You have to do in the morning or in the evening. But in morning you have to dictate judgement, you have to read the law. You could do all of these things in the morning or evening if you are a good judge. So you require somebody else to organize on that. Suppose your plan is water harvesting. It must be there we don't get enough water in our court. Are you as a judge going to find out how to do that water harvesting. Suppose your room is leaking should you do it. Is it really your dignity to do that work? I would say I don't want to do this work it is not my job. You require court manager he will use his managerial skill and give to him and he will do it. This is helping hand which the government has given us which we are not utilizing to its optimum capacity. You have to direct may be you have to tell him you can do that much.

You can report to me every week. So you have a meeting with him and at the end of the week or at the end of the month and tell me and see where it has gone and the of course coordinating and controlling. He will also have to do and over him you have to do it. You can leave it him and they want to do it more. It all work if you give them a chance and if you give yourself a chance because you will find that you have got time at your hand for the work that you are best able to it. That is itself your coordination. Therefore for these five activity of management in administration you require mainly these five principles and we will tell you how these five managerial principle are applicable to judicial work and with the management and administration of our courts.

Not really knowing the law not really knowing how a contract is made. The first managerial principle is non-value added items and they were of extreme use to IAS officers. Non-value added items is what businessman never do. So many judges love to do the work which is non-value added item. It doesn't give you disposal. You just love to do it because your brain tells you oh it is some great work. The businessman thinks it doesn't give me profit it is an overhead expenses. The cost benefit ratio is zero. Swiss air thought that they were keeping one cherry on every desert they were giving and they saw that so many people did not eat that cherry. See the research that they do. We don't do research to find out our performance but they did this. They said we will not give cherries on top of the desert and they saved some 250 million whatever was the cost.

Lot of cost went down because it was a non-value added item. Now we go to core competence. You do what you are best fitted to do. In UK they appoint specialist judges. A judge is appointed to do the work which they are best suited to do. So either he is a civil judge or criminal judge because these are two big compartments of every system in every country. Then there may be a taxation judge. We have got a very good taxation judge in our high court. He is a young judge, a junior judge but he heads the division bench. He is very good at taxation work.

Even in our judicial system as a district judge when you are assigning matter the same principle will apply. When you are assigning matters it is best to know from your judges what he likes to do what she like to do and the morale of the court will rise the disposal of the court will rise, the efficiency of the court will rise. The core competence is not used only in judging. This is one example which I gave. The real core competence is the distinction is the judging and administration. There are some judge who likes administration very well and there are some judge who don't like but they are foisted that. When I was a district judge and I met the judge I knew him when I was practicing.

I said I don't like this I want to do my judicial work and I don't want this word. So he told me do you think I like doing this but I am doing it. I told him you say no as I am saying no but he didn't say no. That is his choice. He would have become still better judge if he did only judging because he was doing that so well and some part of your time is definitely going to be taken up in administration work so that much time

definitely not going to be used even for reading law for signing judgements for correcting judgement. Our entire subject go of. It is just that kind of division that binds us and that is our core competence judging.

Then time management. One whole day may be taken up in time management. We go to procedural simplification which is also in various steps of our judging work of our case management of the civil cases and that also I will do one by one procedural simplification but we will go to paradigm first. Paradigms are the principles what your company wants ultimately. You company manufactures refrigerators that competitor will be driven out. What is our paradigm? Our paradigm is that we have to give the highest number of best judgements that should be our paradigm. Now how to do it would entail a paradigm shift there are different ways of doing the same thing. The best managerial skill is to do the same thing with greater efficiency and lesser cost. In our word for ourselves it would be greater disposal with lesser time. The Swiss manufacturer watches. There was a Swiss man who said that all our watches are winding watches. We have to wind the watch. I will manufacture a watch which doesn't require winding. All the Swiss man laughed at him. They said how you can ever build a great watch like omega or whatever without winding. The Japanese accepted his ideas and today we all have wind watches. We have got Japanese watches.

How important it is to have an unwinding watch that bind itself. This was a paradigm shift in that work. This can be achieved sometimes with smallest of things that we have to shift only. That is what they say in management principles. I will give you an example for that also. The American went to the moon. The Russians also went to the moon. The American came to know that ball point pen doesn't work on moon because it doesn't work without gravity. They set up huge research facility to find out how ball pens can work on the moon. They spent millions of dollars to find that and then found out what the Russians did because Russians also went on the moon. The Russians used the pencil. All this money was wasted. It is smallest thing that get you at your destination and that is management. So the best manager will tell you how in the simplest way you can solve your problem.

We know the problems that we face. If we call our court managers and tell them that these are the problems that we face. Can you tell us how to do it better? If there is no

bar you can do it that way. We have got so much of arrears so we have to devise some other way and as the Supreme Court has said that in procedural matters you can do whatever you want there is no bar. You cannot go against a specific legislative bar. But for procedural matters no legislature has kept a bar and it is that bar that we feel is there which is not there. How can we do it like that? But we will found out if we go around those rules to get the best possible outcome. What is case management and this is essentially for civil cases but it can be used for criminal cases.

A case is a case which comes up before a court. So a case for recovery of 10000 the end result what the plaintiff would want is to get 10000 Rs with or without interest whatever he has asked for. That is the end result. How a judge must in a shortest possible time and in the best possible way give him those 10000 Rs. One judge may take three months, one judge may take 13 years. 15 years may in such a small matters. So what we do for management of those cases. It is practitioner that is lawyers and judges becoming better at what they did. They have to do the same thing but they have to do it better.

Achieving the same end with less resources in less time. So unnecessarily you don't do various things and involve resources. One small wrong step means that your peon has to get the papers. Your clerk has to the task. Your steno has to take down the matter and you have to correct it. You have to sign it. All these persons are doing some unnecessary work if it is an unnecessary application. So you can achieve the same end giving him 10000 Rs. with lesser resources amount of whatever is required of the court. That is what Lord Justice Woolf said in case management. So there is Lord Woolf report which work very well in 1996 that he gave that report and incidentally in 1996 I was at England in the Warrick University and I have studied that report and I felt how good that report is and I molded it to our requirement in India. Now the case management in England for improving efficiency reducing delays and cutting cost.

The basic feature of Lord Woolf Report is expedition and for control by the judges. The judges must drive the lawyers to do what should be done. It involve some kind of efficiency and some kind of homework first of all, to be in control then somebody will say that this court is really well managed. The judges must control and judge will say I don't want that, I told you to give me that, you give me that alone. Otherwise I pass

such and such order. Only doing that much and showing that you mean business. It goes a very long way. Each time it is whole suit that comes before us just as it is coming before you. A whole criminal case and whole civil case. This list gives you some kind of English actual report on case management and how it can be incorporated in India. Make your rules as simple as possible. We can have it by amendment of our CPC and our high court rules.

The orders and rules of the cpc can be amended by the high court and there are some amendment which are brought about by various high courts. As district judges with rich experience we can feel and understand what should be amended. If you become a high court judge or if you have a meeting with a high court judge you can say that these can be amended to this extent and then you can have a better procedure. Second is the defense. The procedural rules for various things are so different in various states that sometimes I feel are we coming from different countries. In some of the states and districts there is one defect you call it a written statement or you may call it a counter or a reply or a say but the plaintiff come with one plaint and the defendant come with one statement or written statement. If you have one of these two, a lot of things get very much under control but there are several states or district which have two three of this type.

We have an interim application, every civil matter has an interim application. So interim application in affidavit for reply then there is rejoinder then there is sir rejoinder so everything is on record. Whatever the plaintiff has to say whatever the defendant have to say and even then after interim order is over we have written statement. So it all duplication. The litigant has to spend twice, he doesn't come up with a written statement the judge have to give 10 adjournments then ultimately the written statement will come then there will be an amendment sometime in the written statement sometime in the plaint goes on and on. In your book there is a judgement of Justice Dalveer Bhandari which has mentioned about how an Indian litigant suffers from unnecessary applications which are taken up by lawyers of course. If lawyer make unnecessary application and on day one we dismiss it without hearing the other side because it is a dismissible application it will come to end. Nobody says under the law that when any thing comes first and if it without merit you don't dismiss it on the

first day where is that law but if without understanding if we are going for just hearing for the other side then then the CA comes then the rejoinder comes.

At least half the thing will come to an end if you are sure about after hearing that party that he has got no case suppose you find a good case definitely you hear another party then there may be you will have to hear a rejoinder because you have had a good case. Suppose there is nothing suppose you find out that there is nothing, why you should hear a rejoinder. So written statement, affidavit and reply is only one then you know this much don't wait for another.

Then exchanging witness statements we have now got under our affidavit of examination in chief under order 18 rule 4 which by way of an amendment is a sound case management principle. Then the other is small claims, small matters, summary suits etc which we must treat differently. I don't know if you summary jurisdiction in your court under order 37. In that also you want the summons for judgment. If you determine that it is very clear case why should you not give a decree? But some judges say how can we ever give a decree. We can say deposit the entire amount. There is no law which says that. If it is a very bad case you can grant unconditional leave. Of course you can't dismiss. In between if you are not satisfied on affidavit and you require oral evidence then you can say ok deposit this much amount.

Then there are specialist judges. Some judges like to do both work but many judges don't like to do both work. Therefore the district judge must find out from the judges what he will like to do and it is best not to give him what he doesn't like because he will not give the best results. Then fixed fees that you will have that is actually for the lawyers because we don't charge fees. The lawyer would take fees for a particular application. But if the lawyers themselves can do. It is kind of packaged deal lawyers can ask the litigant ultimately what you want the litigant can say my 10000 Rs. ultimately you don't want some kind of deposit. Ultimately you don't want some kind of an amendment. All that can go of and then you can give the package deal to the litigant. OK you want some small things I will charge you 10000 Rs. But you want your entire decree now I will charge you 20000 Rs. I tell you most litigant prefer to pay 20000 and get a decree immediately.

Then we must know from the cpc there are so many salutary provisions which will give the decree immediately. There is order 7 rule 11 rejection of plaint. A defense lawyer can say i will get the plaint rejected. It is a very good case for rejection of plaint. No jurisdiction limitation etc. A plaintiff lawyer would say order 12 rule 6 judgement on admission. This is the admission that defendant has given I will give you that tomorrow. These are my fees. It is a package deal. Now the litigant don't know this. The lawyer know it very well but don't take out order 12 rule 6 application. But when a judge see that there is an admission.

Order 12 rule 6 say anywhere you can give a decree on admission without even a written application you can give it. There are some matters where we can use it. I am giving you one or two example. There is order 15 rule 3. Has anybody ever used order 15 rule 3. There are many matters in Bombay at least. For example you have a matter against the municipality. You have an unauthorized structure. You want to protect that structure. The plaintiff knows that the structure cannot be protected. He comes with a suit, gets an injunction. Now injunction is granted at the very first stage which we call ad interim injunction because there is a structure.

It is completely against the law. Because there is a structure you don't make out a prima facie case. Because it is authorized in law you make out a prima facie case. So on day one when the litigant come. The judge must say you have got a structure but what kind of structure is this. If a structure in a compulsory open stage in a compound it is never protectable but an injunction is given. After that interim injunction the actual application comes after some three four years, injunction continues, then that injunction is vacated, motion is dismissed then he goes in appeal. Even the high court say there is a structure ok stay. Again an injunction is given, then a appeal is heard after 3 to 4 years then it is dismissed matter goes to the Supreme Court. It says SLP stays.

All these three orders a a legal orders. On day one we have to apply order 15 rule 1 of cpc. The defendant will say yes the structure is in the compulsory open stage. The judge has to decide that the structure which is in compulsory open stage can be protected. That is the last relief it is fair. So the judge must at once pronounce the judgement. At least in 1908 in our cpc is so salutary it is a court

management principle and before 1908 we have our cpc in 1882 and 1869. We don't know what those cpc are. In 1908 we got orders and rules and everything.

We have to find out which are those management principles to be able to manage our case better and give a packaged deal to the litigant. Then order 20 rule 18 all these orders which relate to preliminary decrees. Which are the suits which entails preliminary decrees. Mortgage, partition, partnership, administration suits all of these entails a preliminary decree. Why there is provision for preliminary decree because it is summary, what the legislature felt was that in that kind of suit generally you will be able to pass a preliminary decree. For example there is an administration suit. Father has died there are two sons. They will share half and half. The elder son say I will get it all and I will manage. Younger son say I am an equal partner under the law because section 8 of the Hindu Succession Act I am entitle to half give me my half share. He files and administrative suit. What is a preliminary decree? What do we have to see? We have to see what is the properties we have to see who are the parties. So these properties are the properties of the father.

Sometime they will say no this is my property. This is the property that I purchase with the father. So half property is mine. Then of course we have to decide. That will entail oral evidence and documentary evidence and everything. So I am not talking about those cases. But there are many cases which don't have this also. Only that one man who is in possession of that property wants to continue for as long as we as judges are inefficient.

As soon as we become efficient his wrongful possession will stop. So we find out these are the father's properties. All those schedule of assets are given who are the parties. You are only two brothers, no third sister no body, record the admission. Order 12 rule 1. You record there are only two of the claimants who are the two successors, I am passing a preliminary decree today. The second question will be who will get which part they have to share equally. What do you think that the ideal thing to do at that stage. You have passed a preliminary decree that both are entitle to 50% share of these five properties. Which and how will you give that share. Now you have to determine so you have to take some time. This is final. So may send it to the commissioner of recording evidence and all sort of things.

Even that will not be required. Tell me in such a simple matter what is the best possible thing to do at that time. Yes declaration is 50 % share. That is your preliminary decree itself. This declaration of share is that. Now who will get which? Next best procedure is mediation you have to tell them see you are brothers why are you fighting over all this. You lawyers may tell you the fight but I am not telling you to fight. Sit down and decide which are these properties you will want. So let one brother choose two properties another brother will take one of them. These are principles of mediation. Let one person choose two. Out of that the other party will take one. So let him choose from this and that another one. This is the best thing to do. You are a judge and this is your case management. You are a judge in control if that doesn't work out somebody says the last property remains. Somebody will says he is got the two properties so I must get this fifth one. Then you will say that if you get the fifth one. So buy over and sell over principle. That is also a part of mediation. If not you have to decide who is entitle to which share so that much part of your work remains. That is case management.

Therefore we go to nest thing ADR. Arbitration, mediation and conciliation. Then there are other ADR modes in our country and that is lok adalats, panchayats, then capping of costs and granting realistic costs. In England they give actual costs. When I was in England there was one matter of damages where the plaintiff got damages of 27 million pounds and he was given cost of 2.5 million pounds

That was 10%. Because of these kind of costs, a rightful party doesn't want to settle. He knows that he is in the grill. His lawyer advised him that way. He will never never settle because he gets all the costs from other side. So he doesn't lose anything. So then there in England they decided that now we want things to speed up we want to reduce our delays and costs and all that there should be capping of cost. So that even the rightful party will not go over these small applications because he is going to get back the money. So there will be a cap means a limit. After that he will get no costs. He will incur those costs. So that enable that rightful party to settle or to come to the last thing. In India if you are going to get 5000 Rs today the man will say ok I will get 50000 Rs everyday by denying the claim. So we have to give realistic costs and now

several Supreme Court judgements the costs are 2 lakh 5 lakh 10 lakhs depending upon the stakes.

In Delhi Bombay etc you can grant various lakhs. One week back a judgement has come granted one crore cost because the appeal was absolutely futile and the government land was being held up by a builder through a party who had no title and claimed adverse possession wrongfully for 25 years. This is the part of our case management system. What is that ambit of how we will manage cases? One thing is procedural and the other thing is substantive. Like I told you for order 15 rule 3 so we have to consider out substantive law and find out which are the salutary provisions some of which I gave you just now and that I apply that for the procedural part we have to see how to make our procedure shortened. We have to sit with court managers and say this is taking three years of our time notices are not being served, process is not issued, bail dont work, postage doesn't come back, what do we do. The court manager will tell you what you can do. In Bombay there was a kind of contract with the Bajaj Institute of Management. My husband was lecturer in that and the institute came and studied our statistics and our case working for notice how many suits come up, how they are given, how long it takes then notices when they are issued when they come back, then how they come back, they come back, they come back unserved they come back served, then district judges involved, all sort of things. They gave one simple solution.

Ask every litigant to serve and come. All these notices everything was available. This is what we do in Bombay on the vigilance side. When we have to give our first order, that is the ad interim relief, we say no order unless you serve the other side. So the plaintiff served the dependent and come. The application is served, affidavit is served, everything is served. Then you have to wait for services. There is no other process of service required, no other notice required. In the appellate side in the Bombay high court this procedure is not there. So therefore when an appeal is filed, issue notice and then await service and it goes on and on. Even though this simple principle was told and so much work will get lessened once the process is served on the first day only. Then thereafter you file a written statement or even if you file an affidavit and reply there is only one defense. So this is regarding procedural and substantive law.

One requires infrastructure. You require a court complex, you require a departments, you require computer system, and you require court manager. All that is infrastructure. That cost a lot of money. Government may give or may not give. After the government gives you may use that or may not use that court manager. The second thing is sensitivity. You will be able to find out how much time I have wasted six adjournments for what. Then you will think, don't grant this sixth adjournments. First day I will such and such thing. For example a written statement has to come. A written statement has not come on the first day.

Keep it for ex parte decree. Is there any law which makes you not do that? No but judges think that we have to adjourn three four five times then we have to keep for ex parte decree, then we have to adjourn three four five time then you have to pass ex parte decree. That is no such law. That is sensitivity which is required. These are the small points in our case where every time we require sensitivity. For the plaint that we need, for the service that I told you, interim application that I told you. The written able date that you have to give. Rejection of plain, order 7 rule 11, you appoint court commissioner you do some work.

Even you record arrear under order 18 rule 4. You have to do it yourself. Tell a lawyer to do it. Then oral applications, you can work on oral application sometimes. You dispose of the suit then written statements, how long you will take, how many adjournments. Original documents you see and verify in the court itself, pass preliminary decrees, issues when you decide on the main application, interim application. You know everything threadbare. On that day frame your issues. No law says no says no. You don't have to adjourn, keep it for framing issues then. This practice is a wrong practice because you don't want to do it now. Another judge will have to do it again. Together you are in administration so as a court then you have to do all of these things.

Scrutiny which you can get through the court manager. You don't give much importance for technicalities. Pass your direction for whatever you want each time. Certified copies must come out on the same day. Everything is computerized. Tell your stenos two more copies, put the stamp give it from your court. Suppose you have passed an urgent order what you will do. You have to give it at the end of the day. You

must keep all your matters in a group between two parties. New suits when they come up, take up for ADR. Case tracking is a computerized system, Expedition order you can pass for the simple matters.

When you understand that one party is definitely on the rise, expedite that suit so that doesn't get clubbed up with the other suit which will take long time. Then you can discharge your suits there is roll call. You must discharge the suits on board so that people know. Now everything on the website. You classify your suit that the PDJ has to do. Classify your suit and give it to the district judges. Registrar powers must be increased. Everything which is directional, must go to registrars. So that all that work goes out of the court system.

Then you can have facilitation counter. You can amend certain statutes. All this will be in these five possible modes. Amendment high court practice direction can be given out. Then there is judicial training. Precedents then of course court administration.

Non-value added item is a very simple and very important provision. For example in our court working plenty of time these are brought on record. Mostly the cause of action survives to the end. There will be hardly anyone out of 1000 cases where the cause of action doesn't survive or he is not a legal heir. These application can be disposed of on the first date of hearing only. If you tell the other side. Is there anything to say? If generally this is your personality that you want this work to be finished immediately. He will say I have nothing to say. But if you don't do that. If there is such an application. Mr. A died B and C are his two sons and he said OK file your reply. He will file an unnecessary reply. You have to go through that. Then you have to give an order because there is an affidavit. It is a non-value added item. It doesn't add value to your work.

Participant: In my court usually the decrees are being drawn up for all the matters including the cases which are disposed of otherwise. In specific I was able to find out, my typist was spending lot of time in preparation of decrees of cases disposed otherwise including cases that filed dismissed in default. Section 2 of CPC where it doesn't mandate the preparation of decrees. No decree will arise from an order of dismissal for default. It is nothing but a waste of time. So I gave a specific written instruction to all the courts under my district. Not to waste your time in preparing

decrees for these kinds of matters. When law is very clear in section 2 of CPC that no decree shall be made for any order of dismissal unnecessarily they are wasting their time.

Justice Roshan Dalvi: It is a very good suggestion. There is no bar from district judges doing this. As a matter of fact in my court there are parties who apply for dispensation of join of decree. I always granted. Ultimately there is no difference between a decree and judgement so far as a litigant is concerned. A litigant read our judgement. The appeal court read our judgement. A decree is a procedural aspect of a judgement. You can always dispense with a decree. We have got prayers in the suit then we have got the judgement and the last line this is the decree in terms of judgement or something like that. So this decree process is eliminated. There is one article of Justice Chavan in a judgment which he gave in the pricewaterhouse cooper's case which is in your book where he has set out from the CrPC that these are the salutary provisions of law sections and how judges don't use that. Our case management is to use those things best in our court work.

Participant: In Maharashtra if suit is dismissed in default we dont prepare decree. We pass the bill of cost ruling. As per new procedure at the time of distribution itself we take additional copy of plaint for preparation of decree. That helps a lot. Only we pass the operative order on that plaint copy and decree is prepared.

Participant: 39000 suits were transferred from Bombay high court to the city civil court and our city civil judges have disposed of more than 90000 suits in a span of two years by concentrating on these provisions of law. In most of summary suits we dont get leave to file was and those suits came to an end. We could achieve 20000 suits in two years.

Justice Roshan Dalvi: This is actually a test case and the high court doesn't have enough judges to deal with this original side work. In the city civil court there are so many judges and they have disposed of enormous number of cases. When I was in the city civil court and when we made scrutiny. We found 69000 cases. From this we give to all various judges that was the time of Justice Agiyar who was the principle judge at that time. We disposed of some 29000 in the first few months. The small

matter big matter altogether in a bunch and one matter goes on going on that is bad case management. You must expedite those matters. Fix a date that is expedition. Fix it in the next week.

Participant: Once we decide the notice of motion and it goes in favor of the party then party has no interest to proceed with the matter.

Justice Roshan Dalvi: You pass the order on the notice of motion. You must frame the issues and set it for trial. Judges have to frame issues. When you hear the interim application. Issues actually are like subtitles in an essay it is very important part but it is very sort of procedural part. Therefore the law says that you can amend or add to at any time under order 14 rule 4. Once you frame the issues you can tell the plaintiff now file affidavit of evidence. Take your inspection of document in your own office. Suppose there is no affidavit of evidence. Put the case for dismissal. Even if there is no written statement put the case for ex parte decree. As soon as you put it for ex parte decree it will come with a written statement.

Participant: Madam lastly I want to tell one thing. On arbitration issue where the arbitration clause was in New York instead of India. Those people would have been afraid of Indian judiciary because of integrity and accuracy of Indian judges.

Justice Roshan Dalvi: Prof Lawrence in 1999 he wrote an article and he said that for the millennium wait for the Indian Supreme Court. Indian Supreme Court will tell you and guide you how to proceed with that. But that was on substantive law because of our judicial activism. Because of so many cases we were having on substantial law where the judiciary intervenes for example our pollution issue. In Bombay we passed orders on the division bench of the high court in a writ petition in a PIL and today the pollution has come down so much because CNG is now made compulsory. These are the judgement which are admired in the world. But our procedures are not admired in the world. We don't have to shy away all the time from whatever is against us.

Then we will never be able to improve. But if you know that this is being critiqued you will be able to rise above that criticism. So that is the point I was actually making to

bring home that point. Not to belittle anyone. When we can do so much on the substantive law. How can we not do such on procedural law? It is like person writing good theorem very nicely like Einstein but his hand writing is not good. So the the examiner cannot read it. He will not get marks. In the Bhopal gas disaster case, it was a case for damages. There was nothing like interim damages in the law. But he said that in this kind of a case. Some damages have to be paid now before the plaintiff prove saying because how are they going to prove anything when they are going to die. He gave interim damages it was challenged in the high court, it was upheld and that has now become the law today. I always say that when a district judge takes up an issue only the high court will be able to consider it. It may be set aside don't worry about that. Your conscious tells you that you have done your work.

Participant: In Bhopal case, section 94 was already available in the statute. But that was not read properly. First time it was read properly and it was under that provision interim compensation was given.

Justice Roshan Dalvi: There will always that kind of paradigm thing that damages is the last relief. This judge said that no we can give earlier. In every one two judgement set aside you will find that there are several not set aside.

SESSION 3

12:00 PM – 01:00 PM

Time Management

Prof. Dr. Parul Rishi

Ms. Paul Rishi: Good Morning. I prefer being with you rather than on the other side of the table because that makes a huge difference and I want to minimize that difference so that learning is a mutual experience in which we all are at the same platform. So we will be talking about time management. Everyone does time management. Everyone knows about it practicing it. We consider that whatever we are doing is just fine and there is no need for any change in that because it is a general human psychology that we all create our comfort zones. We want to be within that and we want to be very happy about it and we just try to protect the boundaries of that comfort zone.

We don't want to come out of it and that is the reason we try to defend always that whatever we do is correct and whatever is being suggested from outside and that is creating a kind of breaking my comfort zone and I don't want to do that. So the first step in learning is that have the permeable boundaries of your comfort zone. I am not saying that not to have the comfort zone but its boundaries should be permeable in which if some good suggestion is coming up we should be open enough to incorporate that within our life.

Time vs. Success

- Being successful doesn't make you manage your time well.
- Managing your time well makes you successful.

The Problem of Managing Time

By some estimates, people waste about 2 hours per day due to following:

- Messy desk and cluttered files
- Can't find things
- Un prepared,
- Try to do things which other people should do
- Tired/unable to concentrate

Major functions of Judiciary/ Administration

- Case Management
- Judicial Record Management
- Lok Adalat
- RTI
- Coordination among different courts
- Issuance of Cause List
- Index Delivery

Behavioural Profile

- Personality & Time Management

We all know that being successful doesn't make you manage your time well. We are all successful people but that doesn't mean that we manage our time well. But if you are managing your time well there is greater likelihood that it will make you successful. It is human tendency that we just keep things pending. Many people are very meticulous about it by some estimate people waste about 2 hours per day due to messy desk, cluttered files, they are not able to find things. They are just messed up. They are unprepared to do the things which they are going to do. They try to do the things which other people are supposed to do. Many times we just believe that others are not able to manage the way work the way you are expecting. They are not as per your expectations. It's ok you stop it I will be doing it myself. Just stop it they are very happy about it. On the other hand your time is in question. You are not able to manage your time well because you are taking the work of other people on your head. So try to do the things which other people are supposed to do as a result you are tired you are unable to concentrate. These are the things which are not expected for a professional judge or a professional worker in any field.

Now I will take you to the relationship between personality and time management. Different people have different personalities and that also interact with the way we manage our time. I have a small scale. It is psychometric assessment about the personality types. This scale will just try to know a bit about ourselves what kind of personality we have and then we will try to see how we are managing our time and what kind of difficulties in managing our time are because of our personality.

The 80/20 Rule

- Good administration in judiciary system comes from time and experience
- And having the Art of identifying trivial vs critical case details and accordingly providing time.
- Critical witness/case details are few (20%) and the trivial distracting unnecessary details are many (80%).
- So time spent should be reverse, i.e, 80% on 20% critical details and 20% on 80% trivial details.
- However, in practice, it is reverse.

I will explain you about 80 20 rule. Some people say 90 10. Some people say 80 20. Good administration in judicial system or in whatever system you are that comes from time experience but it is basically the art of distinguishing between what is trivial and what is important. You will find critical witnesses that you come across, they are few only 20% in number and the trivial distracting unnecessary information that lawyers and other people they just try to stress upon you to listen you know that it is unnecessary. That is 80%. The time spent what we do we are lost in the trivial information which is 80% but requires only 20% of your time but you are swayed in that and many times you spend more time in the trivial details as a result the total time available is same with everyone. So critical 20% of the details, sometimes they get ignored and they are not getting that much attention. So that should be reverse 80% attention on 20% critical details and 20% attention on 80% trivial details. We should always remember the difference between what is trivial and what is critical and accordingly distributing our attention to them. We are coming back to the behavioral profile, it is now with everyone.

It is a bipolar scale we call it in psychometric terms and you will find seven items and there are two extremes to that like number one we are casual about appointment. Extremely casual about appointment you have to circle number one and if you are never late in your life you have to circle number 7. In between any number that actually identifies with you that is important. Similarly not competitive number one very competitive number 7 in between any number you can just circle. Never feel rush always rush. Take thing one at a time try to do so many things at a time. Slow doing thing fast express many interests few interests outside work. Just try to circle and total the circles, whatever number you have circled add those numbers on all the seven items.

What is your score? How many with type A personality. Please see your categories and tell me how many of you are having type A personality. It is very few in numbers. So we now understand what this type A and type B personality is and how it relates to time management. If you want to discuss for two minutes absolutely fine about your score and all. Type a personality people are kind of workaholic people. They are highly perfectionist. Many times they are difficult bosses because their expectation from their subordinate staff are very very high. Many times people working under them they are

not that kind of personality so they find it difficult to handle such people and they are bosses. So they are prone to burnout, prone to stress related disorders, prone to executive diseases like hypertension and all, cardiovascular disorder, migraine, tension.

This personality can take us to that stage of psychosomatic disorder. They are too good in managing time to the extent that they are poor in delegation. I will tell you a story of typical type a personality person. Type a personality many time face some difficulty related to interpersonal relationship because their work life balance is not that good. They are more towards work and less towards family and balance becomes very difficult for them sometime. Such person was in US and his family was pressing him that we should go to grand canyon and have fun over there. Another tendency of type a personality people is that they are quantifying each and every minute of their life that I will take this much. On one fine Saturdays he just agreed and said we will start at 6.5 in morning

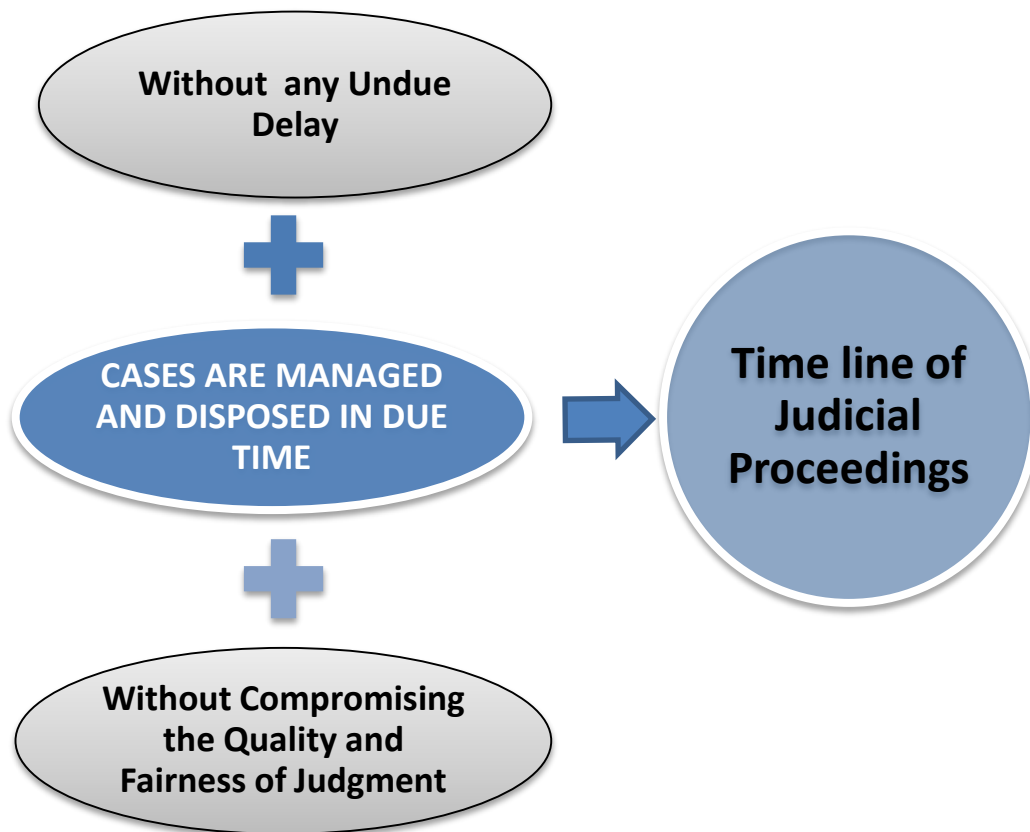
We will drive at the speed of 120 miles per hour and reaching at this particular time. So they started exactly at that time and they reached there. In the meantime children wanted to stop at a particular point and take photograph and just view the landscape and all but we said no the time of reaching is this much, how can we just stop we will be wasting lot of time. They have a kind of guilt feeling when they have free time and just playing and activity which is not related to work.

So that kind of guilt feeling comes in their mind and they feel they are wasting their time so that person was also like that so they reached at the same speed at that particular time which was pre-decided and on reaching there he just stops the car and looks out of the car and said see I am just coming and he goes out clicks some photographs and sits in the car, turn the car back. Children cried that we have not seen the Grand Canyon. He said no I have taken all the photographs and we will sit at home and see the Grand Canyon there itself. You have already enjoyed the drive and that enough. So in that way it is the extreme way of saying that such people are very restless. Even if they are playing they don't play for fun. They play for wining. They are highly competitive. Sometime even aggressively competitive. So that kind of problems are associated with extreme type a personality which is the score above 110 roughly.

Type B personality have the characteristic of slow sustained qualitative work, high quality work over a longer period of time, without suffering from any stress related disorder or less frequency of stress related disorder. So in that way type a or type b personality differs and there is a need to balance our personality like when there is a deadline. Just push it hard have a killer instinct to just reach that but when you get a free time use it as a buffer to manage it in a way to have relaxation and sightseeing. So actually both the extremes are bad in managing their time. Only thing we have to do is to look for alternative. If I don't push at this time what can happen, can this work be done by someone else who is working under me and paid for that?

What we are actually expecting in time management in judiciary cases are managed and disposed in due time. Without any undue delay and without compromising the quality and fairness of judgement. Both are equally important. The tools to measure time management, how you can measure time management. Quantify delays, how much delay is acceptable. Why there is delay what are the reasons for delay. Whether they are avoidable. Who is accountable for delay? Is it because of lawyer or because of judge or it is because of the witness or it is because of the administrative people involved in that. So accountability is also very important. So for managing time we have to start with the time planning. If we don't have a plan we are not threatened that we will be able to achieve it or not. So we start at time planning through time frames.

From Reasonable Time to Optimal Time Frame



We must have time frames for watch and every activity we are doing whether it is administrative activity or it is case related activity. Time frame is basically a tool to achieve the timeliness of case processing. It is the condition to start measuring case processing.

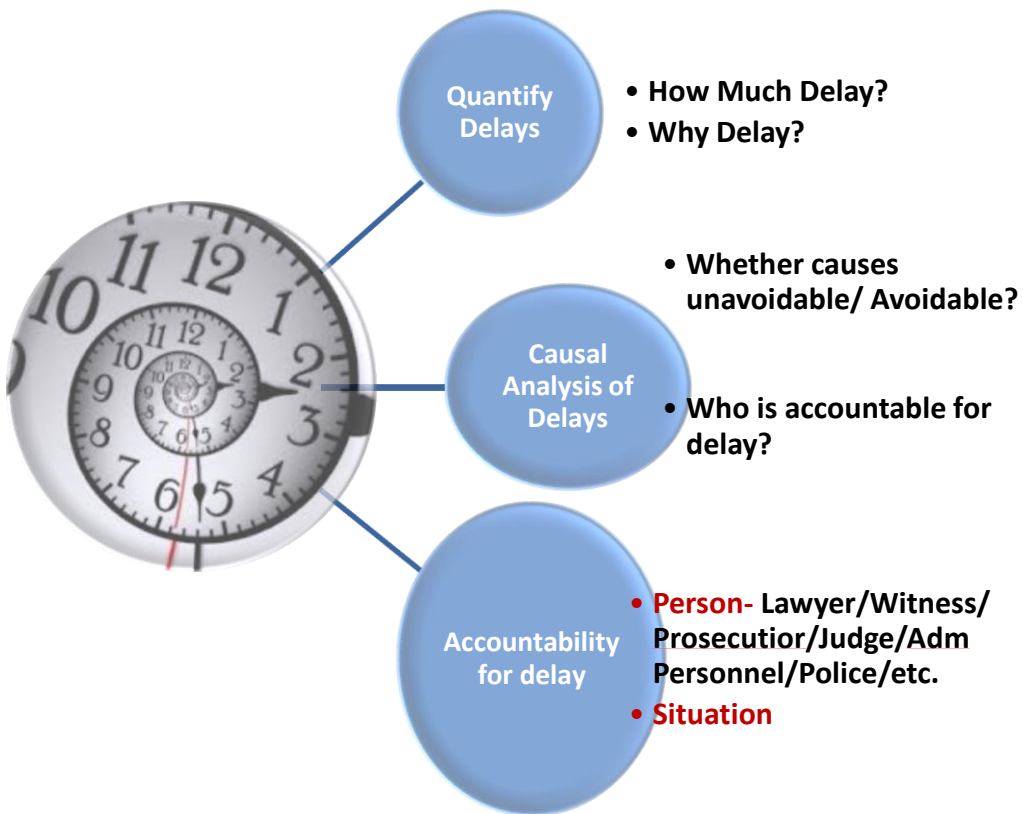
Time frames has to fit in the contingency of local culture. Cannot have the same time frame for all type of cases. We cannot even have the same time frame for different states because different states also have different local culture through which they operate. But having time frame having the prerequisite for evaluating the results the efforts that you are making for the judicial proceedings. So for timeliness of case processing the first step is setting realistic and measurable time frame for every case. It must be realistic and must be measurable. Then enforcing it. You have planned it you have a time frame but you are not enforcing it. Enforcing a time frame and monitoring at every step and you are not waiting till end whether we could achieve it or not. We are here we have to reach here in between these are the steps. From reaching from step a to step b, this much time is to be taken. So accordingly at least some assessment you are able to do. When you are preparing a time frame. Everyone

should be the part of it means all units in your system. They have to be the part of it. Even as a judge you are trying to decide some time frame. It is not executable because many people are the part of that process. All stakeholders must be committed. Their commitment is very very important.

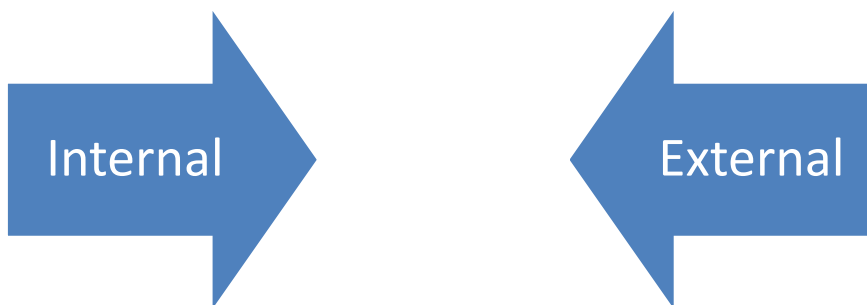
Then help building the environment of innovative policies. Again the issue of comfort zone comes. People will say it never happened. Why we should struck it. Can't we start right now? Let us try let us fail, the only thing we have is failure

So right from the first day right from the beginning of any new initiative. Maximum what can happen is the failure we come back to the earlier situation. Doesnt matter the earlier situation is already there. We are opening up to come out of our comfort zone.

Tools to Measure Time Management



Attributional Style



External LOC for Delay in case processing/Judgment Delivery

- Population
- So many cases per day
- Staff do not cooperate
- Outside pressures
- Legal system takes time , its ok

- System is like that
- Being Meticulous is an indicator of Quality

Internal LOC of Delay

- In spite of all odds, I can still make a try to improve the system
- It is my responsibility to handle the staff in a way that delay can be avoided
- I must monitor stringently to avoid delay, at least on my part and facilitate others to speed up.
- People should not mock judiciary for delay. I must find some solution

Then building the culture of shared responsibilities rather than the blame game. We live in a circle of blame game. We try to protect ourselves first of all that whatever wrong is happening is not because of me and whatever right is happening is my initiative. If we are considering ourselves the part of the whole system and not just other side of the table.

This is one area of participative management. People who are working under you they will be the part of your system. May not be in the government giving power but at least the functional partner and the scenario become complicated. They are cooperative in time management otherwise they will say no we have never done like that why I should do it. So we are talking about blame game and another personality trait comes into picture and that is attributional style. It is internal or external. Just go back to your college days when you are giving exams and you couldn't perform well in that exam. So how you interpret that. Try again. It was tough. Could have done better, out of syllabus very correct. Could not get much time for study. The evaluation teacher was not very happy with my evaluation and teacher like some students much more than me and that was the reason why I couldn't perform well. In short all the reasons which are external which are outside we and they are having external locus of control.

I could get interesting reasons like my room-mate was playing loud music because of which I couldn't perform well. So these are all external locus of control. Similarly we do in our profession also. If something wrong happens we start blaming all the other stakeholders except ourselves for not being able to do a particular

task. There is another category i.e. internal locus of control. Such people say try again. May be I need to work little more hard. So when you are able to take the reasons within yourself. Your perspective will be completely different you will not blame anybody. Focus on ourselves I am the head of the institution. Everything whatever been done is initiated by me. If everyone is having this tendency that I can make a difference. The scenario becomes completely different. Unfortunately it is not there that is why India is a developing country. We call keep on cursing the government for lack of development. So people with internal locus of control have a better tendency of managing their time.

External locus of control for delay in case processing and judgement delivery. This is my perception. I am not saying it is research finding but of course young people can take up this activity and do this kind of analysis of what actually happens that why there is judicial delay. Population, so many cases per day, staff do not cooperate, outside pressures. Legal system takes time it is ok. It goes like that only and system is like that. Being meticulous is an indicator of quality. So if I am slow in doing things. People with internal locus of control what do they say. In spite of all odd I can still try to improve the system. At least in my area of jurisdiction. It is my responsibility to handle the staff in a way that delay can be avoided. Then I must monitor stringently to avoid delay on my part. A courtroom for you as a break. It has come to my attention that building is on fire. Let us bring in a consultant next week and see what sort of action he recommends. This should not be the scenario.

How to Manage Time???

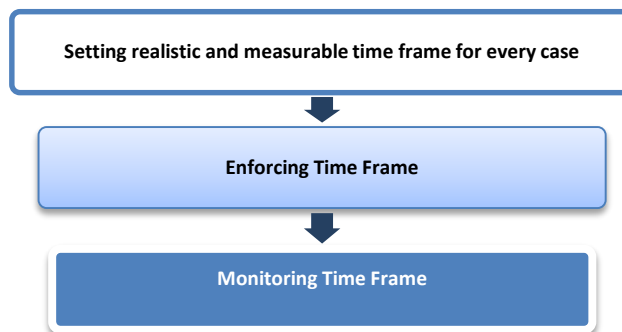


What is Time Frame???

- Tools to achieve the timeliness of case processing.
- *A condition to start measuring and comparing case processing delays*

- a difference between the actual situation and the expected timeframes implemented to reduce the lengths of case processing.
- Timeframes have to fit the contingencies of the “local legal culture
- Having timeframes is a prerequisite for evaluating the results of the efforts made to improve the lengths of judicial proceedings.

Timeliness of Case Processing



How Time Framing Helps???



Examples of Time Framing Across the world

- Finland- Optimum timeframes for each type of cases are agreed and Targets for case processing are set.

- Slovenia - court rules sets a timeframe of 18 months after the case has been presented before the court. If a decision is not taken within 18 months, the case is considered delayed. The head of court may ask the judge in charge of the case to report the circumstances why a decision has not been reached.
- Sweden – targets for civil and criminal cases are set up by the Government. All units within the court define their targets

Setting of timeframes for kind of procedure

- Timeframes make more sense if they are set up allowing for the different kinds of procedure (civil, criminal, administrative, enforcement, etc.).

Denmark– 58% of the civil cases should be disposed within 1 year, 63% of the criminal cases should be disposed within 2 months and 95% within 6 months.

Norway – Timeframes are proposed by the Ministry of Justice with consent from the Norwegian Parliament. As of today, 100% of civil cases should be disposed in six months, 100% of criminal cases in three months.

Setting timeframes in collaboration with justice stakeholders

- The building and maintenance process of setting realistic timeframes must involve the stakeholders at the different levels (state, court, single unit).
- Setting timeframes is not a *once for all event, but it has to be a continuous process built through consensus and shared objectives between the stakeholders.*
- Finland – there is a tailored program for each case and directions are given informing the parties about the estimated timeframe of the pre-trial phase, pre-trial hearings and trial.
- Detailed hearing timetables are sent beforehand to the parties. The lawyers and prosecutors are copied in for comments.

- Several discussions take place between the judges and the local lawyers in order to come up with common ideas and guidelines on how to improve the efficiency of justice including the length of procedure.
- Germany – regular meetings with lawyers are organized to discuss customer satisfaction and problems with the service delivered by the court.
- Sweden – timeframes for each civil case are setting up in cooperation with the users.

Some examples of time frames across the world. Just for you reference because they are small countries. We cannot just implement over here. Finland has decided optimal time frame for every type of cases and they are agreed for cases processing. Slovenia court rules has a time frame of 18 months after the case has been presented before the court. If a decision is not taken within 18 months the case is considered delayed. The head of the court may ask the judge in charge to report the circumstances why the decision has not been reached. So they try to avoid that reporting component and try to just come on the judgement before that. Sweden is having target for civil and criminal cases set by the government and all the units within the court.

They have to define the target many of you may be knowing about it. Time frame makes more sense if they are set up allowing the different kinds of procedures. You cannot have similar time frames for all kind of cases. 58% of the civil cases should be disposed of in one year in Denmark. 63% of the criminal cases should be disposed of within 2 months and 95% within six months. Norway time frame is proposed by ministry of justice with consent from Ignore parliament. 100% civil cases should be disposed in six months and 100% criminal cases in three months. Whatever time frame we decide may be four times five time of that but at least some indicative time frame must be there to create pressure on ourselves. We have to just work within this system.

- Alexander says
- “ If there is a path ,I will find it.
- If there is no path, I will make it.”

Live Above the LINE-

Covey’s Time Management Matrix

MANAGE Crisis Critical Pressing Cases Deadline driven Cases Meetings DO IT NOW	AVOID Diverging papers/reports/witness Interruptions, Phone calls Media Interventions DELEGATE
FOCUS Complex Cases Having long term implications and can create precedence DECIDE WHEN TO DO	LIMIT Time Wasters Disturbances Unwanted people Unrelated details to confuse DUMP

MANAGE DO IT NOW	AVOID DELEGATE
FOCUS DECIDE WHEN TO DO	LIMIT DUMP

With that we proceed further to Steven Covey. He is a time management guru. He has given a time management matrix which is in front of you. Everything whatever we do can be categorized in four categories. The one category is the activity which we do is urgent as well as important like crisis, critical pressing cases, deadline driven cases in which you have to work out very quickly, meetings that you have to handle. Then another category, urgent you have to do it now. But they are not very important. So diverging paper witness report, interruptions, phone calls media interventions. There can be so many other things which are coming under this particular category. Urgent but not important, they are trivial. So you have to avoid them and if not you have to delegate them to other suitable people who can handle it and you can save your time for some more critical activity. Third category is not urgent but important. In which you

are giving time on complex cases, which can have long term implications which can create a precedent or other activities which you considered that not necessary that you have to do it now. But they are very important and no one else can do that. So you have to focus on them but you have to decide when to do and not to do. Because in that way you are not rushing to do a particular task but you are able to spend qualitative time on this particular category.

Last and fourth category which are neither urgent nor important. So we have to limit all the time waster, gossip, disturbances, unwanted people, unrelated details which are trying to confuse. So you have to see how your time is distributed a month these four activities. Remember the last working week when you were spending time doing the work and try to list out the activities which you did which were urgent as well as important. Try to divide your eight hour working into these four cells and see how your working goes.

You can even imagine one single day and try to distribute just to give you a kind of self-understanding about how your days goes and what you want to do which. The size of the square depend on the time that you spending on it. These sheets will be distributed to you at the end of the session. So you have to prioritize what is the first activity that you have to do and like that ok if the time permit ok, if the time permit I will do if the time doesn't permit I will not do. So preparing a b and c listing of time management. That is very very effective, people generally do that. Then how to get it done. 20 minutes at the beginning of the week you have to just review your roles, you have to sharpen your saw means reading time which is important for the judiciary.

How to Get IT Done

- 20 minutes at beginning of week
 - Review your Roles
 - Sharpen the Saw –Read and analyze before hand to save time
 - Prioritize by Choosing Big Rocks first
 - Which is the most important case requiring maximum time and effort?
 - Schedule the Week keeping in mind the reversal of 80/20 Rule

So sharpening the saw read and analyze beforehand to save the time. Prioritizing to choose the big rock first which requires maximum time and efforts, accordingly you have to just plan it. Schedule the week keeping in mind the reversal of 80 20. Means 80% time to 20% critical details and 20% time to the trivial details and trying to understand the difference between what is trivial and what is critical and that is the first step if you are not able to distinguish between the two then you wont be able to distribute the time.

Get it All Done

Peter Drucker says:

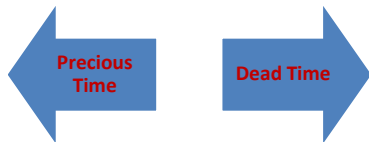
- Work where you are the strongest 80% time
- Work where you are learning 15 % time
- Work where you are the weakest 5% time

So Peter Drucker says work where you are strongest 80% of the time, work where you are learning 15% of the time, work where you are weakest 5% of the time. So know your potential accordingly distribute the time so that whatever you are able to do, you should be able to do it well don't find time for important things. You make it. You say that I don't have the time. So everything you do is an opportunity costs many time you have to say no. [00:39:15]

Scheduling Yourself

- You don't find time for important things, you make it
- Everything you do is an opportunity cost
- Learn to say "No"

PD Time



Cutting Things Short

- “I’m in the middle of something now...”
- Start with “I only have 5 minutes” – you can always extend this
- Stand up, stroll to the door, complement, thank, shake hands
- Clock-watching; on wall behind them

Using Time Journal Data

- What am I doing that doesn’t really need to be done?
- What am I doing that could be done by someone else?
- What am I doing that could be done more efficiently?
- What do I do that wastes others’ time?

Delegation

- No one is an island
- You can accomplish a lot more with help
- Most delegation in your life is from faculty to graduate student

Is The Jar Full?

- Stephen Covey in his book, *First Things First*, shares the following story
- "How many of these rocks do you think we can get in the jar?" he asked.
- After many guesses, he said, "Okay, Let's find out."
- He set one rock in the jar . . . then another . . . then another.
- I don't remember how many he got in, but he got the jar full.
- Then he asked, "Is this jar full?"
- Everyone looked at the rocks and said, "Yes."
- Then he said, "Ahhh" He reached under the table and pulled out a bucket of gravel.

- Then he dumped some gravel in and shook the jar and the gravel went in all the little spaces left by the big rocks.
- Then he grinned and said once more, "Is the jar full?"
- "Probably not,"
- He reached under the table and brought out a bucket of sand. He started dumping the sand in and it went into all of the little spaces left by the rocks and the gravel.
- Once more he looked and said, "Is this jar full?" "No!" we roared.
- He said, "Good!" and he grabbed a pitcher of water and began to pour it in.
- " Well, what's the point?"
- Somebody said, "Well, there are gaps, and if you work really hard you can always fit some more things into your life."

"No," he said, "that's not really the point.

The point is this: Put the Big Rocks in First

Priority Listing

- A
- B
- C

of Time Management

Even unwillingly you have to say no in order to save your time and spend that time on some more important tasks rather than just spending it. So we should not be filling the time in a day but it should be qualitative planned time that we are spending on various activities. We all have precious time and dead time. We are not saying do away with dead time. Try to plan your important activities during your precious time when you are at your best when you are full of energy. You are able to do a lot and push the activities which can be done at any point of the day even when you are not that energetic for the dead time. Many time people say I am able to manage my time but what to do people come on my head and I just can't tell them go away so my time

management is lost because of them. So we have to use certain way of communication not to just dishearten them by saying a blunt no but saying I am in the middle of something now and you can just wait for a while. All these are strategies, gestures, mannerism which you can use to save your precious time, not to disheartened the people try to meet you but preserving your own time also. What I am doing doesn't really need to be done. Is it not like that or what I am doing can be done by someone else?

Am I doing the task of someone else, my subordinate who could have done it but because he is not doing I am doing that. What I am doing could be done more efficiently and take little more time in doing that can I reduce my time to do it more quickly. It is not that for the sake of saving and managing your time you are wasting the time of other people. So you must see that you are using your time efficiently, you are doing the work which is to be done by you only and delegation is also done properly, you are not wasting other people time and you are not doing the activities which are done and which are not to be done at all. So delegation is very important. No one is a island you can accomplish a lot with the help of other people.

Many time we say that our subordinate are not efficient. If you hire me to bark at your employees that will free you for more important things. It says that even if you have inefficient people try to just give them that kind of activity which you feel at least they can manage and you can at least save some of your time. So try to utilize the human power available to you in a way possible with your wisdom distributing right task to the right person so the time is also saved and at the same time the quality of work is also not negatively affected.

Procrastination is a thief of time. Many time we have a tendency to transfer things doing things at the last minute that anytime become very expensive than doing it just before the last minute. Deadlines are very important. You have to establish it for yourself.

Parkinson's law you must be knowing about it. Work expands so as to fill the time available for its completion that you have four days you have to do that. You have 14 days for the same task, it will expand the work in such a way that even at the last

minute only, you are able to do. So try to just see what is the idea time within which you are able to do a particular task.

Steven Covey in his book first thing first he is sharing his stories. He is in a class and he shows this particular jar to his students and say how many of these rocks do you think we can get in this jar. How many rocks you can put in. So people started making guess how many rocks are there. He said ok let us find out. He said one rock in the jar and then another counted. He got the jar full. He asked the students is this jar full. Of course everyone said that this jar is full of all the rocks then he goes under the table and you can see, he finds some gravels and just put them in the jar and all the spaces which were left out with the rocks, they are filled with the jar and he shakes the jar like this so that gravels are just adjusted in the little spaces which were there in the jar and he says is the jar full.

Probably not he reached under the table and brought out a bucket of sand and started dumping inside and whatever little spaces the gravels left so they were going inside that and he was able to just make the jar full. Then again he was saying is the jar full. No everyone wrote. He grab a pitcher of water and began to pour it. Well then he asked what the point is. Always there will be space for the right thing. If you work really hard you can always fit in more. But is it important to fill more and more things into our lives and just become so tied up in so many tasks that we don't have a breathing space. Is it right? So he said it is not a point. The point is to put the big rock first. If you are not able to put the big rocks first and filling the whole jar with the gravels and the sand and water at the most. Of course you have 24 hours and you could do something in those 24 hours and say I am busy but whether you have actually put the big rock first in your life when you are actually able to address the urgent and important activities of your time plan or not. That makes the huge difference in whether you are successful or not. So with that we are ending the session. Thank you.

SESSION 4

2:00 PM – 3: 00 PM

Budget Management in District Court

Mr. Yashwant Kumar

Mr. Yashwant Kumar: Finance and money is a subject which involves all the three orders, executive and judiciary. The work of none of the organs can be performed unless they use money. They utilize finance. So finance is a subject which permeates all the three organs. The problem arises when a subject relates to all the three organs. How to manage that particular subject and where is the independence of all the three organs. When we see the Constitution and other arrangement of the structure of the state that law making job of legislature, law administration and law interpretation, job of the judiciary and implementation of law is job of executive. But finance is the subject without which none of the organ can operate. In such a matter which involve all the three organs so there should be something which can guide all the three organs and that arrangement is the Constitution. Constitution which guide all the three organs has made very detailed arrangement for the management of the finances for all the three organs and efforts has been made that because of finance there may not be conflict among the three organs.

Very detailed arrangement in Constitution of India has been made about how to manage the finances by all the three organs of the state. Constitution has made provision for financial management both at the central level as well as state level for all the three organs. We will first see the Constitutional arrangement for central government as well as state government, the role of all the three organs in this arrangement of finances. In this presentation, we will see the Constitution mandate, the process of budgetary control and the format of budget document. At the central level these are the articles which have made provisions for management of finances at the central level.

Constitutional Mandate

- (i) Article 112
- (ii) Article 113
- (iii) Article 114

- (iv) Article 115
- (v) Article 116

Article 112

Annual Financial Statement

President

-Every financial year (1st April to 31st March)

-Both Houses of Parliament

-Statement of estimated receipts and Expenditure of GOI

What estimate of expenditure consists of:--

Charged and Voted Expenditure

Revenue and Capital Expenditure

What are Charged Expenditure?

Emoluments and allowances of President and his office

Salaries and allowances of Chairman/Deputy Chairman,

Speaker/Deputy Speaker

Interest payment

Salaries, allowances and pensions of Judges of Supreme Court

Pensions payable to Judges of High Court

Administrative expenses of the office of CAG, including

salaries, Allowances and pension payable to CAG

Revenue Expenditure

Expenditure for normal running of Government dept. and various services

Interest Charges on Debt, Subsidies

Does not result in creation of asset

All grants given to State Governments even though some of which may be for asset creation

Capital Expenditure

Expenditure on acquisition of assets like land, buildings, machinery, equipment, investment in shares

-Loans and advances granted by Central Government to State and Union Territory

-Expenditure on concrete asset of a material and permanent character

Article 112 and the corresponding Articles also I will tell which applies to the state level. So Article 112 and the corresponding Articles at level is 202. 113 similarly 114 and at state level 204, 115 state level 205 and 116 and at state level it is 206. In Constitution budget have been called as annual financial statement by Article 112 and 202. This is presented in the legislature after the approval of the president. On behalf of the president for each coming financial year. First it is presented in loksabha and thereafter in rajyasabha and in state legislature. It gives the estimate of receipt and payment of the government in the coming financial year. The estimates are divided in following forms. All the expenditure divided into two parts, charged expenditure and voted expenditure and similarly all the expenditure of the government is divided into revenue expenditure and capital expenditure.

Some of the expenditure are declared as charged upon the consolidated fund of India or state. Charged means there will be no voting on these items of expenditure in the parliament or state legislature. However there can be discussion on these items of expenditure. Examples are the expenditure of Supreme Court of India, expenditure of high court of the state but expenditure of the district judiciary comes in voted part. All the expenditure of higher judiciary is out of the purview of voting of the parliament. So this is an arrangement of Independence. Why it is out of the purview. To give independence to higher judiciary in the scheme of organs of state. Voting expenditure on which the house has to pass it by voting in its favor and only after voting in its favor passed by the house of parliament and legislature then only the expenditure can be done on the account of the consolidated fund of India or state.

Participant: Sir including salary of the Supreme Court and high court judges is charged then how come the bill for increasing and acceptance of the parliament has to increase the salary of the high court judges. Now it is put down for discussion. That is the agenda increasing of salary the extent of being put up in the discussion of the parliament and it is going to be introduced. If it is a matter not to be voted can it be discussed?

Mr. Yashwant Kumar: That is not the part of the budget. In budget the salary scale which has already been fixed will be presented in the budget. The increase in salary is a policy matter. It comes under voted. District judge's salary come under state

legislature. Head of accounts for high court and district court separate head of accounts are there. Capital is an expenditure in which create permanent asset like building, road, plants and equipment etc. That expenditure comes under capital and rest of the expenditure like salary TA DA, office expanses that comes under revenue expenditure. That is why it is presented in legislature on the recommendation of the president or governor or it is first presented in loksabha and rajyasabha can discuss it but rajyasabha does not vote on it. So emoluments of president, vice president, speaker, deputy speaker of loksabha and chairman, deputy chairman of rajyasabha, interest payment of the government, salary and other office expanses of Supreme Court, pension of Supreme Court as well as high court judges and entire expenditure of Supreme Court and high court are charged expenditure.

Administrative expanses of the CAG office is also charged. Revenue expenditure is for meeting day to day expenditure of the government. Voted expenditure is presented in the loksabha as demand for grant. Loksabha has power to assent it, refuse it reduce it and all demand for grant are presented to the loksabha on the recommendation of the president in state legislature on the recommendation of the governor. After the demand for grant for all the department are discussed in the loksabha, the appropriation bill which include all the demand for grants is presented in the loksabha approval. So all demands for grants for expenditure out of consolidated fund of India are presented in the parliament as appropriation bill. For expenditure which is subject to vote and after passing by the legislature, it becomes appropriation act.

Article 113

Procedure in Parliament with respect to Estimates

Charged Expenditures:--

Shall not be submitted to vote of Parliament

-Nothing prevents discussion of estimates in either House

Voted Expenditures:--

Submitted in the form of Demands for Grants to Lok Sabha

-LS have power to assent, refuse, reduce the amount

- No demand except on recommendation of President

Article 114

Appropriation Bills

Bill for appropriation out of CFI moneys required to meet voted grants and expenditure charged on CFI

No amendment either varying the amount or altering destination once the bill is passed.

No money shall be drawn from CFI except appropriation made by law passed in accordance with provisions of this article

Article 115

Supplementary, additional, excess grants

- If the amount for a particular service is insufficient
- Additional expenditure on a new service not contemplated
- Money spent in excess of amount granted for that service

Article 116

Votes on account, votes of credit and exceptional grant

Votes on account:--

- An advance in respect of estimated expenditure
- For a part of any financial year
- Pending the completion of procedure prescribed in Article 113 and 114.

Votes of credit:--

-Meet unexpected demand on account of magnitude or indefinite character which cannot be given in AFS.

Exceptional grant:--

-Exceptional grant which forms no part of the current service of any financial year.

Process of Budgetary Control

- (i) Preparation
- (ii) Enactment
- (iii) Execution

(iv) Parliamentary Control

Preparation

Submission of estimates by estimating auth.

Scrutiny of estimates of HOD

Consolidation of grants for all Min. by FD

Budget Documents

- (i) Budget speech – Finance Minister
- (ii) Annual Financial Statement
- (iii) Receipt Budget
- (iv) Expenditure Budget
- (v) Demands for Grants
- (vi) Detailed Demands for Grant
- (vii) Finance Bill
- (viii) Appropriation Bill
- (ix) Budget at a Glance

Budget is simply the statement of receipt and payment. In the beginning I have talked that the Constitution is supreme and after Constitution law is supreme. For spending any money there should be law and law is appropriation Act. So that after Appropriation Act there should not be any conflict between judiciary, executive or legislature because it is law. Appropriate spending of money from the consolidated fund it has become law.

Supplementary additional and excess grant: When during the year it is found by any department say judiciary for a particular head the approval of money given by the legislature that is less than the requirement during the year. So there may be provision for asking additional approval in the form of supplementary or additional budget before close of the year it should be presented to the parliament or legislature and after approval of supplementary or additional budget this amount which has also been spent during the year. So if there is insufficient money, supplementary or additional budget passed by the legislature can give authority to additional money out of the consolidated fund. The excess amount is after close of the year. Sometime because of oversight it

may happen that a particular head of account the amount is spent more than what is approved by the legislature in the appropriation act. It has to be regularized as per the Constitution because Constitution has provided no money can be spent out of the consolidated fund of India or state without approval of the legislature. So if due to oversight, lack of proper supervision excess money has been spent on any item of expenditure, it has to be presented to parliament or legislature again in form of excess demand or grant. That excess amount is presented to the parliament and again after approval it becomes regularize.

Article 116 and corresponding Article 206 of the Constitution gives certain procedures like vote on account, the budget takes time for approval. When financial year starts budget is presented say in February and different financial committees reviews those estimates in the budget and give one month to give their recommendations to the parliament to accept it, reduce it or reject it and during that period the financial year has started in April 1, money has to be spent. Constitution has made provision that during that period the parliament pass a vote of account. Vote of account is an authorization to the executive to spend a certain part of the budget. It may be 1/10 or 1/6. It is advanced approval to spend money. Item on expenditure is difficult to estimate how much amount will be spent during the year. Since estimation is difficult in that head of account then provision is to give approval in the form of vote on credit in which item is mentioned but how much amount will be spent is not mentioned. Expenditure on that head of account can be done and after the expenditure is done the demand for grant will be presented to the parliament for approval. So in the entire budgetary control system has four parts. Preparation of budget estimates starts in the current year itself.

When the circular is issued by the finance department to all the department including the department of law and justice to start preparing the budget for the next financial year. If there is any change in rule or changed interpretation of budget, that changed rule is also circulated to all the departments and the budget exercise is start in the month of August, September. After the budget is passed by the parliament or state legislature it becomes appropriation act. Appropriation Act is for the approval of expenditure and Finance Act is for approval for raising money in the form of taxes and some non tax revenue is also included in that. So that is the part of execution.

Fourth is parliamentary control. After the year is complete, expenditure has been done, the account is prepared of all the expenditure done by each department including department of law and justice. The accounts after preparation submitted to CAG of India and CAG of India audit the accounts of both state government as well as central government and it present its report to governor to the state legislature and to president through the parliament and public accounts committee and estimate committee review the expenditure done by each department as reported in the account as well as commented by CAG office. So the expenditure cycle of any financial year complete after review by the expenditure of the public accounts committee and other committees of the parliament.

These are the detailed procedures of preparation, submission of estimate by each department after approval by HOD of the department to the ministry of finance and the documents which are presented with the budget.

Annual Financial Statement

What the Statements consist of?

Major Head	Actuals 2009-10	BE 2010-11	RE 2010-11	BE 2011-12
Parliament				
Elections				
Audit				

Receipt Budget

- Details of Revenue and Capital receipts with explanations
- Trend of receipts over years
- Details of external assistance
- **Eg. :- Corporation Tax:-**
 - (a) Ordinary collection

- (b) Advance tax collection
- (c) Surcharge
- (d) Miscellaneous receipts

Expenditure Budget

Expenditure Budget Volume-I:--

Revenue and Capital disbursement of Ministries

- Gives break up of Plan and Non-Plan exp.
- Analysis of various types of expenditure

Expenditure Budget Volume-II:--

Provisions for a scheme or programme

- Break up of Plan and Non Plan exp.

Demands for Grants

- In pursuance of article 113
- One demand for grant in respect of each Ministry or Department. Large Min. more than one demand
- Provisions on account of Revenue and Capital, Charged and Voted, Plan and Non Plan

Detailed Demands for Grants

- Tabled after presentation of budget before discussion of demands for grants commences
- Details of provisions
- Break up of estimates of programmes under number of objects of expenditure like salaries, wages, etc.

Finance Bill

Proposal for levy of :--

- **New** taxes
- **Modification** of existing tax structure
- **Continuance** of the existing tax structure

Appropriation Bill

- In pursuance of Article 114
- Withdrawal from Consolidated Fund amounts voted and amounts required to meet charged expenditure

Detailed demand for grant, finance bill the recommendation for raising sources of finance this is consolidated demand for grants which is presented for approval and then budget. Annual financial statement contains mainly the expenditure out of the consolidated fund of India in the form of revenue or capital. Then receipt and disbursement and voted and charged. The second fund is contingency fund of India or contingency fund of state. Out of this the expenditure is done without the approval of the parliament or legislature. These are contingent expenditure which has to be incurred when contingency arise but the time is not available to take approval of the parliament or state legislature. So contingency fund is like imprest account. The account spent is put back again after approval by the legislature. It is emergency fund. It can be used in calamities etc. Unforeseen urgent expenditure which cannot be waited.

Participant: With respect to contingency, contingent fund, are you telling this is applicable to judicial department also. Is there any specified rule framed. What are all the items which fall under contingency. Is there any specific rule framed.

Mr. Yashwant Kumar: There is no specific rule. It is the government to decide.

Participant: We are being given with contingency funds say about for one lakhs and two lakhs. Can we spend it as how we require to meet the needs of the court or is there anything specified. Whether any rule is framed to that effect. We are using tea cups. We want to replace it they say you cannot use contingency fund. There is some bar. We want to know whether there is any specific rule because we cannot spend on our own and thereafter face the audit. So for the safe purpose I am asking whether there is any specific list of heads wherein we can use those amount for contingency purpose.

Mr. Yashwant Kumar: Not anything. First rule is that there should not be a head for which the amount is provided in the budget. Like replacing cup it is an item of office expenditure and for office expenditure, there is already provision in the budget.

Participant: How many states are there where budget of district judiciary is placed to the high court? How many states are there in India? It is not charged budget it is voted budget so at the beginning say budget for district judiciary is 10 crore. Whether that 10 crores is placed to the high court of that state?

Mr. Yashwant Kumar: Budget controlling officer is the registrar high court.

Participant: Earlier we were in Guahati high court but the budget of district judiciary is not placed to the high court. It is done by the law department of government of Tripura.

Mr. Yashwant Kumar: He is referring the secretary of law department of government of Tripura is the budget controlling officer for district judiciary. Because high court has come late in the state of Tripura. Where high court is already there so registrar of the high court is the budget controlling officer for district judiciary.

Participant: Sir same position in the state of Jharkhand also.

Mr. Yashwant Kumar: That is also new state so budget controlling officer is law secretary.

Participant: But that high court came into existence in the year 2000.

Mr. Yashwant Kumar: So there is no change of budget controlling officer. I believe when high court came in existence and registrar high court is already there so district judiciary budget should be controlled by the registrar of the high court as it is there in other states.

After the legislature has passed the amount to be spent at district judiciary. Now it should be at the disposal of the judiciary because it has become law.

The format of budget is like the major head of account for judiciary the major head of account is 2014. All the expenditure of judiciary is recorded in major head 2014 and actual of the previous financial year which has been completed is presented then

budget estimate for the current year and then revised estimate for the current year which is going on and the last column is budget for the next financial year.

The receipt budget is presented by the government the judiciary does not have any receipt head. It has miscellaneous receipt in which all the receipt concerning court receipt etc. There are certain heads in which court receipt is also recorded. There is no discretion in the receipts relating to the judiciary. Only in taxes there is discretion of the executive.

The adjusting tax is to be abolished that also the proposal has to come in the finance bill and after approval of the parliament and legislature that become part of finance act. FRBM passed by the parliament as well as state legislature to have control overall financial management of the government. It provide certain limit up to which the borrowing can be done by the government. Fiscal responsibilities and budget management. The objective of this Act is to give consolidation and credibility to the financial management by the government. This would put a limit on the borrowing of the executive to meet various kinds of expenditure and because of this limit, control over the limit of finances of the government

Participant: I need to have a clarification on permanent advance. In permanent advance funds granted by the government to be maintained by the court and to spend it for meeting of the other expenses and restore it back to the original position. There is no uniformity in this. In my district some courts are having only 100 Rs as permanent advance and in another court it is 1000 Rs. Can't this be changed? What is the procedure to change? Whether we need to writ to high court or whether we need to writ it to government. Certain courts which are constituted of late now they are having 1000 Rs.

Mr. Yashwant Kumar: Is the cashier having some imprest amount. Permanent advances imprest. So the limit of this can be increased. High court can raise it. Registrar high court might be having power. It went to the law department.

Participant: I am confused now. If the fund is placed to the high court there is no necessity of writing to the government.

Mr. Yashwant Kumar: I believe high court can do this. Imprest is small amount upto 5000 or even 10000, upto 15000. In some state it is 15000. Imprest is a minor issue because ultimately whatever is spent out of this imprest the voucher has to be sent and then only will come from the treasury. It is not a very big issue.

Participant: Sir it is big issue. The reason is if the permanent advance is 500 or 200 definitely they cannot give money to the witnesses. I am supposed to give them there is a scale of the state government if a witness travels 60 km I have to give him 150 Rs, 100 Rs. So if the permanent advance is so meagre, they cannot give amount to the witnesses. So issue is different. But I am confused whether Maharashtra government giving the money to the Maharashtra high court or not I am confused now. Otherwise it is the registrar general who can increase this amount and district judiciary is not supposed to write to the state government for this amount.

Participant: So far as general rules civil procedure code authorizes high court to frame the rules without the consultation with the government. In UP, Uttarakhand we have special rules for.

Mr. Yashwant Kumar: Practice may vary from state to state. But registrar general of the high court having the budget or state there may be general rule for imprest. Registrar general is the head of the department so far as judicial system in these state is concerned and there is rule for imprest for the head of the department. So imprest rule which is applicable to other department, the same rule can be followed in judicial department also. Imprest rule are there for each department. So finance department have general guidelines for Imprest. Those guidelines can be refer to and it gives autonomy to the head of the department to change this amount of the imprest.

Participant: What is the difference between revenue deficit and financial deficit?

Mr. Yashwant Kumar: Revenue deficit is revenue expenditure minus revenue receipt. If revenue expenditure is more than revenue receipts there will be revenue deficit. If revenue expenditure is less than revenue receipts there will be revenue surplus and fiscal deficit is the total expenditure of the government minus the revenue receipts and capital receipt other than borrowing. So total expenditure minus revenue receipt capital receipt other than borrowing. This difference is fiscal deficit and this fiscal deficit is met

by the borrowing by the government. This is unfortunately in Hindi. But you can see the figures. This is the major head 2014 of the judiciary. This is demand for grant of the MP government, the demand number 29 is for law department and legal affairs. Now under major heads there is minor head. 102 minor head is for expenditure of the high court and high court this expenditure 83 .32 crore this is the charged expenditure.

Now the minor head for district judiciary is 105 civil and sessions' court. District civil and sessions court the minor head is 105 in this the entire amount is 488 crores is the voted expenditure. This is non-plan expenditure. 6 crores is plan expenditure. Other major heads are legal advice like attorney general comes under 114 that is managed by the law department. Then other expenditure is also there in minor head 800. 2014 which for law and justice, 2014 is for judiciary law department also head some other heads of expenditure elections comes under same demand because it is handled by the law department. The certain social welfare schemes is also and the capital expenditure in this is 7016 is loan to the government employee and in this loan to the judicial employee also. It will be given under major head 7610 because it is recoverable so it is capital payment. Now it is detailed demand for grant to the 102 is for high court. Scheme her is the high court and this is charged. Salary and allowances is the object head this is the detailed heads of expenditure. We have to prepare budget under these detailed heads.

These are the items of expenditure. Detailed head and this is object head and this minor head. These are the schemes this is computerization in high court. There is separate expenditure for this purpose. Then another scheme this strengthening of IT and library in high court. A separate scheme has been prepared under which budget has been provided. The gram nyayalayas in this head also budget has been provided in which judges which are deployed in village judiciary, the expenditure their salary are being provided under this scheme. All these schemes being run by the high court. The budget controlling officer is registrar high court it is not the secretary law department. 13 Finance commission has given certain special fund for strengthening of judiciary. The scheme number is 6269. The strengthening of judicial system and 13 finance commission has given funds specifically for this purpose. So that has been provided here as token grant. In this year 15 16 we are not sure how much amount will be spent. This is the last year of the 13 finance commission

and that is why the token amount has been provided if more money is required it will be approved later on by the legislature.

If fund has been given for a particular scheme that cannot be directed to another scheme. But there were other schemes also. The money can be transferred to other schemes with the approval of the legislature. This 105 is the minor head. Legal aid board, the expenditure of that also comes under this minor head. The expenditure of legal aid board kept at the disposal of legal aid secretary, law department but the salary and other expenditure of these district judges for that the budget controlling officer is registrar. In MP for the budget of district and session judge, the registrar high court is the budget controlling officer.

Plan expenditure is the part of the five year plan of the state or center and in the five year plan the certain specific schemes are provided which are for certain specific objectives. There may be plan for evening court. Evening court if it is not a regular feature, special plan can be provided for that and for that plan specific budget is provided under that scheme and that become part of the plan expenditure. The expenditure of the district courts that is not a specific new scheme that is old scheme. So that will not become part of the plan. Some new scheme which is not already there become part of the final plan and that expenditure become plan expenditure. So here we are not seeing any plan expenditure but the specific expenditure given for strengthening of the judiciary for 13 finance commission for that purpose plan expenditure was required.

Budget at a Glance

In brief:--

- Receipts and Disbursements
- Broad break up of Plan and Non Plan allocations

Revenue Deficit, Fiscal Deficit, Primary Deficit

Fiscal Responsibility and Budget Management Act

- What is FRBM Act?
 - FRBM Act was enacted by Parliament in 2003 to bring fiscal discipline.
 - FRBM rules framed in July 2004

- How will it help in redeeming the fiscal situation?
 - FRBM rules impose limits on Fiscal and revenue deficit
 - Revenue Deficit should be reduced to nil in five years beginning 2004-05. Each year reduce by 0.5% of GDP.
 - Fiscal Deficit to be reduced to 3% of GDP by 2008-09. Reduction of fiscal deficit by 0.3% of GDP every year.

- How are these targets monitored?
 - Rules have mid-year targets for fiscal and revenue deficits
 - Govt. to restrict fiscal and revenue deficit to 45% of budget estimates at the end of September.
 - In case of breach FM will be required to explain to Parliament the reasons for the same.

DAY 2

9th January, 2016

Saturday

SESSION 5

09:00 AM – 10:00 AM

Group Discussion on Court Movie

Dr. Geeta Oberoi: Very good morning to all of you. So did you see yesterday that movie the court? Incomplete. I learnt that there is some technical issue and last minute you could not see. I really apologise for that. Now assuming that at least you have seen 3/4 of the movie. There is some kind of image created. Very surprisingly. Now my question is about this movie. I was told by high court justices and I have found in past three months very interesting fact about this movie where high court judges says it is very good movie and judges in high court who have been elevated from the district courts or district court judges themselves. They said no no this is not right. The movie is wrong. At bail no evidence is taken. Whereas one of judiciary holding it is absolutely correct movie this is how it happens in trial courts and on the other hand we have trial

court judges saying no no this is not how it happens. It is wrongly portrayed in the movie. So this is actually about image.

This movie is the entry of India for Oscar. Most of the time people carry that this is actual perception of court. So today's session I will going to give you a questionnaire. It is 8 questions that I have prepared and it is all about related to your perception of the court. Somebody has made movie today. Tomorrow more movies will be made more documentaries will be made and more and more such image will be created. So what do you actually think or plan to do about it. A you can say we are not bothered, we are doing our work, we decide our cases, we work whatever is given by the portfolio judge and then we go back. It is a collective responsibility to do something about it. So this questionnaire is actually prepared in that basis that what you can actually do because I am supposing that all of you are principal district and session judges. You are responsible for the whole district and for subordinate judicial officer who is working under you. I am asking this question in the light of where the world is heading. Judiciary is one institution but if you see the world around you whether it influences you or not but you are aware of this world. For example past one month lot of things was created around intolerance. Actor said something in public platform lot of uproar happens. Suddenly he has to come back again and write on the twitter page I didn't mean this I was misinterpreted. Even you see corporate houses around you.

They all have this department for public relation department which makes statements every time these owners they dont come themselves. Even if you see AIIMS they also have a public relation officer. Government department have public relation officer. Yes and judiciary is the only institution that does not have. I am supposing that all of you have 20 years of experience and by now in the system itself. When you join 20 years back and where you are today have things changed. Has the pressure increased? Because 20 years back no one bothered and today everyone says that what you are doing what is your disposal. What is your institution? People are asking these kind of questions and earlier people used to say reportable judgement are given only high court. There is a Constitutional Bench. So district judiciary is by far insulated from all this. But now all district court judgements are also available on website and this national judicial data grid system if you know. So your judgement whether you write in

Chhattisgarh or in Jhabua or anywhere it can be read anyone even from Texas. Things have changed with ICT tools.

Things have changed. If you remember 15 years back there was no email system. There was not even this mobile phone. Very few people had mobile phone. The whole world has changed. The whole changes brought by ICT revolution is affecting our life. How should we respond to these changes because if we don't respond a continuous negative image even though you are working hard but the continuous image that is drawn is that this is not a place we will get justice? If you want to get justice you have to under writ jurisdiction or 226 or 32 and if you can afford little bit of money then instead of going into cpc and all that go through 32 and 226. Bypass civil court, bypass trial courts. All things are happening simultaneously and we must collectively think about these issues. We can no more afford that we are not bothered. I will give you this 8 set of questionnaire and then we can come up with ideas. Earlier we never had some post called Registrar IT or Registrar computerisation. Five years back there was no post if you remember. May be time has come to establish registrar PR public relations or may be time has also come that the district judiciary must have its own registry. Having the registry just at high court level may not be a sufficient solution and may be district judiciary must have its own registry, a strong administration at that side and have its own registrar, officer on special duty to look into these issues.

So there can be lot of ideas generated today and I want you to generate those ideas and therefore I am giving you a questionnaire. What we will do if you don't mind. We are 32 in number and we will divide ourselves in the group of 8 persons and we will go in four rooms you all will do group discussion select your leader and that leader will come back after 35 minutes deliberations. What decision you are taking on those eight questions that we are giving you and give us those presentations. Four of you will make presentations. Is that acceptable. Learned judge asked are you from Rajasthan. He said no I am from Jammu Kashmir. This group exercise will allow you to understand more than just your state judge, your jurisdiction judge. You need to know about everyone in this room. I was thinking when we were sensitive, we could have it in our heart today you have to display your sensitivity, otherwise there are protest oh you are not sensitive.

You see the world around you, media catches up look on you are not bothered. Since you are not making statement so that means you are not concerned so how do you deal with this very different world that has come to exist as a judge because that was a culture? Judges will remain silent they will only speak through judgements. But now look at the world around us they say how dare you are silent you are not just bothered that world is crumbling around you and you are too much interested in your own personal life and be bothered about the social issues around you. I mean this is happening If you see news everything around you. When we say about discipline army ten years back Indian army never deployed this post called public relation officer today even Indian army has public relations officer. One who make statement on behalf of the institution as to why some decisions have been taken. All go to another rooms and more detailed discussions with each other because this is actually very small rooms for making four groups.

SESSION 6

10:30 AM – 11:30 AM

Group Presentation on Court Movie

Dr. Geeta Oberoi: So welcome back to the session. Are you all taking seats group wise? We can form four groups while sitting from the table itself you can make the presentations. You can come and make presentation over here as well. So can we have presentation by group one?

Group One: We discussed elaborately and we discussed question one. Do you as a judge agree with the image of the court portrayed in the movie court? Critically we have analyzed the movie and we have decided it is not agreeable. The reason is first of all the public prosecutor who is playing that role has given a very good focus of the case to the judge. She has opened the case very well, made good representation but one should see whether that public prosecutor is maintaining the decorum of the court. She was making casual representation to the judge it is not proper so we disagree with the first point. First of all there was an argument in respect to bail application. Bail application has been filed by the accused and the opening argument has been made by the public prosecutor. It is a wrong portrayal of the image of the court and with

respect to granting of bail it has been done by the judge after apprising the evidence totally and at the end of the stage the judge is convinced and he is ready to give bail.

I think producer through one or two example here and there has given a wrong portrayal. And the method of recording evidence, questioning the accused even without going into the trial the accused statement is being recorded by the court. Whether the judge was conducting 313 procedure at the starting itself. It is not correct. With respect to the leading questions really a fun. Public prosecutor is putting the leading questions and she says this statement is there. When a statement is there what the necessity of examining the witnesses is. So when some leading questions are being permitted and it is shown in such movies it will create the wrong perception in the minds of public. When the lawyer was putting some questions. He was told that he is putting a leading question and the judge has curtailed. The judge simply leaves the entire process of administration of court to the litigant advocate, litigant police public prosecutor. One particular aspect. The lady is saying never ever her husband was listening the Narayan Kamble or anything. Immediately the public prosecutor says she is nervous and I want to examine on some other day.

This piecemeal recording of evidence is highly deplorable and has been condemned in several cases recently in Vinod Kumar vs. State of Punjab. So these piecemeal recording of evidence and slow process of recording of evidence and granting adjournment at the whims and fancies of the litigants will very well show that court is not at all under the control of the judge and summing of all these things the movie court we are not agreeing with that. The negative things alone has been portrayed and the second question. Sorry madam it has been mentioned what steps you suggest to improve misunderstanding so we have construed it as understanding.

Dr. Geeta Oberoi: Because just now you have seen movie and you said no we have not understood properly the procedures are not understood properly. Anyone is assuming anything.

Participant: No it is mentioned improve misunderstanding

Dr. Geeta Oberoi: Yes of course misunderstanding cannot be improved. I am wrong. Yes understanding can be improved.

Participant: Either way madam, improve understanding or remove misunderstanding in this way we have construed this question.

Dr. Geeta Oberoi: Remove misunderstanding sorry for that.

Participant: To maintain uniformity and consistency in the court proceedings and to give fair opportunity to each and every one and while doing so there are certain areas we have to ignore but at the same time we discussed that it is very apt to give effect to section 89 cpc in the suit proceedings. People generally they have the perception I have a problem with my neighbor I want to go to court. Immediately his wife or relative says. If you go to court it will take 15 years or 20 years. I may be permitted to share a WhatsApp story which has been in circulation in recent past. A cow was running very fast in the jungle. Elephant was asking why you are running. Government has ordered to catch all the buffaloes. Then it is for buffaloes only why you are running. No If I am caught it will be 20 years more to prove that I am a cow. People are having that perception when cases are being taken up by the court it will take lot of years.

We have to first try to explain the litigant when they are appearing and we have to show in our papers that we are following the procedures of cpc when they are appearing and we have to show in our papers that we are following the procedures of cpc in letter and spirit and curtailing the adjournments and with respect to the third question do you think that time has come that Indian services of public relation says to clear wrong perception in the minds of general public? Why the wrong perception. Something when you are doing within your chamber or in court without making known to others then there is possibility of wrong perception. We are talking about judicial transparency now. So when the technology is improved and it improves the transparency vice versa.

All your activities daily cause list, adjournments, judgments everything is being uploaded in the net. Automatically the question of wrong conception will slowly come down. We may employ our staff as public relation officer and if required whenever we

have an impression that is a wrong perception in respect to some area. That area alone may be clarified through that officer. He need not give statement for each and everything, then it will take lengthy process. So we have to improve our technology. Now as our brother also said in many states sms system is followed very scrupulously and whenever a writ petition is filed sms is given to the advocate that your petition is taken.

If it is return automatically the message is given that your petition is returned. In many states invariably it is being initiated. So perception was in those days only. The things are changing very fast and people are able to know what is happening. While writing judgement we have to upload it immediately on net. If this practice is being done the wrong perception will go away. With regard to the fourth question work done statement and other things. This work done statement if uploaded on the net it also will amount to transparency. Everybody will know what has been done by this court. Some in-house person appointed by the district court to provide statements. We are preparing the work done statement and sending to our respective high courts. We can take a print out and display it on our notice board also. In each and every court if it is displayed people will know that this court has performed this much of institution, this much of disposal. And the same is with respect to treasury account also with respect to stamp and revenue. People say when a court is constituted near about 50 lakhs is being spent and people doesn't know how far the income is generated form the court it should have been made known to public also.

With respect to the fifth question a single word answer no. No Facebook it will lead to unnecessary questions. We will be answering to everything. If this is going to be done in Facebook automatically we can go down on streets, why the judges we are sitting in chambers. We are being differentiated from other department officers to show that we are not biased. When we started interacting on Facebook everything will go topsy-turvy. With regard to sixth one do you plan to set up complaint box for member of public. It is already there. In almost all the states. Periodically there is committee constituted of PDJ and the senior staff member and the president of the bar they open it and see whether there is any complaint and if so it will be recorded in the register and the action taken will be reported to the high court and if no complaint is there then also a letter is sent to high court that there is no complaint for the month.

Seventh question active role they are the real heroes. The bar police and prosecutor they are heroes in spoiling the image of judiciary. Not only judiciary everything. With respect to bar one of the member an advocate will simply come near to the dais, simply ask I request time your honor and going and say I was telling the judge but the judge is not ready to listen the case. So it is one method to be ideal and lazy the advocate will simply do this non-sense and go away. How the judge was moving in that movie simply adjourning for no reason. My suggestion is that we should raise our voice why adjournment call your party and I am not going to give adjournment. Purposefully if you do once or twice or thrice we can bring it down under our control. Police is purposely not making good investigation. Their investigation is for acquittal only and prosecutor is not giving good highlighting to the witnesses. What for he has come to the court and he is creating an image that the judge doesn't want to convict the accused in this case. So you have to be cooperative. He give wrong information to the witnesses also. The witnesses get irritated and annoyed. They think that this is justice. He is not doing his role properly. He is not opening the cases properly as contemplated under section 226.

So when the public prosecutor is not making the role properly if the public prosecutor is not doing their work properly, it gives the image of court only. He should give proper explanation to the witnesses that what he is supposed to say and what he is not supposed to say. We cannot be tutoring all these to the witnesses because we will be deviating from our own. In Madurai Tamil Nadu, the bar members they went to the maximum extreme level shouting slogans in the court hall of the chief justice itself just wearing a black cloth and taking that slogan shouting. So when these things are being allowed automatically there will be lowering of image. High court of Madras has brought the central security force and now things are under control. Police is not following the mandatory procedures as we have seen in the movie yesterday when arrested he is informing whether you have a reason to arrest. We saw the movie as far as our picture depicted to us.

He has not informed anything to the accused and simply he has taken him and put him behind the bars. He has not followed the procedures. So we have been instructed by the Supreme Court that such procedures are being followed and the reasons for

arrest is informed and he is got right to bail. He has got right to legal services and his relatives should be informed and while making the reminder whether he was harassed by the police. All these principles have to be followed. And the last one is we are in favor of making this local survey, bar survey, it is not going to take up our rights.

It will be an analysis by the critics and it can say where we are lacking but that shall be with respect to some reasonable limits only. They should not be allowed to take up entire rights in the guise of survey and other things. High court is there to monitor our performance. So this I conclude. Thanks.

Group 2: I have nothing much to say. Just I say about point number one and two. That was a good commercial movie at the beginning I thought but my conclusion is it is neither a good movie, commercially or otherwise also. One thing I noticed. The magistrate was so old but the session's judge was young. That may be the reason he did all these bad things in his court. He allowed unnecessary adjournments. Right of granting bail is an established law in our country that you have to consider the bail petitions in the light of rights or benefits. Ultimately he granted bail at the fag end of the trial that too after furnishing the cash security of one lakh. So commercially or so that was not a good film and some unnecessary and some foreign procedures adapted in this film in examining the witnesses.

How can there be cross examination without examination in chief. The main purpose of the movie was to show how the court procedure is being abused by public prosecutors, by police by other authorities while some people who are advocating some thoughts against the society in favor of the poor people, how they are harassed by the state. This harassment to that fellow was not by the judiciary, rather it was by the state and judiciary just contributed a little bit in adopting foreign procedures, illegal procedures, not being sensitive to the cause of the litigant, not being sensitive to the cause of witnesses.

Regarding point number 3 and 4 yes time is ripe to engage public relation officers. But we are submitting quarterly reports to the high courts. Where everything regarding institution, disposal, pendency, the reason for no disposal, remarks column it is already there. So what more we can add. We can upload it on our website. Otherwise also we

are uploading our daily orders, judgements and we can upload our revenue collection as well. We can make it known to the public what is harm. It is better for the judiciary that we are also contributing revenue to the government which otherwise the government pretends we don't have any contribution.

I understand the central government as well as state government consider judiciary as nonproductive organ. PWD, agriculture these are all productive organs but judiciary is a nonproductive organ. That is the common thinking of the central government. For the first time we could understand little bit in the 13 Finance Commission when the budgets are provided to the judiciary. For the first time judiciary is also a productive organ. Now judiciary is quite improving. It has improved a lot. Of course some areas are there some rules are there but we are still lagging behind and we have to improve. I just share one thing at 5.30 I was walking near the main gate. One of the security staff of NJA. He was talking with somebody by using slang words. 8 year has gone, my case is still pending in Jammu & Kashmir. There is a lawyer from Delhi, no work is going on. What is going on, I am not able to get my pension. I came back near the reception.

Then I met my brother from Jharkhand. When both of us walking that fellow again appeared. He was asking us, are you lawyer. No we are judicial officer. So still this is the perception about the judiciary what I gathered today morning. He is not getting his pension for eight years. How does he survive with his family members? So it is not that we don't have any room for improvement and it is also not that is happening in Jammu and Kashmir or in Delhi only. It is happening everywhere. We have to introspect.

The next issue is Facebook we simply reject this idea. That will create unnecessary complication, we will be exposed to unnecessary comments. We are just judicial officials. Let us concentrate our work on judicial work only. Next issue is complaint box that mechanism is already there. If we upload everything our data our statement what is the necessity of comment box. Already there is comment box maintained by legal service authority. People are at liberty to drop any comment there. Nowadays for last two months I work in the district judiciary I receive complaint every month fifty complaints, sixty complaints. Prima facie it appears to me that 99 percent complaints

are motivated complaints and I have been instructed by justice unless you find that there is some substance in the complaint, don't put it to me. Not more than 1 % complaints have substance.

Then the role of the bar, prosecutor, police, what we have seen in that movie also. We really criticize the bar and it is the fact. Some members of the bar are unscrupulous, they just destroy the image of the court. They are part and parcel of the system. If that destroy the image of the court. Ultimately they destroy their own image because he is getting respect from society as a lawyer because the institution, judiciary. If the image of the judiciary is tarnished ultimately lawyer have commanded request from society. Some members of the bar are very much respectful to the court to the judicial system. Bars are really teachers of the court. We have to be respectful to the bar members. It is not that always you have to criticize the bar members. Unfortunately there are so many seminars, workshops involving judicial officers, but there are no such seminars involving lawyers, police officers. Lawyers really they need adequate training. Why government of India or any authority really not thinking about it. The public prosecutor in some states are appointed through public service commission.

But in most states they are politically appointed. Those who are not accountable to anyone. Public prosecutors are not alone to be criticized because they are not provided with efficient office, they are not provided with funds to obtain certified copies of statement of witnesses so that they can prepare the briefs and argue the case properly. They are not supposed to spend money from their own pocket, unless they are provided very efficient office how can he run the office. They are not provided with basic furniture to keep the briefs. These issues are required to be taken up with the state government that you select lawyers through public service commission. Give them efficient office, provide them sufficient funds so that they can purchase necessary equipments and they can obtain certified copies of orders, certified copies of statement of witnesses and equip themselves and you be vigilant what they are doing otherwise take action against them. Suspend them dismiss them, frame some rules like that. They should be accountable but they are only accountable to their political bosses.

Regarding survey is already been done by the Supreme Court and high court. We are giving quarterly statement, yearly statement regarding institution, pendency, disposal, reason of disposal everything. That service is already there. Then what is the necessity of survey by other organs like media and other ngos. Nowadays the problem with the media is electronic media has to broadcast news for 24 hours. They keep on repeating and just manipulating those items. That is misguiding the society. There is no service required. What is service going on in Supreme Court and high court we oblige? If we are directed by the high court and Supreme Court for some more things, no problem with this we are sending so many information to the NJA whenever anything asked from the high court. We are timely delivering all the information to the NJA that is a part of survey. No more survey is required what the group 2 feels. I thank members of group 2 and what I may feel I may be absolutely wrong, pardon for that. We have to introspect where we can really improve, where we are really legging behind and nowadays we are getting very handsome salary, enough facilities also. We are grateful to the Shetty commission so we have to justify it. Thank you.

Group Three: Regarding first issue that whether the movie that was played yesterday portrayed the image of court. The answer is in negative. We never witness in a single court proceeding that the litigant asked to leave the courtroom. In addition to all those things that were pointed out earlier in addition to that we find out that the picture nowhere portray the image of the court. The second point that what step we suggest to remove misunderstanding about the court or the procedures adopted in the proceedings we have seen that all we can achieve by adopting the various means, various ways which bring transparency so more we will be transparent more misunderstanding will be removed. We have to understand that the court is for the litigants. As we will be communicating with the litigant there will be more transparency the misunderstanding may be minimized.

Regarding third point that engage service of public relation agencies to clear wrong perceptions. Our group finding is negative. No. There should not be a public relation agencies and rather any public relation agencies we conclude that our own staff should be there or instead of own staff, we appoint a court manager and they may be given this task if required. I fail to understand where the wrong perception is.

We are working on this in every court this type of statement we are working over, the balance sheet of filing a disposal, collection, every provision in the CIS, the Supreme Court is so caring all of us that the software furnishes systems, is designed so beautifully, that account provisions is there statement provision is there. You must have to understand the software. We must have to start work over that. If you start to work over the CIS perhaps several transparency will come and the system the court proceedings, the most important here is the transparency. As much we will transparent we will face less critics.

What role bar prosecutor police play in spoiling the image of the judiciary? This is twofold. Inside court, outside court. We learn lot of things from advocates also but they are creating problem at two level inside courtroom and outside courtroom. The problem they are creating inside courtroom we can handle it. We have provision on the contempt of court, we can regulate, but the certain problems they create outside the courtroom that certainly is beyond our control. One member pointed out that while visiting a jail she was informed by one prisoner that my bail is not taken up by your court that you are from Hyderabad and I am from Telanagana so my bail petition is not taken up by you and this is informed by our advocates. So these are the things what we can't control. If the same words were used by the advocate inside courtroom we can handle him by the contempt of court act.

In our high court adjournment is as old as our judicial system. No judicial system is complete without adjournments. How we can regulate it. I am telling about our own high court provisions. We have a general letter 363. Time and again it was refereed on judicial side. First time we are taking adjournment for 15 days only. Second time we are giving adjournment for seven days. We are regularly citing this. Maximum two adjournment, 22 days, no more. We must know the tact that how we have to regulate it.

As far as police is concerned you have dealt at length that how police is responsible for spoiling our images. Collectively our finding is yes. We don't find any harm. If someone is pointing out where we are right where we are wrong. We don't find any harm in that. I conclude and thanks to team members.

Group Four: Regarding the first question our group agrees that it was a not true portrayal of court proceedings at least we haven't come across any judge who conduct the proceedings like that in our district. I haven't seen a judge granting such a conditional bail at the fag end of the trial, examining the accused at the threshold. So this was not a true portrayal of the judge. Coming to the next question is very vital. I am coming to the second question. I think if we take care of that part, rest of the aspects will be taken care of by themselves. If we make court transparent, we invoke salutary provisions of the procedures, like order 7 rule 11, order 12 rule 6, examine the parties under order 10, 165 evidence Act, serve interrogatory. So we have the many salutary provision then give justice expeditiously. I don't think that the image will be tarnished. In fact the public will have an opinion that the court is working with dedication, the court is well prepared, the court means business and the impression about that particular judge is fair.

Dr. Geeta Oberoi: I am telling you an image question. I don't know who was the judge. One day I had gone to meet, in fact to see the summons branches, process serving agency. So I was doing some study on that. It was tis hazari and as I was going I could hear the judge shouting, we got so scared that whatever books were there I dropped it. There was one judge who was shouting, may be to accused, may be to litigant, I don't know. I got so scared. I am not a litigant, I am just a member of the public and I am just going to do some research and study but then.

Group Four: System comprises of various stakeholder, we have bar, prosecutor police so they have equal role to play there. I think more role to play because we are mute spectator, we can't participate, we can't respond so they are the one who tarnish our image.

Dr. Geeta Oberoi: That is why the question is that, is it time, 65 years we have stayed like that. As you are yourself admitting, all these four groups that I am seeing that people are saying that we need to be more transparent. All of you saying that. None of you are agreeing with the movie. But all at the same time has said that we need to be more transparent. How you will be more transparent. By putting everything on the website.

Group Four: Yes everything on the website and conducting the proceeding in the open court. Some judge are having proceedings in the chamber also. They do it there also. He will retire to the chamber do it administrative work and evidence is being recorded there in the open court. Lawyer do come and complain about this.

Participant: We have to improve the transparency. Today I have posted a judgment in civil suit. Am I pronouncing the judgement in open court or not. If I am sitting inside my chamber and signing the judgment and the party will be waiting outside. He will be waiting for judgment. He will never know whether I have pronounced it or not. At seven o clock he will leave and say that today no judgment I don't know what has happened.

This system at the end of the day as the last work the judge should take up the case for judgment. If these kind of things implemented effectively the transparency level will go higher.

Group Four: Our group was of the view that there is no need of Facebook page for interaction with the general public. So far setting up of complaint box or feedback box is concerned. In Delhi we have public grievances committee which comprises of very senior officers of the ASG, ADJs. They convene a meeting every fortnight and the decision taken by the committee. So far as the role of bar, prosecutor, police they are the important stakeholder in the court system. The other group leader has already said about it. I have heard advocate saying, look you have lost the case because the judge has not prepared the case at all and if the decision is favorable, he is the judge who is very good. And then we have seen the case. Strike continue for days together and then they blame the judges.

Lawyers has a direct interaction with the litigant they say we work hard but the judge was not prepared. It is the judge who has adjourned the matter because he is not prepared. I have seen the prosecutor. The prosecutor is reading 161 statement in the court itself. He doesn't know what the witness will depose. So it is wasting the court's time. The court is prepared the prosecutor is not but the litigant will not understand. He will say that judge has adjourned the matter. If the judge tells the prosecutor in the open court. You ought to prepare for the case, otherwise you will damage the case then litigant will understand it is not the judge, it is prosecutor. Likewise police slipshod

investigation and then the judge is blamed for the acquittal. How many acquittals are there in the trial we are asked for the information? So much depend on the way the investigation is carried out.

Next is regarding local surveys, bar surveys, we already subjected to survey by the high court? We are accountable to the high court.

Dr. Geeta Oberoi: When you are in a job in any job, you have to report to your higher authority. That is not survey. Survey has to be conducted by somebody who is not connected to us. I am working I have to report to the chairperson, I cannot say I am not answering you because I am not answering you because I report to him. That is my job and I have to report to my senior. I can't say I am reporting to my senior so you are just member of public who are you.

Group Four: So let them conduct a fair analysis of what the judges are doing. We are not against it. We cannot control it. There has to be some fair criticism, it is not with a view to tarnish the image.

Dr. Geeta Oberoi: I have heard all of you and some very important point has emerged. I just want to clarify that when we are reporting to high court or Supreme Court, we are reporting because we are part of the system. Our system is hierarchical system. It is pyramidal hierarchical. Magistrate I am sure report to PDJs. But the magistrate can't say to any litigant or to any member of public. Sorry we are not giving you any information. We report to PDJ that is all and PDJ cannot say sorry because we send our monthly performance system and everything to high court so who are you. What we are reporting to high court is our performance, our job and even the right to information act because most of the time when you people are linking these transparency issues you all are linking it to RTI Act. RTI is totally different.

They can ask you what are you doing with respect to this, what are your assets where are you going. When we are saying about survey as it is conducted in other countries. Survey is about your trust and confidence in the system. Survey is like that. I will tell you what the question is. You have a problem with your neighbor. Will you approach to nearby court or nearby police station? Survey of a government hospital or localized

hospital you meet with an accident will you approach a government hospital or will you look for private hospital. It is not actually approaching your court or having experience. Survey is not with litigants, if tomorrow you have a problem, in family matter property. Will you like to go to a court nearby? That is a survey we are talking about.

Participant: Survey is about some commercial working that is a different thing. A system already accountable and somebody who is not part of the system is being asked about his satisfaction. It should be advisory what improvement is suggested. What is his dissatisfaction, what improvement is suggested it is already there?

The the improvement factors, if it is not within the institutional level. So extra agency like government infrastructural assistance is necessary they shall also be provided. Without providing the infrastructure assistance, only commenting about the lapses will not be of any use. Concentration shall be multi folded with regard to effort, with regard to reasons with regard to advises also. Only the problem aspect, only the lapses aspect is being concentrated. I can understand if it is a financial institution, making survey for its product TV or cellphone or something. It has its own resources, it can improve. That is not a situation as far as judiciary is concerned.

Participant: Most of the time with negative mind surveyor approaches to the court and he is only interested in fault finding. But prior to finding out the fault he must know the procedure, unless and until he knows the procedure, he cannot make a proper survey.

Participant: Are you in favor of allowing local surveys, bar surveys in the mind of non-judicial members. We are inquiring some persons from the judicial system of other district, have you got any feedback of my district. This is somewhat we ourselves are doing wherever it is quite natural. If you have any friend in bar. He is good friend of mine, he is practicing in some other district, he may be telling about that judge. This judge is good ok fine. This is small survey which we ourselves are doing for our personal satisfaction. Normally it is being done but in the case of non-judicial members that has to be classified. Who are non-judicial members? How far they have interest in judiciary. Without knowing the court procedure if they start making the survey, what will be the impact.

Participant: Regarding survey, it has got two aspects, let us take a positive aspect. Survey and data enhances the capability of persons and creates a competitiveness among the persons. Do not forget the negative aspect. Independent agency is surveying the data. We are talking about transparency. Our transparency should not be stopped by the unscrupulous service, negative data, and the person whose integrity is doubtful. So we have to find out the balance sheet.

Participant: One case was Nirbhaya case, most of the people were saying regarding juvenile. Law is not permitting. Public conscious is beyond the law and may be it is taken as a survey. Public is against the court. So far as transparency I would like to add.

Dr. Geeta Oberoi: Case wise survey and decision making process I am not thinking about those surveys. I am thinking about survey is like will you oppose when you have a dispute.

Participant: We are delivering justice. We are doing justice.

Dr. Geeta Oberoi: For example somebody slaps me, will I go to police station or will I led to slap him back. Do it then and there rather than going police station, file FIR and wait for police. Because if I have a confidence in police station, they if you slap me, I will go to police station, no matter it will take time.

Participant: In Nirbhaya's case most of the people were thinking that the Supreme Court will give some relief. Is it expected to go beyond the legislation? It is also one example of survey.

Dr. Geeta Oberoi: People coming on street is not a survey. People taking law into their hand is not a survey. Survey is not like that 10000 people come to your court and decide like that. Survey is like asking people that if tomorrow you have some issue will you trust the institution to solve your problem. That is a survey, we are talking about image. For example I am a tenant and you are landlord.

That is a survey, we are talking about image. For example I am a tenant and you are landlord. I may bring 50000 people to influence your decision. This is not a survey, this is trying to create a pressure point. Survey is just to understand that whether people trust us.

Participant: So far transparency is concerned, it is still in court, it was in the court and it was being performed, now it wants to be publicized only and it may be fulfilled by effective implementation of Central Informatics System. This will solve all the problems and most of the questions may be answered by effective implementation.

Dr. Geeta Oberoi: Many district judges when they give bail or they decide anything, or they convict or they acquit. If you see local newspapers, wherever you are, articles comes, how does that comes. Sometimes they say so many things about the judge. Survey you have to engage the services of some researchers.

Participant: Yesterday we were asked to fill the questionnaire form for self-assessment. In that manner only, I think survey can be done.

Participant: Probably you mean to say that survey is scientific analysis of data. If that is so we must true.

Dr. Geeta Oberoi: I am not even advocating any survey but in other countries surveys are done to assess whether public, citizens around, for example if it is local court, they try to do survey in all countries to understand whether there is public trust and confidence in the system. Courts themselves do that. You are linking the survey either public criticizing Salman Khan or public in favour or against Nirbhaya. Public pressures or public perceptions are not surveys. All court publish newsletters and district legal services authority also publishes newsletters.

Participant: Recently we have been instructed by our high court to publish court news in respect of district also.

Participant: What is your opinion? We are not against surveys but institution of judiciary is under attack from all corners, from politicians, from media, you see the reporting of our channels and see the reporting of BBC. In BBC you won't see bragging news. But in our every day we are seeing a girl is raped by the accused and that becomes the

breaking news for these bloody channels. She was 100 times raped by the media but people cannot understand. This is the irony of India. They want to corner this wing judiciary which is properly working.

Dr. Geeta Oberoi: You should yourself do the survey rather than anyone doing and influencing you to understand what is the perception of fairness about your court. What image bar has about you about your whole court complex? Are they happy with the infrastructure?

Participant: That survey will be biased survey. The person who get in his favor he will say. Advocate who gets his client bailed out or gets his client acquitted he will say judge is good otherwise he will definitely coming out of the court and will say, he doesn't know.

Dr. Geeta Oberoi: In a district court complex there are 22 to 30 courts, so many courts so when you are doing survey about the whole court complex. You are not doing individualized survey that tell us about this judge whether he decided the case correctly or not correctly.

Participant: That depends on the fat of the officer also. You have to agree with this because in one court things will go very smoothly, in the other court the lawyer will be continuously rubbing with the officer. At the end of the day when you see the report, at the end of the month what is the quantum of the disposal. This particular officer would have given low number of judgment so by influence by the survey he himself will try to motivate and give more number of non-qualitative judgements. When some good lawyers appears things goes smoothly.

We have to talk more about surveys. May be I need to bring some examples before you I will try to do that. Meanwhile what we will do. We had a group discussion and I really liked that Facebook group of judges. All of you will interact with each other. We will continue what we will do you will take a tea break for 10 minutes if you dont mind and then we will come back at 12.05 and we will have a session by Mr. Atul Kaushik, Joint Secretary in the Department of Justice and he has got some ideas on Facebook and he will share with you.

SESSION 7

12:00 PM – 01:00 PM

Technology Integration

Mr. Atul Kaushik

Mr. Atul Kaushik: Can I take five minutes for the issue I have from the earlier session. I was sitting and listening to all of you. There is a division of use, diversity of use amongst the judicial officers and the high court and Supreme Court judges about whether we should have audio or audio video recording of case proceedings. What is the view of this house? Who would like to have the audio video recording of his case proceeding? Wherever you are allowing the general public to be in the court room when proceeding is going on. About 20 of you would like audio video recording. You have to go to the high court to get the order. I am asking whether you would like it as a part of court rules for example. Who is against only 2? Are you also against audio recording? Not audio video but only audio recording. The law is job of parliamentarians, we are just giving the suggestions for the discussion. If the law is amended to prescribe audio recording you are fine.

If we have to introduce audio recording as a matter of procedure for every case, you are saying if the law permits. If the law is changed you would rather like the law to prescribe audio video recording.

Participant: I would also like audio video recording because it will speak everything demeanor, only audio recording may suppress so many things.

Mr. Atul Kaushik: I am not talking about transparency yet. Audio video recording will be the part of the case record. The next step would be what to make of this that is a different issue. Mere audio recording if it becomes the part of the case records can actually harm rather than help. The appellate court who look at the evidence that has been generated in the trial court and therefore if the law have to prescribe something it should be audio video recording so that the demeanor of the witnesses, the demeanor of the judge, the manner in which the lawyers try to introduce suggestions

which were more of threat rather than suggestions. There are so many ways in which smart advocate try and fix evidence. So all that should be captured and can be captured only if it is audio video recording. So that is one the house thinks that audio video recording should be there, only two of them says that it should be there only if the rules provides so and all of the say that is there is an order of the high court as happened in West Bengal then there is no problem. Why do you say that the law prevents it? Because the appellate court does not know the demeanor of the witness, the demeanor of the advocate, the manner in which the advocate fixed the advocates.

There are certain benefits that the appellate courts can have out of audio video recording being a part of the case record and all of you are in favor of it. There are two aspects of it. One is about justice delivery and the other is about reaffirmation of the integrity of the judge himself. I am at the moment limiting myself to the justice delivery. We receive grievances everybody every lawyer send us a copy unfortunately for us we can't do anything about it. Some of you your complaints would have come and on the mere reading of the complaint I would have found that this guy is trying to take advantage through a complaint for a case. How whether audio video recording can help in justice delivery, not on how complaints are handled. Even in justice delivery a point was raised that you have passed an order.

The lawyer in his appeal makes insinuations which are not true and there is no way to know it because there is no recording of the event itself. So you say it helps because you would be able to show that I did not given the date this was the fourth adjournment. Therefore I had to give the adjournment. I had to get the main examination fixed and tell him to come next day or whatever the case. I am asking a counter question everything is unnecessary unless it is prescribed by the rules. If I sitting on my desk as a joint secretary in the department of justice, I receive 20 files. If the rules don't prescribe to dispose of those 20 files, I would rather not. I would rather go and play golf. So let us turn the question around. The question is not whether it is necessary or not. The question is whether it will help justice delivery or not.

Firstly what happened in respect of parliament and assembly will same happens go for the courts. As far as video recording is concerned, there will be more exhibition, now they have restrained to limited things. Now everything is being recorded the want

to have record of what is being presented and politicians playing smarter than what is necessary. They will like to have the record of their excellence.

It makes everybody transparent and that allows people to play to the gallery. Can I say that audio video recording will reduce the discretion of the judges?

The intended objective will be defeated certain things will not come on record for decency sake and for other things sake and indecent question is put to the witness. I am sitting as a judge no such question is permissible. Even before I doing that it will go on record. That is the legislature intent. In the exercise of your discretion on whether some evidence being preferred in terms of asking an indecent question to the victim is material evidence or not. You are deciding it is not material because it is obscene. It is the legislature's intent not to have that obscenity recorded. They want that and the demeanor to be a part of the available evidence for the judge to be able to decide who is right and who is wrong. The one point is that certain obscenities may creep in. Are you not taught to have an impression oriented judge subject to precedent supporting you? When you hear the parties you get an impression and then you want to fortify that impression to precedent and that is all you put down in your judgment. Isn't it a part of training to factor that impression into your adjudication.

Participant: I will go according to material and law. But the material is based on impression also.

Mr. Atul Kaushik: Yes but the material is based on impression also, that precisely your objection to audio video recording. So you decide whether this is relevant material or not.

Participant: while the advocate is maintaining the self-respect at the same time what he will do knowing that the video is being recorded he will try to provoke the judge.

Mr. Atul Kaushik: Even we are trained not to be provoked, only parliamentarians are not trained. The appellate court will factor that into its decision making. Do you not have to take into consideration the demeanor of the witness?

Participant: There must be some checks and balances like in lok sabha and Rajya sabha.

Mr. Atul Kaushik: That leads to the second aspect of it, why should we not also make it open to the public at least for the high court and the Supreme Court. Do you really think that the parliamentarians are artificial when they are making those points? The fact that the parliamentarians are leveraging. Parliamentarians are leveraging it to their advantage. You are the judge to decide whether the opportunities has been. Whether it is a justiciable opportunity which means you can disallow it. Whether that opportunity has been leveraged for something else and therefore you can factor that into that decision making.

Participant: Sir as far as this issue is concerned which you have told now.

Mr. Atul Kaushik: Probably this proposal will never see the light of the day. It is hugely costly. Running audio video recording of the Rajyasabha for 8 hours cost same as running a court establishment for one year. But nevertheless on principle who is against that audio video recording public. One possibility is like it was said as somebody ask it as part of RTI you give it and the other is we get so much money become so rich we actually webcast it. So who is against that? The house agrees that audio video recording is good for justice delivery, transparency through audio video recording is a good thing.

Now move to technology integration. Technology offers a court crucial commodity, information that can help justice agency better and quicker decisions and trap [case outcomes. So both as part of your administrative functions as a PDJ or head of the court establishment and as a judicial officer. One key input that you need to discharge your duty is information. So let's take administration. How do you collect information, for your administrative purposes today? I am making the collective version which means that all administrative issues. Whether you have the reports that you have to send to the high courts, whether there are reports that you have to generate yourself. Whether as PDJ you are assigning cases to different courts, whether you are assessing the performance of judge working under you or staff under you. You have to give an information every month of the institution and disposal. Is your SO doing that or your court staff doing that? How many people you have in your statistical branch. Generally there are two. How the statistical officer get the information from each court. So 40 people in the court spending part of their time, getting information

to these two statistical officers and these two statistical officers sending it through you to the high court. If all of this can be done by the robot. Will that help you?

So have to have somebody in each court who can plug data correctly in a system. Will it help? I get a feedback from court managers that the court staff does not want that to happen because apart from the judicial officers the court staff also exercises discretion in giving and using and disclosing information. I did an exercise of 185 cases all over the country of members of parliament, members of legislative assemblies, who were facing criminal cases of potential imprisonment of three years or more and I found that out of 185 cases, only 90 were reflected on NJDG. Even for example your district is totally computerized, unless that particular MLA was lucky to be in those two, I would assume that his case is not been uploaded.

Participant: Yes sir you are right. Sir I have recently come across a matter in which one court official has been promoted. My vigilance branch gave a report, no vigilance inquiry is pending against him. Despite the fact it is computerized. I personally knew about an inquiry, inquiry was pending with administration and the vigilance branch was not giving that report correctly and he has been promoted.

Mr. Atul Kaushik: Do you agree what she is saying is a fact

Mr. Atul Kaushik: Do you agree what she is saying is a fact. Hampering smooth court administration in your courts. You are supporting the rest of us. First answer is that you want information, the information can be given to you by robot, that robot is technology, if technology is integrated the only thing which you lose is some of the bribe that your staff is taking. This is a guy who has written a lot on technology in general and in one of his books in 2004, he had a chapter on court and this is what he wrote:

"Technology is a powerful enabler that can empower courts to meet core purposes and responsibilities, even while severe economic pressures reduce court staff, reduce hours of operation, and even close court locations. To harness technology for this purpose, serious efforts are needed to examine process-reengineering opportunities, and courts must plan to

(a) migrate from document to content management and

(b) initiate customer relations management

to improve the quality of justice, access to justice, and public trust and confidence in courts as an institution.”

Use of Technology in Courts in India

- GOI with NIC's help has been computerising courts at all levels since early 1990s
- National Policy by eCommittee in 2005 launches eCourts Project
- Policy Document on eCourts Phase II in 2004
- eCourts Phase II launched in August 2015

If you have a system which 90% of you I can vouchsafe do not have, that any activity of your court will be entered into the robots information bank only once. It can be faxed from wherever it is already been entered for all other purposes also which means that the generation of your reports is dependent upon the single data entry if the data could be entered is the same across reports. You are asking your statistician to each of the 40 judicial officers of their courts to send that information in 40 different formats. If there are 10 reports that are waiting, 40 courts are giving you input out of the report let us say each report has 10 columns.

There will be on an average five columns which are duplicate. So your court clerk is correctly entering that duplicate information in your format every time that he is filling a report he will not have. That's a little different here than the US, so I will not say it is very applicable. Here you want to have a court establishment or not is decided by the high court. You have a technology for this purpose. You need to examine the process. There is process re-engineering exercise going on all over the country. Courts must plan to migrate from document to content management.

Example I gave of 10 forms, 10 columns in each forms is 10 documents. The example I gave of duplication of content in respect of 5 of those columns in each of those forms is content. So if you have the content at one place document can automatically come out. If you shift your focus from the document register, folders, suppose you are a DSG, you are handling both criminal and civil having two separate heads of staff all

that is documents. You are generating plethora of documents and they are coming to you in different files, the same information repeating itself in a number of files.

But if you do away with that document, I know you can't do it, I can't do it, high court rules have to change and for that process exercise is going on. If we remove the requirement of the documents and insist on the requirement of the content then the only care that you have to tackle is that nobody is giving wrong content. The data entry is accurate, complete. Can you think how much time you will save if you have to look into these two things at one source? The source is where data is first entered. All your document management can be robust enough, even more robust.

eCourts Phase I – Project Status

Project Module	Status as on August, 2015	
	No. of Completed Courts	Percentage
Sites Ready	114,249	1100
LAN Installed	113,606	995.5
HW Installed	113,436	994.3
Software Deployed	113,672	995.9

- The e-Courts portal (<http://www.ecourts.gov.in>) is operational
- 511 District Court websites operational

- Case status information in respect of over 5 crore pending, decided cases and 2 crore orders/judgments available online
- NJDG open for public view

National Judicial Data Grid (NJDG)

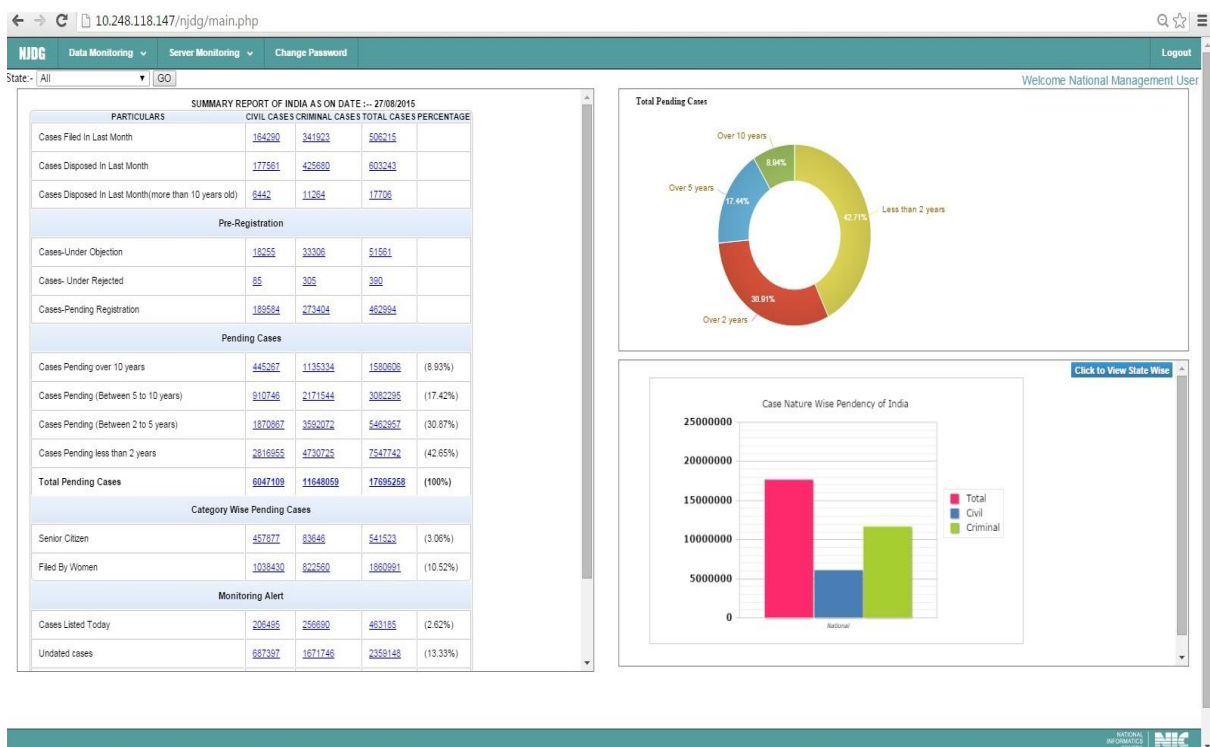
- ❑ The aim of the eCourts Project is to leverage Information Technology for making case handling more efficient and better court management. This is planned to be achieved through universal computerisation of courts and connected to the NJDG
- ❑ NJDG
 - Provides case data for all courts across the country through a web portal on almost real time basis, with a dashboard and drill down facility to reach the case details in each case
 - will help to ascertain the number and type of arrears in every court in the country for a better judicial monitoring and management

NJDG ARCHITECTURE

NJDG dashboard provides updates on

- ❑ **List of Courts**
 - Number of Courts
- ❑ **Number of Cases**
 - Data Migration Status
 - Total Number of establishments
 - Pending age wise
- ❑ **Summary report of Courts**
 - Status of cases
 - Case wise pendency
 - Case age wise pendency

Home screen of NJDG



e-Courts

Application S/W CIS Details

No. of Menu Items	:1245
No. of Data Entry Forms/Reports:	590
No. of Captions	: 8011
No of Functional Behaviors	: 54

Menu Items with Behaviors : 214

Progress so far

- The software has been installed at 13672 courts
 - NJDG shows 15562 courts-why?
- These courts are uploading data on regular basis
 - Who is monitoring?
 - Pending cases 2.06 crore on NJDG against 2.6 crore based on manual inputs from High Courts
- Migration under process in Madhya Pradesh and Delhi
 - Fix timelines for migration?
- Campaign to reduce undated cases
 - Who is monitoring?

e-Courts

Status Today

- eCourts Services portal (Accessibility compliant) available
- NJDG – Courts Intranet interface available
- NJDG – Public Interface launched
- SMS Module Launched and implemented in many districts

Training (Capacity Building) Phase I Completed

- 8 Faculty Members
- 240 Master Trainers (DSAs)
- 4100 (System Administrators)

Information available on NJDG

- Data in respect of more than 5.75 crore cases
- 2.14 crore orders/judgments
- District and subordinate Courts under the jurisdiction of 22 out of 24 High Courts [512 districts, 4777 establishments, 16841 courts]
- NJDG has been linked to etaal.gov.in and is showing 22.47 crore transactions as on 5th January, 2016, third highest in all Government

I have been asking the e-committee of giving me very simple answer. How many courts do we have in the country? How many functional courts do we have in the country? The CPC get that information from the same high court, the high court get that information from the same districts and provide it to CPC he give me one figure. That figure is 17000 something in terms of sanctioned, 15000 something in terms of functioning. Then I asked the registrar general please tell me how many courts do you have. The RG has the most authentic information of the high court. If you have a dispute in your court between what the CPC has given and what the RG has given this figure is 15300, now where are these 600 or 500 courts that the CPC knows about and the RG does not and both are sitting just two rooms away in the high court?

The CPC has given me one figure the RG has given me another figure. The reason for this is that CPC and RG are focusing on the document and not on the content. E-court project has to provide hardware to all courts. Our objective is universal computerization of the courts of the country. He will first put that challenge before you. OK what are your definitions? What does this column contain, then I tell what field I can generate which the data entry operator will fill for the content. So this is how technology integration into courts will solve lot of things for the courts.

The second is initiate customer relation management. Dr. Oberoi was bedeviled by your opposition to transparency. Because she as a layman felt what is wrong with transparency, why even they dont want to self-evaluate. It is because you dont have the responsibility towards the public. You have the responsibility towards the litigant. Your self-actualization need is fulfilled when you do justice in a case. You been a good judge. You have a fair idea of why the losing partner is giving complaints against you. There are ways in which this can be done.

He told the chief justice of India is to look at an assessment method that has been established over the last 13 years as a robust measuring mechanism by the international framework of court excellence. This is all statistical. If we agree that evaluation is to be done we can find how and why evaluation can be done. There the difference will only be your self-actualization needs will not going to be satisfied. If the Member of Parliament knows that judiciary has come up with the scale on which it has assessed itself. It will bloody well agree to that assessment and it will then have to use that assessment when talking about justice delivery.

Image of the judiciary has been considered important in all developed societies. I was with 19 different jurisdiction in one course. Some of your high court judges were also there with us. It was very strange that all developed countries and Singapore immediately raised their hand when they said that is the image important or not and all developing countries raised their hand that image is not important. When the government of India in the new dispensation.

The NDA government started this ease of doing business exercise because we felt little ashamed that in terms of enforcing contract this is the only index which adjudges our judicial performance. We were 184 out of 189 countries assessed. As a department we felt ashamed when we were sitting in the prime minister office and we found that we could do little except with the support of the judges. So for you enforcing contracts means, the litigant gets justice. For the World Bank enforcing contract means there is an image of justice being done in the society. We have influenced the laying down of parameters, maybe next time we will get a slightly better rank. 2016 will certainly give us a better rank because we have tweaked the way World Bank assesses us.

They just took Bombay and Delhi district courts and looked at some of the cases. They talked to some lawyers, they talked to some litigants. The more important is how to fix the image. Whether you like it or not we don't have a good image as a judiciary and it is not limited to us. Kenya, South Africa, Yuganda has a very bad image, even Thailand has a bad image. South Korea has a very bad image. So if we want to use technology to prepare a fair assessment methodology for us, we can improve the image. Even legislature give credibility to assessments which apparently are fair. Why can we can make a fair assessment of ourselves? These two are the reasons why I think technology needs to be integrated to the court fortunately the Supreme Court thinks so, the high court thinks so and therefore we have eCourts project.

Out of the total budget of the country, not even 0.5% is spent on the judiciary. The infrastructural poverty which you see at the munsif level, the staffing pattern granted in the year 1970, thereafter 60 new enactments are made, for all the enactment it is made as a special court, 10 or 11 special acts are being added and the work of that special act is being entrusted to one court with six staff members sir. Can we expect the required international standard?

Mr. Atul Kaushik: Then who is responsible for this. If you had done that study, one of the recommendation of that study would have been, don't expect us to improve the image unless there is a judicial impact assessment of any legislation prior to going to the court. Let that come as a recommendation, let the MP struggle how to tell the government to give more money. There is a study which is why our image is not correct, it has got nothing to do with my integrity. It has got nothing to do with how much hard work I have put in in my career. It has nothing to do how I can overcome challenges that I am facing in the court.

It has to do with lack of basic structure, whether it is infrastructure, technology, whether it is outcomes, whether it is evaluation. I will give you one example. When I joined the government there was a project going on access to justice with the support of the UNDP, in the middle of my dealing with that subject. It was a small project so obviously we could not make a big change in access to justice we could only do some pilots as a demonstration and tell the court that this didn't succeed, thrash it, this succeed why don't you emulate it.

We thought let us do an evaluation of how legal service authorities functions. Justice kabir was the chief justice of India at that time. He was amenable to do that study. We did that study and came out with the report. 90% of what you said just now was a set of recommendation of that study. But 10% was critical of the way the district legal service authorities correctly function, the way para legal volunteers are being trained, the way the panel lawyers are being selected. The way cases are being given to panel lawyers. Now that 10% criticism is the reason that although the report was accepted by all the executive chairpersons of state legal services authorities and the elected chairperson of the national legal services authority and the Chief Justice of India on the 20th of October, 2012. That study has not seen the light of the day. Therefore introspection is a must. Let's admit the 10% to gain the benefit of image building out of 90%. We haven't done that.

Participant: Who is going to do the study? I am talking about the evaluation of judges. It is the media or it is the judges.

Mr. Atul Kaushik: The judges. The judges will set the framework for evaluation. The judges can't do the evaluation themselves because they have to run a court. You have

to outsource. When we were finished. I did an evaluation. It was very difficult. There is an organization called national council of applied economic research in Delhi. It is very credible organization so far as the economics ministry of the government of India is concerned, so far as state governments are concerned. Lot of government bodies got lot of research done from NCER. So we asked them to do a study on what is the state of implementation of the e-courts projects. What is right with it what is wrong with it? What can be done to address that wrong? In order to get answers for that they had to talk to judicial officers, litigants, lawyers, vendors, maintenance people to get the answers. They got the answers from everybody except judges. Because the judges said, yeh questionnaire kisne diya hai, kis judge se puch ke aye ho and they don't even meet. The clerk says that Shab ko dikhaya tha, sahab kehete hain jao. We had to tell Justice Lokur.

Justice Lokur had to tell the chairpersons of the high court. I don't know whether you got the instruction or not. Finally these instruction went down from the chairpersons of the computer committees, who had consulted the full court before sending those instructions. They went to the individual judges and judges very happily filled up the questionnaire. But they didn't do it themselves. I didn't do study myself, but you set the rules of the game. The e-committee set down and Okayed each of the questionnaire before we told the NCER to go ahead. So the rules of the games were set by the Supreme Court for the study and we have got wonderful suggestions. Those suggestions have factored into policy document. All of you know, your PDJs all of you are there since 1990s as judicial officers. This is what we did at the end of the project.

I cannot vouchsafe for the actual data in the NJDG about each case because I am not sure how the data entry is happening in your courts. 5 crores cases are now available to the public, not only to you and me. All of your cases right from the day it is instituted to the copy of the order if it has been uploaded is now available anyone in the public. Imagine the amount of information that you get out.

In phase two I am thank Justice Lokur who has done an excellent job of repeatedly discussing brainstorming provoking your high court computer committees as to what is wrong with the project, to come up with the second phase. I didn't expected that a Supreme Court judge would either have the time, or the inclination to do this. He is an exception to my general rule that your self-actualization needs do not get fulfilled

to justice delivery. I want all the feedback possible to make at least phase two to happen well. So some of these only I will just point out as a continuation of my argument of why technology integration is not only helpful, not only important but is an inevitable devil that you have to accept and benefit from. We are going to give handheld devices to your process servers. If you go to a typical case in the trial court you will find that first three to thirty dates are on service.

This is huge data, it will take lot of time to do a full study. I have collected anecdotal evidence from the NJDG data to find that the median time taken for service is seven hearings. Most of your high courts have told you not to give a date of more than one month. Even than you are spending the first seven months in service, imagine what would happen, if this seven months is brought out to one month to the total disposal. That is the process.

We find answers to these individual processes. I am talking about the concept. Forget the process server for the moment if the seven months can be contracted to one month imagine what will happen to the image that you have of having 6.24 crores cases in your courts out of which 80 lakhs cases are more than 5 year old that is your image today. The subordinate judiciary has this image of having 80 lakhs more than 5 year old cases. So we are giving them hand held devices. This is one solution there are other problems. The manner in which your court staff and the lawyers are fixing service will be removed by about 80%. In 8 out of 10 cases, the fixing will not happen. Second is process re-engineering. we started in the first phase. So it is not something new, we failed why still anas and paisa's are there in your courtroom.

You have to change certain procedures, why you need 20 manual registers when content can generate report. Why cannot one content generate all the reports? Now in the second phase what the high court did was to give us inadequate reports. Ranging from one high court sending us the court procedures and saying that our RG has approved that it is the court procedures to other extreme where one high court send us one page of 8 bullets of why process re-engineering is important.

So neither answered the question have you PR, have you made some changes. Now Justice Lokur have found people whom he is working with. We have collected whatever high court has sent us. We are working on all the case nomenclature,

collected from the high courts, on the case type we collected from the high courts and we are trying to see how we can make them, not only harmonious across the country but also to see how they can benefit from automation. The third is we are giving digital signature to court staff. Today how many of you will accept an appeal which has appended to it a judgment that has been downloaded from your district court website. You will accept, not the digitally signed ones. If the judgement is not digitally signed the two crore judgment that I mentioned, only about 13 lakhs of them are digitally signed. All the others are just uploaded.

I am talking about those courts who have not amended their rules to accept the uploaded judgement. There are some courts which have made a rule that you will not upload unless you have signed but some judicial officers don't have digital signature certificates. Some of the judge's don't know how to operate it.

We are shifting all data on to a cloud. Today you are maintaining your data in the servers of your court complex, then it is being linked to the state data center and the data is being collected. You have to maintain the server. If there is a connectivity issue you have a problem. If the light goes out there is a problem. There are lot of issues. We are creating a technological mechanism where data is being entered. It is also being entered in a national data center, where we have put a number of servers. All those problems can be facilitated because data as it is being entered is also reaching the national data center we are spending 70 crores on that.

How many of you have not heard of eCourts? Suppose your son or daughter comes and asks what is macabre you don't know you don't have a dictionary at home. Have you ever googled eCourts. Those of you who haven't gone to the eCourt website if you google eCourt you will get website. On the eCourt there is district service item if you click that you will get an icon called NJDG. The screen telling you how many courts/establishment are generating data on the grid. So currently there are 16000 something. Secondly you know how many total pending cases are there. Out of the 2.64 crores of the cases pending in the district and subordinate courts. 2.06 crores of the cases are already off the grid.

Only Madhya Pradesh and Delhi 16 courts of Karkardooma are not on the grid and some of the courts having connectivity problems. There are some courts which are not

uploading data because of which we have only 2.06 and not 2.6 crores. Very soon it is a matter of months. All these cases are going to be on the grid. So you will have the total number of cases how many of them are two years old how many of them are 5 years old. That comes on the front screen of the NJDG. So as a PDJ sir, suppose you want to know how many cases more than 10 years old are there in your establishment. You click here and you will get the state, you click your state you will get the district, you click your districts you will get the courts with the names of the judges, you click the name of the judge, you will get how many cases of more than 10 years are pending with him. After that you just pick up the phone. He will give you legitimate answer but he will also realize that out of the 20 cases that are listed against him. May be 10 can be expedited.

Secondly if you are the CJM, you say sir institution itni ho rahi, mein kya karoon. You will ask him how are you saying do you have a list. He will go here. He will click to his district and he will say sir meri itni institution ho rahin hai itne mahine mein or itni disposal ki hai maine. I am contributing to the depletion of the arrear. He will give that answer. Then you probably have to see how many of these disposed cases are actually transferred to another court. These things you know better. At least go and see the information.

It will also tell you how many cases are filed or defended by women, how many cases are filed and defended by senior citizens. It will also tell you how many cases you have given dates which are more than three months from the date when you give the date. When we started giving this data, we found that 67% of Patna high court subordinate courts have given more than 3 months old cases. Justice Lokur, how many of you know him, he picked up his ipad, looked up the data, picked up the phone, told the computer chairperson of the Patna high court

in so many months. Hell broke loose in Patna. Those of you coming from Patna might have experienced that. Why don't you become Justice Lokur, each of you whenever you have given your dictation for transcribing, the steno is sitting there you dont want to go home till you sign. Just call a meeting the next day. Tell them can we do something about this. This management can help. It is lot of hard work. This is jargon so I don't want to carry any misconception. This jargon is basically telling you how much of effort has gone behind the creation of NJDG. So Delhi calls criminal appeal,

cra, Jharkhand call criminal appeal CRA in capital, Andhra Pradesh calls it CC but all of them are same case type. So at the back end this robot had to get the same meaning, ascribed to all the three, so he created a software program where all of them got same count, generating the same output in terms of number of criminal cases. This machine is taking care of 1245 menus, he is taking care of 590 reports, none of you PDJs has gone beyond 59 reports, you can generate 590 out of the same content. There are 8011 captions. When he opens the screen the data entry fellow he looks at the screen, on that screens there are some fields.

In that filed there is something written, name of the case, date registered, date filed, advocates name, advocates 'mobile number, section acts first hearing, ext. hearing. So all these are feeds, some of them have an astrix which means unless you fill the blacks after the field you cant go to the next item. There are 8011 data we entered for you to get that one dashboard. There are 54 number of functional behaviors. I call a report X in Delhi, Jharkhand calls it Y, Bombay calls it Z. There are minor changes, so in the national core the basic report has been prepared and whatever you call it, the robot will assess the behavior of that report and align it with the core report. There can be some additional information that you want in addition to what that core report gives you. Your cpc have been given the power to create that addendum on the periphery of the report and you can generate that report. That report will not be visible to other high court. It will be only for the consumption of that high court or that district court or that establishment and there is a cross connection, 214 cross connection between this and that

So this is what the robot is able to do for you. We have installed the NC1 in these many courts and we found that Bombay list more than 2900 subordinate court establishment but one judge was in a particular court he shifted to another court the earlier was not merged or not deleted wherever it has been merged. So those kind of figure differences are coming. That is one challenge. We don't know how many of you are making sure before you go home or you put somebody on a job that data entry has been completed. One reason it doesn't happen that there is no connectivity that is understandable. But when I look at it every seven pm and I find that the next date is not given in about 23% cases. Unless you start seeing for yourself, you will not realize the benefits of it. You will be only serving the high court. You will not be serving your

establishment. I already told you why we have 2.06 and not 2.6 because 2 of the high courts, the subordinate courts are not updated. Migration MP Delhi it is going on, campaign to reduce undated cases who is monitoring well. Justice Lokur is monitoring, how many cases are undated. This again is jargon but I want to tell you how much work goes behind the creation of such a software program. I was talking to somebody who has taken care of the entire computerization process from the Supreme Court to state courts in Singapore. I showed him what I want.

He ran away. The amount of work that we have done through NIC is simply not possible by the kind of people who are currently in this filed is huge the diversity of manner in which you people handle your courts, not only at high court level, even at district level is such a big challenge that you have to have inspiration of somebody like Justice Lokur and the enthusiasm of somebody like the team we have in sitting in Pune, Ashish and his 24 people to be able to do it.

So they have done it through three concepts that harmonize the data. First is the issue how am I not getting data in. So every time a question pops up, the robot does not understand. After all it is a machine, a red line pops out that is immediately transferred to the issue tracking tool. So there is a team of developers sitting there. That red light is transferred to the developer. How do I get an answer to this? Developer is a developer, he is not a court staff. He goes back to somebody like Ashish, there are three of them. They know the courts because they have been serving you for the last 17, 18 years. So one of the three that picks up the phone and asked the people from where the data has been taken. What does that mean? Then they sit and conference. This is what it meant. So we should create a behavioral connection between the menu and the report and that is created by creating another software programs at the back.

There is a requirement gathering tool. every high court has a different set of requirements. The only requirements common across high courts are those that the Supreme Court have asked them to give. Is it that strange? These requirements keep changing also. In Delhi some of the requirements were generated by court orders. Some others were not ready because the full court felt that we have to fix this new challenge where a bar is created and they put an order on the notice board of the high court that hereafter this procedure will be interpreted like this. Both of these examples which I gave you are not part of the high court rules. But still there is an input there is

an output and the high court is unseen for that for something or the other and when I come with the NC 2.0 to Mr. Talwant Singh, the district judge of Karkardooma he said I need that also my high court wants it. I said where it is written that high court rules. He said no there is a such and such court order, I will show it to you and there is such and such notice given in 13 September 2007.

We say OK thank you now you have told us, we have gathered the requirement, we put it in a tool, we configure that tool with the core, process is created for the software and now we have got the answer. If we however find that these requirements were specific to Mr. Talwant Singh. The high court has not made that requirement but a district court has. In the master list also sometime varying across district within a high court. So if that is the case we will tell the cpc, sir it is your work, put it in the periphery given the report I am not going to touch it. But if it is a generic kind of a report it is beneficial for all high courts and all district courts under them. Then the requirement gathering tool creates a software program to get the data entry modified, to get the report generation modified. To help gather that information also from the same software.

The last is the control management table. This shows you what all have gone behind that one dashboard that I showed you. Ideally there should be one single data base. Every private vendor that has come to us to serve us in the e-courts project has said that I will not serve you, we told them to out. Because I can't tell all the high court to give me a single data base. So for that database, to be readable at the front end, at the back end we have created that four separate data input. We have two types of data tables. There is a roaster which tells us what we are collecting, there is transaction data which tells us what is happening in terms of input and outputs and the standard report that can. We have viewed control tables where we have linked various points in the fields to one common output, so that the report can be generated.

If you go to the NJDG today and go to your district, you will find it cumbersome to go through each and every case of your judges. If you have 40 judges. So going through cases of all the 40 judges is very difficult. So these links out of the 119 odd fields in each case sheet of that judge, the fields that are require for a particular report are linked to an output. We discussed behavior. Different things mean differently in different places. So we have a state wise application behavior. So you may call it

whatever you call at the front end at the back end my robot will understand it correctly and then he will display it also at your level. If you call it CRA, it will be displayed as CRA, if you call it cc, it will be displayed as cc, but at the back it he get it one. It also enable it to give you two language, in English and in your local language. So this where we are in phase 2.

Judicial officers are being trained and we have feedback that more training is required and we have told the chairpersons of the computer committee of the high courts to go ahead and make refresher courses, in case they want more help from the e-committee. It is too willing to send somebody to get the training done. But if you don't want them on the Supreme Court website and on the e-court website. We already have all the 20 members. They are published. You can go and download them. You can ask your CPC he will help you and take them to your 40 judges and tell to study and if there is any question, you can have video conferencing with the cpc or with the central team.

These 4777 establishments and 16841 courts is wrong but it is what displayed here. You can't see it because you have to go to a password protected sheet to get these figures but we are collecting this. At least should come down to 13672 or something. The NJDG is one of the services that the government is providing. All e governance services of the government of India, are available on one website called e-taal. That website counts each head into its services and logs it into a dashboard. There are 30 mission mode project of the government.

All of them are in one dashboard. They are for different departments. We as ecourt people log onto etaal in august 2013. Can you imagine what a image makeover has happened for you without your knowing it. We get email saying that this is very helpful. The lawyers are very happy the cause list are on their mobile phone. Secondly the litigant is happy. So this is also eventually going to help in your image makeover, provided data entry is correct. We are also thinking of now pull based sms. We will create a query module for a litigant. He want to know the date. At the moment it is only one way. I don't know to what extent I have enthused you to data grid, when you next want to do any administrative part of your work back in your court but I have benefited a lot in giving policy advice to minister, in giving policy advice to Justice Lokur. We are not answering parliamentarians on the NJDG yet. The credibility of the data is not as good as the signed copy the RG sends us. So I depend upon that even now. For the

policy purposes we are using it already. Bombay high court has been told by us because grievances have come. So we have sent a bundle of grievances to the registrar general to kindly place it before the Chief Justice. I don't know what action has been taken because we don't follow up on the grievances with the high courts, we just send them.

Can you search for cases, rather than number of cases in your court? You can do number of cases in your court. His question is that can you search for types of cases. Answer is no, except for cases involving women and senior citizens. So once the PR exercise is over, once the nomenclature of case types have been captured at the back end which will some time we don't have adequate support of the high court yet. Then we will answer your question also. You will know how many 302 cases are there, you know how many grievous hurt cases are there, you know how many 420 cases are there, you know how many 498 cases are there.

Participant: In respect of criminal cases how we are identifying it is old, it is based on the date of the institution. For example a case has been registered against an accused person or a group of person in the year 1995. One accused is absconding and the other is appearing and slowly it takes a long process of time, for the magistrates to commit the case to the court of sessions and after 18-19 years he is committing to the court of sessions and I number it as sessions case 1 of 2015 and it shows that it is the case of 2015 as far as a victim is concerned, the case is of the year 1995. 20 years old case but I take it as a new case. But my conscious says it is an old case. But the data grid everything says that it is a new case but the FIR is pertaining to 1995.

Mr. Atul Kaushik: I hope everyone heard it is an important issue that we are tackling and we are very fortunate to have Mr. Ukrani and Mr. Ramesh Babu in the e-committee because they are judicial officers. They gave us this feedback so about 4 months back we have taken a decision in the e-committee to give case numbers, unique case ids. So for the past cases yes this problem still exist. As a policy matter I have requested e-committee to work out a solution. NIC is ready with the solution provided the high courts and data entry people can do huge job of redoing some of the data entry but for the future cases we will fix a date from which every case have a unique id. That case may transfer to three different courts, the charge sheet may get changed because the second FIR or reduction of charges as a part of the arguments which change case

type and therefore even the court. Sometimes the case has to be transferred because an FIR has been quashed now a civil complaint, civil complaint has to go another bench.

All that will be captured through a unique id so long the petitioner and the respondent are the same the case will be counted as having started from the date that it first came to a court. But you are right today NJDG is giving a wrong picture and there is no way we can do anything about it except if you ask your state government to give you a huge amount of money for you to hire data entry operators put each of your staff to work on all weekends for six months and correct the data entry. We will give you explicit instructions on how to change the data but somebody will have to sit down and change the data.

Participant: Sir, but I am following one procedure in my court what I have done in the recent past, I have studied this and I have given instructions to my sessions' clerk to give one specific number and he is putting his sketch one two three four five in that manner. The oldest case will bear number one. So when I am having the roll call when I am having one, two three four five those numbers, I will be alert and I will give priority and give short dates of adjournments without giving long dates. Whereas the new case will have the latest number.

Mr. Atul Kaushik: Most of the judicial officers are following what you are following but across the country there will be a unique id. Courts of tomorrow is a concept developed for the then information advisor to the prime minister in 2012. That have been factored into the development of the e-court project but we have gone much beyond than what is given in the courts of tomorrow. I am working on a paper once I get permission to publish it I will give you a copy.

SESSION 8

2:00 PM – 3:00 PM

Record Management

2:00 PM – 2:30 PM

Group Discussion

2:30 PM – 3:00 PM

Group Presentation

Group Presentations

Group 4: Good afternoon everybody. We have discussed the issue of maintaining record. We have thorough discussion with respected members of my group. So for maintain record is concerned it is divided into two parts. First part is related to pending matters. Second one is dispose of matters. So where to classify this record into two parts. Pending matters and dispose of matters. For pending matters if we use the technology, scanning of records and digitization of record then it would be very much beneficial to us. Right now we are facing the shortage of space at every court, district court, high court at every level we are facing the acute shortage of space. So if we adopt the new technology and if we succeed in digitization of records and the scanning of record, definitely we will get the space and it will save the space crunch. Next point is that if we use this technology, it will save the staff.

We can utilize the staff which presently we are using for maintaining the records and issuing copy etc. So that staff can be utilized for other valuable purposes and work. For safety of record, if the record is maintained by digitization, then the record would be kept in proper custody and it will be rather easy to have access so there will be accessibility for the record and whenever application comes for certified copy record will be easily available to have a certified copy. So far as pending matters are concerned. If we start the e-filing procedure. Right from the beginning up to disposal of the matter, lot of benefits are there, first if e-filing is adopted and if the correct data is feed up, next part will be taken care of by the technology system which in the first half we are shown the presentation, how far we will benefit. In e-filing there will be no chances of missing of records. And even if we ask for reconstruction, it is easy for us for reconstruction of record.

Dr. Geeta Oberoi: You said e-filing will be done, missing of court record are there cases of records going missing.

Participant: Sometimes files are missing. There are instances. Entire case record is missing. In some cases it is being eaten by white ant and others. There are so many chances of destruction of records, missing of paper, missing of entire record so it may be avoided through e-filing system.

Group: So there are chances of hacking, virus, connectivity problem is there and in most cases there is internet facility problem. In remote taluka they dont have internet facility, so we have to face the challenge, how they accept the e-filing procedure. How to encourage lawyer and general public for e-filing our group has suggested that training can be imparted to the lawyers, we can have suggestions from them, so that e-filing procedure can be user friendly for the litigants as well as the lawyers, so far as litigants are concerned, we may conduct legal awareness programmes at taluka level as well as district places, so that the general public may be aware what is the procedure of e-filing, what are the advantages and saving of cost as such. We also discussed the facility of kiosk machine so it can be used by the litigants as well as lawyers.

At our district place we are having three kiosk machines and those are working well and people are getting much benefit of that. They dont require to rush to the concerned bench clerk to ask them what is the next date in the matter. So it is very much beneficial. When I was working as a registrar in the Bombay high court there were two e-courts functioning well. One is company court and another is insolvency proceeding court. Both courts were paperless courts but the response from the lawyer that way good, but still those courts are doing well.

Dr. Geeta Oberoi: But destruction of physical records I understand, like you says ants have eaten but missing part I dont understand.

Participant: Madam sometime cases are disposed of and it is required to deposit or consign the files to the deposit. Instead of consigning the file he kept that with himself. Sometimes it happens in so many cases.

Participant: In some of the cases, suppose case has been disposed of by the trial judge, it went to the appeal, appellate court and after decision of the appeal, if it is remanded back to the court concerned on disposal of the appeal, record is being transmitted to the lower court during transit period or after it may receipt, it may disappear. There are many instances in each judgeship and we are facing it.

Dr. Geeta Oberoi: One judge from Patna high court came for conference and he was telling that the case was remanded back and so it kept pending with the court for 8 years and the records have to come from the lower court. Then it was realized after physical inspection that lower court was first floor and the higher court was ground floor. So from there first floor to ground floor record took 8 year and that too when the high court judge made enquiry. There are so many instances. How do you as PDJ think of tackling this missing?

Participant: Madam it happened on two occasions. One is knowingly and the other is unknowingly and the known cases particularly it is only reason is due to corruption. Until the aggrieved person come forward and gives a complaint we can't do anything.

Dr. Geeta Oberoi: Because of ministerial staff, but are you not responsible in selecting the ministerial staff. There are test to ascertain integrity, about which we all don't know. But there are test developed and they are very scientific test and they dont ask our direct question that are you honest because everyone say we are honest. They ask very tricky questions, it is done by organizational behaviorist and then they find out and my be you can adopt such test in recruitment rather than what do you know. One more good thing has happened and I don't know it is applicable to judiciary or not because there is circular from office of prime minister that for every post in group c and group d you will not conduct interview. Is it applicable, not yet. It is applicable.

Participant: It is applicable only in respect of central services.

Dr. Geeta Oberoi: Because if you are just conducting written exams and no interview at all I think that may help you to get better person selected for system.

Group Three: I am thankful that Group three selected me. There is no second opinion, the record is integral part of justice delivery system. Till now we managed the record manually. For keeping of record the charge is given to a person to take care of the record. We don't have any technology to implement but now we are talking about the paperless work and bar code system, radio frequency is very useful to maintain the record and to avoid missing of record, theft of the record. We should think over the implementation of technology.

Dr. Geeta Oberoi: Have you ever gone to British library near your place, even some american council library there if you track record they scan this thing so that you can come back without BP and similarly if take some book and step out from the library without actually taking permission and again the beep is there. So the missing record can be traced. Anyone taking any record without permission of the court outside court complex but the security network has to be.

Group Three: Question 1 is two folds. One is radio frequency identification can reduce time and location of records without the wastage of time. Implementation can be done by providing infrastructure, man power training for the bar code and radio frequency. Barcode is more popular and cost effective and radio frequency is costlier. Second question digitization, the concept of digitization, again it is based on the paperless theory, not yet been implemented in our courts. Before implementation digitization of all records, we have to ensure the position of the record and to adopt the technology. We need to enact the procedure but different high courts have different procedure to maintain the records. So universal procedure is essential for that purpose. Digitization of record can solve many purpose.

Dr. Geeta Oberoi: You all have scanners. If one court complex has 22 courts then only one scanner. That can't be sufficient. With the kind of records that are there in courts. And xerox machine, printer. You can make a demand in your budget proposal. For example, in February we will all be preparing our budgets. That money is already been provided for scanners. It is in ecourt project phase tow and it is already transferred to high courts. It is 1400 crore Rs. If you ask for something why for what purpose. There is a kind of very conservatism in money matters that I always face. Why do you need that is it essential and if not done then what will happen. What about alternative. Have

you taken report from everyone? But you should always ask because money in there. Conservatism is there on our part. It is not government fault. Even last 13 Finance Commission, five thousand crore Rs. was sanctioned. We returned back 4000 crores Rs. It is parental syndrome. Children should not spoil the money.

Group 2: The first question is whether they are following the exhibit management or not. Now such scheduling of physical inventory of exhibits used to be done in the court. There are two types of depositing hubs where the case property is deposited. Judicial malkhana and the sadr malkhana. Handling of dangerous and bio hazard exhibits are concerned those are used to be deposited with the sadr malkhana which is under the control of the district magistrate. The judicial malkhana is under the control of the district judge and other malkhana is under the control of district magistrate. Handling of exhibits with a high monetary value. Those articles are used to be kept under the double lock for the security purpose. Monitoring the movement of exhibit from courts to vaults or exhibit rooms.

The question is that as and when the document exhibit is produced in the courts those are used to be handed over to the court with a direction to deposit in safe custody. So he will be considered to be the custodian of the assets. He will deposit at the appropriate place and get the receipt. Accountability of lost exhibit. The custodian of the documents shall be made accountable for the loss. So far as permitting the public view of the exhibits are concerned everybody of my group said no. This is not required to be shown to them. For the parties the exhibits are returned or destroyed. Question is when the judgment is passed. This direction is always mentioned in the judgement. It has to be returned or has to be destroyed or retained. This is mentioned in the judgment. Even if some exhibits are required to be returned when the application is moved then we will pass the appropriate order.

There are two types of goods. Some are of perishable nature other are nonperishable. If the goods are of perishable nature then it cannot be kept for a long time. So the order has to be passed. Section 451 or 452 deals with that. Section 451 pending trial, 452 after trial. This is the position, these two section to take care of the retention or the records to be destroyed. So far as the ideal mechanism is concerned, documents are made exhibits and that has been produced in the courts also, the other party has got the opportunity to see that also.

Once document has been identified or numbered thereafter if any objection is raised that will be taken care by the court itself when they will dispose the case. Now the other question that whether form management system is followed. Of course it is being followed in the form of management because CIS software is there, so format is available there. So you can take up the copies. So far as quantity used is concerned if some requisition is made by the court concerned there is a branch in my district which is being controlled by the officer in charge who is one of the senior judicial officer who takes care of that thing.

As requirement is made, he will prepare the inventory because in Delhi there is a principle, district judge head quarter is there who is controlling the administration, entire administration. If you require such quantity of pending forms, you have to request to the district judge head quarter so forms and other things are purchased. This is the prerogative of district judge headquarters to purchase that and they will distribute this to each and everyone according to their requirement.

Every format is identified by its title. Sometime notice to the witness then it must be summoned to the witness under order 37 prescribed forms. The number and title has been given. According to the number the documents are identified by the numbers and by the specific titles also. Thanks.

Group 3: First question is related to the management of the record. If we see there are answer for certain questions in the other questions and all the questions are interlinked towards the integration of technology. Technological integration is the only solution and the task of the day. Firstly there should be uniformity of rules. There is no uniformity with regards to maintenance, management and disposal of the record. Records three factors, receiving stage, maintaining stage, disposal stage. Three stages will be dealing with records. At the stage of receiving, originals are being insisted in some states, some states are accepting copies during complaint with the originals and some stage is accepting even the digitized copies. So there is uniformity. Problem is the originals are insisted and the originals are lost ultimately the courts are being blamed for the missing of the record. More chances are there for missing of documents.

That reason we thought in all cases it is better and desirable to have the copies of the document duly verified by the authority some competent person not below the rank of the superintendent or administrative officer of the court. The original can be asked from the custody of the party only, only at the relevant time the original document can be insisted for production and that too where the originality and genuineness of the document is disputed by the adversary and there is requires the application of s. 91 and 92 of the evidence act. The document genuineness is itself in issue, otherwise the production of the originals itself may not be or need not be insisted as far as practically and legally possible.

Second thing soon after receiving the document scan and digitization to be done. There will not be any chance or scope for tempering with the document also. Maintenance with record, numbering not only the case but also each and every paper filed in court and numbering at the stage of filing now in the form of SR we are giving but SR number is given to the main case and ultimately when the plaint is given SR number, complaint is given SR number in criminal case when case is given, case number will be given at the appropriate place but for the documents specific and separate number is not being given.

If separate number is given to the documents that will solve so many problems. One problem is certainty of all the documents filed second thing is easy tracking of document because a list of documents which are assigned number will be there by referring to that number in the index. So assigning the number to the document is also one solution to have a certainty and easy tracking of the matters documents. Next the preservation of the documents is another issue. How long we are supposed to preserve the documents there is no uniformity. Some rules it is three years with regard to some documents it is 10 years, some documents it is 20 years and some registers it is permanent. If the digitalization is done at least material document in a case, material record and immaterial record. Immaterial record would be acknowledgement summons etc. Material documents are those on which parties relying, pleadings will be the material documents. The evidence is also will be material documents. Those material documents preservation can be made permanently they are digitalized.

Next disposal of the record, making a document permanent will also solve the problem of the disposal of the record. And the disposal of the record if done timely there will be sufficient space in the record room. Maintenance of pending record is one thing maintenance of disposal record is another thing. The pending files maintenance will be the task of the court, the court will be maintaining the bench clerks will be maintaining superintendent will be responsible. That is not a big issue. But for the disposal of the matter, in the record room the maintenance is there. Once the document reaches the record room there how long should it stay? There should be uniformity as to the preservation of the record and periodical destruction of record should be there to provide space for the other record to come, otherwise the new record which is supposed to be preserved will have no room to keep.

Why the destruction is not taken place time to time is lack of staff. Staff is another issue. There shall be statistical and scientific way of allocating sufficient number of staff. Our view is that at least one staff member for thousand cases. If there are thousand cases in a court there shall be at least one staff member. For pending case Justice Jagannatha Rao commission law commission recommendation says that for 500 cases one clerk is sufficient.

The second question is with regard to pending cases. Even with regard to pending cases, the numbering of documents is one solution, second solution is many of the clerks although there are rules that they have to maintain a running index of the case. One document is provided during the pendency of the case, immediately the documents shall enter into the index, originally opened at the time of the filing of the case. If running index is maintained and numbers are assigned for each and every document entered into the court easy tracking and easy maintenance of the documents will be there. That can be done with vigilance by the concerned presiding officer. With regard to third question regarding preserving documents during man-made disaster, making the document to miss is one thing and destruction of the document due to fire or short circuit is another.

As far as the intentional and unintentional. The intentional thing is that making the person accountable. To make a person accountable there shall be a proper custodian of record for each and every court. Now bench clerks who are handling the cases are

custodians of records, if any record is missed they are made accountable and departmental enquiry are being initiated against them. A common supervisor should be there for maintenance of the record will also be helpful as far as missing of record is concerned.

With regard to disaster like fire etc. and fire sensors and new devices could be installed. The documents exempted from public disclosure. Any document filed in the court will be made known to the opposite party because at the aggrieved party has the right to know the document other party is relying on. So as far as parties is concerned non-disclosure does not arise. Exempted from public disclosure, the details of the rape victims, child witnesses and the evidences video related to information and technology offences. Even in some cases certain inventory will be set may be an administration suit, a partition suit, getting some documents from the custody of the bank, receivers and commissioners will be appointed. Those documents are excluded from public disclosure, maintenance of those documents, again there shall be responsible persons deputed to safeguard those documents and there shall be a provision to keep those documents at a particular place.

With regard to some valuable property, gold etc which are marked in the court keeping them in treasury or in some lockers in the bank. In every court premises certain kind of lockers within the kind of safety provision is there to keep those documents under proper care and custody. Custody of a responsible person that shall be a solution. Thanks.

Dr. Geeta Oberoi: Thank you so much. I think it is being a tiring day. For all of you also. Because you all are preparing for this session and you all are participating. It was learning from each other. With this we conclude today day. We have been enriched and I am sure you have learned from each other practices. There is never been a loss of learning but gain of learning. Thank you so much.

DAY 3

10th January, 2016

Sunday

SESSION 9

09:00 AM – 10:00 AM

Leadership Skills

Ms. Michelle Mendonca

Dr. Geeta Oberoi: Very good morning to all of you. So it is our last day, deliberations over here, I was just thinking about yesterday's movie. I am trying to link with our today's morning topic. Everyone said that we must hold that child guilty. During one hour thirty five minutes how we turned around things just by his leadership skills. He takes lead actually and makes everyone fall to his line of approach that is a power of leadership, that is a utility of leadership that you can turn things around you and make people follow you. Though initially he was a minority, one person against all eleven but slowly how he convinces, how he is able to talk talk talk and break through what they are thinking what is their line of approach to toe in line with his line of approach. Leadership what we saw yesterday in decision making process, the example was decision making process but it can very well apply to our administrative decisions that you make. Sometime you will find yourself alone with the idea nobody there to support you. So how you turn around things and get people accept your line of approach. This is what we will going to learn in today's first session by Michelle.

Ms. Michelle: The trafficking and POCSO for about 9 years I led a team of lawyers that assisted prosecutors in the trial court and winning 59 convictions in sex trafficking cases. In 2010 I also did a master's degree in leadership and I found that aligning law and my leadership skills made me a much more effective lawyer.

I have named the session overcoming systemic challenges. The higher we progress in our career the more the challenges. So for your stenographer, your sheristedars in your court, their duties are very easy. What is expected of them is very clear. All they have to do is put in their hard work and they can meet their expectation. I also conduct sessions for judges in state academy and many of them have told me that they find the expectation on them very very high and they cannot meet the expectation.

For instance the disposal rate, they feel lot of pressure of high disposal rate but they experience challenges from the bar witnesses don't show up to court so they experience lot of stress. You are in a situation of ambiguity. What is expected of you and the resources that are given do they match? How do you use those few resources to meet those very high expectations? We will look at how you can meet your expectation by developing more control over your circumstances through double loop thinking.

We look at control over circumstances. Why are some people successful in the same circumstances whereas other people fail? So I can give you an example from my practice. Many years ago when I was practicing in Bombay session's court there was this one judge. If the accused did not show up in his court at 11 am when the case was called out he would cancel bail and so we would see we were very young lawyers but we would see that in the court of this one judge the accused used to run through the court halls. If the lift not working they would run up the stairs to be in his court at 11 am. Whereas other judges who used to wait for them they would come at 12 they would come at 1. Whose disposal rate do you think was higher? The first one because he took control over his circumstances.

What the accused have to do wait all day file an exemption application and he would grant him bail again. How many of you know Ms. Ananya Bandopadhyaya, she is the director of the West Bengal Judicial Academy. So last month when I was there she told me she was transferred to Slligudi and there was a lot of pendency in that court. There was one case where the status has been SRAT for 14 years. Service returned acknowledgement due. She gave that party three adjournment. Parties have already taken several adjournments but after the three adjournment she accommodated those parties. She says now the case must begin. Bar was very upset. They met her and she said that you have two options. You either do your work or you go and complain about me to the high court. They could not complain about her to the high court because she used to give speaking reasoned orders. For every order that she gave she used to give very good arguments. Same set of circumstance and procedures, very different outcomes. So why people are successful in same circumstances while other's fail. It is personality. There is something known as locus of control.

In your book you will find a test for locus of control. There are two types of locus of control. Are you the, master of your fate? When something good happens do you say it is good luck or do you credit your own actions? When something bad happens do you link it with the responsibility or do you link it with fate. Taking responsibility for good and bad will make people more effective because they cannot shed their responsibility to somebody else. If you look at it scientifically, it is called locus of control. There was a psychologist says that people with external locus of control place responsibility for behavioral consequences on luck faith etc. But people with an internal locus of control place responsibility for consequences on their own behavior and personality. People with an internal locus of control will generally arrive on time. People with the external locus of control blame traffic. I will show you two videos. After this we will do a short exercise. The first video is on the fish farming on the desert. Have you heard of fish grown in the desert? Second is on agriculture and the desert. After watching these videos, I will you to discuss one video.

So what are the two kind of responses the Israelis could have made? They were in the desert and obviously fish farming and agriculture is not something that is associated in the desert. Israel is the only country in the Middle East that does not have oil.

What were the two alternatives that faced them? They had that desert land situation how did they responded. So one person said that they could either fight for their survival or they give up. They could have stated that as impossible but they did not. So why did they respond the way they did. So what are the two alternatives or two responses? Is there any other response. One is that they could have said impossible, they could have given up. They didn't concentrate on what they did not have, they focused on what they actually have. Why do you think they did this? They had no option. The either innovated or they have to leave their land and go somewhere else. Middle east countries have no relationship with Israel. They are at war with each other.

Participant: It is their leadership quality and necessity is the mother of invention.

Ms. Michelle: Do you see a similar situation in our courts. Everything seems impossible, can we innovate and can we bring about invention. Can you imagine the first person who says lets farm fish in the desert? Now this is possible. But before this

invention, before this innovation if somebody has said let us try farm fish in the desert would anyone have followed him. You would have been laughed at. He faced obstruction and he faced obstacles. If you think of farming. If you think of fish or farming would you choose desert. So the first person of the first group thought about this. I will say that I have faced some kind of obstruction but they will see how to deal with this in the next exercise. Do you think anyone else could have given the Israelis a solution? They knew their context they knew their culture. They knew what obstacles and challenges they could face. No one else could come and give them the solution. Where the solutions for problems of judiciary comes from. No one else can give you the solution. You know your situation best. You know your challenges best and you have the innovative ability to think through options.

When I went to Africa long time back somebody told me Indians are very good in innovations and we know that jugaad. Do we see jugaad in our court rooms only from defense? Do we see jugaad in judiciary? There are many examples of judges who have come up with solutions. Impossible situations are the best for innovation. When something is possible why innovate. Locus of control develop through childhood through culture, through education, can we change it. We will do a short exercise on circles of control, influence and concern. What is your circle of concern? Situation that affect you but you can do nothing about. Situation we can influence but we cannot control. For instance situations affecting other people behavior. Last is circle of control, situations we can control. Can you influence the curriculum at National Judicial Academy? Before you came hoping that it would be good, can you influence the curriculum. Three days out of your very busy schedule, could you influence it. How can you influence it? By giving recommendations and feedback. So are these three circles clear. By feedback and suggestions.

Circle of control is very small, the things that you can do, circle of influence is little bigger, you cannot do it but you can make relationship and influence others and lastly is your circle of concern. Everything that you are concerned about but you may not be able to do everything about it. So if you have 20 things in your life that you are concerned about you may be able to control five, you may be able to influence 10, but there are those other face which you neither control, nor influence. But you agree there are many things that in our life we cannot control we cannot influence but they concern

us. We will look at four problem in your day to day court handling. I have seen your next session how to deal with the bar. What is another common problem that all of you would face in your day to day court function. We will put down four problems, we will discuss each factor that goes into this problem. I will ask you to do a root cause analysis, each factor that leads to this problem.

'Do we say that accused being in custody not produced as a problem? Because that delays your cases. So do we agree this is common problem? So I want to discuss only common problem here. Securing the presence of witnesses, adjournments, ignorance of law and facts of the case, inefficiency of staff. One major big problem is work pressure, inefficiency of staff contributes to it. So your work pressure is caused by all of this, not just of lack of infrastructure but there is stress. Now there will be four groups. Can I explain the exercise, the purpose of the exercise is for you to see what factors leads to these problems. So for instance the problems of the bar, insensitivity of the bar council, they want to mislead the court, they want to be very result oriented. So look at each and every factor, no matter how small that leads you to have problem with the bar. After you decide the list of factors, then draw these three circles on your chart and put the factors in each circle.

As a group you have to decide is it something you can control, is it something you can influence, or is it something you can do nothing about and put it in that circle. So group one will discuss problems at the bar, group two will discuss securing presence of witnesses. Madam already said that if accused are in custody, they may not be brought to court on time. Adjournment to be discussed by group 3 and lack of infrastructure and trained staff will be discussed by group four.

Which group will go first? Group number two, securing the presence of witnesses, what are the factors you have identified.

Group two: Good morning everybody and thanks for my team members. At the outset I can say that the whole purpose of exercise is to fix and realize as much is in our hands and not in the hands of the others. We have realized that many things are in our hand. Thinking over the problems and identifying and researching what are the

problems we have what are the immediate and serious problems we are facing, if we are given short term appears to be the another motive.

Ms. Michelle: This is only for the academy, when you go back to your court room you may want to think about this with your peers and think what are the problems in your court room.

Group two: As far as securing the presence of witnesses is concerned firstly availability of list who are to be summoned. Who are the witnesses necessary for examination in a case is important. Identifying who are the witnesses is in the hands of the prosecution. Second they have to furnish list. As far as payment cases are concerned along with the charge sheet they will be giving the list. This we can influence by insisting furnishing of the list without proceeding. Everyone agrees this is something we can influence.

Ms. Michelle: Everyone agrees we can influence.

Group two: Because investigating officers some doctors who has no address and signature is very short not identifiable and where they posted. We don't know. First stage is furnishing the list. Second stage is securing the presence of the witnesses. As far as civil case is concerned, two modes, issuing of summons or at the time of issuing the summons. In civil cases parties are not producing witnesses is one problem. In criminal cases as our friend said, our group member also said that in case of retired persons how to secure the attendance. As for retired persons, how I can influence I would say, but it is under the influence.

Ms. Michelle: So this gentlemen say it is under control.

Participant: Because in civil procedure code order 16 rule 1 straight away contemplates that he has to necessary furnish the list of witness. If we give letter and spirit affect in CPC it is under control not under influence.

Ms. Michelle: So you are saying there is case law that says that has to be furnished, but this gentlemen is now talking about the list is furnished how do you take the witnesses to courts. Is that within your control and influence?

Participant: So far filing of list of witnesses is concerned, it is under control of the court in both the matters, civil and criminal both. So far securing the attendance of witnesses is concerned it is not under control rather it is under concern area.

Ms. Michelle: Does everyone agrees securing the presence of the witnesses is concern. No. What do you say sir.

How can you influence. In your reference material I have given lot of Supreme Court case laws for securing the presence of witnesses. There is a Supreme Court case U.P. vs. Shambhunath which says that if the accused is not present on the date of trial cancel bail and impose cost.

Participant: There are two options left with the presiding officer. Either to impose cost.

Ms. Michelle: It cancel bail or there is a provision for cost cancel bail or he has to exempt identification. If he does not exempt identification.

Participant: In Shambhuraj singh particlarly that is mentioned that a presiding officer can impose heavy cost.

Ms. Michelle: Yes there are two options but it is and option not or option. If you do that will you be able to secure the presence of the accused. How will you secure the presence of witnesses?

Participant: By directing the prosecution.

Ms. Michelle: It is not control, it is influence. Would you all agree it is influence? So I agree with doctors it could be difficult but IOs could you write to the DGP because they are still receiving a pension from the state. That is what we discussed. Could you write to the DGP or the state and asked them to secure of the IO.

Participant: Madam I would like to add in newly created states there is cadre division. In most of the cases which have been investigated by the IOs or other government machineries who have been allotted a cadre of another state it is difficult.

Ms. Michelle: It is difficult but it is under influence. We can do something. So you can always have exception but the general trend of your cases, you can influence the presence of witnesses. I can tell you when I was practicing as an advocate I was with an NGO and on one occasion the complainant has not come to the court the judge immediately issued a warrant and in that case the complainant had some other work but for all other date in front of that judge he made sure the witness was there. There was no excuse it was a criminal court trial in the fast track sessions court. The judge said like it or not within two weeks, you must produce all your witnesses and he did produce all of the witness because the judge was taking actions. So can we agree that you can influence, you cannot control but it is not totally outright?

Participant: As far as securing the attendance of the witnesses, certain matters are of influence certain matters are of control. Inefficiency of staff is a matter of concern. Inefficiency of police is also a matter of concern.

Ms. Michelle: Can you write to the DGP if you see lot of cases are getting delayed, you are not able to dispose your cases because the case after case the police is not coming to the court because you are the principal district judges, you can influence your principal district judges to DGP with all of these list. In one case that I had the police officer did not come for three years.

In one case that I had the police officer did not come for three years.

Participant: We are conducting coordination meeting with superintendent of police and we are furnishing the list, we are addressing letter every weekend. They are assuring, it is working. 50% is there.

Ms. Michelle: I am not saying it will work in 100% of cases but it will work in 50% of cases where we can start writing to the police to ensure better coordination.

Participant: There will be team of doctors and another doctors can be asked and secondly identification of the doctors signature by the other doctor who was along with him.

Ms. Michelle: The purpose of this exercise was to say that very often we feel helpless when we are not. We tend to put things in a circle of concern where actually there can be circle of control or influence. I want to end by just one concept. It is double loop thinking. Single loop thinking says what should I do, double loop thinking says why am I doing what I am doing. For instance single loop thinking one example in Mumbai I was practicing in the ITPA court and every time the panchas will talk to court and turn hostile. Is that common in your cases. What the judge did she was Ms. Swati Chauhan. The pancha turn hostile he said the police forced me to sign on the panchnama, I was not there. She said OK tell me the name of the police station and the name of the police officer. She wrote to that police station and she said this is an allegation made by the pancha.

Do you know what happened after that? The police started getting respectable panchas. They started contacting all of the NGOs and get respectable panchas. Because she decided that I am going to hold somebody accountable. Now in ITPA court very few panchas will turn hostile. Single loop thinking the judge will say ok the panchas has turned hostile what do I do, I record the evidence. Double loop thinking judge will say why I am doing what I am doing. It is for justice. I need to ensure justice in this case and double loop thinking will lead you to innovation. So again very simple example. On the first day when I started new job somebody will have to tell me the route to my office. And I will following for a week but if after five years I follow that same route I don't look left I don't look right because in way various improvement that happened but I am just following the same route because somebody told me that five years before. Will that be inefficient? I should look around see what has changed and whatever has changed in the environment I should change my behavior accordingly.

So through double loop thinking I am asking why am I doing what I am doing. In your courts you are supposed to get lots of report, lots of documentation, some of it may be required by the rules. Some of which you may be requiring. So if you sit with your staff and tell them why you are doing what you are doing use all of those reports. Every

report of your staff do you use or some of you think just because it has been done for son many years. So you look at that and see and you can encourage your staff also to engage in double loop thinking. There is a story of this man called Roger Bannister who broke the world record for running a mile under four minutes. Before that in 1956, people have tried to run in under four minutes and it was impossible. How long it took to break that record again. Within 56 days. So you may be the first person to prove that something is possible. Wherever you go leave an inspiration in all of the works which you are doing in your courts. Thank you very much.

SESSION 10

10:30 AM – 11:30 AM

How to Handle Bar Related Problem

Justice S. Vimala

Justice Vimla: What is the first promise of the Constitution, what does constitution promises to us and what is the first promise. Everything is assured but what is the first promise. Justice is the first promise of the Constitution and we are here to ensure that first promise are we not so proud. Yes we are really proud and if we have to return that pride and proudness, what we have to do, impart justice what are all our problems. I will give you one of the example as to what is happening in our courts and how we behave and how lawyers behave. But if you say that somebody is doing some mistake and at the same time we should also realize whether we are all not doing any mistake and mistake is only one sided. We have been functioning as lawyers and then we became judge. Lawyer's community is the father or mother of judges because from whom we became he judges. One day one presiding officer was there, one client was personally appearing before him and he was asking for adjournment. Judge was not inclined to do.

He said I am not inclined to give adjournment, I want your lawyer. He said that my lawyer is out of the country itself, I may not be able to bring my lawyer then the judge said go and search under trees if you pay 10 Rs lawyer will be inclined to come and

argue the matter. He went and return in 10 minutes then he has to say this to the judge I was searching for some lawyer working for 10 Rs and some of the lawyers told me that who were working for 10 Rs have already become judges and therefore no more lawyers available for 10 Rs.Is it necessary.

You give respect and take respect. We should remember when a lawyer is presenting a case before us, he is not single, he is always having a client at the back seat. As an officer of the court, as an officer of the justice we have to respect the lawyer at the same time. We have to careful to see them that they are surely respected because of the client standing behind them. You imagine the situation of a judge who is facing such a reply from a client who is directly appearing before the judge. This is one situation that I am telling. Then the second situation is this, one lawyer was arguing a murder case somehow or the other he wanted to ensure that he want to get an acquittal and we strongly believe on reasonable doubt.

Then he wanted to use that concept in getting the acquittal. Therefore he started saying this, your honor, you will see the victim of the crime, he is coming and all of you can witness and how can my party be an accused. Judge found that somebody was coming but not the victim of crime, then the lawyer started arguing whether really the murder took place. When I say the deceased is coming to the court your honor turned to that side and this is a case where I have created a reasonable doubt in the mind of your honor therefore this case have acquittal. The judge politely and simply said. Yes I turn to that side but the fact that accused in the dock is pretty sure that deceased cannot come. Decease is already no more and therefore your party is guilty. What do we derive from this incidence? How do we visualize the situation of the judge who is able to give a final word, the previous incidence final word was from the mouth of the client? In this case the final word is in the mouth of the judge, how the judge was able to give a final word on this. Yes yes the power of communication and interpretation too many things are there. Simple thing for the judge to have answered like this. It require lot of inbuilt capability in the judge. But for that the judge would not give such an answer.

This is the kind of judging that is expected. Is judging so easy. It is a very difficult task. Whatever others are not inclined to do we are here willingly doing it but when we do

justice what is the level of cooperation that is expected from lawyers, how we get that. Lawyers of yesteryear prepared the case meticulously they never misled the court and they were always willing to assist the court. What do we find today they have not openly said whenever I argue the matter, whenever I want an order, you should pass an order otherwise you are finished. This is the kind of dictation coming from lawyer to judges. It is very very pathetic especially the subordinate judiciary has no legs to stand. They are in dilemma whether to function as a judge or to quit. Unless a high court is a supporting high court unless the high court has made it clear that whatever legitimate action to be taken by an officer the high court will be by their side. The bar is on a higher pedestal dictating terms. do this do that otherwise I will gherao, we will put you in trouble we will put you in trouble.

We will write petition. Too many things are happening in the subordinate judiciary. That is not all of them and we are functioning in such a situation. Then the lawyers they come and argue, when we put questions they don't like. When we were lawyers when some judge put the question then we will be able to convince the judge. Nowadays it is reverse whenever we put question the response is don't put question as if you know everything. You are not expected to put questions, when we argue give orders. I tell them in open court if that be your attitude don't expect any order. People decline hearing to you is you are not answering the questions. First of all answer my question and then you can argue any number of hours. Unless you answer I will not give you a hearing at all. Ambedkar was the founding father of the constitution, how much of work they have been doing to frame the Constitution. Mahatma Gandhiji said you might have heard about this court. He said first enter into compromise wherever possible. A lawyer said discourage litigation. Why discourage litigation. You discourage litigation because in a judicial system a nominal winner is a loser in terms of energy times etc. Winner is a loser, what a ridiculous position. Then why should the judicial system exist.

A winner is a person who sees opportunity in every problem but loser is a person who sees obstacle in every solution. There lies the difference between a winner and a loser. If a litigant has to come to the court to become a loser then there is no pride in calling ourselves as judges. It is our duty to ensure that judicial system render justice and ultimately it is his truth that wins. If that is to be done what kind of quality of lawyers and who is having the jurisdiction over them. Is the court powerless so far as lawyers

are concerned? What is the action that we can propose and what is the action that we are taking. Though we are powerful why we are not able to take actions against lawyers and why the bar members give an appearance as though they are be all and end all of everything in the world and judges are powerless. That is the image they are giving to the world.

Litigants are not asked to encourage to come to the court. They go to kangaroo court, they approach somewhere else. We are not making the system user-friendly. Then why these things are happening. As madam was telling the solution is not elsewhere. The threat is from the judiciary itself that is from lawyers who seek justice from the judges and they are part of it. How do they assist the court? They are not at all assisting the court. Perhaps I have been called because of problems of lawyers in Madras high court was unprecedented in the world. I dont know only because of that reason they have called me or because of some other reasons. Anyway the problem is brought under complete control and lawyers have started assisting the court. Still the glory is not lost that is how I will put it and then after discussion after taking into account solution from you we will decide how to handle this relationship in a very positive manner because they are also part of the system. Without lawyers law is motionless. Law is life less. They have such a creative role in assisting as to give justice. Whenever good judgements come it is out of good arguments. Not that you are giving judgements. It is part of the arguments of the lawyers.

Now as judges whatever is the kind of problem which might have faced or you feel that this is a kind of problem from the lawyer. You are at liberty to do and solution after failing them and how in your court that has happened. How you would have reacted. What is the proposed action by your side? Whatever is the way in which you handle it?

If you are boycotting go and tell before them that we are boycotting. One lawyer will come and take other lawyer out and will say that. Now one solution has come that they will not give adjournment when witnesses come. You will proceed with the examination of witnesses. We can't differ. Adjournment is not a matter of right. It is professional misconduct. It is unethical of a lawyer to refuse to participate having accepted a brief and therefore he is very right in saying that he will not give adjournment and he will record evidence.

Participant: We will try to have a dialogue, what is the cause on which they are going to boycott. What is the problem from the judges? In general whether the problem is and whether at least with regard to there can be a small dialogue and bargain. We can make a bargain with the bar members. Please exempt the advocate who will present the case in witnesses other case they will adjourn. As far as witnesses are concerned. Please allow them to do that kind of bargain. i will try to make them the president of the bar association. If the president of the bar association is cooperative. Just any of them can have a dialogue with us. Then we will pass over the matter. There are two aspect of it. Please list out your problem and we give instructions and we will also talk to high court as to what could be done against them.

Justice Vimla: Any contra opinion that you will not record the evidence and ask the witness to go back. We have to be clear on the legal position of boycott and strike. Is it legal on the part of the lawyers to indulge in boycott just like industrial workers? It is happening practically day in and day out and if the bar members are so volatile and how you really handle. But that distinction also you cannot make. Once a witness comes you cannot send him back without examining. Whether it is a material witness and immaterial witness, it is not a matter and you are bound to examine this witness but only problem is later on they will come with an application to recall that witness who are cross examining. That time you have to show your power and responsibility that time you should see what you have committed is an illegality on the day in not attending the court and cross examining the witness. Witness have been now examined and the witness have to again come may be a local witness, may be a witness from some other place cost of wasting that days' time for the witness and for the court to entertain another application. All these tasks you have to quantify and you have to break it because if we decline the permission to cross examination justice will suffer. But at the same time when you have to permit then you have to show your authority on this impose heavy cost. Ask them to pay to mediation center or even to advocate welfare fund or even to CJ relief fund. So many funds are available. If the heavy cost is imposed then this will take care of the situation.

Many at times this will be the via media solution because bar is also a part of us we can't totally ignore them, we can't totally punish them but justice ultimately should not

suffer and this is the way to handle it. Have you gone through the case laws? Three cases are given and they are very relevant observations. Then what is other solution when the lawyer is not coming what you will do. There is one kind of request that we will not attend the court and that is the end of it. The second kind of problem when they come and do not allow other lawyers to argue the case you want to attend the court. If the lawyers have genuine problem.

What they are expected to do. Are they entitled to boycott the court just because their grievance are genuine? What they are expected. What is the legal formality to be complied with. maximum permitted in extreme cases of genuine grievances only one day. In consultation with the approval. If it is a case of approval then for one day you can adjust and not otherwise. This situation you should take care of. Even otherwise if somebody is willing to assist the court and argue the matter, is it open to the other lawyer to come and prevent them from discharging the duties. Then what is the kind of situation and how will you face it.

What is the offence that is made out that prevent other lawyers? Contempt of court. Who is entitle to take action against them for contempt? It is the high court. What you will do if you have the power to take contempt action. If high court is the ultimate authority you bring it to the notice of the high court, how do you enable the high court to take action? Make a reference. It is the one of the cases. Then the high court will call for a report and then you start the enquiry. Dont start suo moto enquiry, not advisable. Don't invite local problems.

Participant: In one place our district is having several sub divisions. In one sub division one officer has taken, next day all sub divisions, next neighboring districts. In that way it extended to 13 districts. One initiation of the contempt proceedings. The solidarity of the advocates are growing.

Justice Vimla: Show your leadership in some other manner, not a problem with relating the bar. You shift the contempt proceeding.

Participant: That is sub division judge has done. He has conducted preliminary enquiry and prepared the report and send the report at that stage entire district four or five

days the boycott and taking of contempt proceeding. They have given the representation that they are going to abstain from the courts. The problem is this. The bar council is expected to regulate the conduct of the lawyers and to ensure that lawyers are not indulge in boycott. But the pity is that the bar council itself passes a resolution saying that today on this time onwards they say that they are calling the bar association who indulge in boycott. This is the quality, sorry to say that quality is degrading, there is also degradation, once they were asking a student, law teacher came into the class and asking what made you to come as a lawyer many of them were giving very interesting answers that why want to defend the Constitution finally one student said because I did not get admission into engineering college I came to law.

Only when they do not get entry into other places they chose law and they have no seriousness in learning the law. Five years law colleges are doing better and the young generation, young lawyers are coming out very well but they go to corporates and not coming to court that is a totally a different issue but the fact remains that in between the quality of legal education has gone down. When the contempt proceeding came before the supreme court the bar council has said yes we passed the resolution asking the bar association then at least up to the court issuing the notice they should have been careful enough to know what is the law. They have audacity to say that they are writing their actions calling the bar association to enter in boycott. All these defenses were recorded by the court and all of them took such defenses and they were sent for three month sentence by the Supreme Court. This is the quality of lawyer who is presenting before us. In such a situation you can always have the law with you showing to the bar members that this is what happened already. Supposing if a reference is made. They are likely to face such a situation and if they depart from attending the court what they are going to do. What is their right to practice exclusive right to practice?

Right to practice any profession under the Constitution. Under the statute it is the high court which can regulate under what terms and condition you will permit a lawyer to enter appearance and defend. It is the high court which prescribes the condition under which the lawyer can practice. It is not an absolute right on them it is subject to restriction by the high court. If you bring it to the notice of the high court that these

things are happening at least some of the high court will respond to it positively and see that at least some solution are coming unless we ensure that nothing will going to happen and now in Madras high court, security reason, originally the state police was giving papers. During the clash between lawyers and police, it is not between lawyers and judges. Industrial security force have been deployed and it is likely to be extended to all the subordinate courts also to that extent problem has impact. Despite that problem the leadership was so determinative that we are able to restore peace in the Madras high court. You have the case law number 2 and 3.

Participant: On side of bar on raising queries during hearing of the argument on imposing high cost of rejection of adjournment, sir you have disclosed your mind, prior to disposal of the case you have imposed a heavy cost, or you have rejected judgment application sir, my client is having no faith upon you, so he want to file a transfer application for transfer of the case from your court. Sir kindly give an adjournment.

Justice Vimla: Personally speaking if any lawyer is bold enough to say that and if he is saying that I will appreciate the lawyer and transfer it. You might have heard about forum shopping. In the high court level itself. Whenever we go to other stations, we go for three months. We have Madurai bench we go for three months. We make it clear that lawyers know pretty well that we are going to be there only for three months. Don't bring pressure at the end of the tenure. Whatever is a case in which both sides are ready the justice should not only be done but also seem to be done. Both sides are ready whatever is the serial number, whatever is the chronological order, irrespective of this if both sides are ready give me the list, we will give a disposal. But they will not do it. What is the kind of order passed on first day they will watch and only thereafter lot of cases will be loaded.

Each case differ on its own facts may be on a question of law. On question of fact it is same, they will not look into it. They will expect similar kind of judgment in slightly different facts also. Ultimately at the end of the tenure they will bring lot of pressure. They will be go on filing. Without keeping it represented they will keep it. If one judge comes and give an admission on a liberal scale that will be loaded before that court is overloaded. Other court no filing, otherwise transfer petitions will be coming, asking

for transfer, Simply registrar judicial will take a note to the Chief Justice connected to this case but when you say on facts, it would not have been a connected matter at all.

Supposing I am liberal in granting maintenance. We say don't do forum shopping before this court. What is the way out for all these things? Unless we make it clear to them, unless we act in a manner give a clear cut signal to them that no malpractices is possible before this court. Gradually they have to setup down and come to terms with us. Being in subordinate judiciary you will have lot of people with you. I always used to say, may be it is subordinate court but not subordinate to anybody. May be it is subordinate in words only.

In Dharmapuri I was portfolio judge for some time in some districts. When Dharmapuri district was allotted to me all my colleague judges showing pity on me. They said that these lawyers are always violent and for your temperament violent lawyers will not be suitable. I told them that it doesn't matter. I want to see only such kind of lawyers and how do they behave. The first news which came is that one lawyer got arrested and they are on boycott. They were on indefinite boycott. Then without any information to anybody, I went to that district called district collector and SP and the principal district judge. 40 cases were filed. Whole day there was discussion and SP told me that in cases of bail we keep it pending rest of the cases are foisted only for the purpose of threatening the lawyers those case will withdraw. We called the bar association and told them. See this is the position. I can't ask them to withdraw all cases irrespective of the merits. Only those unmerited cases will be withdrawn but hereafter no boycott.

If there is a boycott then I have to report to the chief justice and there is one more strategy we have adopted. The bar association premises belong to high court and we have allotted them on license basis. Whenever they indulge in boycott, immediately registry issues a notice saying that why the license should not be cancelled. If they are indulging in illegal activities why should they be permitted to reside in the premises of the court? We have started issuing the notice and that is making the lawyer behave themselves properly. After this we call for a function. Some of the lawyers have completed fifty years which I said for many of the litigant who are poor and marginalized.

It is only the subordinate court, it is Supreme Court for them. Many of them do not know where Delhi is Supreme Court is. If you are indulging in boycott you are depriving them of the first Constitution. The day I told them that they are the Supreme Court for them there is no boycott. Many of them are not educated in the same culture, not a same kind of society. Each and every one of them is different in their own way. What is the strategy we will work out with them? First is a law second is a practice, third is the strategy and fourth is the local condition. You should adopt combination of all these activities and sometimes separate strategies. It depends. The local condition is very very relevant. In many cases we have seen that lawyers entering into the chambers and having beaten judicial officers.

The next one is suppression of facts. They are not coming out with complete details. Either it will be lacking in details or they will be telling something putting the other side in trouble. Once we get an interim order then it gives room for corruption. They will pay in thousands to see that bundle is missing. Cases were listed under the corruption, bundle missing. Where it can take place in the high court

It is taking place elsewhere also. It is openly coming out at the high court level but it is not coming out at the subordinate court level. Subordinate judiciary no space for records, no space to sit those who have to sit suffer from dust allergy too many problems are there in subordinate court but still cases of corruption also in not bringing them. This kind of practices if we are not going to stop boycott how are we going to address, the other problem which are invisible.

Boycott is visible, other problem are not visible, how are you going to eradicate those kinds of problems. Madurai has started lawyer's academy where all judges and lawyers across the country are being called to educate and they are giving sufficient input for them, and sometimes we also go and participate and whatever is the type of deficiency we see in the court and we also tell them this is the problem and they have to do that. There are many cases in the subordinate court windows broken doors broken chambers broken. How do we handle the situation. You can't always expect the high court contempt proceedings when contempt proceedings will be finalized what you will do when there is a violent behavior and damages to the property, how you will handle.

Participant: If there is any damage to the property then the case can be registered against the damage to the public property Act.

Justice Vimla: Under which provision of IPC. In the court premises obstructing the judicial proceeding. Is there any separate provision. 228 is a specific provision dealing with causing obstruction and causing damage to public property and the situation specially covered. Without touching the property lawyer dont do any kind of problem. Therefore invoke 228. In one case it is invoked only and rest of them will curtail themselves. Automatically they will go back upon them and there is no problem about it. We will not restrain from passing any order. We will sabotage boycott by not passing any adverse order. How many of us can dismiss the petition for non-appearance. We are not doing that in a way it is an encouragement to boycott. If no bail order is given what will they do? In fact you are more powerful in your own way. All bail applications are before the magistrate. No bail applications, no interim orders. See how they will indulge in boycott. They will not be able to. We will just accommodate them. That is the understanding. We will do this you will do that. Are we not party to it.

Punjab: In Punjab there was boycott of the court on Saturdays when the Saturday was working day then we use to keep the anticipatory bail on the Saturdays. Give the notes on the Saturday, after 3 or 4 Saturday they started coming.

Justice Vimla: That is how we should not show ourselves as if we are against the lawyers. We should make it clear that though we are not against the lawyers, we are against their behavior. That is the distinction between the two. We are always in favor of them because we assist them. There are too many ways in which we should also show them that we want to assist them. In many case the strategy adopted is in case of revision and criminal appeal, no lawyer will appear. Those cases cannot be dismissed without considering the merits. How are we to consider the merits? We used to ask them who is the junior most amongst the lawyer who is sitting they will give the name. We will not ask the legal aid committee to appoint them at all. So and so is appointed to assist the court. The legal services committee will pay the fees. This is a one kind of thing we do to assist the junior lawyer to come up and encourage them to argue the matter.

Second thing is that wherever they are possibility of commissioner to record evidence. We appoint the junior most lawyers to appoint them as commissioner to record the evidence and ask the legal services committee to pay the fees. We have to take care of the interest of the lawyers also. When we started appointing lawyer u/s 9 of the arbitration Act. When I returned to my chamber there were so many visiting cards. The lawyers say this is the last day for the payment of fees of school of my son, this is the medical expenses of my parents and too many reasons. Because of large number of lawyers coming in and there is no sufficient cases for them. Junior lawyer's don't have the means for the everyday sustenance. Therefore wherever possible. They will think that the court is here to help them. When such a situation comes perhaps we can expect better cooperation from them, Very very small adjustments. Very very small things. Because the law permits affidavits, evidence is to be given in the form of affidavit, why not the cross examination be also recorded by lawyer. We assist them in small way. That gives you to build the relationship.

Participant: The boycott or the operation with the bar part time advocates is one cause, full time advocates who is having good practice will not be interest in all the things. Slowly the advocates are getting insecurity feeling even if the advocate is having reasonable practice are under some feeling that their work is being taken away by ADR methods. Especially in cases of lok adalats all cases are settling, bails are taken away because of 41 A amendment and Arnesh Kumar etc all bails are taken away. All compoundable matters police are settling using all sorts of means and pressurizing for the sake of their statistics etc. They are making money. How their insecurity feeling can be taken away need some concentration. There are so many avenues created under different Acts. Here they are losing the conventional work new doors has opened. Who is going to coordinate is a bigger issue the forum like the NJA should plan.

Justice Vimla: Yes this is an apprehension in the mind of the lawyers. They have said that there two institution where greatest injustice is percolated. Number one is lok sabha, number 2 is lok adalat. If insignificant cases or cases of compoundable nature is settled in lok adalat that will give us greater time in the court to involve in complicated cases. If the settlement is speedier, cases are disposed of speedier. More cases are likely to flow into the system. We are talking about access to justice. More

cases are waiting they go to local panchayat under the compromises. If we are able to show our progress very quickly.

All those cases will not go to the outsiders and will come into the system. We can ask somebody to speak to the lawyers about the avenues opened to them to do very constructive work. They will be happy to work with us. There was compound under construction and the question was this one media person came and ask the first person what are you doing. Means money is paid he will work if money is not paid he will not work. The second person asked the same question, he said, when somebody gives me a break I put it and put the cement. If the first person stop giving the break, he will stop cementing. This is second kind of response came.

The third question to the third person. I am constructing a compound wall which is meant for the protection of the future leaders of this country. It is a school compound wall. See the perception, how it differs stage by stage. He said that, that means he will take care of the strength of the compound and utility of the compound his intention is to protect the future leaders. Then nothing can stop him from doing the work. When such is the attitude for building of the compound wall, we are building the nation, we are building the people. We are cementing the people, but for judiciary no democracy is possible. I am proud in seeing all of you as judges of this country. I think you have to establish better relationship with the bar. So that he will give you maximum output. Thank you.

SESSION 11

12:00 PM – 01:00 PM

Feedback and Evaluation

Dr. Geeta Oberoi: I will just take five minutes and after filling of form you can go. Five minute to ask was the program alright can we repeat it for next academic year. If you are not happy with anything like logistics please let us know. It is very close we will try to improve upon it. Every batch ask me this question.

Participant: If one person commits a mistake he should be punished not all the persons should be punished. Spouse get very little chances to go outside. This is not fair.

Dr. Geeta Oberoi: It is not my decision it is not the decision taken at academy level. It is decision taken at Supreme Court level. We always communicate the responses received.

Participant: Please strongly communicate this matter. We can say on face. We strongly oppose it.

Participant: It is the reason for which we had to do huge shopping yesterday. Almost all officer. Is it the reason?

Dr. Geeta Oberoi: Next time I will be getting someone more relevant person who has prepared judicial budget or who has gone through the judicial budget in the ministry. This person also is from ministry of finance.

Participant: He was talking about state budget and central budget. It is not relevant to our district court, how we should prepare the budget, what should be the requirement of district court budget.

Dr. Geeta Oberoi: I will try to get more experts in this area and I will get back.

Participant: After six months or one year, you can call us again so as to have interaction what is the outcome and how we resolve the problems of bar as well as the brother judges as well as staff.

Dr. Geeta Oberoi: I just want to inform that in nominations we have no say. It is registry of the high court which decide nomination. Similarly on this issue of spouse also. It is Supreme Court committee which decides which consists of present chief justice of India, next chief justice of India, next chief chief justice of India. So we have no say in that. Where I have say is what you said to me that the person who is called as a resource person was not appropriate. There I have control. There I know yes this is our mistake.

Participant: In bar related issues some advocates had been called.

Dr. Geeta Oberoi: When we call them for bar related issues they are very nice to all of you. They say yes yes. Yes they say because of us there are problems, because we are unethical. At least we will have better standing here.

Participant: Last year we were given opportunity to participate in a program of good governance at LBS academy. Their resource persons were called from Delhi from Bombay from Calcutta, who have reputation in the corporate field about psychological behavior and to counter certain problems when you are in work field. Please call resource persons from out of the field of law. Those who have corporate experience. Because they are updated then only they can survive. They were more effective.

Regarding computerization program may be well imparted by the persons who are from NIC, who are actually making programs for us and there we will know better how we can use, the programs by us. Call persons who are actually creating the software or who are suggesting hardware for us.

Participant: You also search the resource persons also from the participants.

Dr. Geeta Oberoi: I did that on second day from all of you. You were the one teaching each other.

Participant: Some of the district judges who have been elevated to the high courts. Justice Gurdev Singh and Justice Kawaljit Singh. They are excellent persons.

Participant: We give the name of the Justice SS Shukre who was the principal district judge and the Registrar General and now elevated as a high court judge.

Dr. Geeta Oberoi: So OK shall we say goodbye tell we meet again. So thank you.

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