

NATIONAL JUDICIAL ACADEMY

P-1055: Workshop on Counter Terrorism in Collaboration with CEELI Institute/FJC for High

Court Justices

27th – 29th October, 2017

Programme Coordinator : Ms. Nitika Jain, Law Associate, NJA, Bhopal

No. of Participants : 23

No. of forms received : 22

I. OVERALL				
PROPOSITIONS	To a great extent	To some extent	Not at all	Remarks
a. The objective of the Program was clear to me	95.45	4.55	-	-
b. The subject matter of the program is useful and relevant to my work	54.55	45.45	-	-
c. Overall, I got benefited from attending this program	81.82	18.18	-	-
d. I will use the new learning, skills, ideas and knowledge in my work	68.18	31.82	-	-
e. Adequate time and opportunity was provided to participants to share experiences	95.45	4.55	-	-
Evaluation and Feedback				
1. Were you previously familiar with the GCTF good practice documents?	1. No 2. No, Not previously 3. No 4. No 5. No 6. No 7. No 8. I was not aware of GCTF good practices. 9. No			

	<p>10. No</p> <p>11. Yes</p> <p>12. Yes to some extent</p> <p>13. A little bit</p> <p>14. No</p> <p>15. No</p> <p>16. No</p> <p>17. To some extent</p> <p>18. To some extent</p> <p>19. No</p> <p>20. No</p> <p>21. No</p> <p>22. No</p>
<p>2. Did you find the GCTF good practice documents to be a useful reference?</p>	<p>1. Yes</p> <p>2. Yes</p> <p>3. Yes</p> <p>4. Yes, very much</p> <p>5. Yes</p> <p>6. Yes</p> <p>7. Yes</p> <p>8. I found it useful</p> <p>9. Yes</p> <p>10. Yes</p> <p>11. Yes</p> <p>12. Yes very much</p> <p>13. Yes, greatly</p> <p>14. Yes</p> <p>15. Certainly Yes</p> <p>16. Yes</p> <p>17. Surely. It should be imbibed widely</p>

	<p>18. Surely</p> <p>19. Yes</p> <p>20. Surely</p> <p>21. Yes</p> <p>22. Yes</p>
<p>3. Would you use these in your work?</p>	<p>1. Yes</p> <p>2. Yes</p> <p>3. Of Course</p> <p>4. Yes</p> <p>5. Yes</p> <p>6. I would, wherever applicable.</p> <p>7. Our procedural laws are in tune with GCTF good practice to a large extent. However there is scope for using some of them.</p> <p>8. There is no reason why I won't be able to spread the knowledge gathered from the programme.</p> <p>9. Yes. At the appropriate & operative time.</p> <p>10. Yes taking into account the facts of circumstances the case.</p> <p>11. Up to large extent.</p> <p>12. Yes subject to the laws of the land.</p> <p>13. I would definitely use as a meaningful resource</p> <p>14. Of course</p> <p>15. Sure</p> <p>16. Yes</p> <p>17. Of course. It should be used by all judges.</p> <p>18. Of course.</p> <p>19. Yes</p> <p>20. Yes, to some extent in view of prevalent legal position.</p> <p>21. Yes</p> <p>22. To some extent</p>

<p>4. If so, in what way?</p>	<ol style="list-style-type: none"> 1. I head my High Court's Judicial Academy where we train various stake holders in criminal justice administration. The breadth of information provided in workshop would greatly benefit in enhancing and making the judicial system more robust, receptive and judicious. 2. It is good to have the tips regarding security of the Court-room, witness and handling of terrorism cases. 3. Especially in case management, continuous trials. 4. Participant did not comment. 5. These guidelines not only lay down procedures to be followed in terrorism related cases but also lay down guidelines to protect interests of defendants, dealing with media which can be replicated in our own situations. 6. In relation to security of the trial court where such trials are to be conducted for witness protection & speedy trail and the balance between the rights of the accused and an effective trial. 7. 1. We do not have Marshals in our court security and we can think of implementing this; 2. Our trial judges can be advised to have pre-trial sittings with the prosecutor, defense attorneys and the press and agree to have the cases disposed expeditiously without compromising on any case issue like fairness. 8. I can spread the knowledge amongst the judges who deal with terrorism related cases. 9. Difficult to say now. 10. Following GCTF good practice documents. 11. Depending on circumstances. 12. In conformity to Indian laws. 13. Designing the court and court procedure to carry on trial of the terrorism defendant fairly, securely and transparently. 14. By interacting with trial judges & make them aware about these good practices to be adopted in trial against terrorists/ Issues like court security. Security of witness and regarding media access are the issues to be handled carefully. 15. First, I will share my experience with my colleagues and trial judges and apply these principles in proceedings. 16. In court proceedings. 17. To balance rights of accused, to ensure fairness in court dispersion.
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	<p>18. In cases pertaining to terrorism I would certainly see to it that trials are conducted and completed/concluded quickly and without loss of time. Witnesses are protected and court room security is handled.</p> <p>19. In day to day judicial administration.</p> <p>20. Speedy trial is relevant. So, good practice can be implemented within parameters of law of the land.</p> <p>21. Though there good practices are primarily focused for a trial court judge but I see its benefits and application at the appellate stage as well. I am particularly impressed by the process of a continuous trial. We have a provision in our procedural code S-309, but it has to be implemented more effectively.</p> <p>22. Participant did not comment.</p>
<p>5. What issues do you think should be addressed in follow on programs dealing with the challenges of judges handling counter terrorism or national security cases?</p>	<p>1. Witness Protection programs should be focused upon. Court Layout maybe addressed to rule out possibility of compromised witness.</p> <p>2. The changing scenario of the present days infected with terrorism makes it very necessary to have such program on regular basis.</p> <p>3. Issue of special judges; putting less number of cases in these courts for expeditious/continuous trial.</p> <p>4. Almost all issues have been covered.</p> <p>5. More case studies be included from our country to give contrast comparison with US & other advanced countries.</p> <p>6. Issues relating to better investigation of such cases with a paradigm shift on just witness based on oral evidence to scientific based evidence with a larger focus on forensic sciences in the gathering and interpreting evidence in such cases.</p> <p>7. You may address the issue of collecting and sharing intelligence with the judiciary especially in cases when there has been preventive and timely action to avert a terrorist operation.</p> <p>8. The foreign judges can be made aware of the statutes; Material can be provided in advance.</p> <p>9. Participant did not comment.</p> <p>10. Participant did not comment.</p> <p>11. Protection of witness and providing confidence to the witness that if, they depose correct facts in the court, they will not be harmed by anyone.</p> <p>12. Speedy trials, effective evidence management, and upholding the public confidence in justice delivery system.</p>

	<p>13. Sharing of materials in respect of court procedure, practice direction and judgement analysis.</p> <p>14. I think issues raised in this workshop need to be elaborated further.</p> <p>15. Would require continued workshop/interaction with trial court judges.</p> <p>16. Continuing exchange programme between agencies & members of judiciary to have a common platform in the fight against terror.</p> <p>17. Intelligence inputs to counter cross-border terrorism.</p> <p>18. The issues discussed were fairly comprehensive but the same should be taken up in more details or specifics. Also what procedures are being followed by other countries should also be discussed.</p> <p>19. Protection of witness, media coverage etc.</p> <p>20. Witness protection</p> <p>21. Continuous trial needs to be emphasized.</p> <p>22. More intensive training.</p>
<p>6. What are the most pressing issues affecting those judges?</p>	<p>1. Special Judges is merely a nomenclature without any special features. Ineffective investigation also poses challenges.</p> <p>2. The control of “Media” in reporting of the cases.</p> <p>3. Expeditious/continues trial.</p> <p>4. Witness protection.</p> <p>5. Participant did not comment.</p> <p>6. Public perception about the ability of judges to balance the rights of the accused and the interest of the society.</p> <p>7. In India the pressing issues are judge population ratio and Docket explosion which reflects an efficiency of our judges.</p> <p>8. Large docket; Case management; Investigating agencies have meagre resources; Technology updation.</p> <p>9. Participant did not comment.</p> <p>10. Participant did not comment.</p> <p>11. Emotions.</p>

	<p>12. Security of judges, protection from media interference, witness protection.</p> <p>13. Security of court room and witnesses. Knowledge of law as developed in this specialized area.</p> <p>14. Security.</p> <p>15. Participant did not comment.</p> <p>16. Knowledge preparedness & eagerness to implement to broad principles of fair & just trail.</p> <p>17. Media handling, security and common international ramifications.</p> <p>18. Manage pendency of cases, infrastructural issues, finance and large number of witnesses cited/ voluminous documents produced as evidence are some of the issues affecting judges dealing with terrorism cases.</p> <p>19. Media coverage of the proceedings and witness protection.</p> <p>20. Scientific training to conduct such trials.</p> <p>21. How to deal with the Bar and how to limit adjournment for speedy continuous but fair trial.</p> <p>22. Security of judges & witnesses.</p>
<p>7. Were there any issues not addressed in this meeting which you would have liked to address?</p>	<p>1. Participant did not comment.</p> <p>2. The trial court judges should be involved in the symposium.</p> <p>3. Yes</p> <p>4. No.</p> <p>5. Comparative situations.</p> <p>6. No.</p> <p>7. I wanted to know the police set up in the US and how an investigation of a case actually commences there. This could have been addressed.</p> <p>8. Most of the matter was discussed fully.</p> <p>9. Participant did not comment.</p> <p>10. Participant did not comment.</p> <p>11. Counselling to the accused. Re-habilitation of the defendant when he comes out from the jail and proper security and education to the family of the defendant.</p> <p>12. Almost all issues were touched.</p>

	<p>13. Territorial issues in such cases.</p> <p>14. Touched almost all important issues.</p> <p>15. I wish there were deliberation on manner of investigation, though evidence were discussed.</p> <p>16. All issues addressed.</p> <p>17. Causes of terrorism, initiatives needed to prevent the same.</p> <p>18. The issues discussed were fairly comprehensive but the same should be taken up in more details or specifics. Also what procedures are being followed by other countries should also be discussed.</p> <p>19. Method to hold trial effectively.</p> <p>20. Comparative analysis of provisions relating to enquiry, investigation and trial.</p> <p>21. They were. I was only emphasizing.</p> <p>22. Law of perjury.</p>
<p>8. Would it be useful to examine case studies from this and other regions?</p>	<p>1. Yes</p> <p>2. Yes</p> <p>3. Yes</p> <p>4. Yes</p> <p>5. Yes</p> <p>6. It certainly would be.</p> <p>7. Of course, case study is the best way to understand and resolve problems.</p> <p>8. Yes, Definitely</p> <p>9. Yes</p> <p>10. Yes</p> <p>11. Yes</p> <p>12. Yes, Surely</p> <p>13. Yes, It would be of great benefit.</p> <p>14. Yes, of course.</p> <p>15. Certainly yes.</p> <p>16. Yes</p> <p>17. Yes surely.</p>

	<p>18. Yes</p> <p>19. Yes</p> <p>20. Surely.</p> <p>21. Yes</p> <p>22. Yes</p>
<p>9. What do you see as the biggest terrorism issue currently facing you country?</p>	<p>1. Addressing the cause; Effective investigation.</p> <p>2. The fanatics and the Maoists have really given a bad name and disrupted the normal life in many parts of the country; should be dealt with a heavy hand.</p> <p>3. Terror findings; hate speeches, poverty/ unemployment of youth.</p> <p>4. Radicalization of youth.</p> <p>5. ISIS & cross border terrorism from Pakistan & China.</p> <p>6. 1. Faith based extremism leading to acts of terrorism; 2. Extremism based on leftist ideology.</p> <p>7. Maoist and Islamic Terrorism.</p> <p>8. Islamic Fundamentalism, Right-wing extremism, Economic terrorism, digital terrorism</p> <p>9. Protection of judges; Role of media; quality of investigation.</p> <p>10. Yes</p> <p>11. Religion based terrorism particularly the one sponsored by fanatic organization.</p> <p>12. It is a global concern.</p> <p>13. Islamic terrorism.</p> <p>14. Witnesses too terrorized to depose and thus affecting materially the outcome of trials.</p> <p>15. Radicalization of innocent youths.</p> <p>16. Global financing of terror.</p> <p>17. Ethnic issues, terrorism as mode of proxy war.</p> <p>18. Radicalization on the basis of religions.</p> <p>19. Terrorism from inside and outside of our country.</p> <p>20. Black money circulating in economy.</p> <p>21. Lack of education in those who are particularly vulnerable towards this path.</p>

	22. Cross border as well as home grown terror.
10. Do you think you country's legal structure is now adequate for addressing terrorism cases, or are additional legislative changes needed? If so, what legislative changes or laws do you think are necessary?	<p>1. We have a substantially effective legal structure.</p> <p>2. The terrorism law should be more stringent. A terrorist is not a human being. He/She goes on to destroy humanity. They do not have any mercy for humanity. So, they should not be given the status of a citizen, their rights can be suspended and they can be tried as terrorist, not citizen.</p> <p>3. Situations change from time to time. Law cannot be static; Ease of electronic laws qua admission of electronic evidence; especially qua interceptive communications.</p> <p>4. It is more than adequate.</p> <p>5. Yes</p> <p>6. Legislative changes would be required with greater powers to the investigating agencies while providing safeguards to prevent its abuse.</p> <p>7. Until 2004 our terrorism law permitted the usage of a confession made by an accused to a senior police officer. It is no longer permitted. In my view without the aid of a confession it will be very difficult to sustain convictions in conspiracy cases of terrorism. Unless we get back this provision it will be very difficult to convict the terrorists.</p> <p>8. We need to strike the right balance between the needs of national security and the rights of the accused.</p> <p>9. Requires more instructing & additional laws to be framed.</p> <p>10. Adequate for addressing terrorism cases but it should be effectively executed to achieve the objective.</p> <p>11. Yes</p> <p>12. Yes, very much. Best legal practices and procedures are already in place which can be improved on recommendations of the Law Commission.</p> <p>13. It is adequate. We need improvement in the witness protection programme and investigative [including forensic] tools.</p> <p>14. Yes, we have adequate legislation. We are require good implementation.</p> <p>15. We have fairly good legislative measures in place.</p> <p>16. More or less adequate.</p> <p>17. It is adequate. Legislative changes have already taken place and law is adequate to meet the challenges.</p> <p>18. The existing laws are quite good but we could do with laws pertaining to witness protection, decision of trials pertaining to terrorism to be taken up on a day to day</p>

	<p>basis or to be tried with in a time framework. Also law pertaining to reasonable restrictions on media reporting should be promulgated.</p> <p>19. Not adequate</p> <p>20. It is adequate.</p> <p>21. In my opinion the present legislation seems to be adequate. Even though POTA was repealed in 2004, many of its provisions have been incorporated in the Unlawful Activities (Prevention) Act 1967, by way of amendments. We need better investigation and trained judges.</p> <p>22. Requires improvement in certain areas.</p>
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