TRAINING PROGRAM FOR BANGLADESH JUDGES AND JUDICIAL OFFICERS - (SE-03)
22nd to 25thNovember, 2021

Sumit Bhattacharya & Dr. Sonam Jain
Program Coordinators & Faculty, NJA Bhopal

Program Report

A Memorandum of Understanding (MoU) has been entered between the National Judicial Academy, India (NJA) and the Supreme Court of Bangladesh for organising Training and Capacity Building programmes for Bangladesh Judicial Officers. In pursuance of the said MoU, an online program for Judges nominated by Bangladesh was organized by NJA (*hereinafter* Academy) from 22ndto 25th November, 2021.

Objectives of the Seminar:
In compliance to the said MOU entered into between the Academy and the Supreme Court of Bangladesh for training of about 1500 officers from 2017 through 2023, the Academy endeavours to continue the capacity building and training of judicial officers of Bangladesh. As a convention to the yester year's model, 04 batches of about 40 officers would participate in a course of 04 days training program by the Academy (modified to suit the current pandemic situation). Conventionally, the first three batches would comprise junior division judges, magistrates and subordinate judges; and the fourth batch would comprise District and Sessions and equivalent rank judicial officers. Thereafter, the identified and designated State Judicial Academies would organize part of the training program after a stint of training at the Academy within the framework of a training module and curriculum designed therein.

The contours of the program at Academy traces the overview and architecture of Indian constitutional arrangement, highlighting the constitutional vision of justice with its goals, roles and vision of Courts. The critical elements of judicial behaviour *viz*. ethics, neutrality and professionalism *sine qua non* to a judge's demeanour would be analysed. Session to hone judging skills, including effective listening, assimilating, drafting and delivering quality judgments has been factored in. Recent advances in the field of handling evidence (especially electronic evidence) including established and emerging jurisprudence jettisoning procedural failure modes features in the program menu. In the changed milieu (especially ever since the pandemic struck), portending a discomforting uncertainty, the evolving engagement of Indian judiciary with its colossal data base in NJDG, deep and pervasive systematization with CIS, and proactive embracing of AI enabled projects *viz*. SUPACE, SUVAS projects etc. formed the edifice to discuss the power of ICT and e-judiciary initiatives with the foreign judges. The program also accommodated a session on discussing the best-practices through landmark judgments; wherein a story of a foray from a strong structural domestic judicial wisdom of case law archival to transformative constitutionalism was analysed. The novel experiments by the collaborative efforts of legislative and judicial initiatives in the form of rolling out of, and ramifications of Commercial Courts Act, 2015, Insolvency and Bankruptcy Code, 2016 *inter alia* formed part of the program.

Resource Persons

S.No.	Resource Person	Designation
1.	Prof. M.P Singh	Research Professor of Law, Jindal Global Law School.
2.	Dr. Balram K Gupta	Director (Academics), Chandigarh Judicial Academy
3.	Prof. BT Kaul	Former Director, Delhi Judicial Academy
4.	Dr. Kiran Rai	Faculty, Maharashtra National Law University, Mumbai
5.	Prof. M.P Singh	
6.	Prof. BT Kaul	Former Director, Delhi Judicial Academy
7.	Justice G. Raghuram	Former Judge, Andhra Pradesh High Court, Former Chairperson CESTAT, Former Director, National Judicial Academy
8.	Justice Ved Prakash Sharma	Chairperson, State Law Commission, Madhya Pradesh, Former Judge Madhya Pradesh High Court
9.	Justice G. Raghuram	Former Judge, Andhra Pradesh High Court, Former Chairperson CESTAT, Former Director, National Judicial Academy
10.	Mr. Ramakrishnan Viraraghavan	
11.	Justice R.C. Chavan	Former Judge High Court of Bombay
12.	Justice Ved Prakash Sharma	Chairperson, State Law Commission, Madhya Pradesh, Former Judge Madhya Pradesh High Court
13.	Mr. R. Santhana Krishnan	Advocate, Independent Counsel
14.	Mr. Brian Speers	President, Commonwealth Lawyers Association
15.	Mr. Atul Kaushik	Former Secretary Govt. of India, Independent Consultant
16.	Dr. Harold D'Costa	Independent Consultant
17.	Mr. Debashis Nayak	Advocate, Independent Counsel
18.	Dr. Harold D'Costa	Independent Consultant
19.	Dr. Justice Shalini S. Phansalkar Joshi	Former Judge, High Court of Bombay
20.	Prof. VK Dixit	Professor Emeritus, National Law Institute University, Bhopal
21.	Dr. Justice S. Vimala	Member, State Law Commission of Tamil Nadu, Former Judge, Madras High Court
22.	Ms. Geeta Ramaseshan	
23.	Dr. Justice Shalini S. Phansalkar Joshi	Former Judge, High Court of Bombay

Day-wise brief of progression:

The four day training program was designed to cover twelve themes each in a dedicated session. A day typically was scheduled to cover three such sessions. A brief account of the same is reported hereunder:

Session 1

Theme: Overview and Architecture of Indian Constitutional Arrangement

The session rolled-out with appreciating the essence of commonality in the colonial past and the relentless endeavor to foster the rule of law through a written Constitutional law by the twin South East Asian nations. The similarities and the issues common to the Constitutions of either of the nations were enumerated. The vision and functional bottlenecks of the working of an effective Constitution was discussed. Philosophies propounded by the eminent American historian Granville Seward Austin was quoted to determine the three fundamental pillars anchoring the edifice of the colossal grandeur of the successfully working Constitution of India. The three pillars are namely "Social revolution", i.e. unlike "socialistic ideologies" practiced in China and Russia (the then USSR), an Indian approach is rather a much divorced approach to constitutionally remove social inequalities using the apparatus of democracy drawing its drive from the Constitution of India. The second pillar relates to the idea of "delivering democracy to the grassroot level", such that the rule of law pervades to the last village of the great nation. Lastly, the third pillar illustrated "unity", therein signifying not only having a Union Government and State Governments effectively functioning in a quasi-federal manner, but working towards the end of holding the structural integrity while appreciating the myriad diversities. The architecture of Part III & IV i.e. "Fundamental Rights" and "Directive Principles of State Policies"of the Constitution of India could be traced to be erected on the aforementioned pillars.Comparing the supremacy of the Constitution(s) of the nations, the express adoption of Article 7(1)&(2) of the Bangladesh Constitution vesting all powers of the Republic in the People and the Constitution as the solemn expression of their will, was compared by drawing parallels from the Constitution of India, flowing from the Preamble to the Constitution. Amongst other vital comparatives the "Doctrine of Basic Structure" as evolved by the echelons of the judgments of the Supreme Court of India was juxtaposed with the express Bangladeshi version (brought in through amendment) under Article 7 B. While discussing the Article 142 of the Constitution of India *vis a vis* Article 104 of Constitution of Bangladesh in context of Apex Courts power to the notion of "complete justice, the vitality of the Article its optimal contemporary leverage was exemplified when the same was invoked by the Supreme Court of India under the challenging COVID 19 pandemic. The same was underscored as *an example* of the living upto the constitutional vision of India.

Session 2

Theme: Landmark Judgments: Celebrating Decadal Masterpieces

The session captured the important contributions of the constitutional courts of India in the last decade. The decadal developments through the masterpieces laid down by the Supreme Court of India, and the State High Courts, amongst several novel, intriguing and fast changing societal nuances, includes the upholding of the status of dignity and individuality. Hence, one of the eyepieces captures the role of the constitutional courts as social reformer. Particularly the evolution through the lenses of feministic and family law jurisprudence, finds a predominant place. The novelty of Indian decadal jurisprudence expounded the right to privacy as a fundamental right through the landmark judgment of *Justice K. S. Puttaswamy (Retd.) & Another v. Union of India*, (2017) 10 SCC 1*(Right to PrivacyJudgement)*, pervaded through to the concept of "right to be forgotten", thereby qualifying further the neonate in "right to privacy". The inquiry into "right to be forgotten" could be traced through couple of High Court judgments *viz. Jorawar Singh*

Mundy v. Union of India, 2021 SCC OnLine Del 2306 and *Subhranshu Rout v. State of Odisha,* 2020 SCC OnLine Ori 878, *Zulfiqar Ahman Khan v. Quintillion Businessman Media Pvt. Ltd,*2019 SCC OnLine Del 8494 the court held that "Right to privacy", of which the 'Right to be forgotten' and the 'Right to be left alone' are inherent aspects. Moreover, "B.N. Srikrishna Committee", has included the "Right to be forgotten" which refers to the ability of an individual to limit, delink, delete, or correct the disclosure of the personal information on the internet that is misleading, embarrassing, or irrelevant etc. as a statutory right in Personal Data Protection Bill, 2019. The Supreme Court in *K.S. Puttaswamy Case* held "right to be let alone" as part of essential nature of privacy of an individual. The change of position of women in the institution of marriage, family, and religious practices, customs and faith was projected through the myriad judgements *viz.Indian Young Lawyers Association & Ors. v. The State of Kerala,* (2019) 11 SCC 1 *(Sabrimala Case)*; *Joseph Shine v. Union of India,* (2018) 2 SCC 189 *(Adultery Case)*; *Navtej Singh Johar v. Union of India,* (2018) 10 SCC 1 (Decriminalizing Section 377 Indian Penal Code, 1860); *Shayara Bano v. Union of India,* (2017) 9 SCC 1 *(Ban on Triple Talaq)* etc. Other cases referred included, *Jeeja Ghosh v. Union of India,* (2016) SCC 761 *(Disabled person to be treated with dignity)*; *Shreya Singhal v. Union of India, (2015) 5 SCC 1*(Struck down Section 66A of IT Act); *Justice K. S. Puttaswamy (Retd.) v. Union of India*, (2019) 1 SCC 1 (*Aadhar Judgment)*.

Session 3

Theme: Indian Judiciary and Tryst with Novelty: Aligning with Global Standards by Raising the Bar

The session examined the tryst with novelty through two lenses:

(A) Judicial interpretations of the statutes to fillup the inconsistencies and interstices to meet the present day challenges. and

(B) Analysis of the novel approaches & best practices both statutory and judicial.

The transition from the rigid stance of *locus standi* to Public Interest Litigation (PIL) was termed as the first phase of major judicial tryst with novelty in India. The next was the advent of transforming the sacrosanct "adversarial practices" to "collaborative practices". In this phase best practices and procedures *viz.* introduction and regularizing the "Alternate Dispute Resolutions" (ADR) into the judicial mainstream was experimented and crystalized through persistent evolutions. The third phase saw the advent of the shift from "adversarial to inquisitorial" procedural changes to address specific areas to ensure significant and fast social and legal reforms *viz.* POCSO Act, 2012, Juvenile Justice (Care and Protection of Children) Act, 2015 etc. The journey to novelty treaded ahead further touching all facets of development *viz.* business, economic, taxation, environmental challenges, to embracing fast changing technological interfaces. Indian tryst could be measured with the introduction, course changes (through amendments, and court interpretations) and stabilization of statutes *viz.* Commercial Courts Act, 2015 & the Insolvency and Bankruptcy Code, 2016 being unique codes enabling procedural ease for doing business to jack-up India's global ranking. These codes are aimed to facilitate easy and early resolution of *lis* arising out of commercial disputes. Introduction of the Goods and Services Tax regime of 2017 (GST) intending to reform the prevalent multiple fractured tax regimes, establish transparency and eventually control inflation, has seen many judicial interpretations settling the inconsistencies and infirmities. The drift of the novel economic legislations from the rigid conventional constitutional and statutory clutches and bedrocks were examined with help of appropriate jurisprudence *viz. Clariant International v. SEBI,* AIR 2004 SC 4236.The continuous change in the Information Technology Act, 2000 through amendments in the Rules dealing with various aspects of the brisk change in the technology including the Internet Service Provider (ISP) liabilities impacting the conventional criminal and civil laws of the countries with its hybrid and mutant species was discussed.

Session 4

Theme: Elements of Judicial Behaviour: Ethics, Neutrality and Professionalism

The judiciary as a branch of public service exists and works for the people of the country those words marked the beginning of the session. It was emphasized that sovereignty lies with the people of the country. It was highlighted that in India and in Bangladesh, the people are oftern denied those essential attributes of intellectual and cognitive existence namely basic and specialized education, empowerment, and a capacity to access justice in various dimension of its faculty. The judges were urged to behave empathetically on and off the bench and try to connect with people. It was stressed that the demeanor of judges, the way they dress up and carry themselves even after court hours should form a bridge with the people. Since the judgements would be socially acceptable only when the person delivering them are socially and culturally connected with the public. It was advised that the judges should live a life that is compatible with people around. It was mentioned that economic integrity is certainly non-derogable component of judicial deportment. Social, cultural and doctrinal neutrality are more challenging for judiciary, as sometimes they suffer from doctrinal relativism. It was mentioned doctrinal coherence and doctrinal continuity are the important elements that should be kept in mind. It was deliberated that gender, race, sex, class, religious, geological distinction should not hinder by the judges while delivering judgements. It was suggested a judge should not perform the functions mechanically, but have sense of intellectual self-respect as they are not unskilled labor. Rather judges are the skilled artist and they are expected to perform a masterpiece in their judgments. Professional neutrality was underscored as a silver lining to a judges functioning..

Professionalism among judges is a necessary virtue for quality administration of justice. It was clarified that judges may not stricto sensu be professionals by measure of its popular sense, industry expects judges to perform functions professionally. The five essential attributes namely the professional competence, the sprit and attitude of serviceability, respecting human dignity, timeliness, the judicial temperament, humility and courage were highlighted. Emphasis were placed on Judicial Ethics. The six value laid down in Bangalore Principles of Judicial Conduct, 2002 namely: Independence, Impartiality, Integrity, Propriety, Equality, Competence and Diligence were discussed. Lastly, the session concluded with the quotes of Austrian Legal Scholar, Eugene Ehrlich "*there is no guarantee of justice except the personality of the judge*" and "*I view my office as a mission. Judging is not a job. It is a way of life. Whenever I enter the courtroom, I do so with deep sense that, as I sat at trial, I stand on Trial"* as mentioned by Ahron Barak, Former Chief Justice of Supreme Court of Israel.

Session 5

Theme: Judging Skills: Art, Craft and Science of Drafting Judgments

Judgment writing is like a story telling as compared by speaker. It was mentioned that in both the cases, facts are discussed in a clear, comprehensive, crisp way. It was stressed that writing

judgement is a science, craft and also an art. It was advised that judges across jurisdiction should develop a standard format of writing a judgment in a chronological way. Further, it was mentioned that judgment should be clear, precise and repetition must be avoided. The nomenclature of the parties should be continued throughout the judgment. It was highlighted that judges face problems specifically pertaining to their jurisdiction but there are certain universal problems faced by the judges across all common law jurisdictions like procedural delays. It was suggested that the importance of the judgments of the district judiciary should never be underestimated. Further, judgements of the district judiciary are the foundational judgments without which no strong build up is possible by the higher judiciary. It was deliberated that it is the professional and moral duty of a judge to deliver high quality judgment on a consistent basis. It was opined that there are two ways of writing judgments, psychological aspects and technical aspects. Elaborating further psychological aspects are self-doubts, diffidence, which leads to procrastination. It was advised that judges should focus on the procedural firmness and the process will ensure that judgment as an output is of good quality. Timeliness, quality and consistency are the three virtues of writing a good judgment. It was deliberated that a shabbily written judgments might be better than a gem of a judgment deliver after 5 years. It was mentioned that writing a judgement is difficult and there are no shortcuts to it. It was stressed a judgment should always be hard written so that its reading is easy and understandable to the public at large. The session went on to address the question as who is the consumer of a judgment. It was explained that a judgment should always be written keeping in mind the side of the losing party. It was further explained that in the adversarial system that is (followed in our common-law jurisdiction) natural justice requires that every party is entitled to be heard before the appellate court, except for the trial judge. The trial judge alone is not heard in an appeal and is condemned behind his back. It is very important that your judgment must speak for itself and must be able to defend itself against all attacks at appeal.

It was opined that there are three virtues of a good judgment acronym as ‘BSc’ whereby, B stand for Brevity, S stands for Simplicity and c stand for Clarity. The wrong reasons for writing a judgment viz to show off ones legal knowledge, language skills and to impress higher judiciary was discussed. It was stressed that such wrong reasons distract a judge from the primary purpose of a judgment and it goes against the three virtues of good judgment. Writing judgments in difficult cases were elaborated upon. It was advised to set a schedule, gather all the notes, draft framework for the judgment, schedule undisturbed time to write judgement on daily basis and lastly, most importantly complete the first draft of the judgment. The session concluded with anatomy and physiology of a judgment. A judgment should be divided into introduction, body of the judgment and operative portion. It was suggested to re-write a judgement at least four time before the final version is released. Start writing, keep writing was one of the takeaway form the session.

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Session 6
Theme: Judge as the Master of the Court: Court & Case Management

Emphasis were laid on managing time, it was stressed that ‘judge time’ or ‘judging time’,

court time is the most precious thing under court and case management. An analogy was created with the doctors working in mishaps to the judges in the courtroom, they cannot say no to nay patients whosoever is admitted in the hospital. Likewise a judge cannot say no to litigating parties who comes before them. It is expected of a judge to manage time to the best of ability in order to provide justice to the parties before them. It was highlighted the key to progress for any case is the time management. All the stakeholder namely judges, court staff and witnesses are to be synced for any matter to progress. The judges being the master of the court were advised further to keep a vigilant eye on all other stakeholders for the case to move forward. It was suggested that judges should schedule a case intelligently after consulting the parties. Once they themselves have committed to be present at a particular date and time there would be no loss of time. It was suggested that judges may use the language as understood by the parties. It was clarified that judge being the master of court do not imply being owner of the court rather it expects a judge to be able in control of the court. Furthermore, it was advised that inherently a judge should be able to control all his faculties namely anger, temperament and be patient while dealing a case. The session rolled over to the mission and duties of a judge and it was suggested to learn art of communication in the court by the judge.

Two revolutionary ideas that had entered in the judiciary in the last 20 years approximately, are Information Technology and Management of Judiciary. The term management has been exclusively associated with the business earlier, but now it has pervaded to judiciary. What is to be managed, why management is necessary in a judiciary, who has to manage, and how it has be to managed were the certain questions that require a detailed analysis. Management simply put is the skill of getting the better quantitative and qualitative output from the same resources as discussed during the discourse. Further, it was highlighted that health of the justice delivery system can be measured with the help of parameters like timeliness, quality, affordability and efficacy for effectiveness.

Session 7

Theme: Alternative Dispute Resolution

The origins and the historic evolution of the dispute resolution mechanisms in the Indian sub-continent was traced back. “Village Panchayat” was underscored to be one of the oldest and common institution recognized by the society then and the robustness of the customary model continues to be a contemporary model.Delving into the topic of Alternate Dispute Resolution process (ADR), it was compared that akin to Section 89 Civil Procedure Code, 1908 of India (CPC) wherein settlement of disputes outside the Court using (a) arbitration;(b) conciliation;
(c) judicial settlement including settlement through Lok Adalat: or (d) mediation have been dealt; the CPC of Bangladesh expressly deals with two mode of such dispute resolution: (a) Section 89A & 89C deals with mediation; and (b) 89B deals with arbitration. The statutes governing such out of court procedures were dealt with including Arbitration and Conciliation Act, 1996; Legal Services Authority Act, 1987 (with respect to referrals to *Lok Adalat*). The success of the Industrial disputes Act, 1947 was cited which operated primarily conciliation as a tool for

dispute resolution between employer(s) and employee(s) *intra se* and*inter se*.Mediation was touted to be one of the most effective and potent tool to dispute resolution and conserve judicial processes. It was underscored that mediation is anchored to three basic principles namely: (a) confidentiality; (b) facilitative; and (c) voluntariness. The dichotomy between mandatory and/or voluntariness as a cardinal principal governing a mediation process was examined. The very language of Section 89 as a compulsive and tending towards mandatory nature was hyphenated. Similarly, Section 12A of the Commercial Courts Act, 2015 explicitly mandating pre-trial mediation was considered as a rather militating notion against principles of mediation. The evolving modes of ADR and its mutating forms to suit contemporary needs and handle changing issues were discussed. Novel procedures *viz.* "Neutral Evaluation Process"; Hybrid models such as "Mediation-Arbitration", "Arbitration-Mediation-Arbitration", "Online Dispute Resolution Process" (ODR) etc. were examined. The advances in ODR with the augmentation of "Artificial Intelligence" (AI) to scale-up its efficacy & efficiency was highlighted. Its utility in certain niche areas *viz.* contractual or commercial disputes; where and cases do not involve interpretation (of a statute or contract); and those which are not emergent (wherein an injunctive tool may be required) were examined.Emphasis was placed on the need to create a mediation culture as it would benefit not just the judicial system but also have immense benefits for litigants. It was stated that ADR should not be considered to a second hand justice system or a poor relation thereof, rather it should be actively promoted as viable means for settlement of disputes.

Session 8

Theme: Re-engineering Judicial Processes through ICT

The pervasion of ICT into the judicial system and its ramifications were the key focus of the session. Technology integration as a catalyst to enable the courts and the judicial services could be broadly assessed in terms of: (a) improving the performance in terms of efficiency in wake of insufficient manpower; (b) significantly reducing the operating hours and increasing productivity; (c) optimization of the remoteness of the physical court locations. It was insisted that precursor to marry technology with judiciary is an imperative step. A good planning to embed ICT into the system after a detailed assessment and need establishment was said to enable a more customized, and less cumbersome re-engineered system improving efficacy and efficiency both. Stakeholder assessment to identify needs would include judges, lawyers & litigants. A systemic migration from document management to content management would significantly improve precise, relevant, and fast data recovery. Thereby directly scaling up quantitative and qualitative improvement in deliverables. A steep surge in the quality of judgement with much easier access to justice can therein be ensured. The Indian experience and the success story of the e-court project and its management(phase-wise) was shared with the participants. The fundamentals strategies of the e-court project roping-in and leveraging customized ICT enablers were shared to be: (a) a time-bound transition to citizen centric systems; (b) increase the ductility and flexibility of the existing calcified systems to enable play in the joints; (c) migrate to a free and open source system which is more transparent, accessible, easy to operate, and which reduces perpetual dependence on licenses from the private ownerships and collateral complications of securing public data etc.; and (d) develop and evolve a customized Indian system to suit the specific and typical needs of the Indian judiciary, rather than dwell and harbor upon a ready-made "one size fit all" type of auxiliary.The National Judicial Data Grid (NJDG) and its features were

explained. It was stated that the NJDG serves case data for all courts through a web portal on almost real time basis, with a dashboard and a drill down facility to reach the case details in each case. A real time operation of the data grid was exhibited, to navigate the features of the world's one of the biggest and most appreciated ICT enabled live national judicial endeavour. It gave a hands-on flavour of its operability and ease of data retrieval and interpretation, portraying an exemplary transparency and sanitization, driving the system. NJDG enables the user to ascertain the number and type of arrears in every court in the country for better judicial monitoring and management. Other user friendly applications such as NSTEP, E-Pay, E-filing were highlighted which catalysed the effective transition to the novel e-court system from the existing conventional system. *Swapnil Tripathi v. Supreme Court of India***,** (2018) 10 SCC 639, *Pradyuman Bisht v. Union of India,* (2018) 15 SCC 433 and *Justice K. S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 were discussed to trace the contours of open court and live streaming of cases in view of the delicate dichotomy between (a) transparency *versus* (b) right to privacy (especially in cases involving sexual assaults, rape, marital issues etc. impacting dignity and privacy might get cannibalized). The discretion of the presiding judge of each courtroom to (dis)allow live-streaming considering its adverse ramifications owing to unwarranted publicity, leading to prejudice the interests of justice, was underscored.

Session 9

Theme: Electronic Evidence: New Horizons, Collection, Preservation and Appreciation

The session was focused to discuss and share the uncrystalized and volatile law relating to electronic evidence. The evolving jurisprudence of the law relating to electronic evidence in the era of technological changes to an extent of having disruptive technologies including AI was discussed. The discourse included the new age challenges from posed by determination of source of genesis of e-evidence *viz*.i) those created by user(s) of a digital source *viz*. photograph, web pages, audio-video, text, etc; and ii) thoseothers created or generated by computer or machine *viz*. activity logs, browser cache cookies, email headers, network sockets etc.Infirmities in integrity while collection of e-evidence by the un-skilled, un-trained, unaware investigating agencies was cited with examples. Disparagement, loss of accuracy or integrity due to poor or improper preservation of e-evidence and its management was dealt with.The doctrine of "silent witness theory" (of CCTV footage) formed part of discourse citing *KishanTripathi* v. *State*, 2016 SCC OnLine Del 1136. The cardinal principles of forensic process dealing with e-evidence was deliberated as: (a) Acquisition; (b) Authentication; (c) Analysis; (d) Documentation. Use of hash function to ensure authenticity was insisted. Importance of maintaining a log on the chain-of-custody was underscored to ensure proper documentation. The acronym of 5 "Ws" was explained while meticulously maintaining chain-of-custody i.e. Who – took possession of evidence; What – denotes description of the evidence; Where – the evidence was transported; When – denotes the time & date seal; and finally Why – denoting the purpose of taking the evidence.Frequent version upgrades in operating systems and software versions were considered as one of the major challenges to maintain integrity and usability of a digital evidence.

The session, elucidated the importance of Section 65B typical to the IEA (as no equivalent *statutes in pari materia* exists under the Bangladeshi law). The chronicle of unsettled, fluid and tumultuous journey of Section 65B of the IEA from *NCT of Delhi v. Navjot Sandhu*, (2005) 11 SCC 600; *Anvar PV v P.K. Basheer*¸ (2014) 10 SCC 473; *Tomaso Bruno v. State of UP*, (2015) 7 SCC 178;

Sonu @ Amar v State of Haryana, 2017 SCC OnLine SC 765 ; *Shafhi Mohammad v. State of HP*, (2018) 2 SCC 801; through *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantayal* (2020) 7 SCC 1, wherein the issues were finally rested formed part of the discussion.

Session 10

Theme: Transition to a Gender Just Society: Jurisprudential Developments

'Gender just society is an aspiration of every country' marked, the beginning of the session. It was mentioned that the very premise of Indian Constitution is gender equality and gender equity. The concept of Equality is not limited to only the preamble to the Constitution of India but provisions of equality are enshrined in the Fundamental Rights also. It was highlighted that there are seven facets of gender inequality as founded by noble laureate Amartya Sen namely 'Inequality in Morality', 'Inequality in Natality', 'Inequality in Basic Facility', 'Inequality in Special Opportunity', 'Inequality in Choice of Profession', 'Inequality in Ownership of Properties', 'Inequality in Household Responsibilities'. To overcome the inequalities prevailing in the society there are many laws made and judicial decisions pronounced. To name a few legislation to stop sex selection and sex determination and control the declining sex ratio in India and to provide a fair chance to be born, Pre-conception and Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994 Amended in 2003 was made. In *CEHAT v. Union of India* (2001) 5 SCC 577, the Supreme Court had passed several orders and directions from time to time for proper and effective statutory implementation, with all vigor and zeal it deserves. In *Voluntary Health Association of Punjab v. Union of India,* AIR 2013 SC 1571, further directions were issued for mapping the registered and unregistered clinics within 3 months. It was highlighted that consent of women for reproduction is a must as stated in *Suchitra Shrivastv v. Chandigarh Administration* AIR 2010 SC 235. The session next dealt with the Muslim Women (Protection of Rights on Marriage) Act, 2019 which was forward step after the ban of Triple Talaq in *Shayara Bano v. Union of India & Ors.* (2017) 9 SCC 1. Prevention of Sexual Harassment at Work Place Act 2013 and how courts have upheld the rights of children were discussed at a stretch during the session. Emphasis were laid on a plethora of cases including *Joseph Shine vs Union Of India* 2018 SCC OnLine SC 1676, *Young Lawyers Association V/s. Union of India* 2018 SCC Online 1690 (Sabrimala Temple Entry case), *Laxmi vs Union Of India* (2014) 4 SCC 427, *Patan Jamal Vali vs The State Of Andhra Pradesh* 2021 SCC OnLine SC 343, *NALSA v/s Union of India* (2014) 5 SCC 438], *Aparna Bhat & Ors/S State Of M.P* 2021 SCC OnLine SC 230.

A difference of attitude in the society towards the liberation of women. It was stated that in industrious society, women are liberated because of the structural needs of the society. It was notified that classical Hindu law was initially backward in granting freedom to the women. In 1965, the Hindu law was drastically overhauled, women were given tremendous light to the Hindu Marriage Act, Hindu Succession Act, Hindu Adoption Act and many other legislations however a number of others remained uncovered. It was discussed as far as share in agriculture land are concerned, Hindu law and Muslim law were in favor of giving share to

women although Muslim law was more particular in providing women right to property through inheritance. Provisions relating to sexual offences against women under the Schedule Caste and Schedule Tribe Atrocities Act were also discussed. Dowry Prohibition system and Bride Price system were elaborated upon.

Session 11

Theme: Child-centric Jurisprudence in India

Emphasis was placed on caring for the future of the children as they are the most valuable resources and best hope for the future. Provisions under the United Nations Convention on the Rights of the Child (UNCRC) were elaborated upon. Right to survival, right to protection, right to development and right to participation were touched upon. General principles relating to Juvenile Justice (Care and Protection of Children) Act, 2015 were discussed during the discourse. The session rolled over to the five point's declaration of Geneva Declaration. United Nation Conventions, Optional protocols and national polices for children were highlighted upon. Constitutional provision like Right to legal aid, right to Speedy Trial and right to Education were elaborated with the Supreme Court Judgments viz *M.H Hoskot v. State of Maharashtra* AIR 1978 SC 1548, *Pankaj Kumar v. State of Maharashtra* AIR 2008 SC 3077 respectively. Concept of pretrial stage, recording statement of victim, Trial stage and compensation under Protection of Children form Sexual Offences Act, 2012(POCSO) were discussed during the discourse. Further, the special features of POCSO was discussed where the legislation is child centric. Section 19 of POCSO, where it is mandatory for any person to report who has apprehensions was highlighted. Lastly, the complexities involved under the POCSO Act were addressed. Role of doctors to report all cases even if parent do not want was highlighted. Matters related to custody of the child were also discussed during the session.

Session 12

Theme: Principles of Evidence: Appreciation in Civil and Criminal Cases

The session mainly focused on the important principles of law relating to evidence keeping in mind the laws relating to evidence in India and in Bangladesh. It was highlighted that for any fact to be appreciated the foremost thing is to grasp all the available facts and then apply principles in law to appreciate the facts. The session dealt with the well-established standards of proof namely doctrine of *preponderance of probabilities* under the civil law and *proof beyond reasonable doubt* as understood under the criminal law. It was further mentioned that any fact when proved beyond reasonable doubt must be based on certain evidentiary parameter, that of ordinary prudent man. It was discussed that appreciation of evidence in certain cases becomes very challenging like in matters of sexual offences. A reference was made to a very recent judgment of the Hon'ble Supreme Court of India in *Aparna Bhatt v. State of Madhya Pradesh* Criminal Appeal No. 329 OF 2021. It was opined that in matters of offences against a women, the society has its own popular notions about how women should behave and react to certain situations. Howsoever, It was advised that a judgement should be

delivered leaving all the biases and prejudices, myths and stereotypes aside and appreciating the fact with a neutral mind. The concept of sustained provocation was discussed with reference to *R v. Ahluwalia* [1992] 4 All ER 889 and as a considerable precedent in matters of domestic violence. The law of consent under section 114 A of India Evidence Act and presumption of innocence were touched upon. Section 113 A presumption as to abetment of suicide by a married women and section 113B presumption as to dowry death of Indian Evidence Act were discussed during the discourse. The session also delved into the evolving statutory requirement and the concept of "reverse burden of proof" with special focus on the newer Indian legislations viz. POCSO Act; The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act); Prevention of Money Laundering Act, 2002 (PML Act) etc. The jurisprudence and the prevailing myths and presumptions on the aforesaid concept was clarified with the help of case law jurisprudence on the subject matter.