

Transnational Crimes

Madhya Pradesh State Judicial Academy
August 10-11, 2024

Saturday, August, 10 2024

9:00 a.m. Opening Remarks

Hon'ble Shri Justice Vivek Agarwal, Judge, High Court of Madhya Pradesh

9:15 a.m. Welcome & Overview

Dr. Sumedh Kumar Sethi, Joint Registrar, Delhi International Arbitration Centre, High Court of Delhi

Part One: Issues & Challenges related to Digital Evidence in Cyber Crimes - Demystifying Cyber Crimes & Digital Evidence

9:30 a.m. Overview of Cybercrimes & Digital Evidence

This session will address the similarities and differences between cybercrimes and 'traditional' physical crimes and explore cybercrime trends in India. It will also review relevant domestic legislation and review the types of digital evidence generated by cybercrime schemes.

Dr. Aditi Choudhary, Director (Academics) cum officiating Chairperson, Delhi Judicial Academy

Dr. Sumedh Kumar Sethi, Joint Registrar, Delhi International Arbitration Centre, High Court of Delhi

10:30 a.m. Tea Break

10:45 a.m. Appreciation of Digital Evidence

This session will focus on challenges concerning digital evidence. An important facet of appreciation of evidence is determining its admissibility. The session shall deal with legislative provisions governing admissibility of electronic records as evidence and trace the judicial interpretations of Section 65B of the Indian Evidence Act. By the end of this session, participants will be able to

apply the legal requirements relevant to determining the admissibility of digital evidence with a focus on emails and CCTV footage.

Dr. Aditi Choudhary, Director (Academics) cum officiating Chairperson, Delhi Judicial Academy

Dr. Sumedh Kumar Sethi, Joint Registrar, Delhi International Arbitration Centre, High Court of Delhi

11:45 a.m.

Integrity of Digital Evidence

In order to determine the admissibility of digital evidence, the judge must be able to assess its integrity/authenticity. Because digital evidence is particularly vulnerable to alteration (intentional or unintentional), its integrity must be preserved immediately upon seizure. Technological measures like determining 'hash value' can go a long way in protecting digital evidence from tampering. Questions like 'How was the evidence collected?', 'When was it collected?' must be determined as part of the chain of custody inquiry.

Dr. Aditi Choudhary, Director (Academics) cum officiating Chairperson, Delhi Judicial Academy

Dr. Sumedh Kumar Sethi, Joint Registrar, Delhi International Arbitration Centre, High Court of Delhi

12:15 p.m.

Lunch

Part Two: Trafficking in Persons

1:15 p.m.

Trauma-informed Judicial Approach

Survivors of human trafficking have endured extraordinarily damaging experiences. This trauma often continues through the criminal justice process and can impact their ability to testify in court. During this session, we will explore the features and impact of trauma and its manifestations during the judicial process. We will address the importance of judicial understanding of trauma and steps judges can take to ensure fair proceedings and protect against the re-traumatization of survivors during the court proceedings. Judges must be sensitive to avoid stereotypes about trafficking survivors, treat them with dignity, and facilitate the creation of a victim-friendly courtroom. Judges also play a role in the rehabilitation process.

Dr. R. Sathya, District & Sessions Judge, Additional Director, Tamil Nadu State Judicial Academy

2:45 p.m.

Tea Break

3:00 p.m.

Victim Compensation

Indian legislation and court judgments provide for the compensation of victims of human trafficking. During this session, we will address the statutory framework for awarding compensation, relevant judicial decisions, and the challenges judges may encounter when deciding the form and quantification of compensation, including the implementation of compensation orders.

A. Hariharanadha Sarma, Director, Andhra Pradesh Judicial Academy

4:15 p.m.

Day 1 wrap-up

Dr. Sumedh Kumar Sethi, Joint Registrar, Delhi International Arbitration Centre, High Court of Delhi

4:30 p.m.

Day Concludes

Sunday, August 11, 2024

9:00 a.m.

Thoughts, Questions?

Part Three: Transnational Narcotics Cases – A Review of Law and Procedure

9:10 a.m.

Jurisdictional Issues in Transnational Narcotics Cases

Narcotics trafficking is a global phenomenon. Its investigation and prosecution are addressed by both international conventions and domestic legislation. Drug trafficking is carried out across national borders and through varied means, implicating an array of the legal regimes and raising complex jurisdictional issues. In this session we will explore the various jurisdictional issues raised by the transnational narcotics trade and the relevant international legal instruments. By the end of this session, participants will be able to address jurisdictional questions that arise during the investigatory and trial stages of transnational narcotics cases, including the issuance of search warrants and requests for extradition.

Tabasum, Sub Judge Sr Division, Judge Small Causes Court Srinagar, District Judiciary High Court of U.T of Jammu Kashmir & Ladakh

- 9:55 a.m.** **Issues regarding search and seizure vis-à-vis Section 50, NDPS Act, 1985**
This session will review the provisions of Section 50 of the NDPS Act of 1985 and relevant judicial pronouncements. We will examine how police authorities conduct searches in transnational drug cases and identify common errors that may lead to the violation of rights and, in some cases, acquittal at trial.

Tabasum, Sub Judge Sr Division, Judge Small Causes Court Srinagar, District Judiciary High Court of U.T of Jammu Kashmir & Ladakh
- 10:40 a.m.** **Tea Break**
- 10:55 a.m.** **Procedure for preservation, scientific analysis and disposal of narcotics: An overview**
In 2016, the Hon'ble Supreme Court issued guidelines for handling narcotics during criminal investigation and trial. In 2022, the Central Government issued rules addressing the seizure, storage, sampling and disposal of narcotics. During this session, we will review these decrees and discuss the role of expert evidence in assessing the integrity of evidence collected pursuant to the NDPS.

Rajeev Gupta, District & Sessions Judge, Member J&K Special Tribunal, Jammu, Jammu and Kashmir
- 11:40 a.m.** **Bail Applications in NDPS Cases**
Judges have significant discretion determining bail in narcotics cases involving intermediate quantities. During this session, we will explore strategies for developing a regulated, objective and uniform approach in dealing with bail applications to increase the likelihood of consistent outcomes across the court system.

Rajeev Gupta, District & Sessions Judge, Member J&K Special Tribunal, Jammu, Jammu and Kashmir
- 12:25 p.m.** **Lunch**

Part Four: Transnational Wildlife Trafficking - A Review of the Facts, Law, and Expert Evidence

1:25 p.m.

Wildlife Trafficking in India: What Judges Need to Know and Framing of Charge under Wildlife Protection Act

After a brief introduction about the different types and scope of transnational wildlife trafficking, we will explore how India serves as a source, transit and destination nation. This session will offer an introduction to the evolution of applicable law and review key court judgments. The Wildlife Protection Act includes complex provisions of law and procedure unfamiliar to many judges. This session will address the court's role during cognizance pre-charge enquiry, and the framing of charges.

Lakshmy S., Judge, Sub Court Cherthala, Alappuzha

2:30 p.m.

How to Manage the Wildlife Articles produced before the Court

In this session, we will describe the judge's role in managing and preserving wildlife articles produced during court proceedings. By the end of this session, participants will be able to comply with the preservation procedures an objectives of the Wildlife Protection Act.

Lakshmy S., Judge, Sub Court Cherthala, Alappuzha

2:55 p.m.

Tea Break

3:10 p.m.

Expert Evidence in Transnational Wildlife Trafficking Cases

This session will provide an overview of the statutory provisions governing the admissibility of expert testimony. We will discuss the legal distinctions between expertise and mere opinion. We will also discuss the types of specialized experts competent to deal with various forms of wildlife and sensitize judges on the care and caution that must be exercised by experts assessing wildlife articles. The session will explore the legal provisions addressing expert evidence and the impact of advances in science and technology on expert evidence.

Shibu Daniel, District & Sessions Judge, Fast Track Special Court, Aluva, District Judiciary, High Court of Kerala

4:40 p.m.

Closing Remarks

4:50 p.m.

Conclusion of the Program