



Judicial Education

NJA

*Newsletter of the
National Judicial Academy*

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JUDICIAL EDUCATION

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**NEWSLETTER OF THE
NATIONAL JUDICIAL ACADEMY**

Vol. 2 No.2

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From the Director's Desk.....



During the past six months, NJA had a large variety of activities involving training, continuing education, judicial conferences, research, networking, publication and supportive services for judicial development. As the outgoing Chief Justice of India, Mr. Justice R.C. Lahoti remarked, one of his priorities as the head of the Indian Judiciary which got fully accomplished in the Year of Judicial Excellence (2005) has been the effective and meaningful operationalisation of the National Judicial Academy, Bhopal. He felt that judicial reform, in the ultimate analysis, is capacity building of the judges themselves for which judicial education and training are the best strategies. Hence the importance of activities of the National and State Judicial Academies.

We carry in this issue two recent speeches of the past and the present Chief Justices reflecting their perceptions of the problems and challenges and how they are being addressed by the judiciary. Obviously, solutions to a great extent depend on resources made available by the Executive and the Legislature. It is possible that the Executive felt unhappy at some decisions of the Supreme Court. If clarifying constitutional provisions and seeking their enforcement are interpreted as encroaching on the functions of the Legislature and the Executive, it only displays the lack of understanding of the Constitutional scheme of governance and the role assigned to the Judiciary under it. As the Chief Justice of India rightly declared in his Law Day Address: "... In Judiciary, there is no place for diplomacy. In the very nature of our duties and functions, some one is bound to be displeased by some judicial decisions; but that is unavoidable." Powerful words to convey a powerful message for a rule of law regime that India claims to be!

Two events held at the Academy during the first half of the Year of Judicial Excellence deserve special mention because of its innovative character, high-level participation and futuristic content.

Judicial Colloquium on "Science, Law and Ethics" attended by over fifty High Court and Supreme Court Justices provided a forum for free and frank interaction between leading scientists and superior court judges on a variety of scientific and technological developments which are likely to raise issues for judicial resolution. H.E. Dr. Abdul Kalam, President of the Republic in his capacity as an outstanding Scientist gave a video presentation and responded to the questions of the participant judges. The judges have noticed the changing character of litigation, the need for specialized adjudicatory systems and the importance of continuing education in frontier areas of knowledge to be able to support progress in a knowledge-driven society under rule of law.

The Hon'ble Chief Justice of India and twelve of his colleagues from the Apex Court made history when they joined a four-day intellectual Retreat at the Academy in July this year. They demonstrated their conviction that continuing education is imperative for judges at all levels to enhance judicial capabilities for better delivery of justice. Over 35 distinguished experts from different fields of activity constituted the Resource Persons for making presentation before the eminent judicial participants. One full day was devoted to the examination of the interface between the Economy and the Law in the context of globalisation and liberalisation. The impact of developments in science and technology on law and administration of justice engaged the attention of judges for another day. A third component of the Retreat was on Governance and the Law which involved difficult constitutional issues arising out of the interaction between constitutional functionaries.

Elsewhere in the Newsletter a more detailed report on these events are included. Hopefully such events involving the highest functionaries of the judiciary will become a regular part of the training agenda of the National Judicial Academy. The Annual Report of the Academy (2004-05) now submitted to Parliament carries detailed statements on the several training programmes conducted by the Academy in the past year.

Another important highlight of the training activity at NJA, is the production of useful, practical guidelines by the participating judges themselves in order to enable new judges to discharge functions effectively in specialized jurisdictions like Family court, Juvenile Court, Atrocities Court, etc. These are being revised and edited for publication and circulation among High Courts for possible adoption and notification. Eventually, the Academy hopes to develop them as "Bench Books" to give the judges required guidance to address common problems which arise during proceedings involving women, children, Dalits, disabled and tribals.

Networking with other training institutions for mutual benefit and building up the training capacities of State Judicial Academies are part of the mandate of the National Judicial Academy. In this regard two significant developments deserve mention here.

Firstly, NJA in association with seven High Courts and their judicial academies have undertaken a major research project on "Access to Justice" under support from the Department of Justice, Government of India and the United Nations Development Programme (UNDP). The project aims to look at the difficulties/barriers that poor people (women, children, Dalits, tribals, disabled and elderly) face in processing their claims through trial courts in different states. The idea is to identify the nature of problems that poor people experience in judicial proceedings, civil and criminal, and to locate them in the system so that whatever can be done at the level of judiciary to mitigate the difficulties may be addressed by the respective High Courts. The judicial academies, in the process, will be able to accumulate lot of useful empirical data on the working of Courts for training of judges and compile some case studies for the purpose.

Another significant initiative from NJA is to map the training institutions, compile a profile of them and prepare a directory of judicial trainers for planning and development. Hopefully an All India Association of Judicial Educators can also be formed to promote the cause of training and continuing education. As a first step towards this end, we publish elsewhere in the Newsletter some information already collected from the training institutions and hope to update the information in future.

National Judicial Academy is terribly under-staffed. It is looking for talented legal academics/judicial officers to fill fifteen positions of Professors, Assistant Professors and Research Fellows. Advertisements in this regard are soon to be released. Meanwhile, the Academy is to find another Director also as the present incumbent has already put in his papers and expressed desire to relinquish office for purely personal reasons. All well-wishers of the NJA are therefore requested to take note of the emerging crisis in management of training and help the Governing Council to find suitable trainers to carry on the activities NJA has developed over the last three years.

5th December, 2005

Prof. (Dr.) N.R. Madhava Menon
Director, NJA

Hon'ble Mr. Justice Y.K. Sabharwal, Chief Justice of India: A Judicial Profile



On Deepavali day this year (1st November, 2005), the President of the Republic has sworn in Mr. Justice Yogesh Kumar Sabharwal as the thirty-sixth Chief Justice of India. He has simultaneously assumed the Chairmanship of the National Judicial Academy as well. The NJA Family is happy to welcome our new Chairman under whose guidance we hope to take the activities of the Academy to greater heights of academic and professional excellence in the service of the Indian judiciary.

Enrolled as an Advocate in 1964, Justice Sabharwal practiced mostly on civil and constitutional matters in the Delhi High Court. He has been the lawyer for Indian Railways and Delhi Administration for over a decade. Between 1980 to 1986, he was the Counsel for the Government of India as well.

He became a Judge of the Delhi High Court in 1986 and later became its Acting Chief Justice. In February, 1999 he became the Chief Justice of the Bombay High Court and in January, 2000 he was appointed Judge of the Apex Court. He will be the Chief Justice of India till 14th January, 2007.

Active in professional circles, Justice Sabharwal served the Delhi High Court Bar Association in various capacities as Secretary and later President for several years. He was also elected to the Bar Council of India from Delhi for a four year term between 1969 to 1973.

Given below are some of the leading judgements of Mr. Justice Sabharwal in a long and distinguished career of nearly two decades on the Bench.

Onkar Lal Bajaj v. Union of India (2003) 2 SCC 673 (on precepts for good governance)
M.C. Mehta v. Union of India (2004) 6 SCC 588 (on regularisation and right to life)
M.C. Mehta v. Union of India (2004) 12 SCC 118 (on sustainable mining)
State of Rajasthan v. Om Prakash (2002) 5 SCC 745 (on need to protect children against sexual abuse)
B.S. Joshi v. State of Haryana (2003) 4 SCC 675 (on gender justice)
Prodip Kumar Biswas (Dr.) v. Subrata Das (2004) 4 SCC 573 (on contempt jurisdiction)
Shambhu Ram Yadav v. Hanuman Das Khatry (2001) 6 SCC 1 (on probity in legal practice)
Harsh Kumar v. Bhagwan Sahai Rawat (2003) 7 SCC 709 (on corrupt practice in elections)
Abdul Karim v. State of Karnataka (2000) 8 SCC 710 (on executive's duty in the matter of withdrawal of prosecutions)
Monaben Ketanbhai Shah v. State of Gujarat AIR 2004 SC 4274 (on court's duty in dishonoured cheque cases)
Dr. Suresh Gupta v. Government of N.C.T. of Delhi (2004) 6 SCC 422 (on medical negligence)
Salem Advocate Bar Association, Tamil Nadu v. Union of India (2005) 6 SCC 344 (on implementation of S.89, CPC)

A plain speaking, matter-of-fact Judge who declared that "diplomacy has no place in judiciary" is now at the helm and will steer the judiciary in its independent path to greater glory and public esteem.

Editor

Law Day Speech: Priorities in Administration of Justice

Hon'ble Mr. Justice Y.K. Sabharwal

Chief Justice of India

Role of Law in Society

If we take a close look at the Constitution, we will find that the rule of law runs through the entire fabric of the Constitution like a golden thread. Whatever change we wish to bring about in the socio-economic structure, the same has to be through the process of law and in order to achieve the new socio-economic structure where the little Indian will be able to enjoy the fruits of freedom; law has to play a definitive and positive role. It is therefore, in the fitness of things that on the day on which the Constitution was adopted and enacted, we should emphasize and highlight the fundamental role of law in society and remind ourselves of the great and sublime purpose which law is intended to serve in a republic governed by the rule of law.

We must realize that the end of law must be justice. Law and justice cannot afford to remain distant neighbors. There must be harmony between law and justice. We must, in all seriousness, ask ourselves the question as to how far we have been able to fulfill the mission of law to deliver justice and to what extent have we succeeded in using law as a vehicle for ensuring social justice to the large masses of people in the country.

If we look to the balance sheet of the functioning of the judiciary after the Constitution of India came into force, we can see that there are several achievements. At the same time, there are some serious problems

which need our urgent attention. Our justice delivery system in spite of innumerable drawbacks and failings, still commands high esteem and the citizens have placed the judiciary on a high pedestal. We have to ensure that we come up to their expectations; we have to preserve the trust, confidence and faith reposed by the people of this country.

The Problem of Arrears & Delay in the Delivery of Justice

Some drawbacks and infirmities have crept into the judicial system and to talk about these is not to under-estimate the importance of the system. Every effort should be made to rectify those defects and the infirmities in the system and to improve the system with a view to make it responsive to the needs of the people. Equally, it is also the duty of all concerned to guard against saying anything which might have the effect of undermining the basic and broad confidence of the people in the judiciary.

Before we discuss the merits of the judicial system, let me straightaway come to the main problem faced by the system, that is, of docket explosion at all levels. The failure of the judiciary to deliver justice with the reasonable time-frame has brought about a sense of frustration amongst the litigants. Human hope has its limits and waiting for too long in the current life is not possible.

The Report of the Arrears Committee (1989-90), highlighted and identified some of the causes. It was opined that unfilled

vacancies in the High Courts largely accounted for accumulation of cases as loss of man days was directly proportionate to the accumulation of cases. The Committee had suggested not only an increase in the Judge strength but a provision for necessary infrastructure such as court buildings, court staff, equipments etc. should also be simultaneously worked out and provided to meet the challenge of backlog of cases. It was pointed out that unless systematic steps in that direction were taken, coupled with periodical review, the court dockets will not remain within manageable limits and the problems of arrears would continue to live with us. The ratio of judges per million population in this country is the lowest in the world. The Law Commission in its 120th Report examined the problem of under-staffing of the judiciary. The Commission had recommended fifty judges per million of population instead of 10.5. Since 1987, when the Law Commission gave the Report, about two decades have elapsed and the present requirement of the number of judges is much greater looking to the spate of litigation, the population explosion and other factors. This inadequate judge-strength is a major cause of delay in disposal of cases. Thus, the main cause for judicial delay lies not so much with the judiciary as with the executive and administrative wings of the Government.

Though raising the strength

of the judges in the subordinate courts and the High Courts is the need of the day but greater need is of making the right appointments. An unfilled vacancy may not cause that much harm as a wrongly filled vacancy. What is more important is appointment of competent Judges at various levels so that the purpose for which they are chosen is really served. The talented and competent persons are to be attracted by providing impressive service conditions.

The edifice of the administration of justice rests on the shoulder of the district judiciary, as the majority of the litigants go only up to the district level. The High Courts have the power of superintendence over the judiciary but they do not have any financial or administrative power to create even one post of a subordinate judge or of the subordinate staff, nor can it acquire or purchase any land or building for courts, or decide and implement any plan for modernization for court working. Chief Justices and their companion judges of the High Courts are the best persons to know the requirement of the judiciary in their respective states. Their assessment and demand should receive proper consideration and should not be "rejected" on account of mere financial constraints. They need to be given financial and administrative power vis-à-vis state judiciary to enable them to function effectively. Instances are also not rare where judges are

available, but there are no court rooms for them to work and in some cases where court rooms are available, there is no supporting staff to make them function.

In certain States, Judicial Academies for training of Judges have not been established. There should be no further delay. It is absolutely necessary to impart training before a Judge starts functioning in a court of law.

It is also imperative that continuing Legal Education Centers be set up for keeping abreast the judges particularly in the field of new emerging areas of Law, such as Cyber laws, Intellectual Property matters, matters pertaining to Computer and Internet etc. In these Centers, judges must have an opportunity of interacting with distinguished people from various disciplines so that they can be made aware of ground realities which will help them in discharge of their onerous task.

There is urgent need for modernizing of courts at all levels. The courts at all levels have to be computerized, e-court must be established at all levels, video-conference facility be made available at all levels. Some of these steps will go a long way in improving the present state of administration of justice.

It is also essential to establish cordial relationship between Bench and the Bar; they must have mutual respect. Appreciation of each other's point of view is essential to maintain the goodwill and coordination

between Bench and the Bar at all levels. In the administration of justice, lawyers and judges are equal partners and unless there is mutual respect, administration of justice cannot function smoothly.

There is an urgent need to improve legal education. Some National Law Schools have been set up in the recent past. Quality of legal education in those law schools is comparatively much better, but these National Law Schools are not able to accommodate even small percentage of the total population of law students. It is absolutely imperative to strengthen other law schools and law colleges. Law schools provide the input for the legal profession. The Bar Council of India must make special efforts in this direction and it must be extremely selective in granting affiliation to law colleges.

It is absolutely imperative that judges' library must be well equipped even in Taluka Courts. The State Governments should be liberal in granting library grants to the courts.

The numbers of cases which are filed in the Supreme Court are staggering. No other Apex court in the world takes up so many cases as are taken up by the Supreme Court of India. The same is the position of number of cases filed in High Courts and subordinate courts. Our strength is number of cases filed because it shows people's faith. Our weakness is also numbers because of huge pendency.

The judiciary is the only legal

forum for adjudicating all disputes between the high and the low. It is, therefore, necessary that the people do not lose confidence in it. The greatest asset of the judiciary is the confidence of the people. The loss of confidence in the judiciary is the end of the Rule of Law. It can lead to anarchy. No democracy can afford anarchy taking over Rule of Law. It is the constitutional duty of the Supreme Court to keep the Executive and the Legislature within the limits provided by the Constitution of India.

It is of paramount importance to tackle the problem of long delays at the earliest and provide justice to citizens of this country in a reasonable time. If a criminal case or civil suit or a writ petition takes ten or fifteen years to decide, this may itself amount to denial of real justice.

Various measures therefore have to be promptly taken to tackle the problem of law's delays. Basically, it is a three prong strategy:

- (i) Should have more number of Judges;
- (ii) De-congestion of cases from court; and
- (iii) Increase efficiency by efficient management tools.

In respect of the first, apart from increasing the strength, as abovementioned, necessary measures have to be taken to achieve as early as possible, the position of zero vacancy or nearly zero vacancy at all levels; Supreme Court, High Court and Subordinate Courts. I will appeal to all to extend their fullest

cooperation, the main players being the Central and the State Governments, Chief Justices and Public Service Commissions. The ideal position is that before a vacancy arises, the person to take over should be known. Fortunately, things are in controllable limits at the Supreme Court level. The filling of the vacancies has to be an ongoing process. It has to be institutionalized. In various states for months and years, vacancies in subordinate courts are not filled.

Regarding de-congestion, greater responsibility lies on the shoulders of Governments of State or Centre. They are biggest litigants in the courts. They should approach the courts or contest cases only if necessary and not just to pass on the buck or contest for sake of contesting. The time consumed in most of the cases by Courts of Sessions is somewhat under control and most of the cases are decided in a reasonable time schedule. Main problem is about the huge pendency in the Magisterial Courts and in the High Courts. It is absolutely essential to have additional Courts for specifically trying the complaint cases filed under Section 138 of the Negotiable Instruments Act. The present state of affairs defeats the very object with which the provision was inserted in the Negotiable Instruments Act. Further, large numbers of petty offence cases have to be taken out of the normal court channel to be decided by Special

Magistrates by appointing retired officers as Special Magistrate. It is unfortunate that legislations are enacted without any study as to the size of litigation it will generate and without making any provision for corresponding increase in the number of Judges.

In the High Court, simultaneously with filling up of existing vacancies, for dealing with old cases, in particular, old criminal appeals and old civil matters, it is absolutely necessary to appoint, to begin with, for about 3 to 5 years, retired judges as ad hoc judges to clear the backlog. All these measures have to be taken on top priority.

Regarding the third strategy, it is to be kept in view that the time of the courts is a national asset, it is not to be wasted and, therefore, only those cases which are ready to be taken up by the Judge concerned, should go before the Judge and in others, the Judge's office or Registry should take up the responsibility of making cases ready before the same are sent to the Judge. In procedural matters, such as filling of pleadings, effecting service and many such like matters, the time of the Court need not be wasted. Rules and Procedures require to be changed; full use of modern technology is also required to be made and wherever needed extra staff and infrastructure need to be placed in position to achieve all this. Further, "no adjournment culture" has to be developed. Despite the ingenuity of lawyers, lot also depends upon the approach of the courts. It is of

utmost importance to segregate old and new cases. Some cases have to be placed on fast track, some on normal track and some on slow track. If not done now, new cases will become old in due course. By applying this method, some Judges will try new cases – some old cases and some normal cases. Priorities have to be worked out and implemented. Judge or an officer of the court has to set a time table and monitor every case from its institution up to disposal.

Case for Clear Policies and Effective Supervision

There is need to decide corruption cases against high ups expeditiously as also appeals arising out of such cases. There are many reasons for delay in deciding such cases. One of the major factors is delay in grant of sanction by the Government. Decision to grant or not to grant sanction has to be made time-bound. It is equally necessary to make a provision in the Prevention of Corruption Act itself for forfeiture of property of the corrupt officers on the pattern of SAFEMA and FOPA. Wherever trial proceedings in a criminal case are stayed by the High Court, the stay orders deserve to be terminated automatically after six months unless extended. The extension should only be granted in exceptional cases by giving reasons and that too from month to month and not for an indefinite period. The main matter has to be decided by the High Court expeditiously.

In many cases, one gets an

impression that the pattern of enforcement by the law enforcing agency is different for the poor and the rich. This impression has to be erased. Wherever there is delay and laxity in service of notice, summons or warrants on rich and powerful, stringent action against defaulting officers should be taken. Accountability measures have to be strengthened. It is extremely necessary for the High Courts to effectively monitor and issue directions and guidelines from time to time. The superintendence and control of the subordinate judiciary is with the High Court and I feel that the High Courts can tackle this problem to a large extent by effective monitoring.

In matters where liberty of a citizen is involved, it is essential that the citizen gets an opportunity of hearing from the court at the earliest. In Supreme Court, fresh appeal matters registered between Monday and Wednesday are listed next Monday and those registered between Thursday and Saturday, are listed next Friday. In some of the High Courts, bail applications are listed for hearing in a day or two but in some other High Courts and subordinate courts such matters are not listed even for months. It is necessary to take immediate measures to rectify the procedure.

Public's Right to know on Status of Administration of Justice

We have released a Handbook of Procedure in Supreme Court. We also propose to publish a quarterly newsletter

which will include information of institution, pendency and disposal of cases before various courts, information of vacancies in Supreme Court, High Courts and subordinate courts, Judgments of this Court on matters of public importance, important developments relating to administration of justice, appointments and transfer of High Court Judges and changes made in the practice directions and procedure of this Court.

These measures of publication of Handbook of Procedures and of a Newsletter will lead to greater transparency in judicial administration. It is made public as to how the matters are listed and how priorities are given. Now, anyone can bring to the notice of officers if one finds violation of the procedure. I hope High Courts will be able to undertake similar measures.

In Supreme Court, six additional counters have been opened from 25th November, 2005, for fresh filing and re-filing of matters and for receiving *dak*. Re-filing work has been shifted to newly opened counters which will reduce congestion and eliminate delays. Mentioning of after-notice matters is now being done before the concerned courts who are in a better position to decide whether to advance the dates or not. It has also been decided that miscellaneous matters of important subject categories will not be eliminated from the cause list except for unavoidable reasons.

One of the challenging works

undertaken by my learned predecessor was to formulate, implement and monitor National Policy on Computerization of the Justice Delivery System. The Policy and the Action plan were launched by the Hon'ble Prime Minister on 5th October, 2005. As per the data collected by E-committee, there are 14,000 courts which are located in 2,086 towns across the country. The E-Committee proposes to accomplish during the calendar year 2006:

- (1) Creation of sites (computer rooms) and judicial service centers.
- (2) Providing of laptops to all judicial officers.
- (3) Imparting of ICT training to judicial officers and court-staff.
- (4) Establishment of National Judicial Data Center and National Data Grid.
- (5) Web-based interlinking of all courts in the country.
- (6) Development of state-specific customized application software with local language facility.

All this will help in better case-flow management and in making available certified copies instantaneously. Interlinking of courts and setting up of National Judicial Data Center will give online information about region-wise as well as national judicial trends. This will help in devising policies and solutions for reduction of arrears and delays. This will also ensure better transparency and accountability.

A Committee under the Chairmanship of Justice S.B. Sinha is finalising a National Policy on ADR. Its implementation will help de-congestion of courts.

There is need for priority to be given in cases of corruption, rape and sexual offences, issues involving gross violation of human rights of weaker sections and intellectual property and arbitration matters.

Judiciary in Constitutional Governance

Finally, I think it is my duty to say a word about the arguments in some quarters that judiciary has encroached upon the

functions of the Legislature and the Executive. I would like to only say with utmost humility that Judiciary in some cases has only emphasized on the constitutional provisions, by highlighting the express as well as implied intention of the Constitution makers which for some or the other reason remained unimplemented at the hands of the Executive. Yes, the Supreme Court has amplified the scope of Fundamental Rights and has elevated the status of some of the Directive Principles having regard to what was envisaged by our Founding Fathers. But in judiciary we have no place for diplomacy. In the very nature of our duties and functions, some one is bound to be displeased by some judicial decisions; but that is unavoidable.

With all this, let us on this LAW DAY, re-dedicate ourselves to serve the society, particularly the poor and disadvantaged sections of the society, to ensure equal justice to all and take all steps to provide speedy and inexpensive justice.

State of Karnataka v. Appa Balu Ingale 1995 Supp (4) SCC 469, 469.

K. Ramaswamy, J. *"The Judges are participants in the living stream of national life, steering the law between the dangers of rigidity on the one hand and formlessness on the other hand in the seamless web of life. The great tides and currents which engulf the rest of man do not turn aside in their course and pass the judges idly by. Law should sub serve social purpose. Judge must be a jurist endowed with the legislator's wisdom, historian's search for truth, prophet's vision, capacity to respond to the needs of the present, resilience to cope with the demands of the future to decide objectively, disengaging himself/herself from every personal influence or predilections."*

ICT Enablement of Indian Judiciary*

Justice R.C. Lahoti

Former Chief Justice of India

The Great thinker Victor Hugo once said, "An invasion of armies can be resisted, but not an idea whose time has come." I express my sincere thanks to the Government of India and, in particular to the Hon'ble Prime Minister, Dr. Manmohan Singhji for his vision and action which have enabled the launching of this project today. Across the world, there is an increased emphasis on judicial and legal reforms in order to achieve sustainable development. The development process must be comprehensive, and the legal and judicial reforms are vital components of that process.

A document celebrated world over is the Final Report on Reforms in Civil Justice System in England and Wales, titled, "Access to Justice" submitted by Lord Woolf, presently Lord Chancellor of England and Wales. It is said therein that the research made in several countries has strengthened the conviction that sensible investment in appropriate technology is fundamental to the future of justice system. 'IT will not only assist in streamlining and improving our existing systems and processes; it is also likely, in due course, itself to be a catalyst for radical change as well.' This truth has also been established through clinical researches conducted in India as well.

In India, the National Informatic Centre has been entrusted with the task, amongst others, of introducing Information

Communication Technology [hereinafter ICT] in the Judiciary. It has been discharging to the best of its ability and capacity its assigned duties for more than a decade. Looking to the immense workload on courts in India and the wide expanse of our country, the need for an agency to engage exclusively in the ICT enablement of the Judiciary is imperative. We need innovation, resources and, above all, the full understanding of the potential of technology in the context of the Judiciary. It has to be visualized as a concept and accepted as a conviction that scientific approach and technology can contribute significantly in the process of improvement of the entire justice delivery system and better court services.

Lord Woolf's Report, to which I have just mentioned, made several recommendations, out of which I shall very briefly refer to the most important ones.

First, a new independent and representative IT strategy body should be set up which, in due course, should become attached as a sub-committee with the top judicial authority. This body should have four main responsibilities - (i) it should be responsible for promoting the development of long term IT strategy to be implemented by the Court Service for the entire civil justice system; (ii) it should be a review body through

which the medium term IT plans of the Court Service should be passed; (iii) the body should monitor and report on the progress of the PFI exercise; and (iv) it should co-ordinate initiatives in other parts of the justice system.

Second, there should be close liaison between the new body and those responsible for IT across the entire justice system, so that there is a coherent approach to IT across the entire justice system.

Third, a project should be launched to address the ways in which existing court administration systems can and should be extended for use by judges (and by others, including lawyers and their clients), especially the caseload management facilities which deal with the allocation of resources, the scheduling of judges' workloads, the listing of case and the electronic diarizing of cases.

Fourth, a 'Courtroom of the Future' exhibition should be created, similar to those in the USA and Australia, to capture a vision of, and to stimulate interest in the future.

I refrain myself from referring to the other recommendations for paucity of time.

This Report inspired me to moot a proposal to the Central

* Key note address delivered at the ICT Project Launch Meeting at New Delhi on 5/10/2005.

Government through the Hon'ble Union Law Minister, Dr. H.R. Bhardwaj, for establishing a Cell in the Supreme Court consisting of experts having knowledge of the judicial system, ICT and management, who will prepare the blueprint for comprehensive use of ICT in the Indian Judiciary with web-based interconnectivity of all the courts and will oversee the implementation of the plans once finalized.

A *Sukti* (saying) in Bodhidharma says, "All know the way, but few actually walk it." The establishment of the E-Committee was notified by the Government of India on 28th December, 2004. It is headed by Dr. Justice G.C. Bharuka, former Judge of the High Court of Karnataka, and three more Members, namely, Shri Ramesh Abhishek, Member-Management/Human Resources, Shri. Manas Patnaik, Member-Technical, and Shri. N.S. Kulkarni, Member-Judicial. The Committee's Terms of Reference are comprehensive. These include obtaining the existing status of computerization in all the courts in India for making a diagnostic study of existing ICT applications, formulating a National Policy on computerization of the justice delivery system; designing an ICT network; creating an ICT grid linking the Apex Court to all courts in the country; drawing up an action plan, with appropriate phasing, for time-bound implementation stipulating physical and financial targets; and

concurrently monitoring and evaluating the action plan on a periodic basis.

I compliment the E-Committee for doing a remarkable work in a very short period of time by submitting its initial Report in May, 2005 and preparing the targeted National Policy and Action Plan in August, 2005. It has provided a comprehensive Action Plan for diverse initiatives like provision of computers with broadband internet access in all 2,500 court complexes across the country; laptops for approximately 15,000 District and Subordinate Court Judges; extensive ICT training to the Judges and Court staff; extension of computer facilities from filing counters to the Judges' chambers and residential offices; gradual extension of these facilities to all the branches and sections of the Court Registry; facilities for video conferencing between under-trials and the Courts; digital archiving, use of advanced ICT tools including biometric facilities; information gateway interface between the Court and governmental agencies. Under the Action Plan, the project is proposed to be implemented within a period of five years in three phases – first two phases being of two years each and the third phase of one year. Each phase projects a visible change in judicial functioning. It is significant to note that the total estimated cost over the entire period of five years is only Rs.854 crores, not too huge a sum, when

seen in the context of the larger objective and the expected benefits.

The implementation of ICT in the judicial sector will embark upon challenging journey of change. E-governance has the potential to impact all areas – systems, processes and most importantly, the institutional human resources.

It is also well recognized that case management and case flow management form a vital component for improvement at subordinate levels. Keeping this in view, the Supreme Court in the case of *Salem Advocates Bar Association v. Union of India*,¹ had inter alia constituted a Committee headed by a former Judge of the Supreme court and Chairman, Law Commission of India, Shri. Justice M. Jagannadha Rao, to devise model case flow management formula as well as rules and regulations for the same. The Committee in its Report, framed and suggested adoption of the Model Case Flow Management Rules. A three-Judge Bench of the Supreme Court presided over by my esteemed brother, Justice Y.K. Sabharwal, after considering the Model Rules, under their order dated 02.08.2005, required the respective High Courts to examine the same and after due deliberations, take steps for its adoption with or without modification to provide fair, speedy and inexpensive justice.

On September 18, 2004, at

¹ (2003) 1 SCC 49.

the Conference of the Chief Justices and Chief Ministers aimed at 'Envisioning Justice in 21st Century' the Hon'ble Prime Minister, Dr. Manmohan Singhji, in his inaugural address, also expressed the opinion that, "[I]n the administration of justice, information technology has not yet been used as an effective tool. Advancement in modern science and technology can make judicial process more efficient." He had suggested that the Supreme Court and the Union Ministry of Science and Technology work together and suggest ways and means of using this modern technology to help the judicial system reform its processes. Such changes may be made in a truly mission oriented mode. He assured that the Government will provide all the necessary resources for supporting the endeavours for modernizing the courts.

Ladies and Gentlemen, on September 18, 2004, after listening to the Hon'ble Prime Minister, I was inspired to declare the year 2005 as the "Year of Excellence in Judiciary." Speaking on the 'Law Day (November 26, 2004), I had declared three projects to be on my priority list during my tenure as the Chief Justice of India: first, making the National Judicial Academy functional in full swing; secondly, introduction of IT in Judiciary; and thirdly, development of Alternate Dispute Resolution systems. I am happy to report that National Judicial Academy, situated on a hillock in a beautiful campus in the capital city of Bhopal, has

become fully functional. The Academy, of which the Chief Justice of India is the *ex-officio* Chairman is presently headed by a reputed academician of excellence Prof. (Dr.) N.R. Madhava Menon, has imparted training to over 700 Judges in 17 different courses during the last year and its calendar of activities for the current year is extended to over 1000 more judges. It is proposed to carry out as many as 24 courses cutting across economy, technology, governance, social justice, access to justice issues as well as problems which beset judicial administration. In the first week of July this year, the Academy organized a Summer Retreat Camp for Supreme Court Judges. The Programme has earned international applause for its intensity, quality and excellence. National Judicial Academy is also a centre for research and development of judicial policies and programmes. It is now involved in a major project on "Access to Justice for the Poor" in association with seven High Courts. The publications of the Academy which includes a research journal and an Occasional Paper series are devoted to dissemination of knowledge in legal and judicial circles with a view to initiate and sustain judicial reform. In short, slowly but steadily, judicial reform is progressing through judicial education and training at the National Judicial Academy.

I must also point out the growing demand for training at the

Academy from the judiciary of Asian and African countries. In August this year, NJA offered a week long course on judicial administration to the Supreme Court Judges of Ghana. Neighbouring countries are also seeking the training facilities of NJA and we hope to respond positively, subject to the constraints of faculty and resources.

The Action Plan for implementation of ICT in the Indian Judiciary is being launched today as a National Policy at the hands of Hon'ble Prime Minister. Once this Plan is fully implemented, we can envision paperless court rooms functioning with the help of electronic devices and computers with super fast speed.

In the field of ADRs my emphasis has been on mediation and conciliation. Effective implementation of Alternate Dispute Resolution systems in the justice administration system of India is a must. Although Lok Adalats, Legal Literacy Camps and Arbitrations are proving to be effective in reducing the backlog of cases, my emphasis is on mediation and conciliation as they are the most effective means and modes of ADRs. These have been successfully tried and are in vogue in advanced countries of the world. The success rate is as high as 50 to 80%. In India, the International Council for Alternate Dispute Resolution Systems, Delhi Centre, the extension whereof I had the pleasure of inaugurating on 29.8.2005 and

another Center at Hyderabad which I had the privilege of visiting and addressing on 16.07.2005 are functioning well. Shri. H.R. Bhardwaj is the moving spirit behind these centers. However, there is a need for adopting a national integrated plan in this regard as well. A Committee appointed by me which is already functional in the Supreme Court of India wherein my brother Justices S.B. Sinha and Madan Lokur are making substantial contributions, is almost ready with such a plan. On 20th November, 2004, the Bombay High Court and ICADR organized a Two-day International Conference on 'Envisioning ADR in 21st Century' which I had the honour of inaugurating. A Report thereon has been published by the Bombay High Court. It has set the tone for evolution of internationally accepted methodologies in the justice administration system of our country.

There is also a need for appointing a High Power Commission to look into the issues related to administrative reforms in the justice administration system of the country. We are working with antiquated laws and systems handed down to us by the Britishers. There is an urgent need to take a fresh look at the existing laws and systems

comprehensively in a wider perspective as no concrete dynamic steps have been visualized, much less taken, in this regard since independence.

The Law Commission of India, headed by Justice M. Jagannadha Rao, has submitted for the consideration of the Government of India nearly 18 Reports, each learned and researched in-depth and extensively.

I avail this opportunity for beseeching the attention of the Hon'ble Prime Minister of India to the need for (i) launching of a National Integrated Plan for introduction of ADR systems in the justice administration of India, (ii) appointing a High Power Commission for examining the justice delivery system of the country and making recommendations for administrative reforms therein, and (iii) implementing the Reports made by the Law Commission of India.

I do not propose to discuss several other small projects which have commenced during this year and are speedily proceeding towards fulfillment. For accomplishment of these projects, I, as duty bound, acknowledge the contribution made by the Ministry of Law & Justice, the Ministry of ICT and their respective Hon'ble

Ministers, the Planning Commission and, in particular, Mr. Montek Singh who has taken a keen interest in the projects relating to the judiciary. If the National Policy and Action Plan of ICT in judiciary and other projects which I have referred to hereinabove are fully accomplished, the Judiciary in India and the Judicial System would stand revolutionized.

Ladies and Gentlemen! The other day a friend of mine asked me, "As the Year 2005 is nearing its end, would it also be the end of Year of Excellence?" I smiled and told him, "Dear friend, the journey for excellence only beings; it never ends." The future of the judiciary is bound to shape not only with excellence but par excellence under the leadership of my illustrious successor and with the Hon'ble Prime Minister leading the nation, both of whom are bestowed with vision, plan and action.

I would end by quoting Swami Vivekananda, who said, "Let us rise and act and keep on marching ahead until the goal has been reached. Future is bright and not bleak for us." Martin Luther King (Junior) very aptly said, "I long to accomplish great and noble tasks . . . but it is my chief duty to accomplish small tasks as if they were great and noble."

Daya Shankar v. High Court of Allahabad (1987) 3 SCC 1, 5.

K. Jagannatha Shetty, J. "A Judicial officer cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy."

Organizing Court Administration for Greater Productivity and Efficiency*

Justice S.B. Sinha
Judge, Supreme Court of India

So far, there has been no study, let alone any systematic study of the requirements for effective and efficient court administration. Consequently, it has not been possible to assess the existing strengths and weakness of the administration of any court. Changes that have been made from time to time in the running of administrative functions of courts have only been ad hoc and temporary - no change has had any long-term impact. It is only recently that a major change has been initiated in court administrative reform and this has been in the desire to use computers and information technology. Unfortunately, however, even this has been somewhat haphazard and the process of computerization is going on without any particular target or goal in mind.

Court administration, as a system needs a thorough understanding of the requirements of the judiciary and other stakeholders. To be effective, the present system would need major changes to be brought about, if not a complete overhaul in the traditional role of the Registry and Judges.

Utilization of Human Resource

First and foremost in this regard is the necessity of proper utilization of human resource. By this is meant not only proper utilization of staff but also proper utilization of the capacity of Judges, including their

specialization in certain branches of law.

It is difficult to come across any duty chart or duty roster for the actual work to be performed by various levels of officers in the Registry. This sometimes results in non-focused attitude to work. The consequence is that an officer does not perform an essential task, because it may not be identified as his duty and sometimes unnecessary duplication of work may also happen. For example, there used to be a time when miscellaneous works such as filing of process fee and service of notice was within the domain of a Deputy Registrar of a Court but now Judges are performing this function. What is the reason for this changeover? The transition appears to have gradually come about, because, only broad and not specific duties have been assigned to this level of officers. Performance of such non-essential tasks by judges not only takes up valuable judicial time but puts undue pressure on them by increasing the caseload that they have to handle.

It would, therefore, be worthwhile for the Chief Justice and Registrar General of each Court to identify specific tasks that are to be performed by each category of officers and this duty chart should be strictly followed, subject to changes that may be made after periodic evaluations.

In the district courts also

there is no *equitable distribution* of work. There are instances that have come to be known in the district courts of Delhi where an Additional District Judge has a pendency of only about 200 cases as against some other Additional District Judge who has a pendency of about 1,000 cases. The unintended consequence of inequitable or thoughtless distribution* of work leads to the under/non-utilization or even over-burdening of the judicial officers. The latter would adversely affect the quality of judgments and indeed justice itself may suffer. These are not hypothetical examples in as much as one has only to see the pending cases in the district courts over the country and one will come up with several such examples across the board.

Equitable distribution of resources should be accompanied by the distribution of litigational burden. For e.g., there are instances where a Bench has too many cases to deal with per day, while another Bench does not necessarily have sufficient work. This is a chronic problem in most courts, particularly in the High Courts. One of the reasons for this problem is lack of proper caseload management. This can be solved by enabling the courts to shift the more complex cases from over burdened courts to courts dealing with simple cases. But, more importantly, there has been no empirical study done of the number of pending cases

* Keynote address delivered at the *National Seminar on Expediting Justice and Combating Corruption* held between 8th to 10th April, 2005 at the National Judicial Academy, Bhopal.

belonging to a particular category and the institution and disposal of such cases over a period of, say, 3 to 5 years. It is, therefore, impossible for anybody to know whether there are an unusually large number of cases pending in a particular category or not. Rosters are usually fixed in the High Courts by the Chief Justice on a category-wise distribution rather than doing the same even by a cursory analysis of the number of cases that may be pending in respect of a particular category. This is the essential cause of overloading of some Benches and under-utilization of the capacity of judges in other Benches.

In a situation where this may not be possible due to jurisdictional restraints, judicial resources can be distributed based on the burden of litigation.

The jurisdiction of Civil Courts should be extended so that in situations of docket explosion, civil judges shall be empowered to deal with criminal cases. The High Courts and the District Judges should make continuous monitoring in this behalf.¹

Preparation of Budgets

Another aspect of court administration that is not given adequate attention is that of preparation of annual budget for the courts. Presently, a system of incremental budgeting is being followed. This means that, if last year a certain amount of money

has been demanded by the courts, the demand will increase this year by an ad hoc amount of say, 5% or 6%. Whether this requirement is actually necessary or not is something that is not even thought of, it is usually assumed.

Incremental budgeting may be perfectly justified in respect of certain fixed expenses or planned expenditure. But it obviously does not take into account any expenditure that may be required for specific programs that may be initiated for improving the justice delivery system. In fact, the only program that appears to have been made by any of the courts is with regard to the purchase of computer hardware. However, even this suffers due to lack of systematic planning, something that is not undertaken but should be with regard to any developmental activity in the courts or any intention to streamline any particular process through a strategic action plan. In the absence of any such professed program being made out, there can obviously be no budgetary demand.

It has been a common refrain of the judiciary that the State does not allocate adequate resources for improving judicial administration. Yet, paradoxically, year after year, most courts revise their budget estimates sometimes in September and December and reduce their

requirements. Quite often even these downsized requirements are not properly utilized and the amount sanctioned by the Government is returned unutilized or is allowed to lapse.

It is well-known that for the superior courts, grants are given by the State on a non-votable basis. Consequently, if any amount is demanded by a superior court, the State is bound to make that amount available. Unfortunately, proper demands are very rarely made and the reason for this is that no planning process is undertaken by any of the superior courts so as to make a worthwhile demand intended to fulfill a plan over a period of say 3 to 5 years.

So far as district courts are concerned, in the absence of any budgetary planning, the amount that is made available by the State Government quite frequently lapses, compelling it to reduce the budgetary allocation for the subsequent financial year. This is what leads to the complaint that adequate resources are not being made available for judicial administration.

Court Management

One of the more important requirements of modern court administration is the introduction of case flow management system. For a start, this will only require an in-depth study of a handful of cases of each category and of each court to understand

¹ Care should be taken with regard to the equitable distribution of other Administrative staff along with the judicial officers. The administrative staff should also be distributed according to the work load and complexity of cases. For e.g., the number of registry employees attached to a Judge of Delhi High Court is 14, where as with regard to a judicial officer in the lower courts where there is heavy workload the number of employees attached is only 7.

how case flow occurs. No worthwhile study has been carried out in this regard and, therefore, it is not possible to readily identify problem areas. Discussions, seminars and some practical experience usually help to identify areas where bottlenecks exist. Once the identification process is over, a remedy can be found out; but unless a systemic fault line is identified, the remedy will only be ad hoc. A managerial exercise is required to be undertaken by each court complex to ascertain the causes of bottlenecks and to remove them from the system once and for all. It is only through this method can there be any improvement in the justice delivery system.

Courts can undertake the exercise of identifying bottlenecks over a period of, say, six months or even a year. Whatever time is spent on this exercise, it is bound to bear fruit in the near future. One example that readily comes to mind in this connection is the study of case flow carried out in some of the State courts in California between 1990-1993. The study took three years and it was only thereafter that solutions came to be thrown up to streamline and improve case flow. The problem of delays in these State courts was then rectified almost immediately even though the preparation took three years.

Given the available manpower in India, it is possible to carry out a similar study within a period of one year. Once the study is complete, we can know where the fault lies in the system

and how it can be remedied. For a start, it may be worthwhile for courts to set up court management committees or delay reduction committees. These committees can be given a specific task of finding out causes of delay and how to improve court management. The problem of pendency in the country is so severe that even a minor change is bound to bring about a dramatic result, and it is well known that success breeds success. Consequently, if some minor changes are brought about by the court management committee and delay reduction committees, with almost immediate success, it will encourage further research into the problems and the desire to find out solution to such problems.

This is possible only if there is an effective and efficient leadership provided by the Chief Justice and Senior Judges of the High Courts and by the District Judge. If the leadership itself is unconcerned about bringing about any major improvement in court administration, it is unlikely that anybody lower down in the hierarchy will show any interest. It is a matter of common knowledge that most Chief Justices and District Judges hold their position only for a year or two, which do not give them sufficient time to bring about reforms and make course corrections, if any. Under these circumstances, it may be more appropriate to give a free hand to one or more senior additional district judge or senior High Court Judge to carry out

changes on a long-term basis. This will not only give an incentive to the judges to find out solutions but will also give them sufficient time to carry out a proper study of the system of court administration.

Transparency in Functioning

For some reason, the functioning of the courts has traditionally been kept away from public gaze. Consequently, even if there are defects in the manner in which the court administration is being carried out (and there is no doubt that there are several problems), no impartial observer is really in a position to point out the defect. However, with the recent legislation relating to freedom of information being enacted, it is expected that there will be greater transparency in the functioning of the courts. This transparency will automatically bring about greater accountability in administrative matters. This is not to say, however, that the functioning of a Judge should be subjected to critical scrutiny. What is sought to be suggested is that administrative matters should be discussed more freely and frankly so that decisions that affect court administration over a period of time can be taken in a transparent manner and are open to public scrutiny.

Judicial Impact Assessment

The legislature also has a role to play in improving court administration by framing appropriate laws. Very often, legislation is enacted without even thinking about what impact it may have on the functioning of the

courts. Two recent examples come to mind – the promulgation of the NDPS Act and Section 138 of the Negotiable Instruments Act. While there can be no doubt that drug trafficking has to be severely curtailed, promulgation of NDPS Act has led to a large number of cases being instituted. Even though such cases are required to be disposed of expeditiously, since bail is not granted to an accused, the sheer volume of cases has made it very difficult for the courts to handle drug-related cases. Similarly, cases under Section 138 of the Negotiable Instruments Act have virtually taken over the criminal justice delivery system at the level of magistrate. Finance companies, car loan companies, etc. file cases under Section 138 of the Negotiable Instruments Act in hundreds, if not thousands. The estimate is that in Delhi about 40% of the criminal litigation relates to bouncing cheque cases. I am sure the problem would be the same everywhere.

One solution that has been offered in this regard is the introduction of *Judicial impact assessment* for each legislation.

Presently, the legislative practice is that there is a financial memorandum that is attached to each Bill, which gives to the legislators an idea about its financial implications. The suggestion that has been mooted, and which is being followed in America is that the Bill must be accompanied by a memorandum which indicates what impact the Bill would have on the judicial

system. The advantage of this would be acquisition of knowledge as to whether additional courts are required to be created or any other restructuring is required to deal with a new law or a new offence.

This is actually being done by the legislature in some form or the other, especially when courts are set up to deal with specialized matters, such as pertaining to the environment or electricity or telecom disputes, etc. Such specialized adjudicatory bodies are set up only because the legislature feels that the existing court structure is not geared to handle this kind of litigation. In other words, some sort of an assessment is actually made before any such legislation is introduced. The suggestion is that this kind of assessment should be made not only in respect of a few specialized laws but also in respect of all laws, so that corrective and remedial action is taken at the threshold.

The system such as *inventory control index* whereby the total time period for the completion of the case can be analyzed based on various court management techniques should also be developed. These techniques would not only help in perfect Court management but would also help the litigant to choose between various fora of justice delivery.

Systems should be developed to classify cases into backlog and pending cases. While there can never be zero percent pendency in the Judiciary this should also be based on the

understanding that not every case gets stuck in the whirlpool of litigation. Every case requires certain litigation period that can be predetermined based on various ingredients. For eg., in Delhi judiciary, while matrimonial cases are decided within a maximum period of nine months and murder cases within 30 months, corruption cases take ten years to finish. While most cases are decided within these approximate time periods, few cases take longer time than required. These are the “backlog” cases which should be treated separately than the pending cases. While Judicial impact assessment helps in assessing the impact of each legislation, this method helps in assessing the effect of Court management techniques. This makes the analysis of the reasons for backlog easy and helps in developing methods for differential treatment aimed at early disposal.

Alternative Dispute Resolution

Another legislative exercise that needs to be undertaken is to encourage the system of alternative dispute resolution. Parliament has, of course, taken the lead in this regard by amending Section 89 of the CPC but preparing the necessary infrastructure for promoting mediation as an ADR was not even thought of by Parliament. Very few High Courts have framed Rules under Section 89 to implement its objectives. This is despite the fact that the amendments are more than two years old. If an impact

assessment had been made in this respect, much time would not have been wasted without any progress having been made to encourage ADR.

There can be no doubt that with an overburdened court system some viable alternatives have to be thought of, be it in the form of Lok Adalat or Permanent Lok Adalat or mediation but none of this can succeed unless some kind of planning goes into the process of encouraging ADR. It is sometimes believed that such alternative methods are outside the court system but that is not so. ADR methods are intended to supplement the court system and not to supplant it. In this context also, it is necessary for the legislature to make a judicial impact assessment.

Other Options

There are a large number of other institutions that are in existence but which are not being properly utilized for bringing about improvements in the justice delivery system. These include Legal Services Authorities constituted under the National Legal Services Authority Act, 1987 as well as judicial academies in the various States. Some concerted efforts need to be made to harness the talent available and put it to good use through the State Judicial Academies.

Training of judges was something unheard a few years ago but over a period of time it has been realized that it is absolutely essential for improved court administration and better

case management practices. In fact, the Supreme Court has directed that freshly recruited judicial officers should be given training before they are assigned judicial work. The *State Judicial Academies*, should therefore, play an extremely important role in this regard giving virtually the first exposure to new judicial officers as to the functioning of the judicial system from inside.

In this regard, training schedules for judicial officers have to be carefully planned and thought of. Experts have to be contacted from all over the country who can appropriately guide judicial officers so that effective changes are suggested and efficiency improved at every stage.

Similarly, there is no doubt that quite often poor people do not get adequate legal representation merely because of poverty. *Legal Services Authorities*, therefore, have to become powerful instruments for providing proper representation to litigants so that they too get justice according to law. The common experience is that fees paid to legal aid lawyers are pathetic and most of the legal aid lawyers have little or no interest in the case assigned to them. In some cases, they assume the payment to be some sort of pocket money or payment being made to enable them to gain some experience. This is somewhat paradoxical because there is no doubt that adequate amounts are being made available to most Legal Services Authorities but again the problem is of proper

budgeting and proper utilization of funds. If this area of Legal Services Authorities is strengthened, it would go a long way in bringing about immediate changes in judicial and court administration.

In this context, it may be mentioned that in a country like England, for example, large amounts of public money was being spent on legal aid which became the subject of an outcry as legal aid was being provided to persons who were alleged to be terrorists. This is not intended to suggest that Legal Services Authorities should provide legal aid at random as in England, but it is certainly suggested that these Authorities should, whenever they provide legal aid, provide the best that can be given under the circumstances and not merely such legal aid as would amount to lip service to the philosophy behind legal aid.

A large number of *NGOs and law students* can contribute to the improvement of judicial administration through the collection of relevant data to be used for better court management and administration. Since in most situations, it is the paucity of relevant data that hampers strategic planning, such activities may prove helpful in developing new methods of administration. NGOs dealing with certain critical sectors such as women, children and disabled persons can be asked to carry out studies in conjunction with law students by researching through the files which are either disposed of or pending

in the courts. Most of the law students now-a-days have to do internship and this time can also be utilized by them for the purpose of carrying out studies, which would ultimately improve the justice delivery system, rather than assist a few lawyers or law firms.

Setting up of *Fast Track Courts* has had a tremendous impact insofar as disposal of criminal cases is concerned. It is believed that over the last five years as many as four lakh cases have been disposed of by the Fast Track Courts. The scheme of these Courts has now been discontinued and the matter is pending before the Supreme Court. So it is advisable not to make any further comment on that.

Effective Utilization of the Existing Laws

The CPC Amendments of 1999 and 2002 addressed the issue of providing stringent provisions for Court administration. Though these were widely criticized, the Supreme Court in *Salem Advocates Bar Association* clarified the applicability of these Amendments. Further their applicability should be aimed at justice. In *London Liverpool SP & I Association Ltd. v. MV Sea Success*,² the Supreme Court stated that "having regard to the changes in the legislative policy as adumbrated by the amendments carried out in CPC, the Courts would interpret the

provisions in such a manner so as to save the expenses, achieve expedition and avoid court's resources being used up in cases which will serve no useful purpose ... A litigation which is doomed to fail would not further be allowed to be used as a device to harass the litigant."

Besides the misuse of laws by the lawyers and the stringent laws, one of the reasons for accumulation of huge backlog is also the *non-use of the existing procedural laws* that may prove helpful in Court Management. Order 10 of CPC Rules 1 and 2 provide for oral examination of the parties to the suit with a view to elucidate the matters in controversy. The Section also provides for a reference to conciliation etc. This power should be strictly utilized by the Court so that the complexity of the case can be easily analyzed in the initial stages itself.

The power of the Courts under O.7, Rule 11 of CPC which empowers the court to reject the plaint is seldom used. Although O.8, Rule 1 requires the defendant to file written statement at the first hearing itself or with in a reasonable time granted by the court, Judges are quite liberal in granting adjournments which at times is extended up to one or two years. Order 8, Rule 10 provides that where a defendant fails to present written statement with in the time fixed by the Court, the Court can pronounce judgment against him. Rule 8-A states that

the defendant is required to file necessary documents on the basis of which his defense is based along with the written statement. Order 7, Rule 18 and O.8, Rule 8-A (2) prohibits the reception of documents at a later stage until and unless the court grants leave. These Rules are by and large not adhered to by the lawyers and Judges.

Under Order 14, Rule 4 the Court for the proper framing of issues is empowered to summon and examine a person not before the court or to summon a document not filed in the suit. Rule 16 provides that where parties to the suit agree as to the question of fact or of law to be decided between them they may state the same in the form of an issue and enter into an agreement to that effect and for the consequences. Framing of issues is not to be considered as a mere routine and the above provisions must be utilized in this process.

Filling Up of Vacancies

One of the chronic problems of judicial administration is the failure of High Courts to fill up vacancies in the district courts. A recent publication of the National Judicial Academy has shown that over the last several years, as many as 35% vacancies in the district courts have remained unfilled. This is a criminal omission on the part of the High Court. If one-third vacancies of judicial officers in the district courts are not filled up, it definitely will reduce disposal by

² (2004) 9 SCC 512.

at least one-third cases, if not more. This adds to the backlog and puts an unnecessary burden on the existing judicial officers. It would be fair to assume that if all the vacancies were filled up in time, there would not be any serious backlog in the country after a period of five years. It is, therefore, absolutely essential for effective court administration to ensure that there are no vacancies of judicial officers or High Court Judges lying vacant for a long time.

Video Conferencing

Video conferencing is an extremely cost effective solution to the problems of producing under-trials in the courts. One rough estimate is that it is possible to recover the entire expense of setting up of video conferencing studios in several courts in a district in less than a year. The expenditure that runs into lakhs of rupees on the transport of under-trial prisoners for routine remand by the jail authorities can be avoided through the use of video conferencing facilities bringing about a huge saving for the State and making policemen available for other law and order duties.

Information Technology

A lot has been said about the use of information technology to bring about greater productivity and efficiency in judicial

administration. For the first time, a high level committee has been set up that is directly reporting to the Chief Justice of India to computerize the court system all over the country. The Committee has been given a period of two years to carry out its task and if the Government cooperates with the Committee, it is quite likely that the use of computers all over the country would bring about a revolution in the system of judicial administration. Day to day tasks, such as preparation of cause lists, supply of certified copies, etc. can be taken over by the computer leaving the court staff to be utilized in other constructive work.

It is common knowledge that the use of computers has made the preparation of judgments far simpler for most judges because of the availability of word processing facilities. Similarly, computerization has been a great boon for lawyers who regularly make use of case laws CDs to do their research work. This is not only a huge time saving device but also brings about a greater accuracy in finding out the most appropriate case. All these are some devices that contribute in some measure to improved court administration.

The use of Internet should be made available for the e-filing of cases (presently followed in

Mysore Bar, the Supreme Court has also introduced it) and to check the status of the case, dates of hearing etc.

But, the use of technology is not free from flaws. As stated by Noble laureate V.S. Naipaul, "Modern technology is attractive. It is easily portable. But, it is also fragile."³ Besides crimes such as hacking etc., which may lead to manipulation, the fact that most persons i.e., not only poor litigants but also the Lawyers and Judges are unaware of the functioning of the modern technology makes it more susceptible to manipulation. This is more true of under developed countries like India. Thus, the use of such technology for both the Court administration and also the evidentiary purpose creates a parallel need to educate the Judiciary regarding the functioning of such technology.

Conclusion

These are some thoughts on improving court administration and areas that need to be revisited. Of course, there may be many other such areas that need attention; but what is important is that at least some thinking on these lines has begun, at least in this year, which has been declared to be the "Year of Judicial Excellence."

³ V.S. Naipaul, *Cusp of Greatness*, INDIA TODAY, Mar. 22, 2005 pg.62.

Right to freedom of religion and faith: India's legal traditions*

Justice D.M. Dharmadhikari

Chairperson, M.P. Human Rights Commission

India has been home to many religions. Vedic period started ten thousand years ago. During that period, the Rishis and Saints tried to understand nature and natural energies and advised their conservation and therefore their worship. Accordingly, since the Vedic period natural energies like sun, fire, water, wind and earth are being worshiped as gifts of God. The Vedic period was followed by what is now understood as a period of Hindu religion. Hindus worship God and Goddess as symbolically representing various sources of energies. They believe God as a creator (Brahma), maintainer (Vishnu) and destroyer (Shiva). Their belief is that nature has to be "generated," "natured" and after a certain period "destroyed" for "regeneration." Hindu religion does not believe in aggression or conquest. They do not believe in converting others to their religion. The Hindu society is based on caste system and a person can be Hindu only by birth, therefore Hindu religion is confined to India and could not spread to other parts of the world. There is so much curiosity to know its thoughts and philosophy by people all over the world. In fact, they come to India only to understand Indian Society and Hindu religion.

Muslims invaded India from Khyber and Bolan passes in the extreme North-West boundary of India and gradually they advanced from North to South. They ruled

India for a period of about 500 years. In this long period Muslim religion became one of the major religions in India. There were mass conversions from Hindus to Muslims. Muslims now constitute a major component of India's population. The period of Muslim religion of 500 years was followed by British rule for about 125 years.

The reformist movement in Hindu society started by religious leaders, opposed superstitions, ritualistic practices and outdated customs in Hindus, leading to the birth of new religions like Jainism and Buddhism. Jains and Buddhists do not believe in any Creator or God. They believe in innate goodness of human being and try to awaken it in individuals. They worship not Gods but their Munis or Sadhus who have achieved human excellence. For them virtues like love, compassion, truth and non-violence have to be developed in Human beings. Jainism and Buddhism constitute a sizable section of Hindu society. There is very small population of Parsees. They are immigrants from their native country Iran. They followed Zoroastrianism. The other small community is of Jews who came from Israel and settled in India. This is the historical background of the present mixed complexion of Indian society.

At the time of attaining freedom, India was a multi-religious society with diverse faiths. Members of each religion

followed its religious practices. The moral and spiritual values in all the religions are common. A Vedic verse says, "*Ekam Sat Vipra Bahudha Vadanti*." "Truth is one – wise describe it differently." The other meaning is "Truth is one but path to achieve it is different in different religions." Spiritual leaders of all religions have realised the fundamental truth regarding nature and existence of man. This truth realized by enlightened men has been explained in different forms in various scriptures of various religions.

India is a laboratory for the practice of democracy, where people of different religions and faiths are experimenting to live in peace, co-operation and harmony. Intermittent conflicts are superficial. Sometimes they are caused due to narrow mindedness of few in each religion. Many times outside influences like terrorist attacks and politico-religious programmes arouse passions of people. Truly religious people who are great in number firmly believe in love and peace. The innate nature of human beings is his desire to meet, mingle and enjoy the company of his neighbours and fellowmen. A British philosopher has described India as "A world in miniature." An Ancient historian has described Indians as "God intoxicated people" because of their abiding faith in different religions and different Gods.

The Indian society is thus a

* Paper presented at the Twelfth Annual International Law and Religion Symposium, Brigham Young University, Utah, USA.

highly religious society of firm believers. There are very few non-believers. People of different religions having lived together in India, have now come to realize that the essence of all religions is common. All religions profess and aim at improving innate qualities of human being like truth, love, compassion, forgiveness and brotherhood. Keeping in view the diverse religious culture of Indian people, the Constitution prepared for free India guarantees in its Articles one of the fundamental being the right to "freedom of religion and faith" to the citizens. The Preamble to the Constitution proclaims and contains resolve of the people of India to secure to all its citizens, "liberty of thought, expression, belief, faith and worship." The Constitution aims to maintain "dignity of the individual" with "unity and integrity of India." Article 14 guarantees "equality to all before law." Article 15 prohibits discrimination by State on ground only of religion, race, caste or sex. The public places are made accessible to all regardless of their religion and faith. The protective discrimination has been provided in favour of lower castes in Indian society, who for long periods have suffered oppression and lack of facilities for advancement. This provision is to bring them into the mainstream of the democratic society. Article 16 prohibits discrimination in public employment on grounds of religion.

Article 19 (1) (a) guarantees

"freedom of speech and expression" as a fundamental right, which includes freedom of "religious faith and belief." Article 25 categorically guarantees "freedom of conscience and right to freely profess and propagate religion." The only restriction which can be imposed, as permissible on this right, is in the "interest of public order, morality and health."

In multi-religious Indian society the question whether the above fundamental right guaranteed by Article 25 includes right to convert people of one religion to another was an issue which was highly contested. Some of the Indian states passed laws prohibiting or banning conversion from one religion to another. Such legislations were challenged in Courts of Law. The views for and against are that "right to profess and propagate religion," includes right to convert people of one faith to another, of course without use of any coercion, compulsion or allurement and without taking advantage of illiteracy or lack of education of a person. The opposing groups of people say that if spiritual and moral values of all religions are same and common, conversion is not required and should not be allowed. They allege that conversions are generally done by allurement and taking advantage of illiteracy, poverty and helplessness of an individual.

A Constitution Bench of the Supreme Court of India, interpreted Article 25 (1) of the

Constitution of India and held that guarantee of "Freedom of Conscience and Faith" to every citizen of India postulates that the freedom is to followers of all religions and that there can be no fundamental right to convert another person to one's own religion because if a person purposely undertakes the conversion of another person to his religion, as distinguished from his effort to transmit or spread the tenets of his religion that would impeach on the "Freedom of conscience" guaranteed to all the citizens alike.

The Supreme Court commented: "What is freedom for one is freedom for the other, in equal measure, and there can therefore, be no such thing as a fundamental right to convert one person to his own religion."

The Supreme Court therefore upheld the anti-conversion Laws passed by State of Madhya Pradesh and Orissa.¹

Article 28 of our Constitution allows religious instructions to be imparted in educational institutions but prohibits such religious instructions in any educational institution wholly maintained out of State funds.

Article 29 of the Constitution, protects the interest of minorities and guarantees them the right to conserve their script and culture. By Article 30, minorities have been given unfettered right to establish and administer educational institutions of their choice. The nature of right

¹ See AIR 1977 SC 908.

contained in this Article in favour of minorities, has also been a matter of great debate in the Supreme Court. A question was raised as to whether 'study of religions can be introduced in the National curriculum of the Government Educational Institutions in India.' The Supreme Court held that imparting of 'religious instructions' may be prohibited in the State Institutions but in the multi-religious society as India is, where all religions aim at inculcating the ethical and moral values and innate human virtues in human beings, *study of religions* by students is not against the constitutional philosophy or any of its provisions. Study of religions does not militate against the concept of secularism to which India is wedded. Secularism has a limited meaning that State and its departments will have no religion and they shall not discriminate people on the basis of their religion. Secularism does not mean negative approach to religions and the moral values preached in them. The introduction of study of religions in National curriculum was thus upheld by the Supreme Court.²

The other constitutional issue which arose before the Supreme Court was on the right of minority institutions to fix their own method of admission with preference to students of minority community and decide their own fee structure. The Supreme Court

held that institutions even of minorities, which receive financial aid from State, can be regulated in the matter of method of admissions and also in fixing the fee structure. This was held necessary to check 'capitation fee' charged from students and thereby their exploitation. The Supreme Court held that educational institutions of minorities which do not receive any aid from the Government cannot be forced to fall in line with the policy of admission and fee structure of the Government framed for governmental institutions.

The Constitution of India protects religious faiths and practices of different religions subject to morality, public order and health. Articles 25 expressly allows the State, the power to regulate and restrict in public interest, secular activities of religious institutions. Passing of laws affecting autonomy of religious institutions have frequently caused conflicts with State. What are religious and what are secular activities are complex issues and many times difficult for the Courts to resolve. Christians and Muslims have established their educational institutions to cater to the educational needs of the members of their various religious communities. The students of other religions assert a right to get entry in to the minority educational

institutions on the ground of "right of equality." The Supreme Court has tried to resolve such conflicts by holding that up to elementary educational level the right of minorities in running their educational institutions cannot be restricted or curbed, but in higher professional institutions entry should be given to students from all religious groups or communities on the basis of their competitive merits.³

Article 44 of the Constitution, as one of the *Directive Principles of State Policies* directs that State shall take steps and make effort to make "A Uniform Civil Code" applicable to all citizens of all religions, groups and faiths. Supreme Court issued directions in that behalf, but there were strong protests and dissents from various sections of religions and societies. Minorities saw serious threat to their religious faiths and beliefs. The majority community is in favour of it, but the minorities continue to be sceptic about its efficacy. According to minorities, a "Uniform Civil Code" would virtually take away their personal customary laws, which are based on their distinct religious faiths. The competing claims of religious groups based on religious faiths and customs and the need on the part of the State to regulate them by secular laws in tune with the demands of modern times and thinking so as to make them

² *Aruna Roy v. Union of India* (2002) 7 SCC 368.

³ *T.M.A Pai Foundation v. State of Karnataka* (2002) 8 SCC 481 revised by *P.A. Inamdar and others v. State of Maharashtra and others* (2005) 6 SCC 537.

applicable equally to all religious sections of Indian population, is the current social crisis in India. The Institutional Organs are grappling with such issues and conflicts. As and when they arise, Indian Courts are trying to balance the right of individuals and the powers of the State. The constitutional aim of preparing a Uniform Civil Code is for creating a climate for single citizenship in India regardless of religion, caste or culture of a particular person.

It however seems that the framing of Uniform Civil Code is a distant dream, as people of different religions are not willing for it wholeheartedly.

India is thus passing through a process of improving its democratic set up for realising its constitutional goal of securing fundamental freedoms and legal rights to its citizens, without interfering at the same time with their personal religious faiths and beliefs. India is a country of composite culture. Its complexion is multi-religious society. Presently, Indian society is split into groups. Large sections of uneducated continue to cling to their orthodox customs and superstitions. The small numbers which constitute the intellectual class look at all social ills and problems in an universal perspective and are intend to solve it. Very few are busy in uplifting the society.

It is necessary for all religions to propagate and inculcate amongst followers of its faith, moral and spiritual values which are common in all religions.

Reformist movement in Hindu religion like Jainism, Buddhism, Arya Samajists and Brahma Samajists have tried to rid the society of its orthodoxy and superstitions. These religions focus on moral and spiritual values, which they consider should be inculcated in every individual. The religious movement of synthesizing all religious beliefs was seen in practice, in the programmes and activities of Ramkrishnan Mission led by late Vivekananda and thereafter of Mahatma Gandhi and Vinobha Bhave. There are many saints and thinkers who went out of India to other parts to spread the message of great religious books of India – like Gita. The world is aware of *Hare Rama and Hare Krishna* movement started by Prabhupad and Yog teachings of Maheshyogi and Ravishanker Maharaj. Yogacharyas in all parts of the world are doing great service in uniting people. "Art of living" movement of Ravishanker Maharaj is also gaining ground in various parts of the world. Osho also lived for long period in America and propagated his revolutionary thoughts so that spiritual values of different religions are recognized and hollow unscientific rituals with superstitions do not hinder peoples' growth. These reformist movements against orthodox religions have done immense good to Indian society of mixed religions. Yet the goal of achieving enlightened citizenship, as envisaged by the Constitution, is far away. Secular laws, continue

to be opposed by fundamentalists and orthodox members of various religious Organisations. They oppose it as being opposed to the divine law as they perceive it.

Minorities cling to their traditions and beliefs overlooking the demands of modern times. The Laws applicable to majority are periodically changed to give a secular appearance to Indian laws. India has a very ideal Constitution and host of laws yet the main driving force of people is their faith in different religions and their tenets. Our right thinking political and religious leaders individually and through their institutions is actively involved in the upliftment of the moral levels of the members of the Indian society. Such leaders of Indian society are the last hope of the country.

In the field of science as in religion, there should be exchange of thoughts and philosophy between people of various nations. Without such a revolution in thought of people of different religions, enlightened citizenship would be a distant dream and constitutional governance would never be good governance. India hopes to progress not only materially but also spiritually. Such joint venture, as are being undertaken in this international conference, alone can bring real happiness to mankind all over the world.

Our Noble Prize winner in literature Poet laureate Late Rabindranath Tagore in his poems has exhorted Indians to work for global spiritualization and spread this message world over by

thoughts and through deeds. India being a multi-religious, multi-cultural and multi-lingual nation, has the potential for becoming a platform of cultural and religious exchanges and cooperation between peoples of all religions and faiths in the whole world. Tagore describes India as "Mahamanver Sagar" meaning 'Sea of spiritually enlightened human beings.' Appreciating the universal vision of the great poet and his humanistic outlook, Gandhian thinker of our family Dada Dharmadhikari has described India to be 'a holy

sojourn of peoples of different faiths living jointly in harmonious relationship to add to mutual happiness.'

I conclude with the prophetic words of Swami Vivekananda who all his life carried a mission to unite peoples of different faiths and religions all over the world:

The religious ideals of the future must embrace all that exists in the world and is good and great, and at the same time, have infinite scope for future development. All that was good in the past must be

preserved; and doors must be kept open for future additions to the existing store.

Religious ideals will have to become universal; vast and infinite. The Power of religions broadened and purified is going to penetrate every part of human life. Through such a religion, humanity will worship at the alter of one universal divinity, at once transcendent and immanent, showering peace and blessedness on all.

K.P. Tiwari v. State of M.P. 1994 Supp (1) SCC 540, 541.

"Our legal system acknowledges the fallibility of the judges and hence provides for appeals and revisions. A judge tries to discharge his duties to the best of his capacity. While doing so, sometimes, he is likely to err. It is well said that a judge who has not committed an error is yet to be born. And that applies to judges at all levels from the lowest to the highest. Sometimes, the difference in views of the higher and the lower courts is purely a result of a difference in approach and perception. On such occasions, the lower courts are not necessarily wrong and the higher courts always right. It has also to be remembered that the lower judicial officers mostly work under a charged atmosphere and are constantly under a psychological pressure with all the contestants and their lawyers almost breathing down their necks — more correctly up to their nostrils. They do not have the benefit of a detached atmosphere of the higher courts to think coolly and decide patiently. Every error, however gross it may look, should not, therefore, be attributed to improper motive."

Gender Sensitisation in the Judiciary

Justice Roshan Dalvi

Judge, High Court of Bombay

A father came home and announced to his wife and his four year old son: "This week-end we shall have fun. We shall go to a hotel." "What's a hotel, papa?" asked the son. "It's a place where they will do everything for us to make us live in utmost comfort. They'll get tea for us in the morning, tidy our room, do our laundry, serve us all our meals." "Then why is Mama coming along?" asked the son, puzzled.

This is not quite a joke, though it may have brought a little laughter to your mind. This is the gender perception at grass-root level that envelopes all societies and pervades all cultures. This is a fact of life - a fact of how life is taken by most. But, this is a cause for worry. If this boy grows to be a judge, he would make an insensitive judge, swayed by what is popularly called "gender bias."

The word "gender" is derived from the word "genes," though it is not another word for women. "Bias" is any kind of prejudice that sways judgment. Gender bias is largely the most potent, universal phenomenon that wrecks havoc in families, professions and societies. Its ill-effects are comparable and parallel to none other than racial bias and its sweep equally extensive.

This is axiom at micro level, sticking its neck out of the debris heaped by centuries of crystallized rock of history of all nations around the globe.

Roman law recognized "patria potestas," the power of the father over his child which was unquestionable. It was the power

of life and death. He could expose his child to perish in cold and hunger. The state officers could not enter his house; he alone had the locus standi therein. "Parent" meant "father" only. "Matria potestas" was unknown to Roman law.

In Greece, women could not participate in the Olympics. Only maidens could watch the games; not married women.

The Magna Carta in England considered all men equal before law. Yet when higher education systems opened and women started applying, one Dean remarked, "We're running a University, not a bathing institution." Decades later, when women did secure admissions, the science stream showed streaks of difference in the majors of students - women were compelled to pursue home science, botany etc. and were not allowed admissions in the field of pure sciences, micro biology etc.

When the French Revolution demanded liberty, equality and fraternity, liberty was meant for men, equality was not demanded between men and women and fraternity was to be between brother Frenchmen.

In the 19th Century America, the issue of equality of the sexes elicited mixed responses even at the highest Bench. The claim of one Myra Bradwell for admission to the Bar was denied by the Supreme Court. This state of affairs, though largely ironed out in the later century, still leaves traces of similar mindset, coming from no less than the highly

intellectual Lawrence Summers of Harvard.

The Law handed down by the widely proclaimed sage of ancient India, Manu, ordained in Mitakshara Law that "a woman must serve her father, then her husband and later her son. She must live forever in servitude. She deserves no liberty."

Despite a wide spectrum of gender just laws during the legal revolution that followed the constitutional mandate in India, India has been hailed to be a country highly insensitive to gender. The silt of gender discrimination and gender distinction is in the most strategically placed bastion for the people - the Judiciary in India - whose thoughts, deeds, acts and pronouncements upon 1/7th of the human race would touch, tarnish, change and soil the social thought and cause a tsunamic aftermath that would erode the society and cause untold deep-rooted injury, harm and damage. It is truly the death-knell of human rights. It is said that human rights is on everyone's lips and no one's mind.

This universal phenomenon of chronic gender insensitivity requires brain-storming - not brain-washing!

Since the highest standards of impartiality and fairness are expected of every Judge in treatment of all races, classes and sections of the people, why not similarly both sexes? This calls for gender equality in judicial approach, not from the point of view of the fanaticism of a feminist, but from the point of view

of objectivity required of a judge. It is not a call from an egalitarian bluestocking, but from the masses subjected to centuries of abuse, at all levels of the society, faced from the cradle to the coffin, who can look up to none other to ameliorate their condition and elevate their position, a journey from rights to empowerment.

It is, therefore, rightly said that in matters of gender, the Court has to work not with a microscope but with a stethoscope. What does this call for? A *gender friendly* approach to court work and in courtroom conduct, a *gender positive* outlook in granting claims and enforcing rights, a *gender blind* attitude to all before the court, a *gender neutral* analysis and interpretation of the laws, *gender awareness* of *gender specific* issues so as to leave no trace of *gender discrimination* resulting in the ultimate *gender justice*.

Is this a tall order? Is it but an art to be practiced or a science to be learnt and imbibed? How is it to be achieved? It is achieved by putting feelings in law. It can be summed up in one word – *sensitization*. People often feel that there is a gap between law and justice. The development of law, with a tilt towards justice, requires us to look, learn, think, introspect and act. A mindset is to be created, reinforced by analysis, openness and objectivity. This needs time for reflection over past failures, present achievement and future prospects.

Attitude is a small thing that

makes a big difference.

Madam Justice Ruma Pal, Judge, Supreme Court, once said: "Because Justice is blind, many times subtle injustices are not seen. Hence Justice need not be blind, but must have a third eye." This is required to wipe off all types of discrimination – direct, indirect and systemic. This is true in all countries which have systems of justice, so similar, yet so different. We need to begin at grass-root levels, keeping in mind the ground realities of the specific societal culture.

Gender bias in the Judiciary is-

- Evident when it is observed in a judgment that a woman's place is in the home.
- Exhibited in callous approach in courtroom conduct to an oppressed woman.
- Seen when it is observed in a case of rape that 'the woman asked for it'.
- Shown when it is observed in a dowry death case that 'the offence is victim precipitated'.
- Demonstrated when it is observed in a case of domestic violence that 'the accused is a victim of alcohol'.
- Articulated when a distinction is drawn in two cases: one in which it is held that a man slapping his wife is not an act of cruelty necessitating the grant of a divorce; and in the other, in which it is held that a wife not visiting her husband in the hospital is cruelty

requiring grant of a divorce.

- Perceived when it is held that taking away a wife's jewelry does not entitle her to divorce.
- Visible when it is held that a wife is not entitled to an injunction against her violent husband restraining him from coming into the matrimonial home.
- Exposed in all gender related sentences, orders and judgments; and
- Tested when a woman tries to take advantage of her position in court and is not allowed to do so if she is on the wrong side of the law.

Guarding against these seemingly irrelevant, innocuous undertones which surface involuntarily in judicial presence and discipline is a matter of some importance. Its presence is felt in laws requiring both, preventing and punitive action. This encompasses civil and criminal jurisdictions.

The grant of divorce when the family, the microcosm of our society, breaks down, and other ancillary reliefs thereupon including what in common law jurisdictions is known as the deserted wife's equity or the cruelly treated wife's right of injunction against her violent husband, requires the right blend of gender perception. Similarly, the appreciation of evidence in cases of domestic violence indoors or a sexual assault outdoors upon a helpless victim calls for strength of character as well as depth of consideration. It

is then that many a woman has been found unable to cope with the pressures upon her and many a judge has been found wanting.

*"Too many women in
too many countries
speak the same
language of silence"*

- Anasuya Sengupta

Civil

In civil jurisdictions, the family court [hereinafter FC], which must work more with the heart than with the head, including its entire support system consisting of the counsellors, mediators, psychologists, child specialists, contact centres, legal aid, law clinics, child support agencies, enforcement service must provide to the litigants, the ultimate beneficiaries, the justice they seek and deserve. Much, therefore, depends upon the missionary zeal and the human touch with which these functionaries serve the public. The delivery of goods depends upon how they wipe the tears from their eyes and the ache from their hearts.

The FC is constituted to be essentially and inherently an informal court. Its object and purpose is twofold – speed and cost – simplified procedure and rules of evidence (speed) and settlement rather than adjudication (cost).

Consequently the FC is enjoined to lay down its own procedure, may receive documents as evidence though otherwise inadmissible, record only a memorandum of evidence

and take evidence on affidavit.

The trial procedure in FCs requires discarding of adversarial, conventional court procedure. There should be flexibility of the rules of procedure as circumstances merit and require. Simple standard form pleadings should be made available. The language, conduct, documentation and legal representation should be shorn of technicalities.

The FC must lay down its own procedure to arrive at settlement or to arrive at the truth of the facts of the case. The procedure is therefore mandatorily required to be kept informal, simple and short. It is here that almost all such courts fail most miserably. Allowing and even encouraging elaborate, lengthy and wholly unnecessary procedures, akin to those in civil courts, has been the largest single disaster of the FCs. This is a product of nothing other than the total insensitivity of the judiciary. This alone has given a death-blow to the image of the FCs.

Criminal:

The other side of the judicial coin – the criminal justice system – refer to cases of rape/child sexual abuse [CSA] and domestic violence which require gender perspective at its best.

A judge of Kerala High Court once aptly remarked, *"the way we treat a rape victim is the mark of civilization of our system."*

Civilised court conduct requires two aspects:

- Infrastructure
- Sensitization

Infrastructure requires -

1. Video recording of complaints and statements (these themselves can be used in evidence)
2. Victim examination suites
3. Victim support centres
4. Separate rape / child victim centres
5. Video conferencing / TV link in court

Sensitization encompasses -

1. Parents
2. Teachers
3. Social workers
4. Police officers
5. Medical officers
6. Legal officers (Prosecutors)
7. Judicial officers

Sensitization by the judiciary is required at three stages

1. Grant of bail
2. Recording and appreciation of evidence
3. Decision – upon conviction, for -
 - a. Sentencing
 - b. Fine
 - c. Compensation

A sensitized judge is required to take care of the feelings of guilt, fear, tension, disbelief, suspicion, shock, disgust, frustration, confusion, helplessness, anxiety and insecurity of the victim. The criminal justice system must take account of the "accused vs. victim" syndrome. It should be victim centered and victim oriented. Victim protection, victim orientation, victim support are therefore the need of the hour. Similarly, witness protection is equally necessitated if the court must get what it most seeks – the

truth. Victims need be heard as much as the accused require to be. The doctrine and concept of victimology therefore requires to be introduced and practiced. In the USA under the Victims of Crime Act (VCA), impact statements of

victims are recorded at the time of granting bail, sentencing as well as early release of the accused (parole). It is hailed to be "the victim's right to speak; the nation's responsibility to listen."

A multi-disciplinary

approach is, therefore, required. Public opinion and awareness is the key.

"Liberation is not deliverance"

- Victor Hugo

Bishwanath Prasad Singh v. State of Bihar (2001) 2 SCC 305, 325.

R.C. Lahoti, J. *"An assessment of quality and quantity of performance and progress of the judicial officers should be an ongoing process continued round the year and then to make a record in an objective manner of the impressions formulated by such assessment. An annual entry is not an instrument to be wielded like a teachers' cane or to be cracked like a whip. The High Court has to act and guide the subordinate officers like a guardian or elder in the judicial family. The entry in the confidential rolls should not be a reflection of personal whims, fancies or prejudices, likes or dislikes of a superior. The entry must reflect the result of an objective assessment coupled with an effort at guiding the judicial officers to secure an improvement in his performance where need be; to admonish him with the object of removing for future, the shortcoming found; and expressing an appreciation with an idea of toning up and maintaining the imitable qualities by affectionately patting on the back of meritorious and deserving. An entry consisting of a few words, or a sentence or two, is supposed to reflect the sum total of the impressions formulated by the Inspecting Judge who had the opportunity of forming those impressions in his mind by having an opportunity of watching the judicial officer round the period under review. In the very nature of things, the process is complex and the formulation of impressions is a result of multiple factors simultaneously playing in the mind."*

Implementation of Information and Communication Technology in Indian Judiciary

Dr. Justice G.C. Bharuka

Chairman, E-Committee

October 5, 2005 marks a new era in judicial administration. The E-Committee set up by the Supreme Court under support from the Government of India launched on that day a Five Year Plan to totally computerize administration of justice throughout the country at all levels taking full advantage of developments in information and communication technology. What is provided below is an overview of the ICT plan as developed by the E-Committee which is already in the process of being implemented. More information on the scheme can be obtained from the E-Committee website: www.indianjudiciary.in. Preparing the Judges and the administrative personnel of courts to absorb the technology and develop court systems accordingly is a task which the training academies have to share with the E-Committee.

Editor

An Overview

The Indian judiciary comprises of nearly 12,423 courts situated in approximately 2,500 court complexes throughout the country. The total pendency of cases in these Courts as on 01.01.2005 was 2,94,97,251; the individual break up being - Supreme Court - 30,151; High Courts - 33,79,033 and the District & Subordinate Courts - 2,60,88,067. These figures speak for themselves and as former Chief Justice M.N. Venkatachaliah lamented, "... justicing process are in a state of disrepair."¹

To have an understanding of the attempts to construct an e-friendly Indian judiciary, it is necessary to appreciate the events which led to the formation of the E-Committee. The then Chief Justice of India, Hon'ble Mr. Justice R.C. Lahoti made a proposal to the Central Government for constitution of an E-Committee to assist him in formulating a National Policy on computerization of Indian Judiciary and to advise

technological, communication and management related changes. Appreciating the desirability of constitution of such a Committee, the Union Cabinet approved the proposal. Consequently, office order dated 28.12.2004 was issued by the Ministry of Law and Justice constituting the E-Committee under the Chairmanship of the present author, with three other specialist members. The mandate of the E-Committee was, inter alia, to formulate a National Policy on computerization of the justice delivery system and to draw up an action plan with appropriate phasing for time bound implementation. This Committee was also required to concurrently monitor and evaluate the action plan on periodic basis.

The E-Committee prepared the *Report on Strategic Plan for Implementation of Information and Communication Technology in Indian Judiciary* which was presented to the then CJI on 11.05.2005. This Report was circulated by the Hon'ble CJI to

the Chief Justices of all the High Courts requesting them to consider the proposals contained in the Report and send suggestions as may be found advisable. Copies of the Report was also sent to leading jurists, academicians, concerned Ministers and ministries of the Union Government including the National Informatics Centre. The Report was discussed at the Law Ministers Conference held at Simla on 11.06.2005. The E-Committee also held detailed discussions with large section of ICT related organizations, service providers, research and development experts and leading manufacturers to ascertain the existing status of the technology, its use in the context of court related processes, pricing, availability, security, implementation, scalability, sustainability, pace of change and support systems. Based on the inputs received from persons having expertise in diverse domains relevant for change management in Indian Judiciary,

¹ Foreword by Hon'ble Mr. Justice M.N. Venkatachaliah See DR. JUSTICE G.C. BHARUKA, REJUVENATING JUDICIAL SYSTEM THROUGH E-GOVERNANCE & ATTITUDINAL CHANGE (2003).

the E-Committee framed the NATIONAL POLICY AND ACTION PLAN FOR IMPLEMENTATION OF INFORMATION AND COMMUNICATION TECHNOLOGY IN THE INDIAN JUDICIARY. (1st August, 2005).

Under this National Plan, the E-Committee proposes to implement ICT in Indian judiciary in three phases over a period of five years. The following would give the reader a broad overview of the implementation strategy.

Phase I, which is proposed to extend for a two year period would seek to introduce ICT culture with requisite training at all levels. These include:

- Creation of computer rooms in all the 2,500 Court complexes
- Around 15,000 Judicial Officers would be provided with laptops
- Extensive ICT training to Judicial Officers and Court staff
- Arranging of awareness programs and training modules for lawyers
- Well structured database would be created of all the pending and fresh cases with user-friendly retrievable facilities
- Installation of wi-fi facilities and creation of video-conferencing studios in the Supreme Court and all the High Courts including Benches
- Creation of e-filing facility in Supreme Court thereby enabling inter connectivity between all courts.

At the end of this Phase, the following goals are sought to be

achieved :

- We would be able to build up the capacity of the Judges for delivery of speedy and quality justice
- National Judicial Data Center would provide litigational trends in the country for all levels and geographical locations supporting better management and policy decisions
- ICT modules would be available for assessing work performances.
- There would be instant availability of status of cases, judgments and orders of all Courts through Internet, kiosks and facilitation centers
- ICT would facilitate case flow management, online accessibility of orders, judgments and case related data
- Wireless connectivity to lawyers in and around Court complexes for accessibility of case status, cause lists, judgments and orders

In Phase II which is also sought to extend for two years, the Committee proposes to provide ICT coverage of judicial processes from filing to execution and all administrative activities. The steps intended to be adopted in this Phase are:

- Complete Automation of Registry level processes
- Digitization of Law Libraries and Court Archives
- Digital availability of case laws, statute laws and law

literature through the website of Indian Judiciary

- Availability of video conferencing facilities at all Court complexes
 - Facilities for e-filing in at least all the superior Courts
- All this, it is hoped would help to realize the following targets:

- Automate registry level (ministerial) processes eradicating delays, harassment and corruption at this level
- Digital production of under-trial prisoners and distant examination of witnesses through video-conferencing
- Online availability of legal resources to the Judges, lawyers and public at large
- Availability of e-filing facilities at High Courts

The final phase which would extend for a year would lead to the creation of Information Gateways between Courts and Public Agencies and Departments and use of advanced ICT and scientific tools. The specific programmes sought to be implemented would be:

- Establishment of Information Gateways between Courts and police stations, prisons, land record and registration offices as also other governmental agencies
- Use of bio-metrics and other high-end scientific tools.

The implementation of this Phase it is hoped would lead to:

- Availability of online information between the Courts, prosecuting and

investigating agencies, prisons, land records and registration offices thereby accelerating disposal of civil and criminal cases

- Bio-metrics and scientific tools would help in identifying habitual criminals, professional witnesses and

litigants and in resolution of complex factual disputes.

In conclusion, all that is sought to be highlighted by this paper is to make the readers aware of the blueprint formulated by the E-Committee to rejuvenate the Indian judicial system through the introduction of ICT. Moreover, the

use of ICT to smoothen and accelerate case progression to reach its logical end within a set time frame would lead to complete demystification of the adjudicatory process thereby ensuring transparency leading to greater accountability to 'WE THE PEOPLE.'

C. Ravichandran Iyer v. Justice A.M. Bhattacharjee (1995) 5 SCC 457, 473.

K. Ramaswamy, J. "To keep the stream of justice clean and pure, the Judge must be endowed with sterling character, impeccable integrity and upright behaviour. Erosion thereof would undermine the efficacy of the rule of law and the working of the Constitution itself. The Judges of higher echelons, therefore, should not be mere men of clay with all the frailties and foibles, human failings and weak character which may be found in those in other walks of life. They should be men of fighting faith with tough fibre not susceptible to any pressure, economic, political or of any sort. The actual as well as the apparent independence of judiciary would be transparent only when the office-holders endow those qualities which would operate as impregnable fortress against surreptitious attempts to undermine the independence of the judiciary. In short, the behaviour of the Judge is the bastion for the people to reap the fruits of the democracy, liberty and justice and the antithesis rocks the bottom of the rule of law."

**DIRECTORY OF
JUDICIAL EDUCATORS
&
JUDICIAL TRAINING INSTITUTIONS IN INDIA**

DECEMBER, 2005

**NATIONAL JUDICIAL ACADEMY
BHOPAL**

Beginning with the National Judicial Academy in Part I, this directory chronicles certain essential information about State Judicial Academies and training institutes in Part II arranged in order of the date of their establishment. Part III gives information regarding certain reputed training institutions overseas.

PART – I NATIONAL JUDICIAL ACADEMY

PART – II STATE JUDICIAL TRAINING INSTITUTIONS

1. **Judicial Officer's Training Institute**, Bombay High Court, Nagpur (1974)
2. **North Eastern Judicial Officers' Training Institute**, High Court of Gauhati, Guwahati (28th November, 1981)
3. **Kerala Judicial Academy**, (Erstwhile Directorate of Training) High Court of Kerala, Kochi (1986)
4. **Institute of Judicial Training & Research, U.P.**, Allahabad High Court, Lucknow (1986)
5. **Andhra Pradesh Judicial Academy**, High Court of Andhra Pradesh, Secunderabad (1991)
6. **Judicial Officers' Training & Research Institute**, High Court of Madhya Pradesh, Jabalpur (17th April, 1994)
7. **Gujarat State Judicial Academy**, Gujarat High Court, Ahmedabad (1995)
8. **Karnataka Judicial Academy**, High Court of Karnataka, Bangalore (28th May, 1999)
9. **Tamil Nadu State Judicial Academy**, Madras High Court, Chennai (19th June, 2000)
10. **School of Judicial Administration and Rajasthan Judicial Academy**, Rajasthan High Court, Jodhpur (23rd November, 2001)
11. **Judicial Academy Jharkhand**, High Court of Jharkhand, Ranchi (12th January, 2002)
12. **Delhi Judicial Academy**, Delhi High Court, Delhi (February, 2002)
13. **Bihar Judicial Officers Training Institute**, Patna High Court, Patna (September 2002)
14. **Judicial Officers Training Institute**, High Court of Chhattisgarh, Bilaspur (18th December, 2003)
15. **Orissa Judicial Academy**, High Court of Orissa, Cuttack (20th December, 2003)
16. **Uttaranchal Judicial and Legal Academy**, High Court of Uttaranchal, Nainital (19th December, 2004)
17. **West Bengal Judicial Academy**, High Court of Calcutta, Kolkata (3rd December, 2005)
18. **Himachal Pradesh State Judicial Academy**, High Court of Himachal Pradesh (2005)

PART – III SELECT JUDICIAL TRAINING INSTITUTIONS ABROAD

1. Federal Judicial Center, Washington, United States (1967)
2. National Judicial Institute, Canada (1988)
3. Commonwealth Judicial Education Institute (1998)

PART – I

NATIONAL JUDICIAL ACADEMY [NJA]

Year of establishment: Established as a Society on 17th August, 1993 NJA was formally inaugurated on 5th September, 2002

Contact details: National Judicial Academy, Bhadbadha Road, Suraj Nagar,
BHOPAL– 462 044 (MADHYA PRADESH). Ph: 0755-2696766,
2696669, 2696904 (Fax) <njabhopal@mp.nic.in> <www.nja.nic.in>

Chief Executive: Prof. (Dr.) N.R. Madhava Menon, Director

The history of Judicial training in India can be conceived in three phases. The first phase lasting till early 1980s is characterized by what may be called “on the job training” without any organized institutionalized programme to supplement the “learning by doing” model. The second phase between 1980s and 2000 saw feeble attempts at the level of some High Courts to develop a curriculum and to organize lectures by judges to new recruits of the subordinate judiciary. By the end of 2000 nearly 13 of the 21 High Courts had set up judicial academies or training directorates under the supervision of committees of judges to give induction training to subordinate judges and occasionally refresher courses for members of the higher judicial service. Seldom was there independent faculty, proper infrastructure facilities or separate budget for training.

The third and current phase of training can be traced to the Report of the First National Judicial Pay Commission (1999) and the establishment of the National Judicial Academy (2002) under the direct supervision of the Supreme Court.

Structure and Organization:

Governance: Established as an independent registered society, NJA has the Chief Justice of India as Chairman (ex-officio) and a small membership of Superior Court Justices, leading law academics and few Central Government representatives.

The administration, management and control of the Society is vested in the Governing Council which consist of the following:

S.No.	DESIGNATION	
(i)	The Chief Justice of India (ex officio Chairman)	Chairman
(ii)	Two Member Judges, Supreme Court of India	Members
(iii)	Secretary to the Government of India, Department of Justice, Ministry of Law & Justice,	Member
(iv)	Secretary to the Government of India, Department of Expenditure, Ministry of Finance	Member
(v)	Secretary to the Government of India, Department of Legal Affairs, Ministry of Law & Justice	Member
(vi)	Registrar General, Supreme Court of India	Member Secretary

Objects and Activities:

Objects:

The three major objects of the Academy are to:

- provide training and continuing education to judicial officers and ministerial officers of the Courts;
- disseminate information relating to judicial administration, publish research papers, books, monographs, journals, etc. and collaborate with other training institutions both within the country and abroad; and
- establish a center of excellence in the study, research and training on court management and on administration of justice and to suggest improvements to the judicial system.

Training:

- It is the endeavour of the National Judicial Academy to design and execute its programmes in a scientific and systematic manner with a view to maximize the scope of learning and to influence judicial behaviour for greater efficiency and productivity.
- Efficiency enhancing techniques, access to justice problems, delay reduction strategies, enhanced accountability systems and appropriate legal development schemes are some of the significant research areas under investigation at the NJA.
- The methods of training are participatory and individualized which are evolved on the basis of training needs of the judges concerned.
- The approach is multi-disciplinary and practice-oriented around live problems confronting the judiciary.
- The Courses involve proven adult education techniques, such as – Lectures, Socratic dialogues, Panel discussions, Brain-storming, Buzz Groups, Case Studies/Problem solving, Role Play and Mock sessions.
- A scientific system of course evaluation and assessment of performance of participants spread throughout the course will enable the learners to know the strengths and weaknesses of their understanding and would help them in self-study and improvement.
- Computer training, Stress & Time Management and Yoga classes form a part of the regular training routine

Performance:

In the training years 2004-2005 and 2005-2006 (upto October), the NJA has conducted 24 Courses in which as many as over 1000 Judicial Officers have been trained.

International Recognition:

The achievements of the NJA have been recognized internationally through the following:

- Membership of International Organization for Judicial Training [IOJT]
- Member for Asian Region on the Board of Governors of IOJT
- Membership of Commonwealth Judicial Education Institute [CJEI]

Research and Publications:

The Research Cell of the Academy is involved in designing the training curriculum and in the organization of the training programmes. Its activities include:

- Providing training and continuing education to judicial officers and ministerial officers of the Courts;
- Disseminating information relating to justice administration, publish research papers, books, monographs, journals etc., and collaborate with training institutes both within and outside the country;
- Formulating Strategic Action Plans for Policy changes to effectuate Judicial reforms;
- Providing inputs for developing the legal information resource centre;
- Aiming towards establishing a centre of excellence in the study, research and training on administration of justice and to suggest improvements to the judicial system;
- The Research cell of the NJA is now poised to offer its services to the entire judicial fraternity of the country through the system of *E-query*. This facility is being provided to encourage a judicial officer from any part of the world to post a question on any legal topic that shall be responded to promptly;
- Under support from the Ministry of Law and Justice and the UNDP, the Academy has launched a major research project on 'Access to Justice for the poor and Weaker Sections of Society'. The idea is to identify the barriers and difficulties which the poor and vulnerable sections encounter in processing their grievances through courts and to prepare the judges to adopt certain measures to mitigate the problems.

Publications:

The following are the main publications of the Academy:

- The NJA publishes a Newsletter *Judicial Education*, twice every year.
- The inaugural issue of the *Journal of the National Judicial Academy*, which is an annual publication, was released in July, 2005. It is devoted to the theme of "Judicial Reforms."
- The National Judicial Academy has published following six *Occasional Papers* till date :
 Paper No. 1 – *Judicial Accountability and Independence* by Hon'ble Mr. Justice S. Rajendra Babu
 Paper No. 2 – *Contempt of Court* by Shri Fali S. Nariman
 Paper No. 3 – *Judiciary and Gender Justice* by Hon'ble Mr. Justice R.C. Lahoti
 Paper No. 4 – *Risk Management in the Judicial Process* by Shri D.K. Sampath
 Paper No. 5 – *Canons of Judicial Ethics* by Hon'ble Mr. Justice R.C. Lahoti
 Paper No. 6 – *Appreciation of Evidence* by Hon'ble Mr. Justice U.L. Bhat

Administration:

The Director of the Academy is the Principal Executive Officer of the Society appointed by the Chairman with the approval of the Government of India. The administration of the Academy is looked after by the Director with assistance from a Registrar, an Additional Registrar and other officers.

Faculty:

For every training programme, a team of very distinguished faculty members are assembled from different parts of India who stay with the participants in the campus during the course and interact with them in class and outside. The Academy has six Research Fellows to enable the Director to conduct the training and research activities.

PART – II

JUDICIAL OFFICER'S TRAINING INSTITUTE [JOTI]

Year of establishment:	1974
Contact details:	Judicial Officer's Training Institute, Civil Lines, NAGPUR – 440 001 (MAHARASHTRA). Ph: 2565263
Chief Executive:	Shri M.T. Joshi, Director
Annual Budget:	Rs. 33 lakhs
Structure & Organization:	
<i>Staff :</i>	Director, two joint Directors are the three Faculty members and six other members form the Guest Faculty.
<i>Infrastructure:</i>	Residential complex with 20 rooms and 2 recreation halls.
Objects & Activities:	
<i>Training:</i>	Induction Courses are held for a period of eight weeks. The invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Forensic Science, Juvenile Justice, and Personality Development. Visits to Forensic Science Laboratories and Central Jails are also organized regularly.
<i>Performance:</i>	Generally, five batches of 20 judges each are trained in a year for upto 10 weeks.

NORTH EASTERN JUDICIAL OFFICERS' TRAINING INSTITUTE [NEJOTI]

NEJOTI was established with the financial assistance by the North Eastern Council (NEC). At present, the Institute is funded through a corpus created by contributions of the seven beneficiary States, namely, Assam, Nagaland, Meghalaya, Manipur, Tripura, Arunachal Pradesh and Mizoram.

Year of establishment:	28th November, 1981
Contact details:	North Eastern Judicial Officers' Training Institute (NEJOTI), 7, Bholanath Mandir Path, off Dr. B.K. Kakoti Road, Ulubari, GUWAHATI – 781 007 (ASSAM). Ph: 2548247, 2548649 <nejoti@rediffmail.com>
Chief Executive:	Shri Surendra Mohan Deka, Director
Structure & Organization:	
<i>Governance:</i>	Formed as a Society and managed by the Management Committee, NEJOTI consisting of the Chief Justice of Gauhati High Court as the Chairman, Secretary of the NEC and the Law Minister/Secretary of the beneficiary States as the Members, and the Director of NEJOTI being the Member-Secretary. All activities of NEJOTI are undertaken with the approval of the Management Committee.

<i>Staff:</i>	Four Faculty members (including the Director) and 15 supporting staff (including an Accountant, Computer Operator and a Library Attendant)
<i>Infrastructure:</i>	One classroom-cum-Conference Hall (40 persons capacity); 12 residential rooms; one computer room and a lounge for recreation.
Objects & Activities:	
<i>Objects:</i>	To provide training to officers discharging judicial function and to train the ministerial officers in the subordinate courts in the beneficiary States.
<i>Training:</i>	Foundation Courses for Grade III Judicial Officers over a period of one year and Refresher Courses for the rank of CJsMs, Civil Judge (Sr. Division) are held. Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Forensic Science, Accounts, Judicial Ethics, Gender Justice, and Information Technology. Visits to Forensic Science Laboratories are organized regularly. Yoga classes also form a part of the training routine.
<i>Performance:</i>	Up to March 2005, 1302 Officers of all Grades have attended training activities at the Institute.
Funding:	The contribution from Governments of the seven beneficiary States on the annual basis of Rs.3 lakhs each State with the exception of Assam, which has to contribute Rs.10 lakhs per year. Grants from Central Government, and assistance from the NEC are also provided for.
Budget:	A total of Rs.34 lakhs including Rs.6 lakhs for training, Rs.13 lakhs for pay and allowances and Rs.12 lakhs for Office Contingency.
Future Plans:	A detailed Project Report in connection with the infrastructural development of NEJOTI at an estimated cost of about Rs.6.62 crores has been submitted to the Joint Secretary, Department of Development of North Eastern Region [DONER].

KERALA JUDICIAL ACADEMY [KJA]

The KJA was functioning and known as the Directorate of Training till it was renamed.

Year of establishment:	1986
Contact details:	Kerala Judicial Academy (Formerly Directorate of Training), High Court of Kerala, KOCHI – 682 031 (KERALA). Ph: 0484-2394652. <kjahc@vsnl.net>
Chief Executive:	Shri A. Hariprasad, Director
Structure & Organization:	
<i>Governance:</i>	The Chief Justice of the High Court of Kerala is the Patron-in-Chief of the KJA and a Governing Body is formed with the First puisne Judge of the High Court as the President and three other Judges of the High Court as appointed by the Patron being the members.

Staff :	Two Faculty members (the Director and the Additional Director); with a supporting staff of seven persons consisting of a Section Officer, three assistants and two confidential assistants and a typist.
Infrastructure:	Situated in the High Court building, the High Court halls are being used for training. No accommodation facility for the Academy as yet. A computer Cell and an independent library (exclusively for the Academy) are also functioning
Activities:	
<i>Training.</i>	It includes Foundation Courses and Refresher Programmes. Training programmes are held in different districts across the State. Invited Faculty resources are multi-disciplinary and Course subjects include - Juvenile Justice, Crime Investigation, DNA & Finger-printing, Environmental Laws, Forensic Science, Gender Justice, and Court Management. Audio-visual presentation aids are employed in lectures on various topics.
<i>Publication:</i>	KJA publishes a Journal titled as "Judicial Vision."
Budget:	Rs. 9 lakhs per year through the High Court of Kerala
Future Plans:	Proposal submitted to establish an exclusive infrastructure for the Academy.

INSTITUTE OF JUDICIAL TRAINING & RESEARCH, UTTAR PRADESH [IJTR]

Year of establishment:	1986
Contact details:	Institute of Judicial Training & Research, Vineet Khand, Gomti Nagar, LUCKNOW – 226 010 (UTTAR PRADESH). Ph: 0522-2300545; 2300546 (F); 392205 (R). <jtri_up@satyam.net.in>
Chief Executive:	Shri Ved Pal, Director
Structure & Organization:	
<i>Staff.</i>	Six Faculty members
<i>Infrastructure:</i>	It consists of 6 air-conditioned lecture halls with modern teaching aids; one conference hall of 250 persons capacity, a cultural room; meditation centre; and hall for physical exercises. The Hostel Complex has 114 rooms.
Objects & Activities:	
<i>Training.</i>	The Institute organizes training programmes on legal aspects for officers of different Government departments. Certain training programmes have had foreign participants (from Malaysia and Bangladesh). Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Forensic Science, Gender Justice, and Information Technology.
Budget:	A total of Rs.1.54 crores was the estimated expenditure for 2004-2005.

ANDHRA PRADESH JUDICIAL ACADEMY [APJA]

The High Court of Andhra Pradesh with the object of providing comprehensive training facilities for State Judiciary conceived an idea of establishing a nodal training institute. The foundation stone for the building of the Academy was laid in January 1981 and later in July 1991 it was formally inaugurated. The State Government has declared the Director as the Head of the Department and the Academy as a Category-I Training Institute.

Year of establishment: 28th July, 1991

Contact details: Andhra Pradesh Judicial Academy, S.P. Road, SECUNDERABAD – 500 003 (ANDHRA PRADESH). Ph: 040-23446191/2 (O); 23446193 (Director); 23446368 (F). <apjahyd@ap.nic.in>

Chief Executive: Shri R. Kantha Rao, Director

Structure & Organization:

Governance: The APJA is an Unit of the High Court of Andhra Pradesh and is headed by the Chief Justice of the High Court who is the Patron-in-Chief and all the Judges of the High Court are the Patrons of the Academy. The Chief Justice nominates a Judge of the High Court as the President and two other Judges of the High Court as the Members of the Board of Governors of the Academy. The President and the Board of Governors guide the functioning of the Academy.

Staff: The Academy is headed by the Director and is assisted by an Additional Director and a Senior Faculty Member, an Assistant Director and an Administrative Officer. In all, six Judicial Officers are working in the Academy as in-house faculty and are on deputation from High Court in different cadres. They are assisted by a supporting staff of over 40 persons.

Infrastructure: It consists of three air-conditioned classrooms; 120 member capacity conference hall; a meeting hall with a capacity of over 200 persons; residential facility for 40 persons; Officer's Lounge; well-equipped Library with leading books and periodicals from India and abroad. A full-fledged computer lab has also been functioning since 2003 for imparting computer training to Judicial Officers.

Objects & Activities:

Objects: To provide comprehensive training and learning facility for the judiciary to acquire legal knowledge, managerial skills for fair and fast adjudication and better administration of justice.

Training: The Academy has designed 17 courses for various categories of judicial officers and for Ministerial Officers of the High Court and the Lower Courts. Besides the regular courses, the Academy has been conducting various seminars, symposia and workshops by itself and in association with the Human Resource Development Institute of Andhra Pradesh and other

academic institutions and also arranges lectures on subjects of contemporary relevance. The Academy supplies reference material to the trainee officers participating in each course. To promote competitive spirit among the trainee officers and to encourage innovative and analytical abilities of the Judicial Officers working in the State "Hon'ble Justice M.N. Rao Gold Medals" are being awarded since 1996. Out of four Gold Medals, three are awarded to the Best Trainee Judicial Officers of different cadres, i.e., one each for the District Judge cadre, Senior Civil Judge cadre and Junior Civil Judge cadre. The other Gold Medal is conferred on the Judicial Officer of any cadre who writes the best article on the topic selected by the Board of Governors of the Academy, every year.

The Academy has also acquired equipment to conduct training programmes through Digital Versatile Disks (DVDs) and has thereby conducted several courses for Ministerial Officers on the matters relating to administration, finance, disciplinary and vigilance procedure, Budget, Duties of drawing and disbursing officers, Leave and Pension Rules.

Since February 2003, the APJA has begun to impart in-house training to the Court Officers and Ministerial Officers of the High Court in the premises of the High Court itself, so as to preclude any hindrance to the regular work.

The training activities range from a duration of 2 days to 4 months. Workshops and Advanced Courses form the core of training calendar. Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management and Judicial Administration, Forensic Science, and Information Technology.

It has been decided that the Academy shall conduct a two-day Training Programme for Ministerial Officers at the District level. It is under the supervision of the Academy by utilizing the services of Judicial Officers/ Ministerial Officers working in the Districts and also the retired Judicial Officers/ Ministerial Officers available at the District level.

Performance:

The Academy has so far conducted 208 training courses and trained 6137 judicial officers of all cadres and ministerial officers.

Publication:

The Academy has to its credit six publications on the following topics – Consumer Protection Act (in Telugu), Democracy & Federalism (collection of articles), Random Reflections on Law and Allied Matters, elimination of Child Labour, Scheduled Tribes and Social Justice and thoughts and Reflections of Justice A.M. Ahmadi.

Prospects:

Keeping in view the increasing activity of the Academy and the future needs, the Government of Andhra Pradesh has recently allocated about 20 acres of land for the construction of a new building complex of the Academy close to the National Academy of Legal Studies and Research.

JUDICIAL OFFICERS' TRAINING & RESEARCH INSTITUTE [JOTRI]

The High Court of Madhya Pradesh had wanted to establish the Training Institute in 1989 itself and could not do so till 1994 owing to financial constraints. It was in 2002 that the Institute was remodeled as Judicial Officers' Training & Research Institute.

Year of establishment: 17th April, 1994

Contact details: Judicial Officers' Training & Research Institute, High Court of Madhya Pradesh, JABALPUR – 482 007 (MADHYA PRADESH). Ph: 0761-2626945

Chief Executive: Shri Ved Prakash Sharma, Director

Structure & Organization:

Governance: Formed under the direct control of the High Court

Staff: Three Faculty members and 10 supporting staff

Infrastructure: Independent building consisting of a Computer Lab with 16 computers; State of the art Library designed to aid group discussions; Two air-conditioned classrooms

Objects and Activities:

Objects: To widen the knowledge base of Judges and to hone their skills so as to make them better equipped for the purpose of administration of justice and to also make them conversant with computer knowledge so as to increase their capacity and efficiency.

Training: Full-fledged training calendar for the year 2005 has been prepared. Programmes vary from Workshops for a day to Advanced Courses for about 15 days. Training programmes are held at different district headquarters across the State to save time of the trainee judges. In addition to the regular institutional courses, workshops on specified laws (like forest laws and consumer laws) are being organized to facilitate interaction between the judicial officers and officials of different departments to bring forth the prevalent situation in law enforcement and build special skills in Judges.

Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Forensic Science, Accounts, Medical Jurisprudence, Judicial Ethics, Gender Justice, and Information Technology. Training is being provided even to Ministerial Staff of the High Court. Yoga classes also form part of the training routine.

Performance: Since its establishment, the JOTRI has held 98 courses for Judicial Officers, 7 courses for ministerial staff and 16 workshops for Judicial Officers, Police Officials, Forest Officers and Electricity Officers.

Publication: The Institute publishes a bi-monthly institutional journal called JOTI since October 1995, which includes latest judgements of the Supreme Court and the High Court of Madhya Pradesh along with illuminating articles on current

legal issues. An Annual Report of the Institute is submitted to the High Court for publication on "Administration Status of State Judiciary." A book titled "Panchayat Raj and Gram Swaraj" is being published to simplify Panchayat laws in Madhya Pradesh.

- Budget:** JOTRI does not have separate budget of its own and it is included in the budget of the High Court.
- Future Plans:** A Conference Hall is being built with 40 persons capacity and a Hostel Block is to be constructed to accommodate 35 judicial officers at a time.

GUJARAT STATE JUDICIAL ACADEMY [GSJA]

- Year of establishment:** 1995
- Contact details:** Gujarat State Judicial Academy, Gujarat High Court, Sola, AHMEDABAD – 380 060 (GUJARAT). Ph: 079-27462600/27494606; 27433568 (Fax).
- Chief Executive:** Justice M.H. Kadri, Director
- Structure & Organization:**
- Governance:* The GSJA is established by the High Court and works under the Governing Board consisting of the High Court Judges and chaired by the Chief Justice, the Chief Patron. A senior High Court Judge is the President of the Academy. A retired High Court Judge is appointed as the Director of the Academy, assisted by the Deputy Director, a District Judge.
- Staff:* Director, Deputy Director and 10 supporting staff
- Infrastructure:* Well equipped library consisting books of different disciplines. There is also a recreation room for the judges.
- Activities:**
- Training:* During the training, objective and subjective examination are conducted on the subjects taught. Over and the above the examination, trainee Judges are required to write Judgements (Civil and Criminal) on the strength of Paper Books and Record and Proceedings supplied. The GSJA is the first Academy to have introduced the one-year Foundation-cum-In Service Training Programme for the newly recruited Civil Judges (in September 2004) pursuant to the decision of the Supreme Court in the matter of *All India Judges Association v. Union of India* (2002) and first batch of 68 newly recruited Civil Judges have completed the said Training Programme.

Regular visits are organized to Forensic Science Laboratories, Labour Institute, Permanent Legal Services Clinics, Civil Hospitals. Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Forensic Science, and Information Technology. Specific topic based Workshops are organized routinely in different districts and every trainee judicial officer of each cadre in the district is expected to submit a paper on the subject and each session is chaired by a High Court Judge.

Theoretical and practical training and simulation exercises are undertaken in the subject of alternative dispute resolution techniques. Development of English language proficiency is given due attention in the training activities. Physical and mental fitness and development subjects are given due importance – Yoga, meditation, laughter therapy, relaxation and breathing exercises, better communication and personality development are few of the subjects dealt with. Computer classes also form part of the training routine.

Performance:

The GSJA has trained 757 judges from November, 1995 to March, 2005. 114 newly recruited Civil Judges are under Foundation-cum-in service Training and 19 newly appointed Judges of the Labour Court are being imparted Induction Training.

Budget:

During the year 2004-2005, a grant of Rs.67.86 lakhs was given to GSJA.

KARNATAKA JUDICIAL ACADEMY [KJA]

Earlier, only induction courses for new recruits were being held by the High Court of Karnataka. Having felt the need for full fledged training to the freshers as well as in-service Judicial Officers, Karnataka Judicial Academy was established in the year 1999.

Year of establishment: 28th May, 1999

Contact details: Karnataka Judicial Academy, Crescent House, Crescent Road, BANGALORE – 560 001 (KARNATAKA). Ph: 080-22382894 22382895 (Fax). <dirkja@vsnl.com>

Chief Executive: Shri B.S. Reddy, in-charge Director

Structure & Organization:

Governance: The KJA is headed by the Chief Justice of the High Court who is the Patron-in-Chief of the Academy. The President and the four Board of Governors of the Academy are nominated by the Patron from among the sitting judges of the High Court.

Staff: Six Faculty members – Director, Additional Director, Senior Faculty member, Deputy Director, Administrative Officer and Assistant Director (all on deputation from the judiciary) and supporting staff.

Infrastructure: Centrally located independent building; Conference Hall of 300 persons capacity; two lecture halls; Classroom for 40 trainees; Faculty Lounge; VIP Lounge; independent chambers for Faculty Members and Staff Room. The Library is said to be one of the biggest law libraries in the State. The Hostel complex is of 48 persons capacity. There is 24-hour catering facility. There is also a Computer training hall with 38 computers and internet connectivity and a Guest House for Invited Faculty.

Objects & Activities:

Objects: The aim of all training programmes is to develop the four qualities of a Judge – integrity, sound judgement, objectivity, and ability to articulate reasons.

Training:

Foundation Courses/Basic Training over a period of four months (involves practical exercise of framing of issues) and Refresher Courses are conducted periodically. For the conduct of Workshops on specific themes and meeting the need for expert Faculty resource there is extensive collaboration with the National Law School of India University, Bangalore. Invited Faculty resources are multi-disciplinary and Course subjects include – Gender Justice, Information Technology, Criminal Justice, Judgement Writing, Economic and Social Rights, Family Laws, Judicial Conduct and Ethics, Cyber Laws, Intellectual Property Rights, DNA and Finger Printing, Environmental Law, Child Labour. Trainee judges are required to write short papers on the concerned subject and they are aided by the Study Materials provided in each course. Practical Training is provided on various aspects, including investigation, medical jurisprudence, and ballistics. Visits to Forensic Science Laboratories are organized regularly. Stress and Time management and Yoga classes form part of the training routine. Audio-visual presentation aids employed in lectures on various topics. Orientation in English forms a part of each course. A number of seminars/workshops have been held on subjects like – ADR, Child Labour, Persons with Disabilities, Human Rights, Environmental Law, Legal Services, Gender Justice, consumer Rights, Criminal Justice System. Training is also imparted to Lady junior advocates and programmes conducted for ministerial staff of High Court.

Funding:

The Government of Karnataka.

TAMIL NADU STATE JUDICIAL ACADEMY [TNSJA]

TNSJA was established in pursuance to the directions of the Supreme Court in the *All India Judges Association* (1992). It was accommodated in the compound of the Judicial Officers' Quarters till the new independent building was functional in 2004.

Year of establishment: 23rd April, 2001

Contact details: Tamil Nadu State Judicial Academy, "Malligai", No. 30(95), P.S.K.R. Salai, R.A. Puram, CHENNAI – 600 028 (TAMIL NADU). Ph: 044-24958595

Chief Executive: Shri V. Periyakaruppiiah, Director

Structure & Organization:**Governance:**

The TNSJA is headed by the Chief Justice of the High Court who is the Patron-in-Chief of the Academy. The President and the four Board of Governors of the Academy are nominated by the Patron from among the sitting judges of the High Court. The Director of the Academy shall be for tenure of not less than three years in order to have effective administration and to work for the development of the institution.

<i>Staff :</i>	Three Faculty members and over 15 supporting staff (including a Librarian).
<i>Infrastructure:</i>	Air-conditioned classroom (50 persons), Library and Conference Hall (over 100 persons); 8 Guest Rooms; one computer room; an auditorium (upto 600 persons); 2 VIP Suites and 2 recreation rooms.
Objects & Activities:	
<i>Objects:</i>	To enable effective training of judicial officers and recruits pursuant to the recommendations of the First National Judicial Pay Commission Report
<i>Training:</i>	Foundation Courses (for 2-8 weeks), Orientation programmes, Advanced training and Refresher Courses (for a week) are conducted regularly. The Foundation training is divided into – Theory (2 weeks), Practical (2 weeks), General lectures (2 weeks) and Lectures and visits (2 weeks). Visits are undertaken to Courts, Police establishments, Jails, Railway Protection Force and General Hospital. Invited Faculty resources are multi-disciplinary and Course subjects include – Forensic Science, Judicial Ethics, Gender Justice, Medical Jurisprudence and Criminology.
<i>Performance:</i>	About 71 training programmes have been conducted till date by TNSJA.
Funding:	The Tamil Nadu State Government.
Budget:	One crore has been proposed only for the Library. A total of Rs.25 lakhs has been proposed only for training programmes. Rs.12 lakhs has been spent for furniture, and Rs.7 lakhs for a car and a van.
Future Plans:	A total of 49 programmes are planned for the year July 2005 to May 2006. Also the Academy is well prepared for the launch of a monthly Journal.

SCHOOL OF JUDICIAL ADMINISTRATION AND RAJASTHAN JUDICIAL ACADEMY [SJARJA]

In the absence of adequate financial resources and a separate budget for the State Judicial Academy, the SJARJA was established in joint venture of Rajasthan High Court and National Law University, Jodhpur.

Year of establishment:	23rd November, 2001
Contact details:	School of Judicial Administration and Rajasthan State Judicial Academy, C-7, Near JNV Univ. Dispensary, Residency Road, JODHPUR – 342 003 (RAJASTHAN). Ph: 2654701; 2654702 (F). <rjadir@sancharnet.in>
Chief Executive:	Shri Deo Narayan Thanvi, Director
Structure & Organization:	
<i>Governance:</i>	Being a unit of the High Court, the Chief Justice is the Patron-in-Chief and all Judges of the High Court are Patrons of the Academy. The Executive Committee manages the functioning of the Academy.
<i>Staff :</i>	Two Faculty members (Director and Deputy Director) and 16 supporting staff
<i>Infrastructure:</i>	Building and adequate infrastructure is yet to be established.

Objects & Activities:

<i>Objects:</i>	To impart induction and in-service training to the Judicial Officers of the State, by enriching their knowledge in different fields of law and improve their skills and behaviour. The motto is "Achieve Perfection by unattached action."
<i>Training:</i>	Quarterly Refresher Courses at 20 District Headquarters; 80 newly recruited Judicial Officers have been given induction training including a stint of practical work experience and were sent to the Institute of Judicial Training and Research, Uttar Pradesh for the remaining part of the training.
<i>Performance:</i>	Apart from induction training to the newly recruited judicial officers, a number of in-service judicial officers have been trained by way of workshops/seminars/ refresher courses.
<i>Publication:</i>	The Academy has released the first issue of the Biennial Journal in the month of April, 2005.
Funding:	The State Government provides the funding and it is disbursed by the Rajasthan High Court.
Budget:	The State Government has granted Rs.40.50 lakhs for 2005-2006.
Prospects:	The State Government has been requested to allot 80 acres land and to sanction a budget of Rs.5 crores for construction of the building of the Academy and to aid regular conduct of foundation and refresher courses.

DELHI JUDICIAL ACADEMY [DJA]

Year of establishment:	February, 2002
Contact details:	Delhi Judicial Academy, Karkardooma Courts Complex, Shahdara, DELHI – 110 032. Ph: 011-22307272; 22308969 (Fax). < www.judicialacademy.nic.in >
Chief Executive:	Shri V.B. Gupta, Director
Structure & Organization:	
<i>Governance:</i>	A former Judge of the Delhi High Court has been appointed as the Chairman of the Academy for a period of two years on the recommendation of the Chief Justice of the Delhi High Court.
<i>Staff:</i>	Three
<i>Infrastructure:</i>	One Conference Hall of 32 persons capacity; a Lecture Room with 30 persons capacity; a Computer Room with 20 computer systems; a well equipped Library with electronic databases and a recreation room.
Objects & Activities:	
<i>Objects:</i>	To impart comprehensive training for judicial officers and recruits and keep them abreast of developments in law and judicial administration.

<i>Training:</i>	Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Forensic Science, ADR, Legal Writing, Social context Education, Criminology, and Information Technology. Training programmes have been held even for Members of Juvenile Justice Boards, Municipal Magistrates, Traffic Magistrates, and Executive Magistrates. Visits to Forensic Science Laboratories are organized regularly.
<i>Publications:</i>	The Academy regularly publishes its quarterly journal containing articles of Judges of the Supreme Court and the Delhi High Court. The DJA is planning to publish Bench Books on the topics of "Remand and Bail" and "Law relating to Injunctions."
Funding:	The Government of National Capital Territory of Delhi allocates funds to the Academy which is placed at the disposal of the Delhi High Court.
Budget:	A total of Rs.62 lakhs, including Plan and Non-Plan expenditure.
Future Plans:	The Academy has presented the first regular training calendar and seeks to follow the same for the coming years with greater effectiveness.

JUDICIAL ACADEMY, JHARKHAND [JAJ]

With the separation of Jharkhand Judicial Cadre, the Hon'ble High Court of Jharkhand took initiative for the establishment of the Judicial Academy at Ranchi.

Year of establishment:	12th January, 2002
Contact details:	Judicial Academy Jharkhand, Meur Road, North of Governor's House, ATI Campus, RANCHI – 834 008 (JHARKHAND) Ph: 0651-2281184; 2284399 (Fax).
Chief Executive:	Shri D.P. Singh, Director
Structure & Organization:	
<i>Governance:</i>	The Chief Justice is the Patron-in-Chief of the Governing Body which has ten other members for the governance of the Academy.
<i>Staff:</i>	Four Faculty members (including the Director) and 10 supporting staff.
<i>Infrastructure:</i>	Presently using the premises of the Administrative Training Institute having one big lecture hall, an auditorium and a computer hall with 10 computers.
Objects & Activities:	
<i>Objects:</i>	To provide learning facility and comprehensive training to improve the quality of orders and judgements to ensure justice in time with least cost – the motto being "Learning, Enduring and Justice."
<i>Training:</i>	Refresher Courses are organized periodically. Invited Faculty resources are multi-disciplinary and Course subjects include – Court Management, Judicial Excellence, and Information Technology. Legal Awareness Camps are also

organized in different regions of the State. Computer training and Yoga classes form part of the training routine.

Performance: In over 50 training programmes conducted, about 1900 Judicial Officers have been imparted training by the Academy since January 2002.

Funding: The Governing Body prepares the budget and presents it for the approval of the State Government.

Budget: A total of Rs.81.5 lakhs is the estimate proposed for 2005-2006.

BIHAR JUDICIAL OFFICERS' TRAINING INSTITUTE [BJOTI]

Year of establishment: September, 2002

Contact details: Bihar Judicial Officers Training Institute, Gaighat, Guljarbag, PATNA – 800 007 (BIHAR). Ph: 2311123

Chief Executive: Shri V.K. Sharma, Director

Structure & Organization:

Governance: Administrative control rests with the Board of Governors constituted by the Chief Justice of the High Court.

Staff: Two Faculty members.

Infrastructure: A Lecture Hall accomodating 40 persons and Hostel facility for 15 persons. Rs. 46 lakhs has been allocated for developing the infrastructure on a new plot of land.

Objects and Activities:

Objects: To enable effective training of judicial officers and new recruits.

Training: Training is undertaken for Judges posted on Administrative work. Courses of short-term duration are planned for updating on new laws and their implementation. In-service training is planned for every stage of promotion.

Performance: More than 200 Judicial Officers have been trained since 2003.

Budget: A total of Rs.41 lakhs for the year 2005-2006, including Rs.21 lakhs for pay and allowances.

JUDICIAL OFFICERS' TRAINING INSTITUTE [JOTI]

Year of establishment: 18th December, 2003

Contact details: Judicial Officers Training Institute, High Court of Chhattisgarh, BILASPUR – 495 001 (CHHATTISGARH). Ph: 07752-237788

Chief Executive: Shri M.K. Tiwari, Director

Structure & Organization:

Governance: The Chief Justice is the Patron-in-Chief with four other Judges of the High Court being the members.

Objects & Activities:

Training: Foundation Courses with Institutional and Field Training is undertaken. Health consciousness is emphasized at induction training. Medico-legal experts are called upon for lectures. English language development course forms a necessary component.

Publication: The inaugural issue of the Journal titled "JOTI" has been released on the topic of Induction Training.

ORISSA JUDICIAL ACADEMY [OJA]

Year of establishment: 20th December, 2003

Contact details: Orissa Judicial Academy, Old Board of Revenue Building, Chandini Chowk, CUTTACK – 753 002 (ORISSA). Ph: 2608509

Chief Executive: Shri Mukunda Prasad Misra, Director

Structure & Organization:

Governance: Managed by a Committee of High Court Judges with a senior Judge as the Chairman of the Committee and the Hon'ble Chief Justice as the Patron-in-Chief.

Staff: Only the Director is the regular Faculty member assisted by 9 supporting staff.

Infrastructure: The classroom can accommodate about 30 persons and the Hostel facility is for 20 persons. The Library is fairly well equipped. There are 10 computers in the computer room and a car has been borrowed from the High Court.

Objects & Activities:

Training: Invited Faculty resources are multi-disciplinary and Course subjects include – Clinical psychology, Conciliation, Forensic Science and Medicine, Forensic Chemistry.

Performance: The Academy has conducted four training programmes (two refresher courses and two foundation programmes) since inception involving about 114 judicial officers.

Funding: The State Government

Budget: A total of Rs.14 lakhs, including about Rs.6 lakhs for pay and Rs.3.5 lakhs for Other Contingency, granted for the year 2005-2006.

UTTARANCHAL JUDICIAL AND LEGAL ACADEMY [UJALA]

Year of establishment:	19th December, 2004
Contact details:	Uttaranchal Judicial and Legal Academy, High Court Premises, NAINITAL (UTTARANCHAL). Ph: 05942-233501; 235140 (Fax).
Chief Executive:	Shri G.K. Sharma, Additional Director
Staff:	Five Faculty members proposed with a total of 81 posts to be created.
Infrastructure:	Presently the training is being conducted in the Uttaranchal Academy of Administration as UJALA has no independent building or other infrastructure. Construction work on the new plot is ongoing.
Training:	Has conducted two refresher programmes for Civil Judges (Junior Division).

WEST BENGAL JUDICIAL ACADEMY [WBJA]

Year of establishment:	3rd December, 2005
Contact details:	West Bengal Judicial Academy, Bijan Bhavan, Salt Lake, KOLKATA - 64 (WEST BENGAL).
Chief Executive:	Shri Prabhuddha Shankar Banerjee, Director
Structure and Organization:	<p>The Government of West Bengal has created eight posts – Director, Deputy Director, Administrative Officer, an Accounts Clerk, a Clerk-cum-Typist, a Data Entry Operator, a Stenographer and two peons.</p> <p>The Housing Department has been requested for the allocation of 10 acres of land to build the permanent structures, including residential accommodation for trainee Judges.</p> <p>An amount of Rs.50 lakhs has been sanctioned to begin the activities of the Academy.</p>

HIMACHAL PRADESH STATE JUDICIAL ACADEMY [HPSJA]

Year of establishment:	Established through a State Government Notification in November, 2005. The formal inauguration shall be held shortly.
Contact Details:	Himachal Pradesh State Judicial Academy, Harvington Estate, SHIMLA (HIMACHAL PRADESH) Ph: 0177-2888212; 2650111 Extn: 212
Chief Executive:	Mr. George, Director
Structure and Organization:	The Chief Justice of the Himachal Pradesh High Court is the Chairman of the Governing Body of the Academy, which also consists of – two Judges of the High Court, the Chief Secretary of the State, Principal Finance Secretary, Principal Home Secretary, the Advocate-General and a Senior Advocate.
Infrastructure and Funding:	The Academy presently functions from the premises of the High Court Buildings and the State Government has provided funding of about Rs.22 lakhs for making of the exclusive infrastructure for the activities of the Academy.

PART – III

FEDERAL JUDICIAL CENTER [FJC]

The U.S. Congress created the Federal Judicial Center in 1967 “to further the development and adoption of improved judicial administration in the courts of the United States.”

Contact details: Federal Judicial Center, Thurgood Marshall Federal Judiciary Building,
One Columbus Circle, N.E., WASHINGTON D.C. – 20002 8003
(UNITED STATES). <www.fjc.gov>

Chief Executive: Barbara J. Rothstein, Director

Structure & Organization:

Governance: The Chief Justice of the United States chairs the Center’s Board, which also includes two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge who are elected to four-year terms by the Judicial Conference of the United States, and the director of the Administrative Office of the U.S. Courts, who serves *ex officio*.

Staffing & Appropriation: The Center had a fiscal 2004 appropriation of \$21,214,000, and it employed 130 people at the end of calendar year 2004. Its fiscal 2005 appropriation is \$21,446,000. Well over two-thirds of Center expenditures support its education and training activities; the remainder is devoted almost entirely to its research activities.

Objects & Activities:

Objects: The Center aims to provide education and training for judges and employees of the federal courts and conducts empirical and exploratory research into different aspects of judicial administration, including case management and proposed changes to the federal rules of procedure.

Activities: The *Education Division* plans and produces education and training programs for judges and court staff, including satellite broadcasts, video programs, publications, curriculum packages for in-court training, and Web-based programs and resources. The *Research Division* examines and evaluates current and alternative federal court practices and policies. This research assists Judicial Conference committees, which request most Center research, in developing policy recommendations. The Center’s research also contributes substantially to its educational programs. The two divisions work closely with two units of the Director’s Office—the Systems Innovations & Development Office and the Communications Policy & Design Office—in using print, broadcast, and on-line media to deliver education and training and to disseminate the results of Center research. The *Federal Judicial History Office* helps courts and others study and preserve federal judicial history. The *International Judicial Relations Office* provides information to judicial and legal officials from foreign countries and assesses how to inform federal judicial personnel of developments in international law and other court systems that may affect their work.

- Performance:* More than 1,900 federal judge participants, 9,800 court staff participants, and over 600 federal defender and staff participants received Center orientation and continuing education through traditional seminars, local education programs, and technology-based conferences in 2004.
- Publications:* Center manuals, monographs, and research reports are described throughout this report. Most of the Center's publications are available in print and electronically on its sites on the courts' intranet (cwn.fjc.dcn) and on the Internet (www.fjc.gov). To save costs, some Center publications that were formerly distributed in print are now available on-line only, and other publications that were distributed widely throughout the judiciary are now distributed to targeted audiences.

NATIONAL JUDICIAL INSTITUTE [NJI]

Established in 1988, the National Judicial Institute is an independent, non-profit organization that serves the Canadian judiciary, by planning, coordinating and delivering judicial education dealing with the law, the craft of judging and social context. The NJI also partners with and promotes the education offered by many other organizations, both Canadian and international.

Contact details: <nji@judicom.gc.ca> <www.nji.ca>

Chief Executive: Hon'ble Justice Lynn Smith, Director

Structure & Organization:

Staff : Consisting a directorate of 10 Justices, the NJI is aided in its functioning by about 45 training professionals, including, computer trainers, communications managers, and international programme organizers.

Objects & Activities:

Objects: To foster a high standard of judicial performance through programs that stimulate continuing professional and personal growth; and to engender a high level of social awareness, ethical sensitivity and pride of excellence, within an independent judiciary.

Training: NJI is responsible for the overall coordination of judicial education in Canada, in addition to being a primary education deliverer. The training calendar assists the NJI in meeting one of its major objectives of ensuring that judges across Canada are aware of the education that is available to them;

The NJI networks with five other national level institutions to impart resourceful training to the Judges. The institutions are – The Canadian Institute for Administration of Justice; The Canadian Association of Provincial Court Judges; The Office of the Commissioner for Federal Judicial Affairs; Computer Education Partnership, and The Courts of Canada themselves.

Publications: The NJI has developed a series of Electronic Bench Books [EBBs] many of which are now being used by judges. The series consists of:

- the Mentally Disordered Offender;
- Family Law (prepared by the Superior Court of Justice, Ontario);
- Evidence;
- Child Witness;
- the Youth Criminal Justice Act [YCJA].

The software to get free access to the above documents can be downloaded from the internet.

COMMONWEALTH JUDICIAL EDUCATION INSTITUTE [CJEI]

The CJEI became an independent parallel official commonwealth NGO in 1998. It is incorporated as a Charity under the laws of Nova Scotia, Canada.

Contact details: Commonwealth Judicial Education Institute, Room No.306, Dalhousie Law School, 6061 University Avenue Halifax, NOVA SCOTIA – B3H 4H9 (CANADA). <cjei@dal.ca> <www.cjei.org>

Chief Executive: Hon'ble Judge Sandra E. Oxner, Chairperson

Structure & Organization:

Governance: The Chief Justices of the Commonwealth countries are Patrons to the Institute. The Executive Directors of Commonwealth judicial education bodies form an Advisory Board to the Institute. The management is undertaken by the Governing Committee. Funding partners include the World Bank, Asian Development Bank, and the British Council.

Objects & Activities:

Objects: The chief object being to provide support and linkage among existing Commonwealth judicial education bodies and encourage the sharing of information, human and fiscal resources, internationally and regionally.

Activities: Judicial education programmes have been presented in a number of countries across the Commonwealth.

Judicial Colloquium on Science, Law and Ethics*

Md. Arifuddin Ahmed

Research Fellow, NJA

Law and Judiciary all over the world are increasingly being confronted with issues arising from scientific research and technological developments for which there are no ready answers either in Law or in Ethics. While on the one hand, science must progress for welfare of human kind, on the other law, ethics and human rights have put obligations on the state to order developments based on society's conceptions of right and wrong. Nevertheless, Law, Ethics and science have to collaborate in the performance of important social functions. The legal system today is not only a mediator but a consumer of science. Scientific evidence in judicial proceedings is now integral to the judicial process. Law sets the terms and standards of scientific research and also lays down the norms for use in scientific research by third parties. Thus perceived, every law person and more importantly, the judge in the future has to become a critical consumer of scientific knowledge to be able to perform the emerging role of mediator, director, norm-setter and adjudicator between science and society.

Judicial Colloquium on Science, Law and Ethics for High Court Justices was held between 18th to 20th February, 2005. Thirty-four High Court justices nominated by various High Courts participated in the colloquium. Twenty leading scientists, a Judge from the Australian Apex Court,

advocates and invitees from other disciplines, deliberated as Resource Persons in the Colloquium.

H.E. the President of India, Dr. A.P.J Abdul Kalam, a distinguished scientist himself, interacted with the participants through Video-conferencing from Rashtrapati Bhawan on 19th February, 2005. The then Hon'ble Chief Justice of India, Mr. Justice R.C. Lahoti and three senior most Judges of the Supreme Court, Hon'ble Mr. Justice N. Santosh Hegde, Hon'ble Mr. Justice Y.K. Sabharwal and Hon'ble Mrs. Justice Ruma Pal were also present on the occasion.

Gist of the Deliberations

Explaining the legal and ethical issues in medical research and clinical trials, the expert on the subject posed the question of Means and End:

Is human person an *end* in himself/herself or a *means*?

Ethics calls for protection of human being as an end, and not simply as a means for something or someone else in the context of medical researches and clinical trials. Ethics deals with principles of self-realization, what one ought to be as a member of human society. Ethics calls for the maximum realization of all that a human being is destined to become. In this endeavor, law and ethics play their role complementarily.

Second Session of the day posed TRIPS policies and Health issues. The proposition which was

advanced for the debate was that the global patent law was patently unfair and inhuman. Global operators have acquired tremendous clout and are able to influence the shaping and administration of national patent laws and drug regulations, directly or through international patent treaties/free trade agreements/regional agreements. Exploring solutions in this area, the expert provided the following tips for a balanced global patent system:

- Remove unnecessary barriers
- Limit patent grants to genuine inventions
- Permit the effective use of patents by government legislation and compulsory licensing to ensure sufficient, efficient & cost effective production of life saving drugs
- Wide spread distribution & easy access to medicine at reasonable prices for the consumers.

Third session of the day was on DNA Revolution and Law. DNA revolution began more than 50 years ago and it had introduced a lot of issues touching every sphere of life. The major areas where law has to deal with are:

1. Should we let insurance companies use genetic information gathered from human genome sequence to their benefit? Should populations at risk of a particular disease be debarred from insurance

- coverage or from appropriate job? How do we insulate the society from possible misuse of such information?
2. Should GM foods be labeled? By labeling are we not introducing an element of suspicion in the minds of people who are less privileged who otherwise do not have enough resources for nutrient intake in their daily food?
 3. Who has patent on genetic information?
 4. Should India, like other advanced countries create DNA fingerprint database of convicts? Would such a data base infringe the human rights of criminals and that of their families?

Explaining these issues, the expert observed that the Benefits of integrating DNA investigation in our justice delivery system far outweigh the costs involved. While evidence can be tampered with, witness can become hostile; DNA could never lie and indeed unravel the truth even several decades after a crime has been committed. If such are the powers of DNA profiling, the subject expert appealed to make an effort to understand the language, the syntax and the grammar of DNA.

Participating in the panel discussion on humanizing science and technology research and applications, the panelists emphasized to introduce the enriching (Positive) emotive element in both research and applications. Those emotive elements are empathy,

sustainability and holistic development. Fusion of these emotive elements with research and application would give a human face to Science.

Speaking on "Engineering High Technology System – Ethical, Regulatory and Legal Issues," it was highlighted by a distinguished scientist, Dr. P. Rama Rao that often there is a conflict between institutional and commercial interest on the one hand and professional duty as a scientist on the other. If heed is paid to scientific warnings many disasters could have been prevented. Space Shuttle Challenger Disaster of 1986 was such a case where the disaster took place because the management did not heed to the instructions given by experts. Therefore, the speaker emphasized the need to provide mandatory guidelines in such cases. There was also the need of making code of conduct providing a value system as to whom, when and why to warn. There was to be a law to enforce this code of conduct. He emphasized the need for a Public Interest Disclosure and Protection of Information Law and suggested for a joint venture on the part of engineers and NJA to develop the same.

Panelists for the last session of the day interacted with the participants on the following issues:

1. Can there be an agreement on the general principles of ethics?
2. Whether on question of

ethics experts view alone is sufficient?

3. Are there any relations between modern legal system and ethics or do they work at cross- purposes?
4. How can law keep pace with modern developments of science and technology?

The issue which was highlighted on the third day (morning session), was ethical issues in respect of Nuclear Energy. There are eleven basic broad principles which regulate nuclear energy law, e.g., precautionary principle, Security principle (protection from ill evil hands), Principle of reasonableness, Permission, Compensation, Sustainable development, Compliance procedure, Principle of independence, Transparency, International co-operation, Liability for damage etc. Referring to the ethical dimensions of the issue, the expert highlighted that the basic proposition is maximum protection of human beings i.e., no harm to humans either immediate or remote.

In the second session, eminent space scientist, Dr. K. Kasturirangan spoke on Law and ethical issues in space research. He highlighted the multidimensional impact of space research which was posing questions regarding our future habitat. One of the best examples of space research was remote sensing and its impact on natural resource management and agriculture. Posing the question "why legal principles are important

to space?" he deliberated upon the following:

- Definition of Space ;
- space as a "common heritage" of humankind – outer space treaty;
- access to and benefits from space – "equity principle";
- space assets management – "registry and regulation";
- space debris issue – "regulation and conformity";
- space imaging – "right of sensed state" & "right to privacy."

Highlighting the ethical issues in space research, he referred to the following:

1. Whether space can be an arena devoid of all weapons and become a truly international arena for living and working?
2. Whether space technology is effectively used for protection of terrestrial environment (CFC control, climate monitoring etc.,) for benefit of all?
3. Does globalization of communication tend to standardize the means of

expression in a way that cultural diversity is threatened?

4. Whether ethical aspects of satellite positioning and electronic surveillance are considered with due regard for protection of individual liberties and cultural identities?

Global issues in ocean research, according to another expert mainly relate to conflicting interest between developed v. developing countries, self sustenance v. sustenance of other life forms, recycling, reuse of resources v. consumerism, of marine environment and sustainability. In these conflicting interests, the ocean ethics are respect for marine life forms, protecting depleted fisheries, preventing marine pollutions, avoiding haphazard coastal developments, reducing ozone depletion, greenhouse gases and marine species extinction.

The speakers of the last session dealt with information technology, cyber forensics and administration of justice.

Technology was being used for communication for quite a long time but with the invention of information technology it revolutionized communication. ICT was not only a means of communication but also a device to store and retrieve information. But this device brought many problems of its own.

Speaking on future of IT and its implications on society and the need to regulate its use, it was emphasized that with more sophistication and new developments in IT, there would be need for more careful regulation in the areas of intellectual property rights, cyber security and preservation of data base and accessibility. With its use in telemedicine there would be need to determine relevant regulatory law and fixation of liability. As information is power in future whosoever has better information would command more power. All these developments would raise many questions regarding social responsibility and ethics.

All India Judges' Assn. v. Union of India (1993) 4 SCC 288, 297.

P.B. Sawant, J. "The judicial service is not service in the sense of 'employment'. The Judges are not employees. As members of the judiciary, they exercise the sovereign judicial power of the State. They are holders of public offices in the same way as the members of the council of ministers and the members of the legislature. When it is said that in a democracy such as ours, the executive, the legislature and the judiciary constitute the three pillars of the State, what is intended to be conveyed is that the three essential functions of the State are entrusted to the three organs of the State and each one of them in turn represents the authority of the State."

Workshop on Designing Training Plans, developing Study Materials, Innovative Training Methodologies and Standardising Evaluation Techniques*

Lekshmi Vijayabalan

Research Fellow

For long, the need to impart training to judicial officers did not receive due recognition. It was only recently that realisation dawned upon the concerned players that greater emphasis was to be afforded to judicial training at all levels of the judicial administration if the professional capability of the officer was to be enhanced for better and efficient justice dispensation. To achieve this end, judicial academies are being established in different States but the available training schemes are basically ad hoc and are not scientifically organised. Dearth of good trainers, non-appreciation of the goals of judicial training both in respect of induction and in-service training, non-employment of scientific methodologies, lack of research and scientific innovations – are some of the factors which have reduced the efficacy of training programmes in the State Academies. It was to offset this situation and to bring about greater co-ordination and capacity building between the Judicial Academies that this Training the Trainers Programme [hereinafter TOT] was organized which was attended by almost all the heads of 16 State Judicial Academies. The programme was unique as it was a learning process for all concerned.

Training was defined to be a planned process to modify attitudes, augment knowledge & skills to rectify the gap between the expected level of performance

and the actual level of performance. Outlining the two different approaches to training, it was pointed out that the stress should be more trainee centric rather than being trainer centric, as the primary postulate in the former proposition was that the trainer was only a facilitator where teaching and learning process went hand in hand. A systematic approach to training involved identification of the following steps, namely; identifying training needs, designing and implementing training and finally assessing the results.

Identifying Training Needs/ Needs Assessment

The first step in the successful conduct of a training programme was needs assessment, the object being to upgrade the quality of judicial training by contributing to planning and development of judicial education programmes. For this, the trainer was to understand both the individual needs as well as the group needs of the intended target group. Needs Assessment is complex - several factors have to be considered like age group; sex factor; willingness to learn; entry behaviour; learning style – it is an ongoing cyclical process.

Though the individualistic approach adopted in assessing the needs would not be ideal in implementing a training plan, nevertheless, the inputs could be constructively used by the trainer to assess the problems and arrive at generalizations. For instance,

communication skills is a common problem encountered by most target groups which could be identified by this individualistic approach and then the trainer could decide as to how much of a communication module should figure in his training syllabus. The trainer could also embark on a pre-training needs assessment to find out the ills facing the judiciary. He could survey judgments to learn and understand problems in the sentencing process like violation of equality, granting lenient or harsh sentences in similar factual situations etc. It emerged that there was no uniform needs assessment method currently employed by the SJAs and each Academy devised their own Models. Some sent questionnaires in advance to elicit views of the participants. Accordingly, the following Models for Needs Assessment were suggested.

In order to assess the needs, one was to first set the standard point of reference: For instance, for training the Chief Judicial Magistrates, the first task was to find out what are the basic qualities needed of a CJM like the ability to be a good fact finder, ability to understand and appreciate relevant evidence, balanced sentencing etc. In this exercise it was urged that the better approach was to consult all stakeholders and not merely court officials and judges. Pre-evaluation as well as evaluation during the programme and

* Held between 9th-13th February, 2005.

thereafter by eliciting the views of the participants to identify areas which needed improvement was suggested. Once the needs were assessed the "need" to prioritise them was emphasised.

In addition to these Models, it was urged that the trainer being a judge could draw on his own basic understanding of the problem, past experiences from training, feed back from the participants as well as questionnaires sent to judges as part of needs assessment.

Designing and implementing Training

After needs assessment, objectives would have to be worked out. There has to be chalking out of overall course objectives and specific session objectives for each of the sessions to better focus the mind and to instruct the resource persons to orient their presentations as well as the participants to know before hand what they could expect from the programme. However, while laying down session objectives and the overall programme objectives one was to keep in mind institutional and national objectives. In this stage, the two important components are the designer who is a professional trainer who is skilled and offers services. The other is the client who pays for the training/customer/receiver of training. While imparting training, the trainer was to have an idea of the breadth of the four training levels. The first provides basic legal information. The second focuses on new laws that need a

shift in philosophy. The third level characterizes the new intellectual approach and imparts skills to help the judges to apply human right norms, economics in laws etc. The final and the very difficult task focuses on behavioral change.

Curriculum

Any curriculum designed should be constantly upgraded and reviewed otherwise it would become static and less productive. This process should also take into account the ultimate function of a judge – i.e., of dispute adjudication. While designing the curriculum, each judicial academy was to take into account the special needs of their State. *Curriculum Planning* involves two major elements - Content Development (Skills based as well as knowledge based) and Process Development.

Certain points emphasized

- Institutional training with more thrust on knowledge of law and its processes
- Practical training – for imparting judicial skills like extending courtesy to witnesses, maintaining court room decorum etc.
- Field training to institutions related to law and administration of justice
- Computer training for use of computers in management and research
- Personality development training aiming at both body and mind development
- Language and communication training in both English and local

languages

- Social context judging
- Administration and management of training
- Human rights and social justice training
- Training in ADR

Social Context Education for Social Context Judging

Contrary to popular perception, judges are not divorced from societal influences and in the decision making process his attitudes (inherent, acquired) very often reflect. In fact, while ascertaining disputed questions of fact, a number of multiple factors (cultural, social, political) comes into play in the process. Appreciation of evidence is subjective where apt judicial training could make a lot of difference. This is an area where social context education of judges becomes relevant particularly in an adversarial system like ours wherein if one side is weak, to produce just results the judge would have to play a pro-active role to tilt the balance in favour of the weak. To drive home the point, the trainers were demonstrated on the need to incorporate social context judging in the context of gender justice through the development of rape law in India which underwent tremendous change both substantive and procedural in the hands of the Parliament mainly because the judges in the *Mathura case* could not adopt social context judging in rape matters and went on to liberally excuse the accused and prosecute the victim more. How gender justice delivery could be

improved through social context education [hereinafter SCE] was hotly debated upon by the participants.

SCE in the context of gender justice was advocated on the unverified assumption of in-built discrimination against females. SCE in gender justice was identified as a process involving practice of equality as a value in judicial proceedings as well as in articulating fairness in unequal situations. It is very essential in plural societies with changing demographics committed to pluralism. SCE would facilitate in conveying the impression that justice was not only to be done but it was to be manifestly and undoubtedly be seem to have been done. This would assist the judge to better appreciate the nature of diversity, impact of the disadvantages and reach legally sound decisions on issues of discrimination and equality. It would also help him to conduct proceedings in a litigant friendly manner; enhance credibility of courts in the public mind; reckon the social backdrop of disputes; accommodate changing perceptions of equality in unequal societies to give fair decisions; make a congenial court environment etc.

A caution was added in that while infusing SCE in gender training, the approach should not be one sided and the judge should be clever enough to identify frivolous cases by females taking undue advantage of the system to further their private ends.

Curriculum development for

SCE

- To be done in consultation with all the stake holders
- Care to avoid risks of exclusion of issues and information
- Enactment of fact situations, problem solving, moot courts, plays etc. to be employed
- SJAs should produce Handbooks for proper and effective guidance of judges on the lines of the Equal Treatment Bench Book by the Judicial Studies Board in England.

Choice of faculty

Several factors are to be considered while choosing faculty. He should be an expert on the subject and should have a definite point of view as well as respect other's view points. Though lawyers could become faculty, it was urged that certain precautions had to be taken. More non-judges were to be involved in the training as the task was to make the trainee imbibe the nuances and skills required for multi-context judging. There was to be a minimum of four panelists in each session with a timeslot of one and a half hour presentation and half an hour discussion.

Preparation of Reading material

Resource persons were to be consulted during preparation of the reading material. They were to be supplied in advance preferably in digital format also. Improvements to the material were to be done after each training, based on the feedback received from the trainees.

Target Group

The SJAs were to impart training to the ministerial officers of courts and other subordinate court staff and to advocates as well as to the members of correlated departments like the legislature, executive, police officers, forest officers, media personnel, school children etc. The ideal number of trainees for a course was something between 20-25 if effective interaction and individualistic approach was to be maintained. Regarding duration, lectures were to be as short and crisp as possible followed by buzz groups or other discussions. Another model suggested was the Karnataka one where batches were split into two groups with one group going for practical training while the other under going class room training.

Methodology

The key to any successful training programme depended on the teaching technique employed.

Teaching techniques:

It emerged that most of the SJAs were using the widely prevalent but the least effective conventional method of lecture by senior members of the judiciary. Since the target groups were adult learners they were to be kept enthused and curious. For this, participatory learning rather than mere passive learning was stressed as being important. Teaching and learning process were to go hand in hand. Thus, it was felt there was the need to use lecture method in combination with other methods like case studies, panel discussion,

hypotheticals, round tables, role plays, moot courts, debates, small group workshops (which can be in pairs or triads), brain storming, focus groups, field visits to hospitals, forensic laboratories etc.

Teaching tools:

Another related component was the choice of the teaching tool. They could vary from overheads to PowerPoints; white/black boards, flip charts, hand outs, video tapes etc. SJAs could also organize distance learning courses and electronic courses for wider coverage.

Developing Evaluation Parameters

Training worthy of the name achieves real and tangible results which would reflect in the improved performance of the participants involved. But in certain cases training would have to be repeated for those who have failed to imbibe the underlying objectives of the programme. All this necessarily implies the introduction of certain evaluation parameters. How do we evaluate the participant? Should he be asked to undergo an examination? What is the kind of examination that is to be held? Should it be project work or paper presentation or problem solving or open book? Should the performance at the training course be a relevant consideration for determining eligibility for promotions and career advancement of the judicial officer? Could self-evaluation be employed wherein the participants are given the opportunity to grade themselves as to whether the

course has met their expectations and whether they have benefited from the same by forwarding reasons? These were some of the issues which were addressed. Evaluation it was agreed was a training aid which helped the trainer to learn. Evaluation process was to be fair and candid wherein evaluation of both the process as well as the product of a training programme was to be done. Various tests which could be employed like norm reference test, criterion reference test as well as objective tests were elaborated upon.

The need for evaluation was self established and organizations do take up evaluation but how scientifically was it done was the difficult question. Generally, the role of evaluation is always underplayed due to various factors like paucity of time. But it was as important and deserved the same attention as was being afforded to other components in a training programme. The usual mode of evaluation practiced is distribution of questionnaire on the last day of the programme. This was pointed out as being not a good practice. As evaluation was intended to influence decisions it was better to administer the same at the end of each session.

Induction training for Civil Judges (Jr. Division)

The status of induction training in the different SJAs revealed a dismal picture in light of the First National Judicial Pay Commission Report [hereinafter FNJPC]. It was pointed out that there was a need for designing a

standardised curriculum. But simply adopting the FNJPC Report was of no use if it was not constantly reviewed and revised. The method and curriculum was to be in tune with modern technology and knowledge. In this context, the objectives of induction training were identified as:

- Learning skills to organize and conduct fair trials;
- evaluating pleadings and formulating issues;
- appreciating different types of evidence & probative value determination;
- deciding interim reliefs and determination; and
- following ethical conduct.

Curriculum content was not to be a repetition of the LL.B Course and was to be in five parts, namely, Law, Justice and Constitutional Governance; Courts and Administration of Justice; Select Problems in Justice Administration; Field Training and Round-up

The SJAs were to insist on strict adherence to attendance, punctuality and discipline. The Academy's were to evaluate the trainees and record the same in their confidential report. Field studies were also to be organised. It was stressed that there was to be uniformity regarding the periods of training and ideally it was to be an annual feature. Performance aids in the shape of manuals were to be supplied for them. Since the body language of judicial officers was critical it was suggested that professional actors be hired to enact difficult situations which

would enable the new judge to learn how to respond.

NJA-SJA Collaboration

Ever since its inception, NJA has always strived to augment the capacities of SJAs through mutual co-operation. This Workshop provided abundant opportunity to further strengthen these bonds. It was pointed out that one of the major reasons as to why judicial education and training in India had not taken off was due to the dearth of experienced judicial trainers. There was a vanishing tribe and to offset this situation it was pointed out that the Directors of SJAs were to be ensured a longer tenure. Financial crunch was yet another reason which inhibited the growth of SJAs. However, in the light of an ever willing government disposed towards increasing the judicial budget, the SJAs were called upon to show a clear resource demand.

They were also called upon to take up additional duties apart from training to improve justice administration. For instance, they could involve themselves in the selection process for recruiting new judges by setting questions, conducting exams, evaluating and publishing results which would also ensure greater transparency.

As far as NJA-SJA collaboration was concerned, it was pointed out that there was to

be exchange of trainers and study materials. NJA was to prepare fifteen additional copies of all its Course materials which were to be sent to the State Academies. In turn, the SJAs could also send a copy of their course material. In this regard digitalization of the course material was also highlighted. To augment academic and research activities in the SJAs, appointment of Research Fellows in all the SJAs was considered highly desirable.

Regarding collaboration in areas of research, it was mooted that the same could be done particularly in the NJA initiated UNDP Project on Access to Justice. A significant aspect identified was "trainer fatigue/ trainer burn out" which was very common amongst the trainers. Therefore, periodic Refresher Courses was to be arranged by the NJA for the trainers at regular intervals with emphasis on stress management techniques and yoga.

To ensure all these collaborative efforts, it was realized that there was to be a formal body to oversee its implementation consisting of representatives from different zones to chalk out strategies for capacity building.

Accordingly, a major outcome of the Workshop was that it was resolved to constitute

an association of judicial trainers with the Directors and members of the National and State Judicial Academies. The Director of the NJA was to be its Chairman and the office of the association was to be at NJA. A Working Committee comprising of the Directors of the State Academies from North, South, East and West with the Director, NJA was to be constituted. In fact, it was decided that the Working Committee members for 2005-'06 would be Mr. U. Durga Prasad Rao from A.P. Judicial Academy (South), Mr. S.M. Deka of JOTI, Guwahati (East), Dr. Sudhir Kumar Jain of Delhi Judicial Academy (North) and Mr. Ved Prakash Sharma of JOTRI, Jabalpur (West/Central). The mandate of this Association was to: (a) Prepare an All India Directory of Judicial Trainers, giving their experience as trainers; (b) Prepare a directory of Judicial Training Institutions with details of faculty, infrastructure, budget, programmes etc.; (c) Prepare a list of Resource Persons for IT, Court Management, Forensic Science, Personality Development etc. available in each State who could be invited as Guest Faculty; (d) Bring out an annual Journal on Judicial Training and (e) To call for an annual meeting of judicial trainers to co-ordinate and plan development of training activities.

State of U.P. v. Shambhu Nath Singh (2001) 4 SCC 667, 674.

K.T. Thomas, J. "A judicious judicial officer who is committed to his work could manage with the existing infrastructure for complying with such legislative mandates. The precept in the old homily that a lazy workman always blames his tools, is the only answer to those indolent judicial officers who find fault with the defects in the system and the imperfections of the existing infrastructure for their tardiness in coping with such directions."

Refresher Course on Court-Media Relations in Advancing the Cause of Justice*

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Democracy, human rights and constitutional governance are sustained in a big way by the judiciary and the media. Both these institutions which are independent of the government perform significant functions in a society based on constitutional values and human rights. Even though they enjoy certain privileges and exercise a lot of influence in formulating public opinion in maintaining rule of law, the relationship between these two co-ordinates – the Judiciary and the Media – has not received due attention which it deserves from the stakeholders. Consequently of late, there have been conflicts primarily due to the proper non-appreciation of their constructive roles in furthering the cause of justice. Against this scenario, the course sought to sensitize judges who head the district judiciary or administer court systems with a view to inculcate an ideal relationship between the two estates in promoting rule of law, democracy and human rights.

Role of Press (Media) in a Free Society

A democracy can perform only through an informed public; in fact, information is power, access to which media provides. It is through the media that people learn about the way in which their polity is conducted, how policies and decisions which affect their life are undertaken and implemented; in fact media has become sine qua non if the general public is to exercise

informed franchise. The public's right to information is to a great extent satiated by the media. In the Indian social milieu, media has also a constructive role of a social engineer seeking to educate and influence the thinking of the people. Three to four decades earlier, the press enjoyed greater esteem amongst the public. But public appreciation on the role of the media has taken a severe beating due to its failure in bringing before the masses, facts in the right perspective due to stress on needless sensationalisation. Accordingly, it was brought out that verification of facts before reporting be made mandatory. Rather than going after market-driven journalism, the objectives of the media were to be - educative, informative and public service oriented. The attitude maintained by some sections of the Press that 'News is what Sells' was to be abandoned.

Press Freedom: Constitutional Innovation & the Need to Draw the Line

Though the Indian Constitution does not expressly provide for Freedom of the Press, the judiciary has read into Article 19(1)(a) Press Freedom as well. Since then, a series of cases on the nature and scope of the right came in for consideration of the judiciary and Press Freedom has been interpreted so widely that some sections of the media seems to have viewed the right as unrestrained and unrestrainable. Even though the

Constitution mentions three pillars, judicial interpretation to sub-serve public good created the fourth pillar - the media which has the power to criticize the other three pillars. This has been an important development to secure Rule of Law in the country, in fact there have been instances wherein the judiciary has utilized the media to further the cause of justice. For instance, the judiciary has acted several times upon media reports highlighting violation of public interest; there have also been instances wherein the judiciary has utilized the outreach of the media to publicize its guidelines etc. Given the situation that both these bodies pursue almost similar goals, the media has to ensure that its criticism of the judiciary is constructive. Unfortunately, in recent times a situation has emerged wherein these two bodies are on a collision course. Herein it was stressed that while reporting matters to the public, the approach of the media should not be one as to malign the judiciary. Media should understand that the privileges and the esteem which it now enjoys has been the product of astute judicial thinking. Both these bodies have great constitutional roles to essay in this democratic polity. The Press should realize that the freedoms which they enjoy are not absolute but they have concomitant duties and mature responsibilities to fulfill. It should realize that freedom of the press is of the public and

* Held between 25th – 27th February, 2005.

not of the journalists.

Trial by Media

Even though it was stressed by all that Judges are not influenced in any manner either by propaganda or adverse publicity and that cases are decided on the basis of evidence, the dangers posed by trial by media could not be allowed to be brushed aside. Nowadays, the sensationalism involved in the reporting of certain high profile criminal cases has become very common with the spread of mass communication. This invariably leads to the issue of prejudicial publicity placing one or the other party involved in a disadvantaged position besides creating situations which tend to reduce legitimate space for dispassionate assessment of the truth by judicial officers. Moreover, such media trials unnecessarily draw the judiciary into the public scanner, often making a mockery of justice delivery system. Media trial has now moved on to media verdict and media punishment. Accordingly, it was pointed out that the media was to exercise a greater amount of caution and wisdom while reporting such matters.

Suggestions to check Media Trial:

- Strict adherence to law and evidence by the judges
- Change of venue as a manner of dealing/ countering media influence
- Adjournments to tide over the short term influence of media
- Restrictive orders to be passed by the courts against

the media – not to report and not to enter the courts

- Preventing the participants in criminal trial (public prosecutors, court officers, jurors, witnesses) from disclosing information to the media. Similarly, prevent the police from parting with the evidence – penal action to be imposed
- Contempt power though not a preventive measure can have a curative effect
- Media opinions on the sentence and duration of the trial should be avoided
- There should be no presumption of innocence in instances of media trials
- A comprehensive legislation may be looked into to regulate callous reporting

Exercise of Contempt Power & Rapping the Media

It was pointed out that the relationship between the judiciary and the media has been further strained due to the non-judicious exercise of the contempt power enjoyed by the judiciary by which a judge against whom an allegation is made can himself send the accuser to jail and can even refuse to allow the accuser to prove the truth of his accusations since truth has been held to be no defence in a contempt charge. This has had a chilling effect on the press regarding publication of charges against judges.

Media Reporting of Court Proceedings

Due to the lack of effective guidelines, media reporting of

court proceedings becomes a fertile ground for further confrontation between these agencies. It was brought out that legal correspondents are generally not aware of the law and the fact that there are no agencies or mechanisms in Courts to disseminate information to the media compounds the problem. At the same time, as the journalist is to compete with the rest of his tribe to reach the news on the legal developments on high profile cases within the shortest time possible, the reporter would have to depend upon lawyers, court clerks, witnesses, prosecutors, investigating officers and all others associated with the justice delivery system thereby distorting fact with fiction, bringing disrepute to the judicial system.

It was pointed out that since an effective adjudicatory machinery works by conveying ideas, a judge may have to pose questions which however hard may have to be answered and if a reporter who casually comes to the court room and hears the questions, forms a wrong idea that the court has formed a particular opinion consequently reports his impression as the views expressed by the court, the public would be misguided. Similarly, there have also been instances wherein newspapers have carried reports about the contents of judgments in sensitive cases, even when the judgment was not ready. It was stressed that serving such half-baked judgments to the public would create further problems particularly of credibility

of the judicial process if later it happened that the Court deviated from the version published by the media. Such approach it was pointed out was not responsible journalism. Misplaced sensation could drive even the earnest truth seekers away from the right path pursued by them. Accordingly, it was pointed out that it was high time that the journalists reporting court proceedings bestow care and responsibility to report proceedings truly and correctly. The legal reporters it was stressed was to understand and comprehend the sublime processes that went on in the courts. Therefore, it was high time, to caution the media, both print and electronic, to ensure that the court proceedings must be published with care and restraint only after ascertaining the truth and not from any truncated or partial version. The sublimity of the court process was to be imbibed by the reporter when he makes the report.

All this it was pointed out was not intended to curb press freedom in their activity. What was stressed was the need to cultivate responsibility with a certain amount of restraint to deliver true information to the public in so far as the court proceedings are concerned and not cause embarrassment to courts. The confusion was compounded due to the fact that Courts did not have any clear media policy nor any programme to educate reporters covering judicial proceedings. Two specific instances were pointed out:

The case of rape victims:

Unnecessary sensationalisation of rape cases wherein the media try to dig into the victim's sexual history was decried by the participants. Reference was made to the "rape shield statutes" in the United States which prohibits disclosure of information about a victim's sexual history during trial. Similarly, the participants were also exposed to "victim rights statutes" which enabled rape victims to claim certain rights in relation to privacy and claim heavy damages in case of violation of such right. Accordingly, it was felt by all that though there were judicial guidelines on the matter, there was to be a legislation modelled on the US pattern. Similarly, it was also stressed that documents which tend to undermine the dignity of women and children were to be safeguarded from the media's prying eyes.

Reporting issues affecting National Security

The demand for the security of the state and the country's relations with foreign powers raises questions of importance in the context of restraint on press freedom. The function of democracy it was pointed out required some rational balance between secrecy and disclosure; between official controls of information and the public need for it. The issues considered were - whether any limitations could be imposed on a journalist's right to obtain information in respect of matters of national interest? Whether in the quest for

investigative journalism, is the journalist entitled to pry into secret documents and use all kinds of means to achieve the same? In case of him obtaining such information can he be compelled to disclose its source? These were highlighted as some of the areas requiring legislative and judicial sensitivity to evolve broad guidelines.

Court-Media Relations to further the cause of justice: Case for a Code of Conduct

Media should remain a friend of the court and the judge. Media is needed to enhance the confidence of the public - the central pillar in democracy - in the justice administration mechanism. This necessarily involves a more constructive role by the Court registrars, Public relations officers, and more importantly by the media themselves to ensure that court proceedings are reported objectively. All this necessitates evolving of certain guidelines to smoothen this tumultuous relationship which should aim to educate reporters on how to deal with matters sub-judice, providing quick and easy access to correct Court records and information, making it obligatory for senior judges to hold occasional media-bench conferences etc. In short, it was agreed by all that mutual understanding is required from both sides and planned action to facilitate each other's functions to further justice before the situation got out of control.

First Advanced Course on Mediation, Conciliation, Arbitration & Negotiated Settlement of Disputes*

Geeta Oberoi

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Legal systems everywhere are now-a-days in search of what are called ADRs (Alternate Dispute Resolution Systems) to save themselves from collapse by sheer numbers and excessive costs. There is hardly any country today which does not employ ADR systems like negotiation settlements, mediation, conciliation, arbitration and a variety of other indigenous mechanisms to settle disputes outside courts. In India, through *Lok Adalats* alone, a large number of accident compensation, land acquisition and similar cases pending in courts have been settled without trial. If only the mechanisms of mediation, conciliation, arbitration and other methods of negotiated settlements are employed in all types of civil disputes in a systematic and institutionalized manner, the pendency of over two crores of cases now awaiting trial could be reduced to the advantage of courts and litigants alike.

Our country has number of legislations which authorize application of ADRs. The system is waiting for the initial steps to be taken and the infrastructure to be put in place for a reform which has revolutionary potential to change for good, the character and quality of justice in India. After introduction of Section 89 in the amended Civil Procedure Code, and possible enactment of plea bargaining of criminal cases punishable with less than seven years' imprisonment, vide Cr.P.C. amendment, the field is wide open

for ADRs to become the mainstream method of justice administration in India.

In this context, the National Judicial Academy organized a week-long workshop for heads of the District Judiciary to enable them to understand critically the techniques and the technology involved in the range of ADRs now in vogue in the legal arena. Each method requires different roles and responsibilities and a different set of factors to determine the choice of techniques. More than theory, it is a question of practice and disposition, familiarity and appreciation, attitude and commitment. To strategize ADR institutionalization in mainstream justice system, the Workshop combined theory with practice followed by group discussions to give critical feedback and supplementary information enhancing appreciation of different techniques and of the ethics involved.

The participants of the Workshop were circulated reading materials in advance to prepare them for active involvement in the discussions and practice Sessions. Some of the authors whose pieces were included in the Reading Materials were the Resource persons. They interacted with participants sharing their own experiences on the subject.

On Sunday 13th March, 2005, theme of the day was *Mediation: Theory and Application in Indian Context*. In the interactions with participants the

following points were observed:

- There is no one technique for mediation. It depends upon the personality of the mediator. The mindset is important.
- After Rules are made operational under Section 89 of the CPC, judicial officer will be asked as to how many settlements have been made under Section 89.
- There is need to prepare a panel of mediators and get them trained in the State Judicial Academies.
- Performance assessment system for judges is not apt – it does not encourage settlement through Section 89.
- Lawyers need to be assured that their incomes will not dwindle by use of ADR
- Even if lawyers oppose ADR tactics, it should not bother the judicial officer as legal system is not for lawyers but for litigants.
- Section 498-A of the Indian Penal Code should be allowed to be mediated.
- A judge can switch roles from an adversarial system to the role of a mediator and if he feels that he has come back into the adversarial role, he should refer the matter to a brother judge. He should not decide the matter because he may be biased.
- In Himachal Pradesh, during Chief Justice P.D. Desai's term, every judge used to devote a day every week for

* Held between 13th – 19th March, 2005.

conciliation/mediation. For three and half years it was part of the judicial function. Now it has been abandoned. This kind of procedure needs to be adopted at present by all the High Courts in the country for success of ADR.

- There is no dearth of statutes providing for or encouraging ADR; Section 23 of the Hindu Marriage Act permits mediation, similar provision is there in the Family Courts Act, Legal Services Authorities Act and Notaries Act.

In the afternoon session - *Mediation practice in groups - qualities of mediator* was discussed. A mediator would have to exercise effective control over the proceedings; he was to create humour so as to get out of trauma; unwanted partners were to be made to leave the place; there was not to be any evolved or straight jacket procedure as another procedural code for mediation was not needed. Model rules that were sought to be developed was not the Bible; informality between parties needed to be encouragement.

The second day began with the session on *An analysis of CPC provisions on ADR including Rules framed for implementing Section 89*. Justice M. Jagannadha Rao, Chairman of the Law Commission of India, made trainees aware of the importance of Section 89, CPC. The afternoon Session was on - *An Analysis of the Arbitration and Conciliation Act and prospects for ADR in*

commercial disputes.

The Third day began with a theme on *Effective Legal Negotiation and Settlement: Strategies, Tactics, Styles and Ethics* while the afternoon session was devoted to *Practice exercises in groups on negotiated settlements*. Thus, the whole day was devoted to negotiation. Trainee judges were acquainted with the concept of negotiation, its techniques, its elements, how it differed from other ADRs like conciliation and mediation. Importance of communication while using Negotiation as a problem solving strategy was highlighted. Apart from this, day was devoted to acquaint trainee judges with:

- qualities of negotiator – must stimulate motives which bring them together; must possess empathy, listening and probing, creativity and foresight
- strategies for negotiation – beneath every position there were interests to be realized; address the interest, not the positions; be hard on the problem and soft on people; invent options for mutual gain; develop BATNA/WATNA; use brainstorming; ratify settlement; resolve easy issues to use as motivators to resolve complicated ones
- stages of negotiation – confidence building; information management; negotiator assessment; realizing needs.

The fourth day was devoted to learn the scope of Lok Adalats

and Legal Services Authorities Act, 1987. The morning session was on *Legal Services Authorities Act and a performance audit of Lok Adalats – Report from States*. The afternoon session was devoted to *Institutionalizing Lok Adalat on Scientific Basis: What needs to be done?* All the trainees presented reports regarding the functioning of this indigenous system of ADR in his/ her state.

On the fifth day, a joint session between the trainee judges and the delegates of the CJEI Conference took place. It dealt with scope and methods of *Judicial settlement conferences*. The participants met in groups to develop program modules with supporting teaching tools to teach:

- identification of necessary statistics, both baseline and ongoing
- identification and use of statistics in developing judicial education curricula for delay reduction
- the process of gathering, analysing and publishing statistics and their use in evaluating the pace of judicial reform

In the plenary session which followed, a pro forma module was prepared combining the work of the groups. There was a session to consider specific national as well as Commonwealth shared problems in efficient and effective court administration. The featured speaker was Chief Justice Acquah of Ghana, and he was followed by a panel comprising of Chief Judge Cudjoe (from Africa, Justice Madden Lokur (of the Delhi High Court), Mr. Ernest

Schmatt (Director of Judicial Commission of New South Wales) Chief Justice Brian Alleyne (from the Caribbean) and M.S.L Habsey (from the World Bank).

The sixth day, morning session was devoted to understand *Family Court: Settlement Approaches, Resources and Strategies*. It was stated that *Family court* was not the proper 'designation' and that the same had to be renamed as *family clinic* since disputant parties came as patients in informal manner. Atmosphere of court was to be changed completely if conciliation/mediation/other types of ADR were to succeed. Further, it emerged that High courts gave less importance to family courts. Judicial officers of family courts were given less units for settlement of a case. Resource person, Justice Manju Goel of the Delhi High Court pointed out that unit system was problematic. Very less units were being awarded to mediated settlements. Resource person, Justice B.A. Khan also from the Delhi High Court stressed on the need to introduce separate units for a judicial officer for resolving disputes by ADR mode.

The Director of the NJA brought to the notice of the participants that Family Court Act, 1984 was a unique legislation wherein different characters were allowed to participate. He further noted that matrimonial dispute character changes from Kerala to Kashmir which was a real challenge before the Indian judiciary. He also suggested that the rank of the Family Court Judge

was to be raised.

In the afternoon, a joint session took place between the trainees and the delegates of the CJEI Conference. It was a *Panel Discussion on Collateral Benefits of Delay Reduction*. Judge Sandra Oxner detailed a number of session objectives for teaching plans for backlog elimination, delay reduction and behavioural change training to crack delay tolerant legal culture.

The Director of the NJA used statistics to outline the need for delay reduction in India. He described various strategies and solutions which were being employed. He also addressed the need for a change in the mind set of individual judges. Small group workshops identified delay reduction techniques which did not require legislative change. In the plenary session which followed, program modules were presented with supporting teaching tools to teach the techniques that were identified.

The Joint Indian and Commonwealth Panel Discussion on collateral benefits of delay reduction was led by Justice Madan Lokur and the panelists were Mzikmanda of Malawi, Choudhary Hassan Nawaz of Pakistan, Mr. Justice Samaresh Banerjee, and Prof. Mohan Gopal. It was followed by workshops resulting in the presentation of teaching modules for alleviating corruption through case flow management, improving access to justice through delay reduction, increasing gender sensitivity and empowerment of women through delay reduction and improving

economic and social development through speedier and more efficient case management.

There were five breakout groups in this workshop. There was an attempt to consolidate and extract areas of commonality and of difference in the views expressed and the approaches taken by the several groups. There was a common theme on the need for attitudinal and behavioural change on the part of the judiciary and court administration, on the issue of resistance to change, in the face of the universally recognised problem of significant and growing backlogs and case loads. It was agreed that effective measures have to be taken in every jurisdiction to tackle the problem, and that judicial education was a necessary step in the process.

Most groups agreed that education efforts were to target the judiciary, the administrative arm of the court, and the lawyers practicing before the courts. Some groups thought that in addition prosecution officers, litigants, witnesses and the public were also to be targeted. It was common ground, however, that the principal target group was to be the judiciary.

The last day was devoted to theme *Model Settlement Conference: The Way it is done in different jurisdictions*. Herein, participating Justices from the CJEI demonstrated as to how mediation as a tool could be effectively used by presiding officers, lawyers and others involved in dispensation of justice in family affairs.

Third Biennial Meeting of Commonwealth Judicial Education Institute*

Lekshmi Vijayabalan
Research Fellow, NJA

The Commonwealth Judicial Education Institute, Canada [hereinafter CJEI] in association with the National Judicial Academy hosted the Third Biennial Meeting of the Commonwealth Judicial Education Institute at New Delhi and in Bhopal. Thirty-two superior court judges from nearly all over the Commonwealth (India, Australia, Canada, Eritrea, Ethiopia, Ghana, Lesotho, Malawi, Nigeria, Pakistan, Philippines, South Africa, Sri Lanka, St. Lucia, Tanzania, Uganda, USA and Zambia) including seven Chief Justices participated in this Meeting devoted to the subject of, "*Delay Reduction Strategies and Techniques*." These participants were joined by 46 Indian judges, who were participants for the First Advanced Course on "Mediation, Conciliation, Arbitration and Negotiated Settlement of Disputes" which was being organized at the Academy in between 13th-19th March, 2005.

The Official Opening Ceremony held at the India International Centre in New Delhi on 14th March, 2005 was inaugurated by the then Chief Justice of India, Hon'ble Mr. Justice R.C. Lahoti. In his inaugural address, the CJI gave an overview of the approach followed by the Indian Judiciary with regard to elimination of backlog and reduction of delay in the judicial process. At this ceremony, the Telford Georges Award was presented to Prof. (Dr.)

N.R. Madhava Menon, Director, National Judicial Academy and Chaudhry Hasan Nawaz, Director General, Federal Judicial Academy, Pakistan for their outstanding services to Judicial Education.

Even though various themes were considered and deliberated upon like the importance of training programmes in avoiding delays in the judicial process, exchange of human and material resources on delay reduction teaching programs, importance of case management, case flow management and court management, ADR techniques, developing cutting edge teaching modules and kits for judicial reform and behavioural change; the primary emphasis of the Meet was on delay reduction which is a vital component of judicial reform necessary to propel socio-economic development. Delay reduction allows the court to attract the confidence of the public they serve by responding in a timely way to their needs eliminating opportunities for corrupt practices. The programme goals reiterated basic Commonwealth fundamental values such as good governance, rule of law, sustainable development, eradication of poverty, human rights and gender equality.

More importantly, the need to network among commonwealth judicial educators for creating standards in curriculum development got special mention.

The following parameters were to be adopted by the participant countries in designing their training programmes.

1. Curriculum to include:

- i. Gender sensitivity
- ii. Access to justice
- iii. Judgment writing (timely delivery of judgments)
- iv. Attitudinal changes to make judges accept responsibility for the quality of justice delivery and become catalysts for reform and delay reduction,
- v. Skills in management of the courtroom
- vi. Time management and stress management
- vii. Ethics
- viii. Skills in adjudicatory process
- ix. Communication skills

2. Teaching Tools:

- i. Competent, expert faculty, if possible from the judiciary itself
- ii. Interactive approach to teaching
- iii. Power point presentations
- iv. Flip-charts and overhead projectors
- v. Role-play and group discussion
- vi. Hand-outs
- vii. Publication of selected material
- viii. Statistical data, and analysis of data
- ix. Role plays
- x. Newspaper cuttings

3. Court management:

- a. Deploy trained judges to maximise skills

* Held between 16th – 19th March, 2005.

- b. Provide incentive programs for judges
- c. Simplify procedures
- d. Promote healthy relations between the judiciary, the Bar and the Executive
- 4. **Case Management and Case Flow Management:**
 - a. Should always be part of continuing education
 - b. Insist on time standards on various steps
 - c. Improve scheduling practices
 - d. Minimise pre-trial time, abolish the adjournment mentality, increase use of written submissions, witness statements and limit oral argument in court
 - e. Public be made aware of the standards
- 5. **ADR:**
 - a. To be encouraged as a most effective means of reducing delay
 - b. Mediation and indigenous systems should be employed
- c. ADR mechanisms could be annexed to the court system and employed at all stages, even as pre – litigation tool
- 6. **Information Technology:**
 - a. Information technology should be encouraged in court administration to help in collection and analysis of data and knowledge management
 - b. Computers could promote transparency, reduce corruption and assist in early disposal of cases
 - c. Provide information, including decisions, to all customers of court services

For avoiding procedural delays it was emphasized that not only Judges need training, but even the Court staff and other administrative support staff needs to be trained.

Outcome

The objective of the Meet was to provide a platform to the leaders of judicial education in the Commonwealth to share their experiences and resources on the topic of judicial delays and to develop teaching plans and teaching modules on the topic. This goal could be successfully achieved as the participants used their collective experiences to develop teaching plans and modules for delay-tolerant judicial practices.

The Commonwealth Judges Conference was the first major international event for judges held in the three year-life of the National Judicial Academy. The Conference was beneficial to the Academy as it helped to build academic linkages with the CJEI and with judicial training institutions of several countries in the Commonwealth.

State of Rajasthan v. Rajasthan Judicial Service Officers' Assn. (1999) 5 SCC 675, 678.

Sujata V. Manohar, J. "A judicial officer is undoubtedly required to dress in the manner prescribed by the relevant rules of each State in order to maintain the dignity of his office. The reason why a black jacket and bands are prescribed for a judicial officer is quite different from the reason why a uniform is prescribed for peons, chaprasis, police constables and so on. The latter have to mix with the public and a uniform identifies them as belonging to a specified group of persons who have authority or duty to act in a certain way or perform certain services. A judicial officer presides over a court and is quite identifiable by reason of the position he occupies in the court. Nevertheless, in order that there may be a certain amount of decorum and dignity associated with this office, he is expected to dress respectably in the manner specified. Bands and gown are an insignia of his office."

National Seminar on 'Expediting Justice and Combating Corruption'

Tony George Puthucherril

Research Fellow, NJA

The twin problems which beset justice administration in the country today are delay and corruption, both which go a long way in eroding the confidence and credibility of the people in the justice system. Though the judiciary may not be fully responsible for this development, the blame is entirely put on its doorsteps even when the legislature and the executive adopt a recalcitrant attitude towards the legitimate demands of the Judiciary. Indian judges when compared to their counterparts elsewhere in the world are over-worked and it is to their credit that the system with its 15,000 courts/judges manages to deliver justice on an average in over 1.5 crore cases every year. The Indian judicial system is reputed for its independence, impartiality and fairness. In fact India's survival as a working democracy under rule of law is dependent much on the health of its courts. It is therefore important that everyone concerned give serious thought to keep the judiciary including its ministerial staff free from corruption in a polity that is increasingly being corrupted and criminalized.

The National Seminar on 'Expediting Justice and Combating Corruption,' inter-alia, sought to generate a healthy discussion amongst the judicial fraternity with a view to impress upon them the role and responsibility of the judiciary generally and each judge in

particular to contain the menace which was eating into the vitals of Indian society. Given the ever-widening jurisdiction the judiciary has come to exercise, and the critical period through which the country is passing in the context of globalization, the judiciary could not afford to fail the Indian public and their constitutional destiny. Everything depends on the authority and acceptance of rule of law which ultimately rests on the people's faith and confidence in the judicial system i.e., on the competence and integrity of the judges themselves.

Major aspects highlighted were:

- The Indian judicial system is often comparable with the best in the world and has contributed much in safeguarding the people's rights and in upholding the democratic form of governance.
- The Indian judicial fraternity 15,000 strong, in spite of working under considerable constraints caters to the justice requirements of nearly one billion people which is a remarkable achievement by any standards.
- Off late, there has been heightened criticism from certain quarters regarding the ever mounting backlog of cases (a humungous figure of 2.3 crore cases are pending in the trial courts, in the High Courts, the pendency is about 40 lakhs,

while in the Supreme Court it is 26,000. The delay in disposal ranges from 5–25 years with the consequence that litigation has become multi-generational) which if not checked and controlled immediately would assume cancerous proportions.

- As the judiciary has neither the purse nor the sword, blame could be apportioned to the other limbs responsible for governance. However, this does not solve the issue. The time for introspection has arrived. Blaming the other organs for the current state of affairs was not the solution. To set the house in order, none could help other than the judicial fraternity themselves.
- The following nineteen points were identified as reasons for delay:
 - o non-use of science and technology
 - o inadequate judges and infrastructure
 - o defective service procedure leading to wastage of time
 - o non-supply of documents
 - o non-appearance of witnesses on date
 - o adjournments
 - o improper posting of judges
 - o lack of commitment
 - o non-utilisation of provisions to reduce delay
 - o quota system

* Held between 8th -10th April, 2005.

- o non-cooperation from police & executive
- o misunderstanding between Bar & Bench
- o non-accountability in terms of work
- o less priority to older cases
- o too much time given to interlocutory applications
- o less sensitivity of judges to litigant's problems
- o judges involved in non-judicial work
- o no control in tort litigation
- o lack of sterling character
- Add to this, the public trust and confidence which the members of the judiciary have been enjoying for long is now taking a severe beating due to several instances of judicial corruption having come to light. Even though corruption in the judiciary is a non-issue, the malaise is slowly spreading.
- Even though these are often dismissed off as mere aberrations, the fact is that urgent incisive action has become the need of the hour.
- It was agreed by all that delay breeds corruption and once the problem of delay is solved, automatically the problem of corruption would be solved as well.

The Divinity of Judicial Function

- Judgeship should not be viewed as a mere career option. Judicial decision making is a divine function. It involves integrity,

impartiality, efficiency and speed.

- It is ignorance of this divine nature of the judicial process which is responsible for the rot in the judiciary.
- Pedestrian attitudes in discharging this noble function are of no help. Self-motivation, training and equipping oneself is highly necessary in this regard.
- To put these points in the right perspective, a question was asked as to whether a surgeon could afford to commit a mistake while doing a surgery? Accordingly, an error free justice dispensation was thought as highly necessary.
- Judges are to be seen and heard more at the Court than elsewhere. Judges were called upon to confine themselves to legitimate court work. Even in Lok Adalats employment of retired hands was considered better.
- Time management by the judge was also considered highly necessary.

Employment of ADR

- Trial should be reserved only for a minority of cases. Settlement was to become the rule and trial the exception. However, much needs to be done to improve the system. The functioning of the lok adalats was not very satisfactory. It was pointed out that Lok Adalats were monopolized by insurance companies and as

far as matrimonial disputes were concerned, women's organisations have converted it into a profitable business.

- It was pointed out that a balance needs to be struck. In the name of alternate dispute mechanisms, a question was posed - are we not stifling the rule of law? Are we not heading for a day when the judge would not lay down any law? The traditional system of trial in the courts was not to be done away with. Similarly, fast tracking of cases was also considered not an ideal solution for all situations since the parties to the litigation are generally not evenly matched. This inequality could be leveled by providing competent legal aid in the fast track courts setting. Moreover, there was always the question of lack of awareness of legal rights which compounded the problem.

Judicial Corruption

- Prompt and firm action needs to be taken against corrupt judges and constant vigil was to be maintained against erring judges.
- Members of the Bar should be made to realize that they should prevent corruption.
- Constant refresher courses for Judges were to be arranged to improve their conduct and ethical behaviour.

- The Community from which judges are selected were grouped into 4 categories. The first category consisting of 20% incorruptible, under no circumstance could become corrupt. The next 30% were basically honest but under certain circumstances they could become corrupt. For example, a frustrated judicial officer who feels that merit is never recognised and that only sycophancy and other devious measures ensure recognition. He gets fed up with the system and the honest judge starts thinking about employing dishonest means. Therefore, it was strongly advocated that this group was not to be given the chance to become corrupt. This implied better service conditions. Then there are the 40% fence sitters. Though basically honest if they realize that they could get away with it, they could become corrupt. The solution to these cases was that this category should be under constant vigilance and be made to realize the need to be honest. The remaining 10% are basically corrupt. The solution lay with the Registrar (Vigilance) to identify these people and see that they are weeded out as early as possible.
- In-house proceedings do not have legal sanction. It is more or less like a blind alley.

- The contempt of court power is often abused to silence legitimate criticism of the judiciary.

Lawyers and their Contribution to Judicial Corruption

- Lawyers also play a significant role in fortifying the public perception of a corrupt judiciary. Rather than advising the client against litigation, the lawyer seeks to prolong the case to see that his income is not affected. Finally, when the case is lost, the lawyer comes up with the story that the judge was corrupt and was influenced by the opposite party. The litigant who has an innate distrust of the opposite side readily buys the story that the judge was bribed. Lawyers also resort to other unscrupulous means which tarnish the image of the judiciary. For instance, by analysing the judicial mind and the philosophy of the judge, which is evident in the way the Judge functions, a lawyer could reasonably predict the outcome of the decision. If there is a likelihood of success, the lawyer implants a seed of doubt in the client's mind and informs him that a favorable result could be obtained if money is paid to the judge. The gullible client takes the bait and pays the money. If the judgment comes out in favour, the client feels that justice could be bought at a

price. Similarly, there may be instances of collusion between the lawyers of both sides who take money from their respective clients with object to bribe the judge.

- The lack of a machinery for communication between the judges and the lawyers results in the development of an unholy nexus between them. The number of platforms available for the same should increase. Thus, there should be greater transparency in Bar-Bench relations.
- Even though the judiciary is not a sacred cow going to the press would only bring the institution into further disrepute. Even though, it was strongly felt by many that an open path was the solution to the question, it was realized that open debates in the public and the media was not to be allowed. The judiciary was compared to a family and just like any aberration on the part of a member of the family was not to be made public and steps taken by the head to correct the aberration, the same approach was to be adopted in respect of delinquent judicial officers.
- Each Registrar (Vigilance) has an onerous duty; he was identified as a key person in maintaining the integrity and reputation of the judiciary.

Judicial Education

- Even though institutional restructuring and procedural

reform could do some good, the presiding officer has to be motivated through judicial education to strive to achieve excellence and provide effective leadership which could contribute a great deal in reducing arrears. Inspiration creation was identified as one of the main goals of judicial education and training. Judicial reform mandates change in the mindset of the presiding officers which could be achieved only through judicial education and training.

- In this regard, judicial education could do a great deal. For e.g., under Section 89 of the C.P.C., the Court is required to diagnose the elements of a possible settlement in a given dispute. Judicial education can provide the judge the necessary skills required for this task.
- State Judicial Academies could do much to conduct scientific studies on the 2.3 crore pending cases and formulate appropriate strategies to control the same. In fact, the Judicial Academies were called upon to be activist in arrear reduction.
- Judges were to be made aware of the latest developments in the law at least the procedural developments since substantive matters could always be learnt.

- Teaching management techniques, particularly in respect of case management, court management and docket management was identified as one of the primary duties of the Judicial Academies.
- Judges may need guidance on specialised branches of adjudication which they may not be aware of and in this context Bench Books would be of particular relevance. These were to act as a ready referencer.
- Whenever a new law is enacted which requires specialised skills, judicial education and training would prove to be beneficial.
- Thrust needed to be given on Ethics education in judiciary.
- The need to impart training in the art of judgement writing and in hearing cases was also stressed upon since a judge was to be clear both in mind and in language.

Performance Assessment

- The methodology used for assessing the performance of a judge should be such as to reflect the quality and quantity of the work done by him and a good performance assessment strategy should aim to reward the honest and the efficient and punish the dishonest and the inefficient.
- Guidelines for Performance Assessment as currently followed are not based on objective/scientific

consideration. Moreover, there are no standardized guidelines for assessment of performance. The guidelines do not promote accountability and could be manipulated. Generally, all High Courts in their guidelines give more credit for adjudication than settlement / A D R . Accordingly, it was felt that there was need for standardized guidelines for performance assessment based on objective consideration. Quality of Judgment/ work should be given more weightage than the quantity of work. Weightage of units should be for pendency reduction.

Introduction of E-Governance

- E-governance it was opined would eliminate unnecessary documentation in the subordinate courts.
- Technology could reduce arrears at least by 70% and in this a wide range of choices have been made available like the Word Processor, Digital signatures, Electronic mail/ Internet, Video conferencing, Imaging/ Scanning, Fingerprint identification system, Document-management tools, Database management system etc.
- Automation signifies replacement of human efforts by machine for doing a particular task.
- Regarding application of

technology, it was stated that almost the entire function of the Registry which is ministerial in nature could be completely automated. This would give sufficient time to the Court staff for proper maintenance of records and assist Judges in discharge of their judicial functions. This would also help in automated generation of manual maintenance/preparation of registers, reports, statements, summons, cause lists, etc. It could also help in creating judicial support systems like framing of issues, analysis of evidence, preparation of judgment, mathematical calculations in motor vehicle compensation and land acquisition cases, assessment of work performance by Judges and ministerial staff, ascertainment of litigation trends and the need for creation of additional courts, networking of courts with centralized data etc.

- Regarding the other benefits of IT introduction, it was stated that it could bring in *transparency*, eradicate *corruption*, reduce litigation costs, court fee, lawyer's fee, thereby helping in enforcing *effective management* (court, case, case flow) techniques etc.
- For achieving the above benefits/objectives, a well-structured litigation

management system was to be created and for this it was necessary to generate seven primary inter-linked databases which concern cases, courts, judges, court staff, litigant, advocates and location. Within these databases, the data could be processed and manipulated to retrieve the desired information which is necessary for a meaningful court management system. In these databases, data is to be entered through customised user-friendly entry forms and based on this structured data, desired queries could be generated for policy decisions to ensure case flow management, case progression, stage tracking, differentiated case management, etc.

Other Issues

- Issues relating to senior citizens, questions of livelihood were to be given topmost priority.
- Appointment of efficient public prosecutors and advocate generals was also stressed upon.
- There is a lot of corruption at the ministerial level which was to be done away with and in this a great responsibility lay with the presiding officer. A judge was not only to discharge his duties honestly, but he also was to ensure that others also discharged their duties truthfully. The need for competent investigative

staff under the control of the Registrar Vigilance was stressed upon. There should be a greater sense of activism on the part of the district judges. In fact his supervision should be not only of the court room but also of the entire court premises.

- In eradicating judicial corruption, stress should be given more to preventive aspects. Removing the rotten apples very early in the career was the best technique.
- A more comprehensive definition of judicial corruption was needed. Non-observance of duties was also to be treated as corruption. Just as chastity is crucial for marital life, honesty is crucial for judgship.
- Management sciences have taken over all fields, but judiciary still continues to manage the justice dispensation system with antiquated techniques. There has been no goal-setting in the judiciary and this has been the greatest drawback. Clear goals are needed to make the judiciary appreciate and achieve the same.
- Impact assessment of laws passed by the legislature was considered highly necessary. Certain laws made by Parliament would involve special adjudicatory skills to decide disputes.

However, as no assessment was done it was difficult to understand the impact of these laws on justice dispensation.

- Judicial budgeting is yet another neglected area. For instance, there is no budget for judicial education and training. Moreover, due to no planning, funds are usually surrendered. There is a need to hire specialised experts to handle these areas. An instance was forwarded to buttress the point. When the Madhya Pradesh High Court was using manual type writers, ribbons used to be purchased at the rate of Rs.15/-. Later, when computers and printers were installed, the financial demand was estimated as the price of the type writer ribbon plus 10% extra rather than looking into the new

demand based upon the new technology.

- The starting point of effective planning and change depends on the availability of reliable data by the judiciary. The Judicial Statistics Bill was considered to be a positive step to throw some light into this area of darkness. The lack of reliable data led to a lot of confusion. For instance, much has been said about the 2.3 crore arrears in the trial courts. Out of this, Karnataka contributes to about 1.14 lakh cases. When the new Chief Justice of Karnataka took over, a stock taking was done, and it was revealed that only 82,000 cases were pending. The rest of the cases which were disposed off were still shown

in this pendency. Moreover, as there has been no scientific study on pendency, problems are compounded. Nearly one crore of the pending cases would be petty cases and the rest would be hard cases which required more time and concerted effort. There has been no categorization of the hard cases. Unless, there is some study and some scientific system devised to categorize them and assign them common denominations, it was meaningless to state that 2.3 crore cases are pending. A concerted attack was to be made on this real pendency if the problem was to be made manageable.

- The stress should be on judicial management rather than judicial administration.

A. M. Mathur v. Pramod Kumar Gupta (1990) 2 SCC 533, 538.

K. Jagannatha Shetty, J. *"Judicial restraint and discipline are as necessary to the orderly administration of justice as they are to the effectiveness of the army. The duty of restraint, this humility of function should be constant theme of our judges. This quality in decision making is much necessary for judges to command respect as to protect the independence of the judiciary. Judicial restraint in this regard might better be called Judicial respect, that is, respect by the judiciary. Respect to those who come before the court as well to other co-ordinate branches of the State, the executive and the legislature. There must be mutual respect. When these qualities fail or when litigants and public believe that the judge has failed in these qualities, it will be neither goof for the judge nor for the judicial process."*

Justices of the Supreme Court of India make History in Continuing Judicial Education in the Year of Judicial Excellence*

Prof. (Dr.) N.R. Madhava Menon
Director, NJA

For the first time in judicial history of the Indian sub-continent, a four-day intellectual Retreat was organised at the Academy between 5th-8th July, 2005. This was a unique event for the three-year old Academy. The Retreat was part of the initiative of the then Chief Justice who declared 2005 as the "Year of Excellence in the Indian Judiciary." Excellence comes from individual performance and that is the product of training and education directed towards upgradation of skills, change of attitudes and appreciation of developments outside law. In short, the process of judicial reform through judicial education was the major object of the Retreat for Supreme Court Judges.

Thirteen sitting Judges of the Supreme Court including the then Chief Justice actively participated in a rigorous schedule spread over nine to ten hours each day. Thirty-one experts drawn from academia, public administration and scientific establishment were invited for the programme as resource persons.

The Retreat was structured with a view to examine select issues which concern the Nation in the context of globalization of the economy, technological developments and governance and to discuss the readiness of the Indian Judiciary to respond to the challenges ahead. Three volumes of background materials were assembled and circulated

amongst the Hon'ble Judges in advance of the Retreat. The Sessions were interactive wherein economists, civil servants and scientists presented in electronic format their perspectives and expectations from the law. Judges sought clarifications and reacted to the views of the resource persons. The sessions were moderated by Prof. (Dr.) N.R. Madhava Menon, Director, National Judicial Academy.

The broad themes discussed were:

Governance & the Law

The Supreme Court and other constitutional institutions have to work with full understanding of each other's role, responsibility and constraints for providing constitutional governance. In this process, the Constitution has given a unique role to the judiciary as the guardian of people's rights. Constant review of this role in terms of its impact on society is important and useful. Accordingly, the first day of the Retreat was devoted entirely to revisiting governance issues and the performance of the judiciary with a view to introduce improvements wherever needed. All this was deemed vital, since, in a globalized world even development in other countries impact on governance here and international law forms part of national jurisprudence in several circumstances. Similarly, projecting the status of the judiciary in the coming years,

identifying problems and preparing policies to face the challenges was part of the exercise. The idea was to improve standards of Good Governance and to maintain Rule of Law in a manner that maximized the unity and progress of the Nation.

Economy & the Law

Economic governance is undergoing tremendous changes as a result of liberalization and globalization. What are these policies in actual terms? How do they impact on the rights of the common man and on national interests? How do they relate to the scheme of the Constitution and the distribution of powers? In a transition economy trying to integrate with the world economy, what are the areas where the system needs to be monitored and corrected? Several such issues were discussed on the second day of the Retreat with a large number of economists and administrators who are involved in policy development, planning and administration.

The area of intellectual property throws up several issues on which no black and white answers are available. Similarly issues relating to capital market, competition policy, WTO and its processes, the judges felt, deserved careful attention and analysis. The Retreat raised relevant issues, analyzed the pros and cons in the context of constitutional demands and examined the options available for decision-makers. It was

* Held between 5th - 8th July, 2005.

understood that there was scope for a variety of structural changes even in the judiciary to cope with the problems being thrown up by the liberalization-globalization processes.

In the economic sphere, the Court is involved not only in dispute settlement but in facilitating economic growth and directing distributive justice as conceived by the Directive Principles. This function requires multiple inputs not available in conventional advocacy and jurisprudence. A new world of Regulatory System is growing which also requires the judiciary to monitor emerging areas of globalized economic regimes in tune with constitutional provisions.

The second day of the Retreat was indeed an eye opener on the unprecedented changes happening in the economy and its governance.

Science, Technology & Law

The third and final day was devoted entirely to think aloud with the leaders of the scientific

world on what they perceive as challenges to managing change as a result of transformation to a knowledge society.

The day started off listening to an exposition by a distinguished panel on what are the key developments in science and technology which are potentially significant in contemporary world. What are the possible impacts and how prepared are we to face the challenges? What do the scientists perceive as the role of the judiciary?

An entire session was devoted to study and discussion of the IT Revolution in which India has emerged a dominant player. Cyber law and cyber crime are part of modern life. Together cyber investigation, cyber forensics and cyber evidence are also developing. Courts have to necessarily modify its style of appreciation of evidence and procedures to absorb the new technology and order the system accordingly.

Moving on to frontier areas

of medical science, the discussion centered on DNA and Human Genome research, Reproductive Technology, Organ Transplantation, Bio-medical research etc. Issues of law, ethics and rights were being brought before the court, the resolution of which demanded co-operation between the disciplines of law and medicine.

At the end of the day, the participants were not only sensitized but also educated on many issues outside the law which are new and complex. A fresh determination to make organized continuing education programmes as part of judicial reform thus emerged. There was widespread appreciation of the initiative of the Apex Court on what is believed to be the first ever attempt in the history of apex judiciaries in this part of the world. The Academy hopes to continue with the initiative as it is fully equipped to take on such organizational responsibilities now.

High Court of Judicature at Bombay v. Shirishkumar Rangrao Patil (1997) 6 SCC 339, 354.

K. Ramaswamy, J. *"The concept of 'judicial independence' is a wider concept taking within its sweep independence from any other pressure or prejudice. It has many dimensions, namely, fearlessness of other power centres, economic or political, and freedom from prejudices acquired and nourished by the class to which the Judge belongs. Independent judiciary, therefore, is most essential to protect the liberty of citizens. In times of grave danger, it is the constitutional duty of the judiciary to poise the scales of justice unmoved by the powers (actual or perceived), undisturbed by the clamour of the multitude. The heart of judicial independence is judicial individualism. The judiciary is not a disembodied abstraction. It is composed of individual men and women who work primarily on their own.*

News & Events

Release of the Journal of the National Judicial Academy and Occasional Paper No. 6

The release of the first scholarly Journal devoted to the theme of "Judicial Reforms" has been a significant accomplishment of the Academy during its three years existence. Capturing the essence of judicial reform in its various facets, the Journal presents a number of articles, notes and comments that aim to enrich the content and application of judicial education for judicial reform. The then Chief Justice of India, Hon'ble Mr. Justice R.C. Lahoti chose the occasion of the Retreat for the Supreme Court Justices to release the inaugural issue in July, 2005.

Occasional Paper Series is the medium through which the NJA brings into the personal library of judicial officers throughout the country important articles, lectures and reports which have significant value in judicial education and training. Within a short span of time, NJA has already brought out five occasional papers. The Sixth Occasional Paper titled *Appreciation of Evidence in Criminal Cases* by Justice U.L. Bhat, former Chief Justice of Gauhati and Madhya Pradesh High Courts was released by Hon'ble Mr. Justice R.C. Lahoti.

Occasional Papers are widely subscribed to by the members of the judicial fraternity with the result that NJA is planning to go in for re-prints of many of them to meet the ever growing demand.

Participation of the Supreme Court Judges of Ghana in a Workshop on Computerization and E-governance in Judiciary

The Chief Justice of the Republic of Ghana, Hon'ble Mr. Justice G.K. Acquah along with an eight member delegation including two High Court Justices of the Commercial Division participated in a Workshop on Computerization and E-governance in Judiciary. Bearing the same challenge like the Indian judiciary, to introduce computerization in Courts in Ghana, the delegates participated in all sessions of the workshop and met technical and management experts to understand how bottlenecks in the implementation of Information and Communication Technology in judicial administration could be removed. The Chairman of the E-committee, Dr. Justice G.C. Bharuka extended his expertise in this regard.

Meeting of Directors/Faculty of the State and National Judicial Academies

Pursuant to the objective of building capacity of the State Judicial Academies, a meeting of Directors and Faculty members of the 16 State Judicial Academies was organized at NJA between 17th – 18th September. Focusing on the issues of curriculum development, research and publications, training the trainers' modules, international cooperation and networking, the meeting aimed at evolving uniform standards in judicial training.

Organizational development and building of faculty strength also formed the core of the deliberations towards planning for the future of judicial education in India.

Training the Trainers Programme on Gender Justice Issues in Adjudicating PNDT Cases

The Ministry of Health and Family Welfare, Government of India approached the Academy to undertake a Project to evolve an appropriate training module to ensure better delivery of justice to women with a thrust on Pre-natal Diagnostics Act and related laws and recommend in this regard the study materials needed to the State Judicial Academies. This capacity building exercise led to the organization of a "Training the Trainers' Programme" for all the State Judicial Academies from 15-18 September, 2005.

The target group consisted of the Directors as well as the Faculty Members handling the gender justice modules in the training programmes of each State Academy. The National Judicial Academy involved more than 20 experts drawn from the field of law, medicine, public administration, NGOs and Media as the resource persons, with an objective to imbibe the qualities of social context judging as well as to understand the implementational difficulties of the identified laws giving preferential rights to women.

An overview of the resources available at Gyan Ganga

The NJA Library (*Gyan Ganga*) was established almost a year back with aim to realize the Academy's vision and mission. Since then the library staff has strived to build a state-of-the-art Legal Information Resource Centre with object to render all round support services with regard to legal information resources (books, journals, reports, CD ROMs, online databases, web sites, reprography and computer access) required for the training programmes drawn up by the Academy and to cater to the research needs of the judicial fraternity.

As of now, it has approximately 2,800 odd volumes of Reports, apart from several books on different branches of law. Keeping in view the need to facilitate electronic legal research which is increasingly being employed, several legal data bases namely, Hein On-Line and Manupatra have been subscribed to. The library also has Grand Jurix CD ROM, Supreme Court Case Finder CD ROM and All England Law reports CD ROM.

In due course, the library plans to automate all its resources and services and share the same with the libraries of the Supreme Court, High Courts and all the State Judicial Academies through a computer network.

Activities of the Access to Justice Research Project

The National Judicial Academy has undertaken a research project to investigate the difficulties experienced by the poor and the disadvantaged sections of people in accessing justice with a view to develop strategies for procedural reforms.

Classifying the poor and disadvantaged to mean – women, children, tribals, elderly and the disabled, the outcome of the project is intended to document their concerns associated with accessing the courts and related issues. The project is being undertaken in seven High Court jurisdictions, Kerala (12th May), Jharkhand (2nd July), West Bengal (1st October) and Maharashtra (scheduled for 14th December) have launched activities within their respective regions. Madhya Pradesh, Karnataka and Orissa are the other jurisdictions that shall be undertaking this research activity. Primary stage of the Project involves the selection of districts, identification of different courts/cases within each of the districts, preparation of case data sheets and records, and formation of research teams to interview the clients/lawyers on identified subject matters.

The Project Monitoring Committee of each jurisdiction, chaired by a High Court justice, reviews the timely progress being made and the key outcomes that are to be formulated.

Visit of Director, NJA to China and Proposal for Academic Exchange between NJA and the National Judges' College of China

On the invitation of the China Clinical Legal Education Association, Prof. (Dr.) N.R. Madhava Menon, Director, NJA visited Wuhan between 9-12 July, 05 and delivered the keynote address to the Conference of Chinese Clinical Law teachers on the subject of involvement of students in legal aid.

The Chinese Law Society translated Prof. Menon's book on Clinical Legal Education into Chinese and prescribed it as a textbook in the law schools of that country. The book was released on the occasion.

On his return from Wuhan, Prof. Menon spent a day in Beijing to visit the National Judicial College of China. The Indian Embassy in Beijing arranged the appointment with the President and Members of the Judicial College.

The college authorities expressed a keen desire to have continuing contacts between the two institutions and suggested an MOU to be signed for it. They have similar MOUs in place with Judicial Academies of Canada, Australia, New Zealand and some other countries. The proposal is to receive a delegation of judges/judicial educators of China this year and China will receive a similar delegation from India next year.

Forthcoming Events

National Colloquium on Right to Information: Issues in Administrative Efficiency, Public Accountability and Constitutional Governance – 11th & 12th December, 2005

The National Judicial Academy in association with the Administrative Reforms Commission, Government of India, is organizing a National Colloquium on Right to Information on 11th and 12th of December, 2005. Over a hundred distinguished persons including justices of various High Courts, distinguished civil servants, representatives of leading NGOs, members of learned professions and media personnel are expected to attend the Colloquium being convened in the light of the coming into effect of the Right to Information Act, 2005.

The object of the Colloquium is to elicit views from a cross section of people within the Government and outside on the development of an efficient, transparent, responsive and

accountable system of governance while implementing the Act. Review of the confidentiality classification and related procedures, dissemination practices to be evolved under the new law, application of the law to the legislative, executive and judicial branches, and implementation of the right in local governments will be the focal areas for the deliberations.

Visit of Appellate Court Justices from Sri Lanka

Another important event which is scheduled to be held is the Workshop on Access to Justice being organized for the Appellate Court Justices of Sri Lanka. This Workshop is scheduled to be held between 20-21 December, 2005.

The major themes which are sought to be discussed are *Legal Aid and Access to Justice in India; Public Interest Litigation and Access to Justice; Access to Justice: How Technology Helps; How Management Strategies Help and How HRD Approaches Help.*

Department of Science & Technology, Government of India and the NJA are to organize a joint programme for Training the Trainers on 'Science, Technology and the Law'

Technology Information, Forecasting & Assessment Council (TIFAC), Department of Science & Technology, Govt. of India is funding a Training the Trainer Course on Science and Technology Applications in Judicial Proceedings to enhance training capacities in the State Judicial Academies in respect of the use of science and technology in justice administration. NJA and TIFAC will be jointly organizing this six-day training the trainers programme for trainers from the State Judicial Academies between 15th to 20th March, 2006. The object of this programme is to develop a standardized training curriculum in matters relating to Science and Technology applications in Judicial Process which would be incorporated by the State Academies in their training programmes.

'K' A Judicial Officer, In re v. (2001) 3 SCC 54, 62.

R.C. Lahoti, J. "A Judge entrusted with the task of administering justice should be bold and feel fearless while acting judicially and giving expression to his views and constructing his judgment or order. It should be no deterrent to formation and expression of an honest opinion and acting thereon so long as it is within four-corners of law that any action taken by a subordinate judicial officer is open to scrutiny in judicial review before a superior forum with which its opinion may not meet approval and the superior court may upset his action or opinion. The availability of such fearlessness is essential for the maintenance of judicial independence. However, sobriety, cool, calm and poise should be reflected in every action and expression of a Judge."

Glimpses from the Supreme Court Retreat



NATIONAL JUDICIAL ACADEMY, BHOPAL, (INDIA)

THIRD BIENNIAL MEETING OF COMMONWEALTH JUDICIAL EDUCATION INSTITUTE 16TH - 19TH MARCH, 2005



Sitting

(Left to Right) A.M. Saxena (Deputy Registrar, NIA), Jagdish Babbari (Registrar, NIA), Hon'ble Mr. Justice Madan Lokar (Delhi High Court, India), Hon'ble Justice Chaitan Rabbani (Sindh, Pakistan), Right Hon'ble Chief Justice Sir Dennis Byrne (International Criminal Tribunal for Rwanda), Hon'ble Judge Mervin Berez (President of the High Court of Eritrea), Hon'ble Chief Justice George Kipsang Akumu (Supreme Court of Kenya), Prof. (Dr.) N.R. Madhava Menon (Director, NIA), Hon'ble Judge Sandra E. O'neer (Chairperson, CIEI), Hon'ble Justice Rukia Haden Oudjo (Chief Judge, High Court of Justice, Nigeria), Said Al Hakey (Chief Counsel, Africa Practice Group, World Bank), Hon'ble Chief Justice (Ag) Brian G.K. Alleyne (Justice of Appeal, Eastern Caribbean Supreme Court), Hon'ble Member Tadesse (Deputy President, Federal Supreme Court, Ethiopia), Chandray Hassan Nawaz (Director General, Federal Judicial Academy, Pakistan)

Standing First Row

(Left to Right) Hon'ble Justice Thamasana Nongongongo (Lusaka), Assistant Registrar Schou (Lusaka), Hon'ble Justice Irene Chirwa Mumbumba (Supreme Court Judge, Zambia), Hon'ble Justice Emiliano M.E. Muhi (Principal, Institute of Judicial Administration, Tanzania), Commissioner Linda L. Malenab-Hornilla (Philippines), Hon'ble Justice Sophia Akuffo (Supreme Court of Ghana), Hon'ble Justice R.R. Mchikanda (Chairman, Malawi Judicial Training Committee), Magistrate Lugana Edward Musasa (Principal Resident Magistrate, Zambia), Hon'ble Judge David Waigani (Judicial Education Committee, Uganda), Hon'ble Judge Gertrude Chawansa (Industrial Relations Court, Zambia), Hon'ble Justice Aul' Saad Kkwa (Lubore High Court)

Standing Second Row

(Left to Right) Geraldine M. May (CIEI, Canada), Lekhani Vijayabalan (Research Fellow, NIA), Ernest J. Schmitt (Chief Executive, Judicial Commission of New South Wales), Hon'ble Justice S.I. Inam (Judge of the Court of Appeal, Sri Lanka), Hon'ble Stanley A. Moore (Justice of the Supreme Courts of the Eastern Caribbean and the Bahamas (Ret.)), Professor Carl Baar (Professor Emeritus of Political Science, Brock University, Canada), Cecile Van Riet (Chief Director, Justice College, South Africa), T.J. Rantinga (Regional Court President, South Africa)



NATIONAL JUDICIAL ACADEMY
WORKSHOP ON COMPUTERIZATION AND E-GOVERNANCE IN JUDICIARY
5th - 9th AUGUST, 2005



Sitting

(Left to Right)

Dr. Kamlesh Agarwala, Subodh Shah, Justice R.A. Mehta, Justice Madan Lokur, Justice S.R. Bannurmathi, Justice Mohit Shah, Prof. (Dr.) N.R. Madhava Menon (Director, NJA), Hon'ble Mr. Justice R.C. Lahoti (Chief Justice of India), Hon'ble Mr. Justice G.K. Acquah (Chief Justice of Ghana), Dr. Justice G.C. Bharuka, Jagdish Baheti (Registrar, NJA), Justice Marful Sau, Mrs. Justice Cecelia Sowah, Ajay Kumar, A.M. Saxena (Addl. Registrar, NJA)

Standing First Row

(Left to Right)

Mrs. Bhedi C. Kiran, R.R. Agarwal, Dr. M.K. Chaudhuri, V.K. Gupta, K.C. Ray, P.L. Ahuja, H.S. Madaan, U.S. Gera, A.K. Pradhan, P.S. Gopinathan, Dr. S.B.N. Prakash, V.S. Appa Rao, B.P. Parilja, S. Sahoo, Y.V. Rama Krishna, B.K. Singh, Mohd. Babar, Vedpal, Alok Jha, P.K. Mathur, H.C. Suri

Standing Second Row

(Left to Right)

R. Pandey, M. Vijayaraghavan, Manoranjan Kavi, T. Duraisamy, D. Pappachan, P. Bhandari, S. D. Tak, S. Gaur

Standing Third Row

(Left to Right)

K.J. Thaker, Kwesi Anuson, Mrs. Sandra Coffie, Mrs. Dorothy Nynah, Mrs. Susanna Christain, Francis Baiden, Emmanuel Boadi, R. Bhatjwale, C.V. Sirpurkar

The NJA Family

GOVERNING COUNCIL

Hon'ble Mr. Justice Y.K. Sabharwal Chief Justice of India	<i>Chairman</i>
Hon'ble Mrs. Justice Ruma Pal Judge, Supreme Court	<i>Member</i>
Hon'ble Mr. Justice K. G. Balakrishnan Judge, Supreme Court	<i>Member</i>
Shri V.K. Duggal, Secretary Department of Justice, Govt. of India	<i>Member</i>
Shri R.L. Meena, Secretary Dept. of Legal Affairs, Govt. of India	<i>Member</i>
Dr. Adarsh Kishore, Secretary Department of Expenditure, Govt. of India	<i>Member</i>
Shri V. K. Jain, Court Administrator- cum - Registrar General, Supreme Court	<i>Member Secretary</i>

Prof. (Dr.) N.R. Madhava Menon
Director, NJA

Administrative Staff

Jagdish Baheti, *Registrar*
A. M. Saxena, *Addl. Registrar*
B.P. Patel, *Chief Account Officer*
R.K. Shukla, *Estate Officer*
Sanjiv Lodh, *Deputy Librarian*

Academic Staff Research Fellows

Dr. Anju Bajpai
Tony George Puthucherril
Lekshmi Vijayabalan
Md. Arifuddin Ahmed
Geeta Oberoi
Anil Bangalore Suraj

National Judicial Academy

Conceived in early 1990s by the Supreme Court of India, the NJA had to wait nearly a decade to get its infrastructure in place. On September 5, 2002 the President of India formally dedicated to the Nation the beautiful, sprawling complex spread over in a 70 acre campus overlooking the Upper Lake at Bhopal. The President on the occasion propounded a Second Vision for the Republic in which a new and dynamic role for the judiciary was envisaged with a view to make India a developed country by 2020. "This Academy," he said, "may aim at developing necessary attitudinal changes to improve judicial integrity and efficiencies." NJA is now ready to commence that rather challenging journey towards achieving higher standards of excellence in the delivery of justice through human resource development and techno-managerial upgradation.

Registered as a Society under the Societies Registration Act in 1993, the NJA is managed by a Governing Council presided over by the Chief Justice of India. The Governing Council consists of two senior most Judges of the Supreme Court and three Secretaries to Government of India from the Ministries of Law, Home and Finance with Registrar General of Supreme Court as Member Secretary. A distinguished law professor who founded the National Law School at Bangalore and also the National University of Juridical Sciences at Kolkata has taken over as the first Director of NJA in October, 2003.

The mandate of the Academy under the Memorandum of the Society includes the following objects :

- (i) establish a center of excellence in the study, research and training of court management and administration of justice and to suggest improvements to the judicial system;
- (ii) provide training and continuing legal education to judicial officers and ministerial officers of the Courts; and
- (iii) disseminate information relating to judicial administration, publish research papers, books, monographs, journals etc. and collaborate with other institutions both within the country and abroad.

With the support and guidance of the Supreme Court and High Courts, NJA has launched an ambitious plan of research, education and training activities to give the judiciary the required, intellectual inputs and technical know-how for better performance of its functions in the service of a resurgent India.

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