



NJA Newsletter | Vol. 3 | Issue 2 | July 2013

NEWSLETTER

NATIONAL JUDICIAL ACADEMY INDIA

Vol. 3 | Issue 2 | July 2013



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From the Desk of the Director, NJA

This Newsletter is the medium through which National Judicial Academy (NJA) serves its Fraternity. The guiding philosophy of NJA is Vision of Justice, as contemplated in the Constitution of India. The Vision is 'Judicial Education enhances Timely Justice'. The Mission is 'Knowledge for Justice'. The methodology of NJA is 'Judicial Education as Problem Solving through Knowledge Sharing'.

The preparation of the NJA Calendar is an extensive consultative process. The calendar for the year (2013-2014) was worked out through an extensive exercise followed by the Calendar Meeting on May 16, 2013 chaired by the then Hon'ble the Chief Justice of India / Hon'ble the Chairman, NJA, Justice Altamas Kabir and co-chaired by the incoming Hon'ble the Chief Justice of India / Hon'ble the Chairman, NJA, Justice P. Sathasivam. The NJA has scheduled 107 programmes. Out of this, 4 Programmes have been provided for the Judges of the neighbouring countries (SAARC countries).

In view of the size of India, 8 Regional Conferences have been scheduled during the year 2013-2014 in different parts of the country. In each Regional Conference, 100 plus Judicial Officers of the different Districts of the Region are covered. The whole idea being that rather than having them at NJA, the NJA reaches out to them in their respective regions.

During the course of the year, 8 National Conferences of High Court Judges have been scheduled. Once again, the whole effort is to cover a large number of High Court Judges. In this process, they inter-act with Supreme Court Justices, Senior Advocates and accomplished academicians.

A number of Programmes have been designed and scheduled for Presiding Officers of Special Courts. The regular series of Orientations programmes for ADJs, newly appointed Civil Judges (JD) and newly elevated High Court Justices continues.

This academic year, the theme of the Regional Conference is "Role of Courts in upholding Rule of Law". NJA has also introduced a 'Public Law Lecture Series'. In this series, an eminent person would deliver a lecture at each Regional Conference. At the end of the year, the NJA proposes to bring out a volume on 'Rule of Law' which would include the 'Public Law Lectures' as also the selected presentations at the Regional Conferences. The NJA also proposes to bring out a Collection of Essays on "Quest for Complete Justice". Different legal and judicial minds have been requested for contributions. Some have been received. Some more would be received in due course of time. Besides this, during the course of the year, number of High Court Judges in the country will come as Resource Persons in different programmes. The High Court Judges are being requested to make contributions on different aspects which are relevant to further the cause of Judicial Education. These contributions would also be brought out by way of separate volume for serving the judicial fraternity.

Apart from the two articles in the Points to Ponder series, this Newsletter catalogues the different activities and programmes organized by NJA during the period from January to June 2013.

Let us all work together in furtherance of Judicial Education.

(Balram K. Gupta)

The Challenge of Judicial Education

Judicial Education: just two words, both equally important. Judicial Education is a recent development. Not old. Our judges have made rich contributions on the basis of their legal education. Legal education not of late 20th or early 21st century. I graduated-in-law in two years in the year 1966. I taught Law for 22 years wherein students would graduate in three years. Most of our Judges did Law either in two years or three years. This system produced the best of judicial minds. Their contribution is second to none. Our judges learnt from their own experiences as well as from the experiences of others. Experience is education. Practical education is, infact, the best education.

During the last 20 – 25 years, Legal Education in our country has undergone vital change. Legal Education today is focused on equipping the students better for the legal profession. After 10 + 2, students graduate in Law in five years. The focus now is on internship /practical training, mooting and debating. A lot more has to be done to further the cause of Legal Education. It is a continuous process.

Judicial Education is different from Legal Education. Judicial Education is for those who opt for judicial career. As also for those who are already in the judiciary. Judicial Education in India has gradually assumed significance from the beginning of 21st century. Judicial Education has two components. One, the legal and judicial interpretational-in-puts. It is an essential aspect. Unless, the judicial officers are equipped and updated in this regard, they would not be in a position to effectively and efficiently perform their duties. Sound base and continuous in-puts of the latest developments in law cover the first element of Judicial Education. This element contributes towards rendering of quality and wholesome justice. For quality justice, you need quality judgments. Writing of good judgments requires good skills. It is an art. One learns with experience.

The second element of Judicial Education relates to the making and shaping of Judges. The building up of judicial qualities. Attitudes. Skills. This also is a continuous process. This component is no less

important. Judicial Education is dependent upon the sharing of experiences. Each judge / judicial officer during his or her tenure encounters many encounters. We learn from the experience of each other. Judicial Education is required to provide opportunity to the judicial brethren so that they can share their experiences and encounters. Such sharing of experiences is Judicial Education. It is learning. Therefore, the challenge of judicial education is to provide more and more such opportunities to share and to learn from each other experience.

Judicial culture in our country has no territorial

barrier. Judicial culture knits the whole country into one. It is like the Rainbow. Many colours. Many shades. A rainbow remains one and the same from Kanyakumari to Kashmir and from Goa to Gurgaon. At National Judicial Academy India, Bhopal, one meets judges from all parts of the country. Judges come in all colours. All shades. Different languages. Different castes and sub-castes. Yet, they wear one outlook. Wholesome. They think positive. They act positive. They do positive. The ingredients of 'fair hearing'

remain the same. The principles of natural justice do not change. They mean the same thing to all judges. Judicial Ethics also remains the same. All over the country. Even beyond.

This mission and vision of NJA is to empower our judges with knowledge. Knowledge to be used appropriately so that justice could reach every nook and corner of the country. The challenge of Judicial Education today is to produce humane judges. Judges are human beings. They deal with the causes of human beings. The Constitution of India mandates to develop scientific temper and humanism. This is the fundamental duty of every citizen of India. Judges are no exception. The virtues of dignity and humanism are, infact, the pillars of judicial education and judicial culture. Let us all imbibe the same. Let us march forward.

Balram K. Gupta

What Judicial Education Means To Me

Judicial Education is providing of opportunities to Judges to meet, to share their experiences, to gain knowledge, to update themselves, to sensitize to the fast changing social needs, to learn the tools of judicial decision making, to develop judicial and judicious temperament, to cultivate the habit of giving fair hearing, to consider every matter soberly and to decide impartially. In short, Judicial Education is all about making a good human being in order to be a good Judge. The process is creating judicial culture through the medium of Judicial Education.

Special Events@NJA

NJA has consistently worked towards sensitizing Judges about various issues involving the common man who approaches the Courts for remedy. Apart from the regular programmes listed in the calendar, NJA organizes other programmes, if need be, to further share and update the participants on the latest developments in the sphere of law; judging and other related aspects. The programmes at NJA has been found to be extremely effective that it receives requests from various other organizations and countries to hold academic programmes for them.

Annual Calendar Meeting (May 16, 2013)



The National Judicial Academy has consistently worked towards formulating modules which cover topics that relate to the functioning of courts, behavior of judges, and ingredients of successful court management. It has constantly aimed to assist judges in order to make Judiciary which reflects constitutional values, exhibits high ethical standards and is sensitive to the social context. The diverse programmes not only aim to sensitize the judges but try to foster awareness on the various developments in law and judicial administration.

The various programmes conducted by NJA are not formulated in isolation. It is a collective endeavour where the senior-most judges of the different High Courts and the judges in-charge of Judicial Education or their representatives and representatives from the State Judicial Academies come together at NJA for a consultative meeting, wherein the details of the programmes to be incorporated are discussed and evaluated for its fitness and relevance as modules for the prospective trainee judges. Through the Annual Calendar meeting, NJA is able to collect and incorporate ideas from the different High Courts.



For the first time, the deliberations of the Calendar Meeting 2013-14 was chaired by Hon'ble the Chief Justice of India, Mr. Justice Altamas Kabir and co-chaired by Hon'ble Mr. Justice P. Sathasivam, Judge, Supreme Court of India. The meeting received participation from Chief Justices of the High Courts of Calcutta, Gauhati,

Sikkim and Manipur, Acting Chief Justices of the High Courts of Andhra Pradesh and Madhya Pradesh, Senior Judges representing various High Courts, Judges in Charge of Judicial Education and Directors/representatives of the State Judicial Academies.



With such an august gathering, the Conference received valuable inputs on the goals, scope and content of NJA's Annual Calendar for 2013-14. The meeting also allowed for sharing of information about the achievements of the participating High Courts, the ongoing activities and annual calendars with respect to judicial education. The Hon'ble participants were also given a bird's eye view of the programmes conducted at NJA during the period August 2012-May 2013. The meeting further provided an opportunity to take stock of the status of judicial education in the country and of measures needed to strengthen the same.



Discussion Forum on the Criminal Law (Amendment) Ordinance 2013 (February 16, 2013)



On February 16, 2013 National Judicial Academy organised a first of its kind of interaction on the Criminal Law (Amendment) Ordinance 2013 between Resource persons and participants to two of its on-going programmes of February 15-17, 2013. The participant judges and legal experts were invited to discuss and share views and suggestions on The Criminal Law (Amendment) Ordinance 2013 which was promulgated by the President of India on 4th February 2013. This Ordinance which changed the law relating to sexual offences in India. A new category of offences were

created with the Sessions Court having jurisdiction to act on it. The new offences which came to be incorporated therein are Grievous hurt by way of acid attacks, non-compliance of rules for the conduct by investigations, sexual harassment, voyeurism, stalking, Trafficking etc. The Ordinance replaced the offence of 'rape' as delineated in Section 375 IPC with the broader all encompassing term of 'sexual assault' and has provided for punishment under S.376. The legal experts at the Discussion Forum threw light on the various aspects of the Ordinance.



Interaction with the Chief Justice of Maldives, Hon'ble Mr. Justice Ahmed Faiz Hussain (June 11, 2013)



The Chief Justice of Maldives, Hon'ble Mr. Justice Ahmed Faiz Hussain along with the a team consisting of Mr. Ibrahim Ahmed Manik, Chief Judicial Administrator and Mr. Abdulla Ali, Director , Department of Judicial

Administration visited National Judicial Academy June 11, 2013 to work out the modalities of having the Judges from Maldives train and interact at National Judicial Academy.

Dr. Balram Gupta, Director, National Judicial Academy in his welcome address gave a brief outline of the activities of the National Judicial Academy since its inception, laying emphasis on the just concluded programmes of the academic year 2012-13. He further informed them that the National Judicial Academy was prepared to facilitate interaction with Judges of Maldives by including them in the various programmes or by creating different segments of programmes especially earmarked for them.

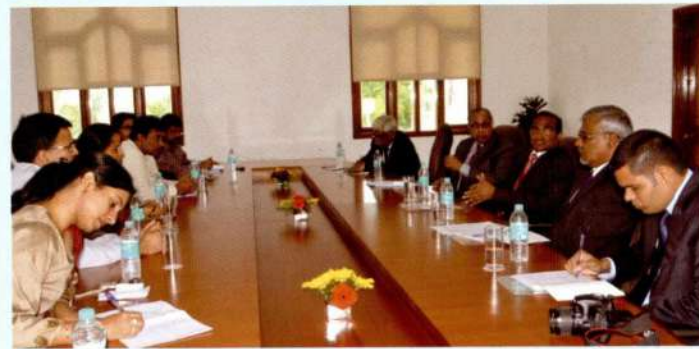
Hon'ble Chief Justice, Mr. Justice Ahmed Faiz Hussain stated that they were keen to coordinate with NJA with regard to judicial education for judges of Maldives.

Mr. Ibrahim Ahmed Manik, Chief Judicial Administrator,

also expressed that they were eager to start some form of training for the Maldives judges at NJA. He further explained the requirements for the judges of Maldives and stressed that participants would include judges, magistrates and legal staff members.

The modalities of the type of programme to be formulated for the Maldives Judiciary would have to be worked out.

The meeting which lasted for three hours looked at all aspects of NJA extending training programmes for the Maldives judges. Prior to the meeting, the Hon'ble visitors took a brief round of the Academy to see the various facilities provided to the judicial officers/ Judges who come for training.



Programmes@NJA : January to June, 2013

National Conferences of High Court Judges

The various modules that have been formulated for the High Court justices include programmes dealing with pendency and arrears, development of law and an orientation programme for newly elevated High Court Judges. Four programmes were held for the judges of the High Courts in the months of January to April 2013.

National Conference of Newly Elevated High Court Judges January 12-13, 2013 (P 634)



Apart from facilitating sharing of experiences among the 23 newly elevated judges on the justice delivery system, this Conference provided an opportunity to discuss and deliberate the challenges faced by them while discharging their duties. Deliberations on important subjects such as the jurisdiction of tribunals and High Courts, inherent jurisdiction of the High Courts in Criminal Justice Administration were held. The newly elevated judges were able to meet their counterparts from different high courts from across the country and exchange their views and experiences. The Newly appointed Justices of the High Courts were guided by Hon'ble Justices of the Supreme Court of India, Dr. Justice BS Chauhan & Justice AK Patnaik; former Judges, Supreme Court of India, Justice M. Jagannadha Rao & Justice PV Reddi.

National Conference of High Court Judges on the problems relating to Pendency and Arrears, February 16-17, 2013 (P-651)

This conference offered a forum to the 22 High Court Judges to deliberate on new management techniques and effective strategies that can be adopted to deal with the problem of pendency and arrears. This conference enabled discussion on the causes of delay in the Indian judicial system and searched for remedies. The discussions were focused mainly on fixing priority of cases, judicial practices as causes of delay, and superintendence of district courts etc. Justice M. Jagannadha Rao, former Judge, Supreme Court guided



the two day session as Chairman, Prof. G. Mohan Gopal delineated the causes of delay in the Indian Judicial System and Justice Madan B. Lokur, Judge, Supreme Court of India stressed on the Role of ADR in tackling delays.

National Conference of High Court Judges on International Law including Extradition and Refugee Laws February 2-3, 2013 (P 603)



The conference on International Law including Extradition and Refugee Laws which was held on February 2-3, 2013 analyzed the impact of developments in international law on the domestic legal system. The participants with the able guidance of the resource persons explored the diverse ways and means to rationalize and manage these influences to suit the needs of the Indian polity. The sessions during the two days were guided by Hon'ble Mr. Justice PK Mishra Chairman, Goa State Human Rights Commission, Prof. (Dr.) VS Mani, Director, Seedling School of Law Governance, JNU, Jaipur and Dr. VG Hegde, Associate Professor, CILS School of International Studies, JNU, New Delhi

National Conference of High Court Judges on the Contribution of the High Courts and the Supreme Court on the Development of Constitutional Law and Administrative Law: March 16-17, 2013 (P- 665)



17 High Court Judges made presentations on the contribution of their respective High Courts on the



development of Constitutional Law and Administrative Law in the country. Apart from enumerating the critical perspectives on the development of Constitutional Law at the national level for the participants, the eminent resource persons also critically assessed recent national and international developments in this area. The various resource persons who guided the participants during the course of the Conference were Justice AK Patnaik, Justice SJ Mukhopadhaya, Judges, Supreme Court of India, Ruma Pal, Justice BN Srikrishna, former Judges, Supreme Court of India, Prof. Ishwar Bhatt, Vice Chancellor, NUJS, Calcutta, and Prof. IP Massey, Dean, Faculty of Law, NLU, Jodhpur.



National Conference of High Court Judges on the Contribution of the High Courts and the Supreme Court on the Development of Criminal Law and Human Rights: April 20-21, 2013 (P 691)

This Conference attended by 16 High Court Judges was guided by Hon'ble Justices, Justice Dipak Misra, Judge, Supreme Court of India; Justice AK Sikri, Judge, Supreme Court of India; Justice AK Ganguly, Chairperson, West Bengal Human Rights Commission and Dr. BT Kaul, Prof. Faculty of Law, Delhi University; Mr. Ravi Nair, Executive Director, SAHRDC. The eminent resource persons critically assessed recent national and international



developments in this area. They further gave their valued inputs on the presentation made by the participant judges on the contribution made by their respective High

Courts and the Supreme Court during the past few years in developing human rights jurisprudence in the country.

The District Judiciary@NJA

National Conference of Judges of the District Judiciary on Access to Justice : January 4-6, 2013 (P-622)



Guiding and interacting with the 25 judicial officers of the District Judiciary, Justice Madan B. Lokur, Judge, Supreme Court of India, Justice G. Raghuram and Justice Dalip Singh highlighted the major issues regarding access to justice in India and the role of the district judiciary in enhancing it. Deliberations were held on the legislative framework for legal aid, contribution of

Supreme Court in expanding the scope of access to justice, power and functions of legal services authorities at district and sub-district level and impact of gram nyayalayas in increasing the access of people to justice. In a discussion on the constraints in access to justice, the participants were able to outline the difficulties and search for remedies.

National Conference for State Judicial Academies on Continuing Judicial Education: Review of Refresher Programmes and Research Activities at SJAs, January 11-13, 2013 (P-633)



This Conference for Directors/ representatives of State Judicial Academies received 16 participants. The Conference which was chaired by Justice Ravi Tripathi and Justice RC Chavan, looked to reinforce the importance of research activities for judicial education particularly for conceptualizing, designing and conducting refresher programmes. The Conference generated ideas and views about the kind of research activities that need to be undertaken by the Judicial Academies. The core topic for this conference being research and its various aspects, Prof Arvind Tiwari from Tata Institute of Social Sciences, Mumbai explained the importance of interdisciplinary research for judicial education. Prof GS Bajpai, Professor of Law from National Law School, Delhi gave a detailed presentation on research methodologies. He rendered important tips

to the participants on niceties of empirical research. Dr AP Singh from IP University, Delhi addressed the issue of cooperation with external institutions and gave specific ideas about how to collaborate with law schools and universities for both doctrinal and empirical research.



The representatives' from the SJAs were given an opportunity to present the major constraints faced by them in initiating and conducting research activities. Mr. Ramesh Chamarti, Assistant Professor at NJA presented the experience of NJA in conducting the Court Excellence Enhance Programme (CEEP). Justice Tripathi and Justice Chavan having been associated with CEEP programme since its inception shared their experiences and highlighted the utility of conducting such a programme at the SJAs.

**National Conference of Judges of the District Judiciary on Children and Laws :
January 18 – 20, 2013 (P-635)**



During this Conference, the 26 participant judges identified and analyzed the constraints and challenges faced by them in dealing with such cases and implementing laws relating to children, mainly, Family Laws, Juvenile Justice Act, and Labour Laws. The resource persons traced out the international instruments on the development & importance of law relating to children and the impact of international conventions on children's laws in India. Discussions through the three days centered on the psychological

approaches to curb social deviance in children; child labour and the rehabilitation of children in conflict with law. The eminent resource persons further provided perspectives on child custody and the role of NGOs, State and the Courts in the adoption of children. Court room conduct and court procedure in cases relating to children were delineated for the participating judges. The programme concluded with a discussion on the Protection of Children from Sexual Offences Act, 2012.

**National Conference of the Principal Magistrates and Members of Juvenile Justice Boards :
January 18 to 20, 2013 (P-636)**



Under the guidance of the esteemed Resource Persons Justice Roshan S. Dalvi, Judge, Bombay High Court, Justice K. Kannan, Judge, P & H High Court, Justice Anjana

Prakash, Judge, Patna High Court, Mr. SP Srivastava, District Judge, JP Nagar , Ms. Geeta Ramaseshan, Advocate , Prof. BB Pande and Dr. LN Suman, the 26

participants examined the functioning of the Juvenile Justice Boards in India and identified the challenges faced by them in their functioning. The areas for improvement in the functioning of Juvenile Justice Boards and the various means to improve their performance were discussed at length. The main areas of discussion through the three days were – Theories of Deviant Behavior in Children & their Relevance in the Indian context, Impact of International Conventions on Child Rights in India; Psychological Approaches to Social Deviance in Children; law & practice relating to Juveniles

in need of care & protection; Court Room Conduct & Court Procedures in Cases relating to Children; Issues relating to the Determination of Age in Juvenile Cases and the Role of Juvenile Justice Boards in dealing with deviance in juveniles. The group discussion looked into the issues & challenges faced by the Juvenile Justice Boards in India. Furthermore, the participants were able to share views and express their problems with their counterparts and assess which remedies would best suit their Courts.

National Orientation Programme for Additional District Judges : February 8-10, 2013 (P-647)



The main aim of these Conferences is to orient and motivate newly appointed district judges to play an important role in ensuring independence of the judiciary at all tiers.

Keeping in mind the serious constraints like inadequate infrastructure, excessive workload, inefficient staff, non-co-operation of the stakeholders faced by the judges, this programme worked towards empowering the judges to discharge their constitutional responsibilities efficiently and effectively. The participating judges' attention was drawn towards those aspects of their judicial work for which only a judge can be held responsible and where some improvement can be made despite the the abovementioned external constraints hindering effective judicial administration. The conference, through various discussions, stressed that the role of judges in the District Judiciary is not merely to resolve disputes; nor is it to mechanically apply the laws as laid

down. The participant judges were encouraged to appreciate the role that the district judiciary has to play in upholding the Constitutional values and in protecting the rights of individuals. The conference provided a forum to the 34 ADJs to share experiences, discuss problems, introspect, and above all develop solidarity with judicial officers from across the nation. The various sessions through the three days were chaired and guided by eminent resource persons Prof. VK Dixit from Delhi, Justice S Nagamuthu from Madras High Court and Justice BS Patil from Karnataka High Court.



**National Conference of Principal District Judges on Court Administration and Management :
February 9-10, 2013 (P 648)**



In keeping with the goal of Strengthening the Institutional Framework of the Judicial System, the two day National Conference of Principal District Judges on Court Administration and Management provided a forum to 32 Principal District Judges to discuss their problems and search for remedies in consultation with senior High Court and Supreme Court judges. Enumerating the leadership role of the PDJs, the resource

persons reemphasized the different aspects related to court administration, best practices in court management; case load and case management, role of court managers in the judicial system, and processes for building public confidence in Courts. The participants had ample opportunity to interact and were ably guided by Justice Rajesh Bindal, Justice Chandresh Bhushan; Justice Dalip Singh and Justice Navin Sinha.

National Conference of Judges of the District Judiciary on Gender Justice : February 15-17, 2013 (P-649)



The 27 participant judges discussed and identified ways to further enhance the role of the district judiciary in promoting gender justice by protecting rights of women.

A critical assessment of the current status of judicial approaches towards gender and laws promoting gender justice was presented before the judges. Through

discussions on various topics like Impediments in Enforcement of Gender Justice in a Traditional Society; Reproductive Rights and Gender Issues; Violence Against Women in the Family; Rights of Women in Family: Property and Inheritance Rights; Violence against Women: Sexual Offences, Trafficking and Workplace Harassment and Special Machineries for Protection of Women, the Conference drew the attention of the participating judges towards new developments in

law in this area and the approaches of the higher judiciary in this regard. The eminent resource persons who guided the discussions through the three days of the Conference were Justice R. Basant ,former Judge, Kerala High Court ;Ms. Swati Chauhan ,Judge, Family Court, Bombay; Ms. Geeta Ramaseshan , Advocate; Prof.(Dr.) Priti Saxena Dean, SLS Central University, Lucknow, Prof. Poonam Saxena, Professor Incharge, Delhi University, Ms. Aruna Mohan Rao , ADG, CAW, PHQ Bhopal and Dr. Raka Arya Professor, NLIU, Bhopal.

National Conference of the Presiding Officers of Family Courts, February 15-17, 2013 (P-650)



This second programme for presiding officers of Family Courts analyzed the extent to which family courts have been successful in realizing the objectives with which they were established. In addition, considerable time was devoted to the issue of the role of lawyers in the family courts. The use of mediation and other ADR methods for resolution of family disputes and the role of courts in effective use of ADR techniques were emphasized. The three day programme also concentrated on discussing and analyzing the approaches adopted by the Family Courts in settling disputes before them. Deliberations were held on the areas for improvement in the functioning of Family Courts and the means to improve the performance of these courts. Resource persons Justice K. Kannan, Judge,

Punjab & Haryana High Court, Justice Manju Goel, Former Judge, Delhi High Court, Ms. Geeta Ramaseshan, Advocate, Mrs. S. Susheela, Advocate Prof. Priti Saxena, Dean, SLS Central University, Lucknow shed light of various topics like Family Courts in the Indian Judicial Hierarchy; the Issues & Challenges in Implementing the Family Courts Act, 1984; various aspects of NRI Marriages & Divorce; Protection of Rights of Children in the Family Courts; Procedural Issues relating to Resolution of Family Disputes Matrimonial Disputes Resolution; and Relevance & Importance of Counselling, Conciliation & Mediation in Resolving Family Disputes. The programme was appreciated by the 25 participant judges.

National Conference of the Presiding Officers of CBI Courts : March 1-3, 2013 (P-653)



The objective of the National Conference of the Presiding Officers of CBI Courts which was held on March 1-3, 2013 was to deliberate on issues relating to practice and procedure of CBI Courts. The programme facilitated exchange of best practices among the officers and offered them a forum to share and delve into the constraints faced by them. The presiding officers were also encouraged to look for remedies to the various

constraints highlighted by them. The discussions through the three days were guided by Justice PK Mishra, Chairman, Goa State Human Rights Commission; Justice Anjana Prakash Judge, Patna High Court; Justice Mukta Gupta, Judge, Delhi High Court; Mr. SK Sharma Member ,PMLA, New Delhi; Mr. V. Lakshmi Narayana; Joint Director, CBI, Hyderabad; Mr. Gyan Barah, Head(Fraud Investigation) ICICI Bank, Mumbai

National Conference of Judges of the District Judiciary on MACT Cases: March 15-17, 2013 (P-664)



The participants to this Conference deliberated on the ways that can be adopted to deal more effectively with the cases relating to motor accidents. It also highlighted

the disparate practices in awarding compensation in motor accident cases by different courts in the country. Resource persons for this conference Justice N. Rama



Mohana Rao, Judge, A.P. High Court, Justice R. Basant, Former Judge, Kerala High Court; Mr. Tajendra Singh Luthra, Joint Commissioner of Police, New Delhi and Mr. C. K. Gola, DGM, The New India Assurance Co. Ltd. Mumbai enumerated on topics like victims of motor vehicle accidents, the norms for investigating motor accident cases, procedural parameters for the inquiry being conducted by the Tribunal, the role and liability of Insurance Companies in motor accident claims and the quantum of compensation for the victims.



National Conference of Judges of the District Judiciary on Enforcement of Judicial Orders : Issues and Concerns : April 12-14 (P-687)

This Conference for the Judges of the District Judiciary was conceptualized keeping in mind the problems they encounter in the execution of judicial orders which lead to great obstacles in the proper administration and delivery of justice particularly in civil matters. 28 judges came together to identify the issues and concerns in this area and to share their experiences in this regard. The process began with Justice C Y Somayajulu presenting an overview on executing court orders/judgment and decrees. The participant judges got an opportunity to discuss and highlight the problems and remedies through a group discussion and a presentation by each

group which was guided and evaluated by Justice C Y Somayajulu and Justice Chandresh Bhushan.

A judicial perspective and understanding of the illegal, irregular and in-executable decrees were also enumerated by the resource persons. The other topics that received primary attention were Enforcement of Court Orders; Arrest and Detention in Civil Prison; Attachment and sale of property, Hurdles in delivery of immovable property through the process of the court, Garnishee orders and Precepts, Reducing the delays in execution of the decrees & Compliance of interlocutory orders; Challenges in effective Execution of the orders in



Matrimonial Cases and Enforcement of Maintenance orders. Justice Ramasubramaniam delineated the process for Procuring the presence of accused in

Criminal Cases: Summons, Warrants and Orders of Proclamation, and Prof BT Kaul spoke on the Mode of Recovery of Fine and Compensation in Criminal cases

National Orientation Programme for Additional District Judges : April 12-14, 2013 (P-688)



Apart from facilitating sharing of experiences, discussion on challenges, introspection and above all helping to develop solidarity with judicial officers across the nation, this three day Orientation programme was conducted with the objective of emphasizing the role of the District Judiciary in the Indian constitutional scheme. The programme also involved discussion and analysis of the major issues in the administration of criminal justice and civil justice at the level of the subordinate courts. The major concerns in the functioning of the subordinate courts in India received ample attention and a forum was provided to discuss issues and challenges faced by the District Judges and the areas for improvement in the performance of these courts were identified. The above objects were met through discussions on the District Judiciary in the Constitutional Scheme; Competition Laws in India; Challenges faced by the District Judiciary &

the Response of Courts ; Criminal Justice Administration - Pre- Trial Procedures & Fair Trial Rights: Role of District Judiciary ; Criminal Justice Administration - Collection & Appreciation of Electronic Evidence; Victim in the Criminal Justice System; Sentencing: Law & Practice; Civil Justice Administration - Significance of Interlocutory Orders in Civil Justice Administration; Civil Justice Administration - Key challenges in Civil Litigation: Response of Courts (Enforcement of Orders & Decrees) and Judges and Court Management. The sessions during the three days were guided by Justice V. N. Sinha, Judge, Patna High Court, Justice V. Ramasubramaniam, Judge, Madras High Court, Justice R. Y. Ganoo, Judge, Bombay High Court, Prof. Udai Raj Rai, NUJS, Kolkata, Dr. Satya Prakash, Director (Law), CCI, New Delhi, Dr. B. T. Kaul, Faculty of Law, Delhi University and Mr. Vakul Sharma, Advocate.

National Orientation Programme for Newly Appointed Civil Judges (Junior Division) : April 12-22 (P-689)



The programme through discussions on various subjects attempted to facilitate a better appreciation of the role and responsibility of judicial officers as members of an independent judiciary in a constitutional democracy. Adequate attention was devoted to areas like criminal and civil justice administration, gender justice, juvenile justice, additionally, the programme also introduced the civil judges to some new areas like Intellectual property

laws and laws relating to disability. The 57 Junior Division judges had ample opportunity to interact with senior members of the fraternity who participated as resource persons in this programme. The ten day Orientation programme was interspersed with group discussions, interactive sessions, documentary film screening, and sharing of experiences on various core issues.

National Conference of the Presiding Officers of SC/ST (POA) Act : April 19-21, 2013 (P-690)



The 23 Presiding Officers who attended the programme made a presentation on the challenges faced by the Courts in proper implementation of SC/ST (POA) Act.

With the guidance of eminent resource persons like Dr. Justice S. Muralidhar, Judge, Delhi High Court, Justice K. Kannan, Judge, P & H High Court, Justice Prabha Sridevan,

Former Judge, Madras High Court, Mr. Ved Prakash Sharma, Registrar General, M.P. High Court, Mr. Martin Macwan, Senior Activist, Mr. Anvesh Manglam, IG Police (AJK) PHQ, Bhopal various challenges facing the judiciary and measures that may be taken to improve the system were identified. The participants were encouraged to share best practice and experience across states. Furthermore, the programme also addressed the

functioning of these courts, analyzed the social and political genesis of the disadvantaged in the Indian context, atrocities against SC/ST and the SC/ST (POA) Act, access to courts for victims, measures to help them avail legal aid and provide legal awareness. The various processes involved in providing timely justice to those who approach the Courts under this particular Act were discussed at length.

National Conference of the Presiding Officers of Labour Courts/Tribunals : May 3-5, 2013 (P-693)



The main objective of this conference was to identify the problem areas in labour justice administration and to look for effective strategies and solutions. It further provided an opportunity to the Presiding Officers to share the difficulties which they encounter while adjudicating labour and industrial disputes. The three day program was conducted under the guidance of Justice Rajiv Narian Raina of Punjab and Haryana High

Court, Justice R Basant from Kerala High Court, Justice K Chandru from Madras High Court and Prof. (Dr.) B T Kaul, Faculty of Law, Delhi University. The conference was structured to cover important areas of Industrial relations and the changing trends in labour and industrial adjudication in the backdrop of LPG (Liberalization, Privatization and Globalization.)

National Conference of State Judicial Academies on Training the Trainers : May 10-12, 2013 (P-704)

Over the last few years NJA has been engaged in developing a national perspective and national framework for imparting and strengthening judicial education. Keeping this in mind, the Training of Trainers conference brought together faculty members of the State Judicial Academies to learn about innovative pedagogical techniques and develop new methods for delivering the national curriculum that has been developed at NJA.

The open discussion on faculty-related challenges faced by the State Judicial Academies was followed by a presentation by Prof. G. Mohan Gopal, Director, RGICS on understanding faculty-related needs of the State Judicial Academies. Included in the discussions was the framework for faculty need assessment at SJAs. Justice SB Sinha, former Judge, Supreme Court of India laid out the need for interdisciplinary inputs in Judicial Education.



Dr. LN Suman enumerated on assessing faculty needs for designing and conducting sessions with interdisciplinary inputs. Justice Ravi Tripathi and Justice Manju Goel, former Judge, Delhi High Court spoke on the Role of

Judicial Academies in addressing issues related to qualities, skills and attitude of judges and designing and conducting sessions for addressing issues related to qualities, skills and attitude of judges, respectively.

Court Excellence Enhancement Programmes (CEEP 2)

The strength and effective functioning of the judicial system is dependent not only on the presiding officer of a court but also on the cooperation and coordination among other duty holders in the legal system. Thereby to bring about some positive changes in the system, the participation of these duty holders is imperative for that process.

Based on this premise, NJA had initiated the Court Excellence Enhancement Programme which brought together all the duty holders of a Court under one roof during the academic year 2011-12, wherein they worked together to develop a comprehensive framework for enhancing the excellence of the Court they represented.



Court Excellence Enhancement Programme (CEEP) January 5-7, 2013

After the successful completion of CEEP 1, involving hundred courts from across the country, the programme continued in the current academic year of 2012-13 as "CEEP - Progress Review Programme". CEEP 2 involved identifying the current challenges, suggesting corrective actions to strengthen implementation of CEEP and above all updating the CEEP Action Plan for enhancing Court performance.

The respective CJM courts and the stakeholders of CEEP 1 for the period January- May, reviewed the outcome of the implementation of the action plans developed by them during the previous year. They further developed a management framework for coordinated action to improve court performance.

The programmes held in January 5-7, 2013 (P-623 to P-632); February 2-4, 2013 (P-637 to P-646), March 2-4, 2013 (P-654 to P-663), March 23-25, 2013 (P-666 to P-675), April 6-8, 2013 (P-677 to P-686) May 4-6, 2013 (P-694 to P-703) and May 11-13, 2013 (P-705 to P-714) were guided by eminent resource persons like Justice Ravi R. Tripathi, Judge, Gujarat High Court, Justice Jayant Patel, Judge, Gujarat High Court, Justice R. C. Chavan, Judge, Bombay High Court, Justice A.H. Joshi, Justice R. Y. Ganoo, Judge, Bombay High Court, Justice V. M Kanade Judge, Bombay High Court, Justice S. Nagamuthu, Judge, Madras High Court.



Court Excellence Enhancement Programme (CEEP) February 2-4, 2013



Court Excellence Enhancement Programme (CEEP) March 2-4, 2013



Court Excellence Enhancement Programme (CEEP) May 4-6, 2013



Court Excellence Enhancement Programme (CEEP) May 11-13, 2013



Court Excellence Enhancement Programme (CEEP) April 6-8, 2013



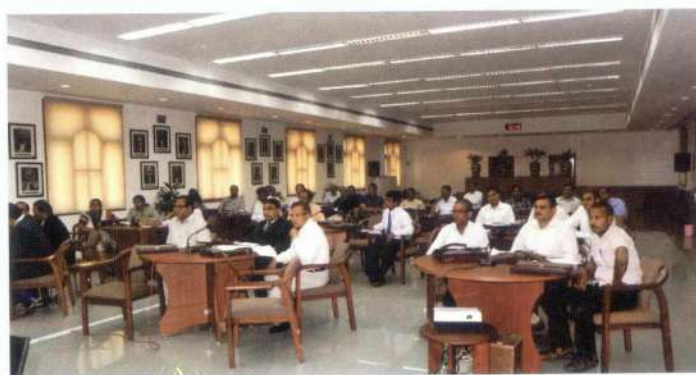
Court Excellence Enhancement Programme (CEEP) March 23-25, 2013

Details of Stakeholders at CEEP held during January- May, 2013

S. No.	CEEP	Programme	No. of Participants						Total Participants
			CJM	PPs	MS	IO/PO	Advts	SJAs	
1	IV. 31-40	P-623 to P-632 Jan 5-7, 2013	9	5	9	6	7	4	40
2	V 41-50	P-637 to P-646 Feb 2-4, 2013	9	7	9	7	7	4	43
3	VI 51-60	P-654 to P-663 March 2-4, 2013	9	8	8	9	8	12	54
4	VII 61-70	P-666 to P-675 March 23-25, 2013	8	6	6	3	5	3	31
5	VII 71-80	P-677 to P-686 April 6-8, 2013	9	8	8	5	8	2	40
6	IX 81-90	P-694 to P-703 May 4-6, 2013	8	4	7	5	4	0	28
7	X 91-100	P-705 to P-714 May 11-13, 2013	7	6	7	5	6	1	32
Total No of Stake holders			23	44	54	40	45	26	268



Court Excellence Enhancement Programme (CEEP) April 6-8, 2013



Court Excellence Enhancement Programme (CEEP) April 6-8, 2013

Details of CJM Courts at CEEP during the period January – May, 2013

SN	High Court	IV	V	VI	VII	VIII	IX	X
		5-7 Jan, 2013	2-4 Feb. 2013	2-4 March 2013	23-25 Mar. 2013	6-8 April 2013	4-6 May 2013	11-13 May, 2013
1	Allahabad	Lakhimpur	Kashiram Nagar	Muzaffar Nagar	Gonda	Buduan	Bhadohi	Sultanpur
2	Andhra Pradesh	Chittoor	Mahboob Nagar	Kadapa	Nalgonda	Anantpur	Vizianagaram	Hanamkonda
3	Bombay			Thane				
4	Calcutta	Howrah	Hoogly	Nadia	Medinipur	Purulia	Bankura	Cooch Behar
5	Chhatisgarh	Raigarh	Korba	Jagdalpur	Janjgir	Baikunthpur	Bemetara	Surajpur
6	Delhi			Shahdara				
7	Gujarat			Ahemdabad				
8	J& K			Jammu				
9	Jharkhand	Dumka	Ranchi	Jamshedpur	Hazaribag	Daltonganj	Godda	Garhwa
10	Karnataka			Bangalore				
11	Kerala			Kochi				
12	MP	Bhopal	Jabalpur	Damho	Singrauli	Dhar	Katni	Ashok Nagar
13	Madras			R.A Puram				
14	Orissa	Jeypore	Khurda	Bhawanipatna		Sambalpur		Jajpur
15	Patna	Darbhanga	Purnia	Gaya	Munger	Bettiah	Motihari	
16	P & H			Chandigarh				
17	Rajas than	Udaipur	Bikaner	Kota	Bhilwara	Shriganga nagar	Sawai Madhopur	Hanumangarh
18	Uttrakhand			Nainital				



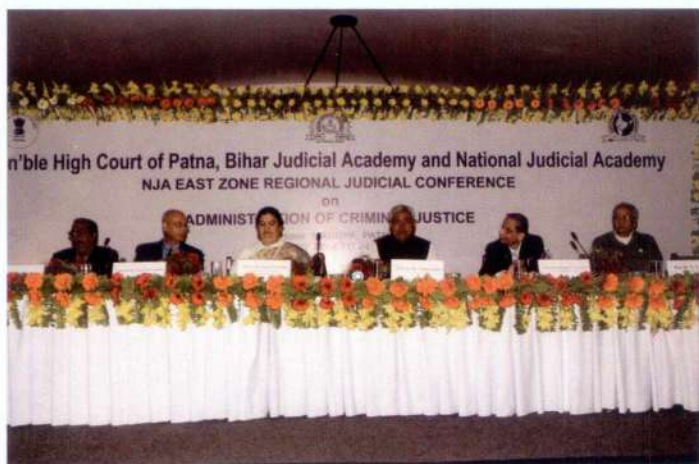
Court Excellence Enhancement Programme (CEEP) May 11-13, 2013



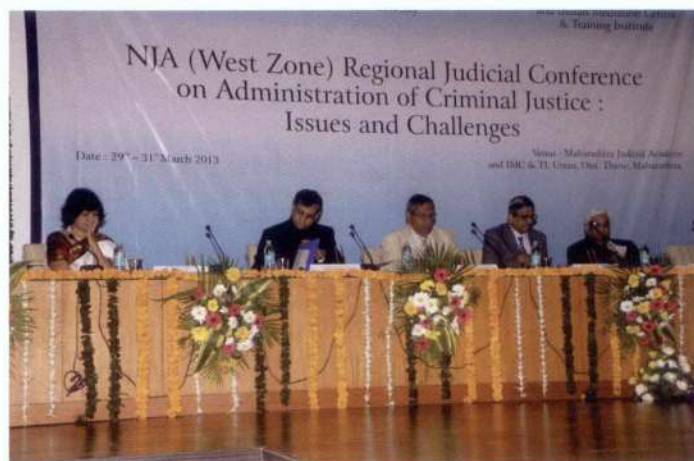
Court Excellence Enhancement Programme (CEEP) May 11-13, 2013

Regional Judicial Conferences on Administration of Criminal Justice : Issues & Challenges

The Regional Programmes are organised in collaboration with the State Judicial Academy and the High Court of a particular state/region. Since these programmes seek the participation of judges from a particular zone, which have been divided into North, South, East and West, the number of judges attending these programmes exceeds ninety judges at a given time, thereby covering a larger audience and leading to greater dissemination of ideas and thoughts. For the academic year 2012-13, the topic chosen for discussion for the Regional Conferences was "Administration of Criminal Justice: Issues and Challenges". There were eight such programmes, two for each zone, and by the month December 2012, one programme was held in each zone. These Conferences sought to situate the judicial officers in the constitutional scheme of justice delivery system. It further provided a perspective to the participants on various rights available to the stakeholders such as the accused, victim, prisoners etc under the Criminal Justice System. The second set of Conferences was held as under:



East Zone Regional Conference at Patna Bihar: Feb 22-24, 2013



West Zone Regional Conference at Uttan, Maharashtra, Mar. 29-31, 2013



North Zone Regional Conference at Shimla, HP: 31.05- 02.06, 2013



South Zone Regional Conference at Bangalore, Karnataka on June 14-16.2013

East Zone Regional Judicial Conference on Administration of Criminal Justice: Issues and Challenges (February 22-24, 2013) (P-652)

The second Conference for the east zone was held in collaboration with the Patna High Court and the Bihar Judicial Academy. The Conference was attended by over 100 judicial officers from West Bengal, Chhattisgarh, Assam, Jharkhand, Bihar, Orissa and Sikkim.



The participants during a group discussion identified and discussed the issues and challenges facing the Administration of Criminal Justice. These were presented before the esteemed chair persons for the session, Justice SB Sinha, former Judge, Supreme Court of India, Justice RM Doshit, Chief Justice of the Patna High Court and Justice Navin Sinha, Judge, Patna High Court

who provided valuable insights and guidance to the participants.

The participants were further enriched by the address of the Chief Justice of India, Mr. Justice Altamas Kabir who delineated the Role of Judges in the Administration of Criminal Justice. Justice NN Tiwari, Judge, High Court of Jharkhand, Justice S. Talapatra, Judge, Gauhati High Court, Justice SJ Mukhopadaya, Judge, Supreme Court of India, Justice KS Ahluwalia, Judge, Calcutta High Court, Justice Anjana Prakash, Judge, Patna High Court and Justice Joymalya Bagchi, Judge, Calcutta High Court addressed the participants on various topics like Constitutional Origins of Criminal Justice System, Fair Trial Rights and the Criminal Justice System, Locating Victim under the Criminal Justice System, and Sentencing.



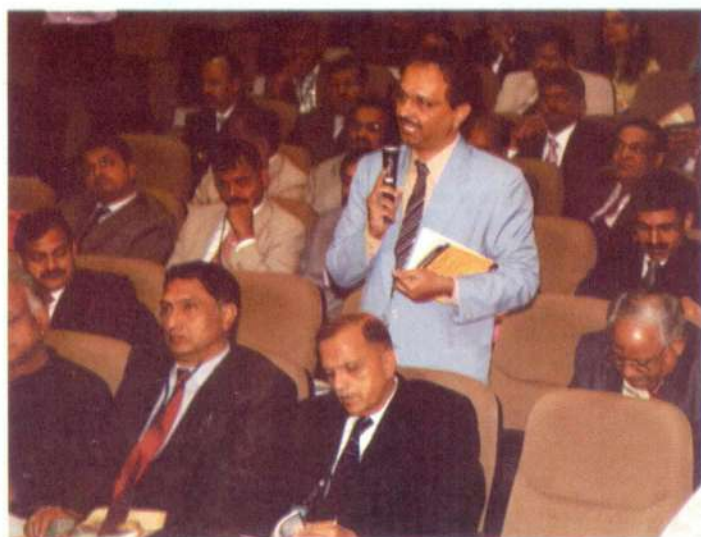
Group discussion underway during the East Zone Conference

West Zone Regional Judicial Conference on Administration of Criminal Justice: Issues and Challenges (March. 29-31, 2013) (P-676)



This second West Zone Regional Conference was held in Uttan, Maharashtra where in judicial officers from the District Judiciary of the High Courts of Bombay, Rajasthan, Gujarat and Madhya Pradesh participated in the conference. Discussions were held on protection of constitutional values in the adjudication of criminal

cases, ensuring effective access to justice for the poor and protection of the rights and interests of victims. The discussion also focused on the sentencing practices in the subordinate judiciary in criminal cases. Concerns were also raised regarding fundamental rights of the people as well as maintenance of discipline in the judiciary.



The inaugural session was chaired by Justice Kanade, Judge, Bombay High Court. former Judge of the Supreme Court Justice C.K. Thakker chaired the sessions on the second and third day of the Conference. Resource persons from various High Courts of West Zone including Justice RC Chavan, Judge, Bombay High Court, Justice ML Tahaliyani, Judge, Bombay High Court, Justice AM Thipsay, Judge, Bombay High Court, Justice Ravi R. Tripathi, Judge, Gujarat High Court, Justice VM Kanade Judge, Bombay High Court, Justice RS Chauhan, Judge, Rajasthan High Court, and Justice RC Mishra, Judge, Madhya Pradesh High Court guided the discussions in the Conference.

North Zone Regional Judicial Conference on Administration of Criminal Justice: Issues and Challenges (May 31- June 2, 2013) (P 692)



This three day judicial officers' conference for the North Zone received 95 participants from Delhi, Punjab & Haryana, Allahabad, Uttarakhand, Himachal Pradesh and Jammu & Kashmir. Organized in collaboration with the High Court of Himachal Pradesh, Shimla and the Himachal Judicial Academy. Resource Persons for the various session during the three day programme were Justice Dr. BS Chauhan & Justice Madan B. Lokur, Judges Supreme Court of India, Justice Dr. S. Muralidhar, Judge,

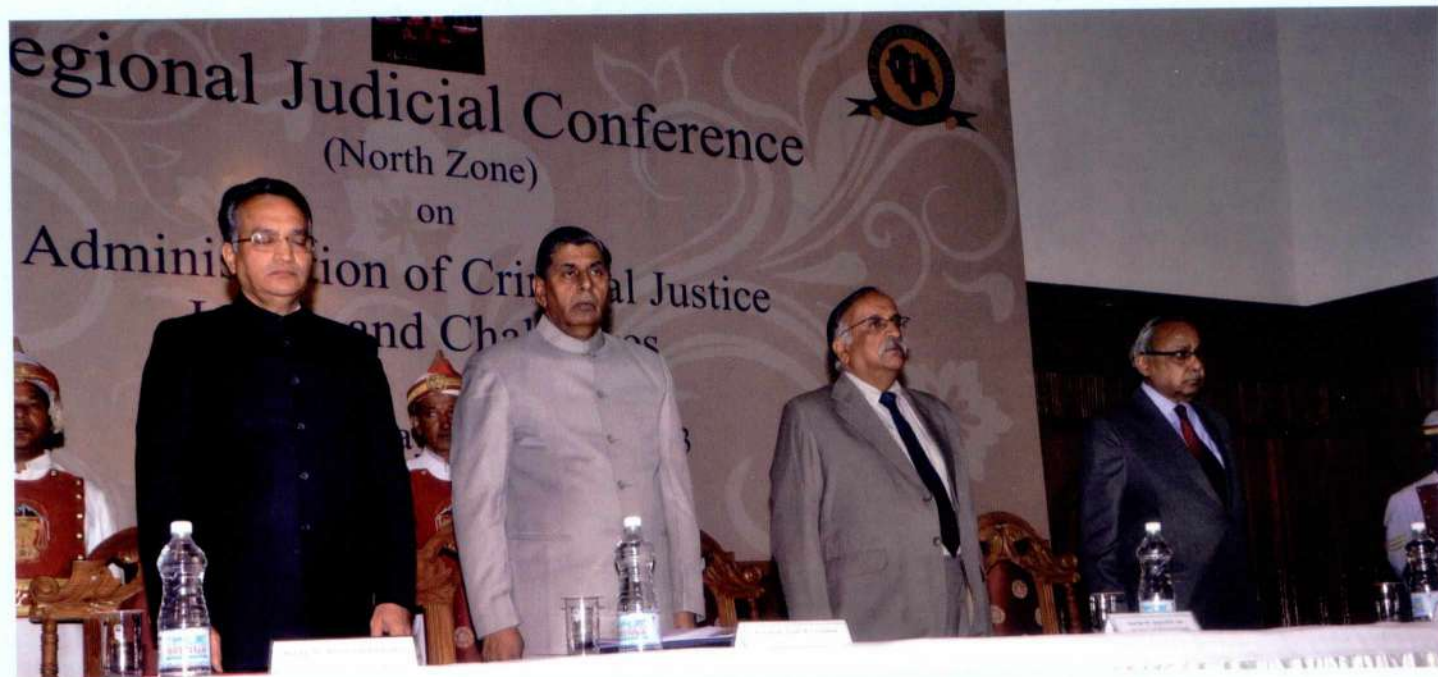


Delhi High Court, Prof. BT Kaul, from the Faculty of Law, DU and Justice Sudhanshu Dhulia, Judge, High Court of Uttarakhand and Justice SS Thakur, Judge, Himachal Pradesh High Court.

In his introductory address, Prof. (Dr.) Balram K. Gupta, Sr. Advocate, Director, National Judicial Academy, laid out the main objectives of the programme.

In his inaugural address, the Chief Justice of the Himachal High Court, Justice AM Khanwilkar pointed out one of the significant challenges facing the administration of Criminal Justice as being cases concerning women and children and the lack of sensitivity shown by the officials. He cautioned the gathering that although they as judges should not be silent spectators they must not, however, appear to be overtly proactive, judgmental or opinionated before the trial concludes.

Justice Dr. BS Chauhan in his address brought to fore the challenges in the delivery of justice due to new developments. He encouraged the judicial officers to



adopt innovative methods to deal with various cases/situations so that justice can be delivered in the right manner and perspective.

Prof. BT Kaul brought out the constitutional origins of the of criminal justice administration. He highlighted the important phases in the development of right to fair trial by extensively referring to the judgments in Selvi vs. Karnataka, Nandini Satpathy and the Mohd. Afzal Kasab cases. Prof (Dr.) Balram K. Gupta shared his ideas on the operation of constitutional values in criminal justice system.

During the Group Discussion, the participants identified the issues and challenges facing the administration of criminal justice in the country. The presentations made by the five groups were guided Justice B.S. Chauhan and Prof. B.T. Kaul.

Justice Sudhanshu Duliya, Judge, High Court of Uttarakhand and Justice Surendra Singh Thakur, High Court of Himachal Pradesh made a presentation on the role of courts in the administration of Criminal Justice. Both of them stressed on the need for holding a fair trial protecting rights of all stakeholders and assuring fair and speedy trials and legal aid to the poor. Both the speakers urged the judges to be impartial and competent while adjudicating the cases.

Delineating the development of fair trial rights in the criminal justice system of the Country, Justice Dr. Chauhan mentioned the importance of being defended by a counsel and the rights of the accused to let in his evidence. Justice Madan B. Lokur who chaired this session and he highlighted the procedure for plea bargaining and it's important in criminal justice administration. Mr. K. Pattabhi Rama Rao Assistant Professor, NJA gave a power point presentation on the development of role of victims in our criminal justice system. The important aspect of Sentencing was dealt by Justice Vinod Prasad who referred to the judgment delivered by Justice Madan B. Lokur in Sangeet V. State to highlight the important aspects. Further discussions in this session centered on the different theories of punishment and their relevance while sentencing the guilty. This session was guided by Justice Madan B. Lokur and Justice Dr. Chauhan as chairpersons and the participants received invaluable guidance from them. Justice Dr. S. Muralidhar of the Delhi High Court discussed the various process of enhancing access to justice and thereby the role of the Courts in it. He spoke about demystifying the law for easy accessibility. Justice Suryakant from Punjab High Court and Justice DD Sood gave their valuable inputs during the session.

South Zone Regional Judicial Conference on Administration of Criminal Justice: Issues and Challenges, June 14-16, 2013 (P-715)

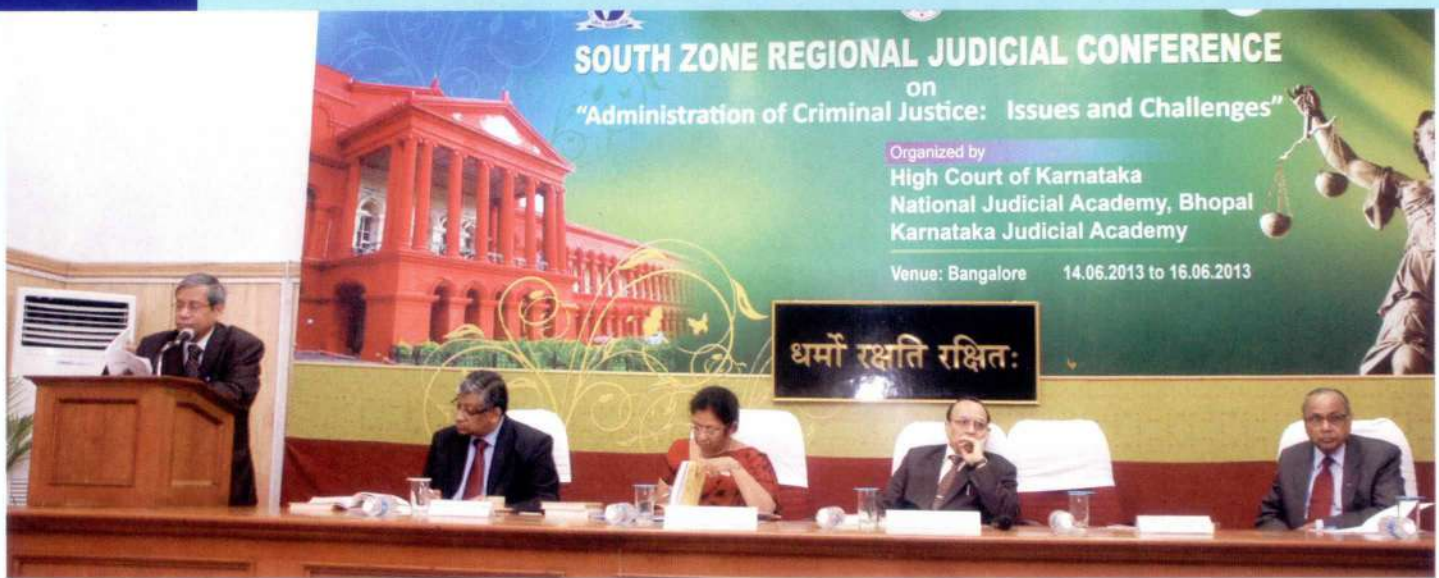


The main objective of this Regional Conference on Administration of Criminal Justice: Issues and Challenges were to discuss how to ensure effective protection and enforcement of the rights of accused, victim, prisoners etc under the Criminal Justice System. The topics for discussion were: Constitutional Origins of Criminal Justice System, Identification of Issues and Challenges facing the Administration of Criminal Justice; Judges' Presentations on "Role of Courts in the Administration of Criminal Justice", Fair Trial

Rights and the Criminal Justice System, Locating Victim under the Criminal Justice System, Sentencing and Role of Courts in Enhancing Access to Justice. The Conference was attended by Judges from Andhra Pradesh, Karnataka, Madras and Kerala and it offered the participants a detailed and comprehensive framework including quality standards and procedure which are followed in courts.

The various sessions during the Conference in Bangalore, which received 93 participants were guided





by Justice KS Radhakrishnan, Judge, Supreme Court of India; Justice V Gopala Gowda Judge, Supreme Court of India, Justice KJ Sengupta, Chief Justice, Andhra Pradesh



Interactive session

High Court, Justice SB Sinha, former Judge, SCI, (Chairperson, TDSAT), Dr. Balakrishnan K, Director, IBS Business School, Bangalore, Justice Dr. Manjula Chellur, Chief Justice, High Court of Kerala, Justice K. Sreedhar Rao , Acting Chief Justice, High Court of Karnataka , Justice KC Bhanu , Judge, High Court of Karnataka, Justice S Nagamuthu, Judge, High Court of Madras, Justice Mohan M. Shantanagoudar, Judge, High Court of Karnataka, Justice K J Sengupta, Chief Justice, Andhra Pradesh High Court, Justice TB Radhakrishnan , Judge, High Court of Kerala, Justice DH Waghela, Chief Justice, Gujarat High Court and Prof. (Dr.) Balram K. Gupta, Sr. Advocate, Director, National Judicial Academy.



Points to Ponder

Violence against Women-Judicial Response

Violence against women is one of the most prevalent forms of violence perpetrated against the weaker and dependant sections of society. Violence against women and children is a phenomenon that plagues most societies and cuts across lines of income, class, culture and nationality. Victimologically speaking, the impact of such crime differs in intensity and social consequences as compared to other penal offences; for instance, sexual assault has very wide and devastating impact on women which includes the stigmatization of the victim. The impact of a complex offence such as rape upon its victim is not merely physical; in effect it robs and violates the personality, undermining her confidence and affronting her dignity, even self esteem.

Violence perpetrated against women takes many forms. From the womb to the tomb, women face violence and abuse in one or the other form. As soon as a girl child is conceived, the unborn child faces discrimination and has to struggle for the right to exist and be born. As a child she faces neglect and child sexual abuse and is frequently made victims of rape, foeticide, infanticide, abandonment, prostitution and trafficking. The picture turns grimmer with the passage of time with rape, assault, spousal violence, cruelty, dowry death and many such heinous crimes being perpetrated against women. The recent incidents such as Baby Falak, the Shakti Mills gang rape and the Nirbhaya gang rape and murder are gruesome examples of the increasing trend of violence against women. India is increasingly being touted as one of the most unsafe countries for women.¹ Violence against women and children is not merely a crime against the physical person of the victim but are crimes against humanity and have serious and far-reaching impact on the victims as well as the society.

According to the National Crime Record Bureau (NCRB) Report on Crimes in 2012, crime against women during the year 2012 has increased by 6.8% over the year 2011 and by 24.7% over the year 2008.² Crime against women has been steadily increasing from the year 2007 till date and has shown an increase of 23.4 % from 2007 to 2011. In the year 2012, crimes against women amounted to 10.2 % of the total crimes under the Indian Penal Code. These facts and figures portray the grim reality of crimes perpetrated against women and children in India.

Violence against women and children as an area of litigation poses peculiar challenges and demands the adoption of special approaches by judicial officers. It requires special sensitivity from all sections of the criminal justice system, especially the judges. Judges need to be sensitized about violence inflicted on women and children and the trauma and stigma that such victims face as a direct consequence of the violence inflicted on them. The gravity of the situation has been noted by the Indian judiciary, as is evident from the statements made by the Supreme Court wherein crimes such as rape have been held to be not merely offences against the person but are also detrimental to the basic equilibrium of society³ and are crimes against humanity.⁴ The nature of the crimes against women and children and the trauma undergone by the victims requires the adoption of a sensitive and pro-active approach in dealing with such cases. The Supreme Court has repeatedly emphasized that such cases should not be treated as a normal offence⁵ and it is the duty of the courts to deal with such cases with utmost sensitivity.⁶ In an effort to do justice in cases of

1 <http://www.theguardian.com/world/2011/jun/15/worst-place-women-afghanistan-india> accessed on November 10, 2013.

2 Crimes in India 2012, NCRB

3 Jugendra Singh v. State of Uttar Pradesh, (2012) 3 SCC (Cri) 129

4 State of Rajasthan v. Om Prakash, (2002) 5 SCC 745

5 Ibid.

6 State of Karnataka v. Krishnappa, (2000) 4 SCC 75

State of Punjab v. Gurmit Singh, (1996) 2 SCC 384

violence against women and children, the Courts have adopted a sensitive and flexible approach towards the victim and his/her evidence in the Court. special care is required to be taken by the courts to ensure that the victim is not harassed or humiliated in the court processes.

As a positive step towards the sensitive handling of cases of violence against women, the Supreme Court has held that the testimony of a rape victim would be acceptable because no woman of honour would accuse another of rape in the Indian context. The character of the victim was earlier considered to be relevant. In the Mathura case⁷, the fact that the victim was habituated to intercourse was considered a relevant fact. The stereotyping of honourable and chaste woman has been subsequently done away with and it has been observed that even a woman of easy virtue is entitled to the right against invasion of her person⁸. In *State of Maharashtra v. Madhukar Narayan Mardikar*⁹ the Supreme Court held that a woman of easy virtue is entitled to privacy and is not open to any person to violate her person. The fact that a woman is of easy virtue is not sufficient cause to disbelieve her evidence. Furthermore, in the recent case of *Narendra Kumar v. State*¹⁰ it has been unequivocally stated that the character and unchastity of the victim is not a determinative factor in a rape trial. By no means can a rape victim be called an accomplice. Rape leaves a permanent scar on the life of the victim, and therefore a rape victim is placed on a higher pedestal than an injured witness. Rape is a crime against the entire society and violates the human rights of the victim.¹¹

The evidence of the victim of a sexual offence should ordinarily be believed unless there are special circumstances that call for caution. Conviction in such cases can be based on the evidence of the prosecutrix.¹² The Supreme Court has emphasized that in cases of sexual violence, undue emphasis should not be placed on minor discrepancies in the evidence of the prosecutrix.¹³

The courts should examine the broader probabilities of the case and not get swayed by minor contradictions in the statement of the prosecutrix to throw out an otherwise reliable prosecution case.¹⁴ This approach of the Judiciary specifically intends to ensure that the victim is not made to endure the additional humiliation of her evidence being disbelieved, and also to ensure that the victims are not discouraged from approaching the courts.

A significant judicial trend in cases of violence against women and children relates to the issue of consent of the victim in sexual offences. From the famous Mathura case till the present day, the judicial approach to this issue has evolved. In the Mathura case, the fact that the victim did not struggle or raise an alarm was taken to imply that the victim was a consenting party to the sexual act. This approach of the courts can also be observed in *Jagannivasan v. State of Kerala*¹⁵ wherein the question whether the victim was a consenting party was raised as the accused was an "attractive catch for girls to be bonded in matrimony". In contrast to this approach, the Supreme Court has subsequently sought to draw a line of distinction between consent and passive submission, and has held that the mere act of helpless resignation cannot be equated with consent.¹⁶ Submission to the act by the victim under fear or duress is not consent. Submission of the body under the fear or terror cannot be construed as a consented sexual act. Consent for the purpose of Section 375 requires voluntary participation not only after the exercise of intelligence based on the knowledge of the significance and moral quality of the act but after having fully exercised the choice between resistance and assent.¹⁷ Consent implies voluntary participation by the woman to a sexual act after fully exercising her choice.¹⁸

These approaches taken by the Indian Judiciary are a reflection of the degree of sensitivity of the courts towards violence against women and children. The

7 *Tukaram v. State of Maharashtra*, (1979) 2 SCC 143

8 *State of Haryana v. Premchand*, AIR 1990 SC 538

9 AIR 1991 SC 207

10 2012 CriLJ 3033

11 *Deepak Gulati v. State of Haryana*, 2013(7) SCC 675

12 *State of Punjab v. Gurmit Singh*, Supra Note 6

13 Supra Note 3

14 *State of Punjab v. Gurmit Singh*, Supra Note 6

15 1995 Supp(3) SCC 204

16 *Idan Singh v. State of Punjab*, 1977 CriLJ 556

17 *State of H.P. v. Mange Ram*, (2000) 7 SCC 224

Dilip v. State of Madhya Pradesh, 2013 (6) SCALE 264

18 *Roop Singh v. State of Madhya Pradesh*, (2013) 7 SCC 89

recent Criminal Law Amendment Act, 2013 has further reinforced the stand taken by the Supreme Court. The amended Section 375 of the Indian Penal Code defines consent as an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act. Furthermore the distinction between passive submission and consent has been reinforced as the Section 375 provides that failure on the part of the woman to physically resist the act by itself would not amount to consent.

Violence perpetrated against women and children is an indicator of the degradation of the social fabric and the erosion of social values and morals. It marks a descent into to animalistic nature of lust, revenge and dominance which is abhorrent in civil society. Such violence is a violation of basic and inalienable human rights and the rights that are guaranteed under the Constitution of India. Such crimes demand special treatment and require the infliction of stern legal repercussions, while at the same time require lenient and sensitive dealing with the victims.

Shruti Jane Eusebius

Victim Compensation Scheme under S. 357A of the Code of Criminal Procedure, 1973

Need of Effective Implementation

The Courts can order an offender to pay compensation to the victim of a crime under s.357 of the Code of Criminal Procedure, 1973 [hereinafter to be referred as Cr.P.C.]. However, in majority of cases, offenders may not have the capacity to pay the compensation or he may not be traced and then the victim/dependants may not be compensated or rehabilitated. Under such situations, the only recourse now before the courts is to invoke s. 357A, Cr.P.C. which remedies many shortcomings of s. 357, Cr.P.C. and provides for compensation to the victim even in cases of acquittal or discharge of the accused or if compensation under s. 357, Cr.P.C. seemed inadequate to the trial court.¹ The victim or dependants now can apply for compensation to the Legal Services Authority even if the offender is not traced or identified and where no trial takes place.² The Legal Services Authority has to process the application of the victim within two months³ and decide the quantum of compensation after due enquiry as per the recommendation of the Court.⁴ The Legal Services Authority can also order for free medical treatment or any other interim relief to the victim as per

the recommendation of the Police Station in-Charge or a Magistrate.⁵

This new provision mandates the State Governments to frame a scheme in coordination with the Central Government for providing funds for compensation to the victim/dependants who have suffered loss or injury as a result of the crime and who require rehabilitation.⁶ The Supreme Court of India in a recent case⁷ dealing with the issue of regulation of sale of acid and rehabilitation and compensation to the victim of acid attacks observed that till the year 2013, 17 States and 7 Union Territories had prepared the 'Victim Compensation Scheme' under s. 357A, Cr.P.C.

The need of maintenance of fund for victim compensation to provide immediate relief to

1 S.357A (3) Cr.P.C. Ins. by Act 5 of 2009, sec 28 (w.e.f.31-12-2009).

2 S.357A (4) Cr.P.C.

3 S.357A (5) Cr.P.C.

4 S.357A (2) Cr.P.C.

5 S. 357A (6) Cr.P.C.

6 S. 357A (1) Cr.P.C.

7 *Laxmi v Union of India and others* [Writ Petition (Crl.) No. 129 of 2006], 2013 Indlaw SCO 1380. The Supreme Court in this case ordered that victims of acid attack should be provided a minimum compensation of Rs. 3 lakhs by all the States and Union Territories. It further ruled that of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.

victims/dependants has also been highlighted in 2011⁸ by the Maharashtra High Court (Nagpur Bench) where six dependants of a person who died due to custodial violence in the year 1995 got compensation ordered by the Court only after more than fifteen years. The High Court observed that such unreasonable delay in providing adequate compensation to the dependants for their rehabilitation only aggravated their sufferings and if the fund had available under s. 357A, Cr.P.C then some consolation and solace could have been made available to the dependants of the victim. The High Court referred to Section 357A as a stable and long functioning arrangement and a step towards restitutive justice. But the Court was informed that no such scheme had been framed in Maharashtra so far and a specific direction was issued to the Principal Secretary, Law & Judiciary Department, Govt. of Maharashtra, to consider the observations of the Court.

Creation of a fund to pay compensation to the victims as envisaged under s. 357A Cr.P.C. is essential for providing a balanced Criminal Justice System to the citizens. The State Governments which have been exhibiting laxity in this regard need to start and expedite the efforts for creation of the fund which alone will make them cater to the concern of the victims whose rights including the right to be compensated for the wrongs done to them are now considered as human rights.⁹

8 *Smt. Amrutabai widow of Kalya alias Shama Ukey and Ors. v State of Maharashtra and Ors.*-High Court of Bombay (Nagpur Bench)-Criminal Writ Petition No. 293 of 2002-MANU/MH/0989/2011

9 The "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" adopted by the United Nations General Assembly on 29 November 1985 provides a comprehensive framework on the human rights of the victim. Annexure to the Declaration enunciates the human rights of the victims of crime as well as victims of abuse of power. Part A of Annexure deals with human rights of victims of crime and in it Article 8 provides for fair restitution to victims/dependants by offenders or third parties responsible for their behavior. This restitution includes the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights. Article 12 mentions duty of State for compensation to the victims/dependants of serious crime when it is not fully available from the offender or other sources. Article 13 mentions the establishment, strengthening and expansion of national funds for compensation to victims. Available at: <http://www.un.org/documents/ga/res/40/a40r034.htm>

It is also true that mere creation of the fund does not make the compensation scheme effective. There are a number of impediments in implementing the scheme to see that benefits to the victims can be provided without delay. The main challenge is the ignorance of victims about this scheme. For instance, in Delhi, a media report citing official figures mentions that since February 2012, only four rape victims have received compensation. Out of Rs. 15 Crores fund, only Rs. 12.71 lakhs have been used so far. Some 18 applications were pending before the concerned department when this media report was published.¹⁰ The Delhi Government finally has revised the procedures to compensate the victim at the earliest. In Karnataka too, the scheme is reportedly suffering from underutilization.¹¹ Systematic and coordinated efforts by the State Governments, police and Legal Services Authority are needed to achieve the desired goal.

Creating an awareness in the minds of the people about the scheme requires sustained efforts by Legal Services Authorities and will take some more time for its full utilization by victims. However, s. 357A, Cr.P.C. enunciates a proactive role of the court whereby the court can make a recommendation to Legal Services Authority for compensation to victim/dependants.¹² The trial court can also make recommendation for compensation if it is satisfied that the compensation awarded under s. 357 Cr.P.C. is not adequate for such rehabilitation or where the cases end in acquittal or discharge and the victim has to be rehabilitated.¹³ This appeal to the proactive role of the judge in making recommendation for compensation is well founded as a large number of victims may not be aware of such a scheme. Thus courts should regularly invoke this provision to save it from meeting the same fate as that of s. 357, Cr.P.C. which is often labeled as being rarely used by courts for the benefit of victim.

Rajesh Suman

10 Compensation for rape victims to come in a week; <http://timesofindia.indiatimes.com/city/delhi/Compensation-for-rape-victims-to-come-in-a-week/articleshow/17787606.cms>

11 <http://www.mangaloreinformation.com/city/2985-mangalore-victim-compensation-scheme-finds-no-takers>; Reported Mangalore, October 31, 2012.

12 S. 357A (2), Cr.P.C.

13 S. 357A (3), Cr.P.C.

News@NJA

- The Republic Day was celebrated with full vim and vigor at National Judicial Academy on January 26, 2013. The Officers and staff of NJA attended this function which was graced by the Director, NJA, Registrar (Academic Programmes) and Registrar (Administration). They exhorted everyone to work for the betterment of the Country and the Academy as well.
- Dr. Balram K. Gupta took over the reins of the National Judicial Academy on April 1, 2013 after Prof (Dr.) KNC Pillai demitted office on March 31, 2013 after a stint of twenty one months.
- Dr. Silla Ramsundar and Dr. Sheena Shukkur, both Assistant Professors at NJA left to join different institutions. Dr. Ramsundar joined the National Law University, Guwahati, Assam as Associate Professor in March, 2013 and Dr. Sheena Shukkur has joined The Mahatma Gandhi University, Kottayam as Pro-Vice Chancellor in April 2013.
- A meeting was held in New Delhi on May 27, 2013 and was attended by Mr. Justice Mohan Peiris, Hon'ble Chief Justice of Sri Lanka; Mr. Justice Altamas Kabir, Hon'ble Chief Justice of India, and the Director, National Judicial Academy, Dr. Balram K. Gupta. During the hour long meeting, details with regard to programmes for Sri Lankan Judges were discussed. It was tentatively decided to have two programmes at the NJA Campus and one programme in Colombo.
- Mr. Kuriakose Mathew, Administrative Officer at National Judicial Academy on written request was repatriated to his parent Department, the Indian Railways on May 31, 2013, after completion of 5 years of deputation period.
- The Chief Justice of Maldives, Hon'ble Mr. Justice Ahmed Faiez Hussain visited National Judicial Academy with his team of two members on June 11, 2013 to work out the modalities of having the Judges from Maldives train and interact at NJA.

Publications of NJA

Occasional Paper

- Series NO.1 – Judicial Accountability and Independence, Justice S. Rajendra Babu,
Series No. 2 – Contempt of Court, Fali S. Nariman,
Series No. 3 – Judiciary and Gender Justice, Justice R.C. Lahoti,
Series No. 4 – Risk Management in the Judicial Process, D.K. Sampath,
Series No. 5 – Canons of Judicial Ethics, Justice R.C. Lahoti,
Series No. 6 – Appreciation of Evidence in Criminal Cases, Justice U.L. Bhatt,
Series No. 7 – Uniform Civil Code: Purpose, Process and Prospects, Justice M.N.Venkatachaliah,

Recent Publications

“Quest for Justice- Collection of Essays” - A Book edited by Prof. (Dr.) KNC Pillai, Director, NJA containing contributions by Legal Luminaries and faculty members of NJA. (The Book is available at the NJA Library in Hard bound (ISBN No.:97881928873212) and Paper back (ISBN No.: 9788192573205) editions and can be purchased @Rs.200/- from the Library. For further queries, kindly contact:
The Library Assistant at 0755-2432581)

Resource Material

“Building Capacities-Developing Judging Skills through Case Analysis” - a compilation of exercises to help enhance judging skills.

NJA bids Farewell to Prof. (Dr.) KN Chandrasekharan Pillai & Welcomes Prof. Dr. Balram K. Gupta



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