



# NYAYA DEEP

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## *Editorial*

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In January 2014 and April 2014 issue where there was a departure from the earlier one and a pledge was made that there would be one edition of Nyaya Deep devoted to a singular 'theme oriented' articles having social relevance or current issues, it was also mentioned that diversity feeds the appetite of the mind and a rainbow of thoughts sharpens the intellect and arouses curiosity. It was assumed that both the depth and range of articles should be given due importance. An effort has been made, from then, to sustain the assurance and the promised involvement.

The current issue of 'Nyaya Deep' covers thoughts articulated by personalities from different walks of life and the canvas is vividly divergent. It is meant to be so. Equality, as a constitutional concept, has been axis of many a debate and discussion. The courts have drawn a distinction between formal equality and proportional equality. Equal justice has been a sacrosanct concept of constitutional justice that countenances classification albeit a permissible one which discards hostile discrimination and accepts a reasonable one. There is also emphasis on various component of Article 21, access to justice, free legal aid, equal opportunity to the persons with disabilities, Lok-Adalat system and its management and inclusion of public utility service – all in one canvas, that is, equal justice. The attempt is to acquaint and to spread awareness.

When there is deliberation on equal justice under the Constitution, the business of court management assumes great significance. There is a suggestion of change of mindset to achieve the result. The skill and planning have to enter the court management to yield the requisite benefit. Specific suggestions have been carved out to solve the problem of docket explosion. It is worth experimenting.

The concerned and concerted deliberation, in many a sphere, is basically to do justice. Victimology has gained ground. Laws have been made, decisions have been rendered but the horizon, as perceived, is yet to come in proximity. But there are seekers of truth and visionaries who perceive certain angles. The

stress on rehabilitation of rape victims is indicative of sociological concern. The thought has given birth to the idea which with the cooperation from other segments of the society will be a real fruitful one. It is to be remembered that before achievement, comes the idea.

Gender based violence in one word can be called 'inhuman'. The Parliament, in its legislative wisdom, has enacted the Protection of Women from Domestic Violence Act, 2005. The words of the statute have been injected with life by the courts. The thoughts in the mind of the thinker, has covered a large arena and the suggestions are thought provoking. All may not be acceptable but definitely project the debate at present.

Freedom of speech and expression is regarded as the sine qua non for governing of democratic body polity. The expanse of thought has been projected as ubiquitous. In that context, concept of obscenity has been reflected upon. Distinction has been drawn between group or isolated class perception and perception of the community at large. That apart, the focus is on the wholesome understanding of the write up or the projection, but not that of a segment.

Administration is an inseparable aspect of good governance. Skill, ability, planning and efficiency are needed elements of governance. Commitment, honesty and target output are extremely needed. The view expressed in the article is quite empirical and require attentive study.

I have endeavoured to encapsulate the articulations which constitute the heart of the articles. They have the potentiality to spread awareness and also provoke thoughts. They are there in this volume as they have relevance in the present context, and I am sure they can cultivate new ideas for emergence of a new society.



[Dipak Misra]  
Judge, Supreme Court of India

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## *Equal Justice Under Constitution*

### INTRODUCTION

Man is conceptual manifestation of nature and nurture. Hence two inflows operate on him i.e. biological and situational. They correspond to natural and civil rights and are significant for personality. **Magna Carta** speaks about nature and character of human being to which he can be adjusted. Whenever there is infringement of his rights there lies lie. Settlement of disputes is always referred to Court barring few settlements which are performed outside the Court.

Any dispute may be corporate, matrimonial or any other types keeps mind under tension till the same is settled. Determination of disputes without resorting to Court is always welcome. Neighbour, senior citizens or public at large interfere for mutual settlement of the dispute between the parties outside the Court.

### **What is Equal Justice ?**

Equal justice has not been defined specifically under constitution. However we can discuss the Constitutional Provision to understand the meaning. **Article 14** of the Constitution enshrines that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. It prohibits class legislation and not reasonable classification for the purpose of legislation.

It is not possible to exhaust the circumstances or criteria, which may afford a reasonable basis for classification in all cases. It depends on the subject of the legislation, and what it really seeks to achieve : **K. Thimmappa v. Chairman, Central Board of Directors, S.B.I.**, A.I.R. 2001 S.C. 467. What Article 14 prohibits is hostile discrimination and not reasonable classification : **Pathumma v. State of Kerala** A.I.R. 1978 S.C.771.

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\* Judge, Orissa High Court

### **Article 21 : Protection of life and personal liberty.**

No person shall be deprived of his life or personal liberty except according to procedure established by law.

#### **Important Components of Article 21:**

**Article 21** is one of those articles which, though not textually amended, has been totally transformed by virtue of important judicial pronouncements. It may be mentioned that the important components of Article 21 are the following :- (i) person; (ii) deprivation of life; (iii) deprivation of personal liberty; (iv) procedure established by law . Of these components, the second and the fourth are increasingly receiving expanded interpretation. Relevant to the fourth component is the decision in **Maneka Gandhi v. Union of India** A.I.R. 1978 S.C.597 which has totally changed the scope of Article 21 by demanding that the procedure must not only be established by law but that it must be just, fair and reasonable.

It is not enough that there is, in force, a law, which is formally, enacted by a competent Legislature and which authorizes the deprivation of life or liberty. The procedure must be such that it is in conformity with justice, fairness and reasonableness. Subsequent judicial pronouncements have spelt out the operation of this principle in varying situation.

#### **RIGHT TO FREE LEGAL AID**

**Article 21** of the Constitution also makes the right to free legal aid. On the other hand right to protection of life and personal liberty also contains right to free legal aid. So the State is to make provision for free legal aid under Part-IV of the Constitution.

**Article 39 A** : The State shall secure that the operation of legal system promotes justice, on the basis of equal opportunity, and shall, in particular, provide free legal aid by suitable legislation or schemes or any other way to ensure that opportunities of securing justice are not denied to any citizens by reason of economic or other disabilities. Read with Art. 21 this article has taken care to promote justice on equal basis and for that equal justice has to be rendered to all. On the other hand equal justice means to promote justice on the basis of equal opportunity offered and to have access to justice by the citizen of India.

In the decision of **Justice Sunanda Bhandare Fondation Vrs. Union of India** and another vide writ petition civil no 116/1998 disposed of on 26.03.2014 on Hon'ble apex Court held in following manner.

“Be that as it may, the beneficial provisions of the 1995 Act cannot be allowed to remain only on paper for years and thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to proactive. In the matters of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity”.

In the aforesaid case extending equal opportunity to the disable person or differently able person means this category of person must enjoy the rights as available to the normal human being under the constitution. On the other hand equal justice also be awarded to this category of persons for which the special Act namely “Persons with Disabilities Act (Equal opportunities Protection of Rights and full participation) Act 1995 should be implemented strictly.

#### **EVOLUTION OF THE STATUTE**

**U.K.** – In 1445 during the reign of King Henery VIIIth the reign of King Henery VIIIth the doctrine form *apauperis* was evolved and the destitute or penniless fellow was allowed to sue without payment of any Court Fee. On 13th July 1499 free legal Aid Act to poor was enacted in England and under such legislation no poor person was to pay litigant expenses.

**U.S.A.** Similarly in the United States in 1958 National Bar Association made efforts to defend the poor persons free of cost. Legal services corporation Act.1974 was enacted in United States of America to afford free legal aid to the persons who is debarred

from access to justice due to poverty and right to get legal aid became fundamental right in United States.

**INDIA** : Similarly in India some counsels in erstwhile Bombay in 1924 defended the penniless accused persons free of cost by forming Bombay Legal Aid Body. Later on in 1950 Bombay Committee to Legal Aid and Advice was constituted to provide legal aid free of cost. When the situation became grim in 1957 the conference of Law Minister of States was convened by Central Government and there the decision was taken to the effect that every member of the bar to take up six cases without any remuneration.

In 1978 Law Commission was constituted to find out ways and means for providing free legal aid and advice to the poor persons. Before that a Legal Aid Scheme was drafted in 1960 and 1970 under the Chairmanship of Mr. Justice P.N. Bhagabati a committee was constituted to examine if the Government can provide free legal aid and advice to poor. Later on in 1973 Justice V.R. Krishnayar also submitted a report holding that right to access to justice being a legal right should be made available to needy oppressed and poor persons.

When the Govt. felt the need to protect the poor citizens from onslaughts of the higher and rich people under **42nd Amendment of Constitution** Article-39 A was added in constitution directing Government to enact a free legal aid scheme.

**CILAS** : - Committee for Implementation of Legal Aid Scheme was established by the Union Government of India to accelerate the legal aid movement. The object of scheme was to render legal services free of cost and at the same time to hold Lok Adalat for resolution of dispute.

**Act 1987** : - Since the scheme has no any statutory recognition in 1987 National Legal Services Authority Act was enacted by the Parliament. Subsequently amendment was made in 1994. Chapter VI of the National Legal Services Authority Act 1987 (hereinafter called the Act) enshrines about the manner of holding Lok Adalats. This Act witnessed the light of the day only on 9<sup>th</sup> November, 1995.

According to Section 19, 20 and 21 of the Act the pending dispute and disputes yet to arrive at the court can be settled in the Lok Adalat. The Lok Adalat Judges may be retired or sitting judicial officers or any other person notified by the concerned authority. The decision of award of the Lok Adalat becomes final and is equivalent to the decree passed by the Civil Court. There is also innovative provision U/s.21 of the Act to refund the court fees to the parties under the Court Fees Act. Of Course the manner of refund has to be framed under rules by the State.

There is another achievement made under the statute towards establishment of the permanent and continuous Lok Adalat as well as conciliation and counselling centres in the undivided judicial districts in Orissa by virtue of notification issued on 26.1.2001. But later on Parliament made amendment to the National Legal Services Authority Act 1987 by Act. No.37 of 2002. Under such amendment a Chapter VI (A) was inserted after Chapter VI.

**Provision of Free Legal Aid in Statute :**

1. Sec.12 : Under this section of National Legal Services Authority Act following categories are entitled for free Legal Aid.
  - (a) Woman;
  - (b) Child;
  - (c) Labourer;
  - (d) SC and ST people;
  - (e) Person suffering from Natural calamity such as flood, drought, Land slide, Earthquake and such other Act of God.
  - (f) Persons suffering from communal violence;
  - (g) Persons suffering from mental disability, mental disorder or mental health.
  - (h) Persons suffering from physical disability.
  - (i) Persons in custody including custody in a protecting home within the meaning of clause (g) of section 2 of the immoral traffic prevention Act 1956 or in a juvenile home or in a psychiatric hospital.
  - (j) A victim of trafficking or beggar.

Besides, above group of people, the persons having Annual Income of One lakh is entitled to get Free Legal Aid in the District Courts.

### **MEANING OF LOK ADALAT**

Freely translated Lok Adalat means a people's Court. Lok Adalat or Lok Nyalay means a place of justice for a common man. Lok Adalat voluntarily efforts for resolving disputes through conciliation and persuasion. Lok Adalat is the innovative forum of legal aid camps. Lok Adalats are held with the spirit of give and take.

The common people may find attributes of court in Lok Adalat. It is a new system of dispensation of justice, which has come to existence to grapple with the problems of giving cheap and speedy justice to the people. Generally speaking, Lok Adalat is a para-judicial institution being developed by the people themselves. Still in its infancy trying to find an appropriate structure and procedure into the struggle of the common people for justice.

The drive behind the Lok Adalat is to prevent disruption of the mutual local unity and to secure equitable and substantial justice. They have their own eyes always on special goal like ending feuds rather than pending disputes resorting peace in the family community and locality and ultimately providing for destitute law or no law and also inculcating nature of amicable settlement of disputes amongst the people. Forum of Lok Adalat is contrived to enable common people to ventilate their grievances against the state agencies or against other citizens and to reach a just settlement if possible.

### **CONCEPT OF LOK ADALAT**

Lok Adalat is not a court as understood by lawyers though the common people may find attributes of a court in it and may even call it by that name. It is just a forum provided by the people themselves or interested parties including special activities local aiders and public – spirited people belonging to every walk of life. In fact all laws and constitution demand mutual settlement of disputes which under any circumstances is superior to long drawn

out expensive litigation. There are compoundable provisions in the civil

There are compoundable provisions in the Civil Procedure Code, Criminal Procedure Code and a variety of special local laws (Family courts Act and Arbitration Act) which enable the court to attempt settlement and avoid adjudication whenever possible.

The rationale behind such provisions is sound experience which tells us that adversary adjudication ending for one party declared the victor and the other anguished does not remove disputes from society and may lead to further dispute and social tension.

The Lok Adalat is not a substitute for present judicial system but is constituted as supplement to it with a view to curtail the mounts of arrears and to reduce the spirit of new institution.

#### **OBJECT OF LOK ADALAT**

The basic object of Lok Adalat is to friendly overcome difference or hostility they try to bring about a solution which is acceptable to both the parties by intervention of third party. The main characteristics of the Lok Adalat by conciliation process.

#### **PERMANENT LOK ADALAT**

There is word Permanent Lok Adalat added in Ch-VI (A) of NLSA Act 1987 in 2002. Sec.22-A to 22-E were added for the purpose of disposal of the pre-litigation lis on conciliation and on mutual settlement. Under the amended provision a permanent Lok Adalat was established to dispose of the dispute, which are yet to arrive the Court but such dispute must be connected with public utility service.

#### **PUBLIC UTILITY SERVICE**

According to statute :-

1. Transport service;
2. Postal telegraph;
3. Telephone service;
4. Service connected to supply of power;
5. Light or water to public;

6. System of public conservancy or sanitation;
7. Service in hospital;
8. Insurance service;
9. Any other service under Central or State Govt. time to time notify same as public utility service for public interest.

The public utility services should be expanded to other sectors in as much as the requirement of public has been enhanced due to the day to day needs of the society. Such services should be extended by either Government from time to time. It should not remain static.

#### **CONSTITUTION OF PERMANENT LOK ADALAT**

**Under Sec.22-B :** Permanent Lok Adalat should consist of three members out of whom the Chairman should be District Judge cadre Officer and two other Persons to be nominated by Central Govt. or the State Govt. having experience in public utility service.

#### **JURISDICTION OF PERMANENT LOK ADALAT**

This permanent Lok Adalat has no jurisdiction over the offences not compoundable in law and any dispute whose value does not exceeds 1 crore.

**Procedure for Settlement :** (i) it is the procedure for Permanent Lok Adalat to allow parties to put forth their documents after which permanent Lok Adalat will try for amicable settlement.

(ii) The permanent Lok Adalat Members have got also right to formulate the points for determination and supply to the parties to reach an agreement for settlement of dispute.

(iii) It is also revealed Clause - 8 of Sec. 22(C) that if the parties failed to arrive at an agreement the permanent Lok Adalat is to decide the dispute.

When the settlement in Lok Adalat is absolutely under conciliation proceeding and in the Lok Adalat the justice is not imposed but the parties settle the matter by give and take basis i.e. a party has to give up some relief and acquire some relief, the provision at Clause-8 of **Sec. 22 (C)** perhaps is contrary to philosophy of Lok Adalat as alleged by Bar Council of India in a writ petition. But the Hon'ble Supreme Court of India in the decision

reported in Bar Council of India Vrs. Union of India vide writ petition no. 666 of 2002 held that the permanent Lok Adalats are in addition to and not derogation of fora provided under various statutes. They further held that the disputes relating to public utility services have been entrusted to permanent Lok Adalats only if the process of conciliation and settlement fails in following manner

“Thus, settlement of dispute between the parties in matters of public utility services is the main theme. However, where despite the endeavors and efforts of the Permanent Lok Adalat the settlement between the parties is not through and the parties are required to have their dispute determined and adjudicated, to avoid delay in adjudication of disputes relating to public utility services, the Parliament has intervened and conferred and conferred power of adjudication upon the Permanent Lok Adalat. Can the power conferred on Permanent Lok Adalats to adjudicate the disputes between the parties concerning public utility service upto a specific pecuniary limit, if they do not relate to any offence, as provided under **Section 22 C(8)**, be said to be unconstitutional and irrational ? We think not”.

The Hon’ble apex Court has found such provision is not against the spirit of Lok Adalat and rather Permanent Lok Adalat has got conciliatory power as well as adjudicatory power. Such adjudication being made by statutory tribunal like Permanent Lok Adalat has no necessary all trappings of the Court.

(iv) **Section 22 (D)** : of the amended Act enshrines that the Permanent Lok Adalat while conducting conciliation proceeding or deciding dispute must follow natural justice objectivity, fair play, equity and other principle of justice but can’t be guided by C.P.C. or Evidence Act. This is obviously is to approach such Permanent Lok Adalat for settlement of dispute before the dispute brought before any Court (**Bar Council of India**).

(v) **U/s. 22(E)(1)** : the award of Permanent Lok Adalat is final. There was contention that such provision is unconstitutional but the apex Court in the aforesaid case held that any dispute against the award of Permanent Lok Adalat can be brought before the High Court to exercise the supervisory and extraordinary jurisdiction under Article 226 and 227 of the Constitution of India.

The award of the Permanent Lok Adalat is executable by the Civil Court under whose jurisdiction the subject matter lies. Moreover in case of settlement of cases by Lok Adalat the Court Fees paid are refundable. Such salutary provisions are no doubt encouraging promotion of justice through mechanisms of rendering equal justice.

**CONCLUSION :**

The free Legal Aid and Lok Adalat are all components of Access to justice. When a poor man gets rights to access to justice, he finds himself equal justice under Constitution. Justice means to find out the truth in terms of respective rights, duty and liabilities. So by virtue of Legal Aid and Lok Adalat programmes Equal Justice under Constitution has been achieved but the attitudes of the stake holders and mechanisms for implementing programmes are to take new dimensions.

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## *The "Business" of Court Management<sup>1</sup>*

A large company of consumer products, inter alia, manufactured soaps. Through oversight, a few empty soap cartons were shipped to a large departmental store. The company was charged with cheating and fraud. Its reputation was at stake. It needed to make amends. But the company had never intended to cheat or deceive – it had made a clear mistake. The management got installed a highly sophisticated detection system to oversee the products leaving its conveyor belt under a huge investment outlay. The system detected the empty cartons which triggered an alarm.

Another, much smaller, company manufacturing only soaps, installed a table fan running full blast over the final products leaving its conveyor belt. The empty cartons simply blew away!

### I. INTRODUCTION

Indian Judicial Reform programme has been much the same. We have shouted from the roof-tops that the population : judge ratio is abysmal. That was improved, to an extent. The increase in manpower brought no commensurate change in the case:disposal ratio. We decried that the judicial officers get too little remuneration for too much work. Their conditions of service have improved, to a limited point. Their workload has far outweighed the ripple effect without any perceptible dent. We earnestly desired that the judiciary keep pace with the latest technology which was claimed to be the answer to its ills in speeding up its work as it did in other areas of business. The Court computerisation programme is well under way. The initiative has unfortunately not brought out a sea-change in the judicial functioning.

Which method does the Justice system now need ?

How far away is its manufacture or use ?

A part of the answer is in the present-day suffix "Management".

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<sup>1</sup> This Article reflects the position of law as of March 2008.

## II. EVOLUTION

Since the time of the Industrial Revolution, all industries, trades, businesses, commerce, and later, even trusts, charities, educational institutions and even events came under the spell of Management. The art of managing affairs, people, countries and space grew into a science. The waves of management somehow failed to touch the shores of the Courts.

This was much the same in all countries, due to the intoxicating progress of science and technology. Much later in history, did the drivers of justice systems in many countries realise they had failed to keep pace with the world around them, even though laws, as evolving instruments of social change, had changed. Significant changes came about since the last half a century in the United States<sup>2</sup> and since the last decade in the United Kingdom<sup>3</sup>; two of the justice systems we have emulated and embraced since our Constitution.

## III. THE WESTERN SCENARIO

The thrust of the change in the justice systems in the West is largely a product of Court and Case Management.

Case Management is in essence the Court taking over management of the case.<sup>4</sup> It conceptualises the Judges being managerial<sup>5</sup> - managing their affairs with improved efficiency so as to speed up the final adjudication in managing the litigation process by innovation and adaptation, two hallmarks of good business practices. These Judges are, therefore, interventionists, being in the “driving seat” as ‘case managers’ first and ‘case deciders’ afterwards. They essentially limit the time taken for each step of the litigation - “definite issues,

<sup>2</sup> Federal Rules of Civil Procedure, 1938:- Rule 1 sets out the goal of the Judicial System “To secure the just, speedy and inexpensive determination of every action.

<sup>3</sup> Access to Justice: Final Report on Civil Justice Reform in England and Wales to the Lord Chancellor by Lord Justice Harry Woolf, Master of the Rolls, July 1996.

Its main features are pre-litigation mediation, shorter time scale of litigation (fixed dates, limited hearing time), capping of costs of Solicitors, Judges of the High Court and County Courts forming a judicial team, judicial training and Legal Aid funding.

It came about to beat the malaise of 2 or 3 years time earlier taken for resolution of a civil dispute. It propounds a time limit of up to 13 weeks for disposal of a civil suit. It shows the need to integrate and harmonize the Rules and Procedure for narrowing down the issues, witness statements and lays down a simplified procedure for appeals.

<sup>4</sup> Steven Flanders: Case Management and Court Management in the U.S. District Courts.

<sup>5</sup> Judith Resnik: Managerial Judges, Harvard Law Review. Vol.96 No.2 (December 1982) pp 374-448

limited discovery, evidence and arguments, setting deadlines for each of these steps<sup>6</sup>.

Case Management shows how best to go through each of the stages of litigation without delay<sup>7</sup>. Business management principles can help explain which of these steps can be combined with others or altogether eliminated.

The sweeping reforms that were advocated in the Report of Lord Justice Woolf on Civil Justice Reforms dealt with the aspect of reducing delays and costs. It divided the Civil suits into Small Claims Track for cases involving less than GBP 5,000/-, Fast Track for cases involving upto GBP 15,000/- and Multi-Track for the more complex cases, specially involving medical negligence. The first two types formed a chunk of the civil actions; each of the reforms suggested in the report was to be applied. The few cases left in the Multi track necessitated pre-trial reviews - 8 to 10 weeks in advance of trial. This was followed by fixed time-tables set out in a Case Management Conference and a Pre-Trial Conference (akin to giving directions in our system but followed more keenly and respected more sincerely).

*“There are no inherently protracted cases, only cases that unnecessarily are protracted by inefficient procedures and management.”*

- Chief Judge Alfred Murrah, Federal Court, USA<sup>8</sup>

A little research into our dockets would show that all but the most exceptional civil actions would qualify to be in the Fast Track bracket. These would involve a key issue to be determined, usually by documentary evidence. Monetary claims, suits against government or local bodies for injunctions, suits between landlords and tenants, suits to follow due legal process are some illustrations on the point.

In the U.S., the backbone of Case Management is contained in the Federal Rules of Civil Procedure (FRCP). It entails, what is now popularly called, Early Neutral Evaluation (ENE).

The hearing of a case commences with the Rule 16 Conference, also known as a scheduling conference or status conference.<sup>9</sup> The Rule

<sup>6</sup> Lord Woolf Report – See Chapters 12 (Disclosure) and 13(Evidence - witness statements)

<sup>7</sup> Thomas W Church: Justice delayed : The pace of litigation in urban Trial Courts.

The philosophy of court control for the pace of litigation.

<sup>8</sup> Courts and the litigation crisis: Where's the problem? Where's the solution? – Business Economics, October 1992 by Steven Flanders

<sup>9</sup> Under Rule 16 the Court is required to issue a scheduling order within 120 days of the filing of the Complaint. See also Civil Justice Reform Act, 1990.

16 Conference, a “dress rehearsal for trial”, is essentially for scheduling dates after the jurisdiction of the Court is established. On the scheduled date, the pivotal issues are identified, a shot at settlement is taken and a decision on whether the case can be disposed of on motion or by trial is determined. Only if a trial is necessitated, are orders for discovery made and the Final Pre-trial Conference scheduled for previewing the evidence and for considering the limits on the length of trial.<sup>10</sup>

#### The Elements of Case Management

– Publication of Federal Judicial Center, Washington D.C., 2006

Despite various critiques,<sup>11</sup> the Rule heralded the era of Case Management since 1938. Its amendment, by which Rule 16(f) was incorporated, lays down sanctions for failure to obey the scheduling or pre-trial order and grants expenses for non-compliance.

*“Judges who think they are too busy to manage cases are really too busy not to. Indeed, the busiest Judges with the heaviest dockets are the ones most in need of sound case management practices.”*

*William Schwarzer*<sup>12</sup>

#### THE INDIAN SCENARIO

The previously documented principles and procedures followed in Courts cannot be picked verbatim and applied in the Indian scenario; these must be adapted and calibrated to suit the ground realities of our country : “*Think Globally; Act locally*”.

The position of civil justice reform in the 50<sup>th</sup> year of the Independence of India was voiced in different quarters. In an

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<sup>10</sup> The Elements of Case Management – Publication of Federal Judicial Center, Washington D.C., 2006

F.J.C. was established by the Congress in 1967 as a continuing education and research arm of the Federal Judicial System.

See also Rubin : The Managed Calendar : Some pragmatic suggestions.

<sup>11</sup> Robert F. Peckham : The Federal Judge as a Case Manager. May 1991 Vol. 69 No.3 California Law Review pp 770-805.

The author was Chief Judge, U.S. District Court, Northern District of California.

Also, Wayne D. Brazil : Improving Judicial Controls over the pre-trial development of civil actions : Model Rules of Case Management and sanctions suggested major overhaul of Rule 16 : American Bar Foundation Research Journal, Autumn 1981, Vol. 6 No. 4 pp 873

<sup>12</sup> Judge William W. Schwarzer, *The Elements of Case Management*, 1991.

international study the overall impression of the justice system in India as it then existed, was :

Streamlining procedures which enable the Judge to frame the issues are rarely effectuated. Likewise, sanction power to impose costs for frivolous conduct is seldom exercised. Interim injunctive relief is routinely granted, but long delays in hearing the contentions of those enjoined persist. Commonly made interlocutory appeals fracture the case into many parts and effectively stay the trial. The absence of alternatives to litigation makes a full, discontinuous trial necessary, regardless of how long a full trial may take. Once a judgment is reached, the truly hard work of enforcement and execution begins. These compounding problems engender despair among pessimists and overwhelm even dedicated optimists, while public tolerance appears to be waning.<sup>13</sup>

The same malady continues to afflict, into the 60<sup>th</sup> year of the Independence except perhaps in areas of computerisation and classification of cases. All that is required today in the business of judging, is a change from within.

A Sitarist went to a guru to polish his skills. He played the Sitar as best he could. The guru showed him his faults. He practiced and improvised. Still the Guru showed other faults. He practiced more. The perfectionist Guru was not satisfied. He told the Sitarist to hold the Sitar in the other hand and practice from the beginning. The unlearning process resulted in perfection..... This is perceiving the perspective..... a complete change in the mindset to yield the desired result.

This end can be achieved in our justice system only by strategically overhauling the Rules and cannot be achieved within, under, or in compliance with the current procedural framework.

*“The more the rules, the more the rift”*

Case Management begins *before* a case enters the system and applies *not only* to cases that have entered the system. This principle brings to fruition a healthy “Court climate”.<sup>14</sup> A great

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<sup>13</sup> Indian Civil Justice System Reform : Limitation and Preservation of the adversarial process by Hiram E. Chodosh, Stephen A. Mayo, A.M. Ahmadi and Abhishek M. Singhvi in the Journal of International Law and Politics of New York University, (Fall 1997 - Winter 1998). Vol. 30 Nos. 1 and 2

<sup>14</sup> An atmosphere conducive to maintain respect and decorum expected of all the functionaries of the Court so that none can take the Court for granted. The litigants and lawyers must not be driven to say or think that a particular Judge would allow the unallowable.

deal of frivolous litigation - in suits, appeals or writ petitions - is avoided and eliminated by a sound Court climate. To instill confidence of the litigants in the justice delivery system, Courts are required to be scientifically managed. This involves two targets:

- (1) Reducing the number of cases entering the system; and
- (2) Improving efficiency in disposal of cases that have entered the system.<sup>15</sup>

*“The best way to predict the future is to create it”*

*- Management Guru, Peter Drucker.*

The justice system with about 16,000 Judges<sup>16</sup> in a country is a large enterprise. Several principles of Management must necessarily apply to such an undertaking. Its varied activities, in different divisions, require a specialised expertise to maximise its output through efficient use of its available resources.

#### IV. THE PRINCIPLES OF BUSINESS MANAGEMENT

Such a project requires implementation of the five basic elements of Management - Planning, Organising, Directing, Co-ordinating and Controlling.<sup>17</sup>

*“Failing to Plan is Planning to Fail”*

(a) The first and the most essential management principle is that of procedural simplification. Cumbersome and complex legal procedures thwart the most seasoned litigants.

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<sup>15</sup> See Saikat Neogi : Judicial Reforms : H.T. Research, Hindustan Times, Mumbai, September 27, 2007 for results of improved efficiency.

The Author emphasizes that an efficient legal system is crucial for economic growth. It stimulates economic growth by aiding market development, facilitates foreign investment, enforces property rights and helps in poverty alleviation. The article refers to a study by the University of Bonn showing that an efficient Judiciary can increase per-capita income by 1.9% (“efficiency” relates to efficacy in procedures and not substantive laws). Delays in Justice system have a direct bearing on business and investment. The article refers to a World Bank Survey conducted in 60 countries, including India, in the year 2000 which showed that an unpredictable Judiciary was a major problem in the business operations of those countries. (Perhaps that explains why jurisdiction of foreign courts is the norm in present arbitration agreements involving international contracts). Hence, the Author advocates investing in judicial reforms for future economic development and economic prosperity.

<sup>16</sup> The latest statistics show sanctioned strength of subordinate Courts to be 15,399 Judges and a sanctioned strength in the 21 High Courts to be 792 Judges; the working strength is shown to be 12,368 and 586 respectively.

<sup>17</sup> Principles of Management by Harold Koontz and Cyril D’Onnell.

The verbose plaint/complaint is the first inefficient step in the long march to a legal outcome. A parallel can be drawn to the wordy speeches of ministers derided in the famous book, "Yes Minister".<sup>18</sup> The service of the plaint/petition/ (and similarly appeal/Revision and the like) is a daunting prospect. It takes days, weeks, months, even years to see through. The response of the recipient requires to be made again and again in different forms and formats (affidavit-in reply, written statement, counter, defence). Even after the appearance and the representation of the defendant in a legal proceeding, service is required to be "effected" !

Interim proceedings and even ad-interim applications require time, effort and cost of the litigants, their Advocates and the Judge invested in them. Their disposal requires production of many documents by the litigants, arguments upon them by Advocates and consideration and appreciation of them by the Judge. They reveal all the issues, unveil the admissions of the parties and manifest all the facets of oral evidence. They require material documents to be produced and inspection to be taken. They throw-up various propositions of law to be propounded and decided. Some demonstrate the need for a resolution of the dispute by alternative means. Several of them are based on admitted facts and involve only questions of law or interpretation of documents for ultimate adjudication. Some merit but a compilation of the documents of the parties and written arguments by Advocates. Each individual involved in such exercise - the litigant, the lawyer and the Judge - is abreast of all the aspects threadbare. An adjudication of the dispute (decision) after such exercise is necessarily expected to be final, subject, of course, to the rightful appeals.

In no other profession, industry or business will so much effort be derided as so little and merit yet another full-scale endeavour after the clock has turned full circle. That endeavour is required to be repeated for the "final hearing" of the suit/petition/appeal/revision several months/ years later !

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<sup>18</sup> Jonathan Lynn and Antony Jay in "Yes Minister - the diaries of a Cabinet Minister by the RT Hon. James Hacker MP" "..... years of political training and experience had taught him to use 20 words where one would do, to write millions of words where mere thousands would suffice, to use language to blur and fudge the issues and events so that they become incomprehensible to others. When incomprehensibility has been achieved by a politician, so has temporary safety - Editor's note pp7

An effort in the right direction has been attempted in petitions/appeals/revisions for avoiding such blasphemous duplication of effort in what is popularly called “hearing at the stage of admission”. This has resulted in reducing an entire stage of hearing. This has not been applied to suits – and suits form the bed-rock of litigation in the country! More than 15,000 out of 16,000 Judges are outside the purview of this band-aid to the malady.

The question that has confounded jurists and the man-in-the-street alike is how no one who is in charge could think and evolve a procedurally simpler system which will beget the same result on merits and without duplication of effort.

Despite all these, a strike at procedural simplification of cases in the Justice System demands no great brilliance, intellect or industry. It need not be a ground-breaking, earth-shaking decision. It needs but an open mind and a desire for change. It requires only an honest acceptance of the present mess and a genuine desire for a tidier tomorrow. It, therefore, calls for the application of the elements of management principles - planning how the procedural wrangles can be weeded out, organising the case-files by simplifying the procedural requirements for each case, directing from the top, co-ordinating with all the Courts in the federal hierachial set-up, and controlling also from the top.

*“Successful people do not do different things; they do things differently.”*

The exemplary work of the great economist, Muhammad Yunus, shows how momentous ideas take shape in simplicity. The micro credit concept of Grameen Bank has evolved into an economic powerhouse.<sup>19</sup>

A simple blueprint for this much-needed, earnestly-desired change can be brought about by a single or a combination of the following modes:

- (a) Amendment of the CPC and the Rules of the Courts.(CPC)
- (b) High Court Practise Directions for itself and the subordinate judiciary (HCPD)
- (c) Precedents (Pr)
- (d) Judicial Training and Education (JT)

These would apply to the various stages of proceedings<sup>21</sup> thus :

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<sup>19</sup> Muhammad Yunus & Alan Jolis : Banker to the Poor (Autobiography)

<sup>20</sup> Salem Advocates Bar Association, T.N. v/s. Union of India (2005) 6 SCC 344

No.	Topic	Particulars
1. Complaint	Complaint to be accompanied by a synopsis and short affidavit verifying its contents	CPC HCPD
2. Service	Private service to be allowed by any mode mentioned in the C.P.C. Service by RPAD and UPC to be encouraged. This applies to Writ Petitions, Appeals, Applications and Revisions	HCPD
3. Deemed Service	Once the Defendant appears in person or through Advocate, summons must be deemed to be served under the Rules. This applies to all Suits, Applications, Writ Petitions, Appeals, Revisions etc. <sup>21</sup>	CPCPr
4. Defence	There need be only one form of defence e.g., A/R, W/S, counter (by whatever name called)	HCPD Pr
5. Written Statement	W/S should also be accompanied by a synopsis, an affidavit verifying its contents and draft issues	CPC HCPD
6. Interim Applications	I/A to be decided upon the defence filed (which defence alone can be considered even at the final stage)	HCPD
7. Vakalatnama	All Vakalatnamas should be filed in the suit itself	HCPD
8. Original Documents	Original documents must be produced in Court by all parties (they can be seen by the Court as well as offered for inspection to the other party)	HCPD JT
9. Issues	Issues must be framed along with the order on the I/A. If any issue can dispose of the suit, it must be tried first (as pivotal issue)	CPCJT
10. Admissions	Admissions, if any, to be recorded along with the Order on the Interim Application	CPCJT
11. Costs	Heavy and realistic costs as per present standard of living be granted to the wronged party and made condition precedent	HCPD JT
12. ADR	All suits which are appropriate to be referred to Mediation etc. must be so referred	JT
13. Judgments on arguments	Suits involving only questions of law or interpretation of documents and not requiring any separate oral evidence may be disposed of at the stage of hearing of interim applications.	CPC JT HCPD

<sup>21</sup> Sunil Poddar v/s. Union Bank of India (2008) 2 SCC 326 and D. Vinod Shirappa v/s. Nanda Baltiappa (2006) 6 SCC 456

14. Compilation	Copies of documents certified as true copy by the Advocate may be taken as compilation	HCPD
15. Examination-in-Chief	Pleadings (which are accompanied by a supporting affidavit) must be used as Examination-in-chief and parties be directly cross-examined thereon <sup>22</sup>	HCPD
16. Documents	Court to consider initially all admitted documents to be marked as Exhibits, followed by certified copies of public records or judicial proceedings also to be marked as exhibits Court to consider admissibility of only private documents shown in the affidavit of evidence/pleadings	JT HCPD
17. Cross Examination	Court to record cross examination by Commissioner in all routine, usual cases Junior Advocates to be appointed on a panel of Commissioners with reasonable fees Cross-examination to proceed day-to-day	HCPD
18. Arguments	Written arguments to be insisted upon. Oral arguments only to highlight points in the written arguments within specified time limit	HCPD
19. Judgment	Judgment be delivered immediately or within 30/60 days as allowed in the C.P.C. Judgment copy to be ready on the date of pronouncement Judgment to be uploaded on the server for the with	HCPD
20. Decree	Certified copy of the Decree to be issued within 15 days aided by Court computerization	HCPD

*“The best way to escape from a problem is to solve it.”*

Whereas each step of the litigation requires fine tuning and honing, as above, each step taken individually may result in only cosmetic changes. Such tidying up exercise would apply to at least 60% of the cases filed that could be ended more speedily.

The mass of rules that govern us have been the road-blocks to a speedier system. A smoother system with lesser rules may require their alteration or even obliteration.

A young scientist, newly hired in the laboratory of Thomas Alva Edison, went up to him on the first day of work and asked him what were the rules in the work-place.

“We got no rules here my son. Here, we want to ACHIEVE something” said the Master.

<sup>22</sup> Bar Council of Maharashtra & Goa v/s. Shamrao Vishnu Kanjir AIR (2006) BOM 167

Each Judge owes a responsibility and has the privilege to put his astute discretion before the technicalities of the rules. The system requires to be geared for change of the procedure advocating its simplicity rather than being a slave of it.

*The best 10 2-letter words may be apt,  
If it is to be, It is up to me.*

(b) An equally efficacious, though more artful business canon, is the strategy of Paradigm shift<sup>23</sup> first propounded by Thomas Kuhn outlining scientific revolutions of significant changes in the basic thought.

It might be interesting to know that the technology of Quartz watches, which eliminated the tedious, monotonous act of winding watches, was introduced by a Swiss. This scandalised and outraged his countrymen who believed that no technology can replace the mechanics of winding watches as evinced from their best national products Omega or Rolex. The invention, discarded by the Swiss, was accepted by the Japanese. The result is history writ large on millions of wrists! That is a classic illustration of paradigm shift. It is largely analogous to CBI - Creative Business Ideas - in the commercial jargon. The example of “Intel Inside” in the sale of computers involved a similar strategy. The added features of technology in software design revolutionised computerisation. The Justice system needs such an overall shake-up. The import of the procedure of “Summary Judgments” from the U.K.<sup>24</sup> and U.S.<sup>25</sup> Civil Justice systems, with the required modifications to suit the Indian legal framework, may be apt.

In the U.S., a party in a civil suit may apply for disposal of a suit by a “Summary Judgment” and “motions of Demurrer” if no evidence, or further evidence, is required to be led. Such a suit is, therefore, decided on a motion by either party. Even a part of the dispute can be adjudicated by a ‘partial summary judgment’ in cases where the reliefs are severable.

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<sup>23</sup> See Kuhnian Paradigm Shift : The structure of scientific revolutions, 1962.

See also Marcus Buckingham and Curt Coffman : First, Break all the Rules : What the world’s greatest Managers do differently. The Authors have considered Personnel Management required in all enterprises which work to provide services for a more positive and productive work environment yielding better business outcomes. They have challenged the conventional business practices and axioms. They have advocated to focus people toward performance.

<sup>24</sup> Lord Woolf Report, Section III.

See also Civil Procedure Rules, 1998 (CPR) (U.K.) in force from 26<sup>th</sup> April, 1999.

<sup>25</sup> Rule 56 of the Federal Rules of Civil Procedure (FRCP) in the U.S. District Courts.

Experience has shown that at least 65% of the civil suits in India on merits involve only an interpretation of documents upon certain admitted facts or a question of law emanating from the pleadings. Such suits do not need oral evidence to be recorded. The Court may, suo moto, or on an application by either party, set such a suit for disposal on merits by arguments. The hearing of an interim (and even ad-interim) application in a civil suit may also manifest such an exercise as opportune. Documentary evidence alone, relied upon by a party, (which necessarily excludes oral evidence as an elementary principle of the law of evidence) can decide the fate of the several law suits on merits. In several such cases, the need or even desirability of oral evidence is questioned. The system which does not heed research into newer and better ways of dealing with and disposing of such cases is flawed. The removal of the flaw entails eradication of the mindset which fails to envision the stark reality.

*“The mind is like a parachute;  
It works only when it is open.”*

What strategy is called for under such circumstances ? An application for disposal of such suit on merits, the decision of the Judge to dispose of such suit on arguments, or better still, the disposal of such suit itself on the interim application (with express reasons for such disposal).

Any party may, at any stage, apply for disposal of the suit by arguments if it can be disposed of on a question of law, admitted facts or interpretation of documents or law. The Court may suo moto set the suit on board for disposal by arguments if it satisfies the above requirements.

If, upon documentary evidence or on a question of law, a party applying is clearly seen not to have made out even a prima facie case, the suit itself can be dismissed on merits at the first hearing itself. It would not be surprising that a large percentage of litigation, specially in subordinate Courts, would come under the purview of disposal “on merits” without the need for oral evidence.

Yet another radical strategy in this direction is called for. It is common knowledge that a large chunk of the present day civil litigation in today’s intensely litigious society entails filing frivolous suits or raising false defences.<sup>26</sup> Few civil actions involve an equally

<sup>26</sup> In the U.S. they are referred to as “boilerplate defenses”. In a Rule 16 Conference, the Judge shall narrow down the issues to those only genuinely in dispute and, consequently, limit discovery.

arguable case on both sides. The grant of injunctions in frivolous suits, which last for years before the trial ends and the appeals are exhausted, confounds the situation. Similarly, the wait for trials which spans decades allows germination of false defenses. The endemic malaise cannot even be lessened, much less obliterated, by reducing the delay for trial. It matters not to a recussant sleaze that the injunction obtained in an undeserving cause lasts for 5 years and not 10 years. Similarly, it matters little to a party who only desires to delay the passing of a just decree against him that it can be forestalled by 5 years and not 10 years. Hence, lessening the delay period by a few years has not resulted in commensurate cleaning of the system. An equal number of frivolous suits keep on being filed; an equal number of false defenses keep on being raised. The system which breeds such litigation expands the vicious circle. The business strategy in this scenario is to take up the latest cases first. In other words, to constitute a new Court for taking up new cases filed in the current year, not just for hearing interim applications, but for their final disposal. Only when the litigants realise that it does not pay to file frivolous suits or raise false defences and the cost:benefit ratio becomes adverse - as the suits are disposed off within months of filing - that the lassitude would terminate.<sup>27</sup> This would decrease the filing rate itself, facilitate settlements and improve Court climate.<sup>28</sup> By this, the management of the Courts will have extended to cases that have yet not entered the system. The ultimate result would be what is called “Rocket Docket” in the U.S., when a case is taken up involving the principles of management and set down for hearing on a date “written in stone”.<sup>29</sup> The sagacity and wisdom of such classification would be seen in the ultimate performance of the system.

Another area for such quantum leap is the jurisdiction of Courts in appeal. The Judges’ Act, 1925 gave power to the U.S. Supreme Court to not only decide appeals but also to decide which appeals it would decide. Certiorari is issued only in 70-80 out of about 7000 appeals filed each year. It is stated to have been “necessitated by the unmanageability of the Court’s Appellate

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<sup>27</sup> Sakiri Vasu v/s. State of U.P. (2008) 2 SCC 409. See also (2008) 2 SCC 403

<sup>28</sup> Rule 11 of FRCP allow motions for dismissal of frivolous law suits resulting in a weeding process.

<sup>29</sup> Larry L. Sipes : Reducing delay in State Courts : A march against folly - (1985) 37 Rutgers Law Review 299-317

The work sets out delay reduction programs by controlling case flow with firm trial dates.

docket in the old jurisdictional dispensation and to re-define the role of the Supreme Court in American life.<sup>30</sup> Division Benches of High Courts are indispensable, only for determination of the final merits of the case in appeal. Use of Division Benches for paltry work, or “admissions” results in mal-utilization of the most valuable resource of the judicial undertaking. Two Judges of the Division Bench would yield double the output if acting singly or separately. Similarly, as a converse rule, Justice Sabharwal, ex-CJI, in a lecture on “Delayed Justice”<sup>31</sup>, suggested that cases which would definitely result in appeal could be set before the Division Bench at the outset.

*“To be a success in any business,  
Be Daring, Be First, Be Different”.*

(c) Another management principle which cries for application in the justice system is the Doctrine of “Non-Value added items”<sup>32</sup>. Even a grocer knows which goods do not sell and will refrain from stocking those. He also senses which wares need to be displayed in the front row. He understands; “what is in it for me?” The Courts have neglected to envision this salutary rule. Technicalities are given overmuch importance. They consume a disproportionate amount of time. They do not beget commensurable results. The scenario is like repairing a car with the engine running. Typical illustrations on the point are applications for bringing heirs on record after the death of a litigant, applications for amendments of pleadings, passing of directions for getting suits ready for trial including needless directions for service, filing of defenses, placing suits for ex-parte hearing/decree/dismissal, issue of witness summons, applications for restoration of dismissed suits/writ petitions/appeals/revisions, condonation of delay in filing appeals or review petitions, admission of first appeals/writ petitions (both civil and criminal) directions for deposit of decretal amounts in first appeals, investments of amount deposited in summary suits, first appeals and even passing “due orders”, which are more

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<sup>30</sup> Michael W Schwartz : “Our fractured Supreme Court” Feb-Mar.2008 Policy Review pp 147

<sup>31</sup> Justice Sobhag Mel Jain Memorial Lecture on “Delayed Justice” delivered on July 25, 2006.

<sup>32</sup> “Business Method and Data Structure for eliminating non-value added data activity across a business continuum” has also been patented under U.S. Patent No.20020138484 showing the method of reducing redundant activities in various departments of a business.

administrative than judicial in nature. No qualified executive in any Corporate undertaking would relish performing functions which call for so little intellectual satisfaction. But it lies in the lot of the Courts to suffer such labour which consumes at least an hour of each work day and benefits no one. This constitutes 18-20% of judicial time. For a strength of the Court at 60 Judges, it consumes the work-load of 10-12 Judges. Hence, if such wanton tasks are removed, the Court would effectively function on strength of 72 Judges! Such cost accounting would exhibit the economics of mal-utilisation of meagre human resources. This calls for problem identification and problem solving skills, making a cause and effect analysis of model cases with statistical time control techniques.

A single answer to such an all-pervading conundrum in the law Courts is to relegate such functions to the Registry with pre-determined parameters for passing directional orders.<sup>33</sup>

Dismissal orders for want of service within the statutory time frame may be passed by the Registry. Once served, the defendant/respondent need appear only before the Registrar to file his defence within the statutory period. Failure would entail *ex parte* order/decree to be passed by the Registrar. Setting aside such orders can also be automated, up to a point. All applications for restoration of dismissed suits/petitions appeals, or applications for condonation of delay in filing appeals/revisions may be allowed as a matter of course, subject to payment of fixed costs (say Rs.10/- per day of delay) to the Legal Services Authority by the Registry itself. The parties would be more concerned with the interim reliefs being vacated upon dismissal. Similarly all amendments be allowed by the registry as a matter of course (after all, this same material could have been a part of the pleading in the first place and that could not have been vetted in the system prevailing at present). Legal heirs may be brought on record of suits as a matter of course (except in few cases when it is shown that the cause of action does not survive or their heirship is disputed). Whenever any amount is deposited in a suit/appeal/petition immediate investment is called for without any judicial direction. The aid of computerisation with auto-text directions can be put to use.

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<sup>33</sup> In some Courts in the U.S., "Magistrate Judges" supervise pre-trial process and work as a team with the presiding judges who co-ordinate their respective work periodically to set out the general ambit for directional matters.

Only after the pleadings, with synopsis and draft issues (in a suit) are filed, the suit need come up before the Court. The hearing on merits is the hallmark of our system, which is never jettisoned anyway. Such organisational design would leave time for “the mills of Courts to grind slowly” and yet “grind exceedingly well” for the core that remains and in which impetuosity has no place. The result is quantity of disposal without sacrificing quality and expeditious justice without sub-standard justice.

As regards precedents, the practice prevailing in the U.S. of enunciating a well settled principle of law so as not to refer to further case law on the subject, may be worth following. Every 10-15 years, precedents are examined in the U.S. to frame a “restatement” of the law on every subject. After the re-statement, no case can be cited of a period prior to the restatement. Once a principle of law, which would cover a number of cases is settled, all such cases must be sought out, classified, and concluded in terms thereof rather than waiting for them to reach to be disposed of in good time.<sup>34</sup>

(d) Following as a corollary, is the management principle of Core Competence<sup>35</sup>. Once the trivial auxiliary work is discarded, the Courts would be utilised only for the aspects they are best equipped to handle. This is in terms of the basic economic theory of comparative advantage.

The Golden Rule of business is :-

*JAM yesterday - JAM Tomorrow - but NEVER JAM Today.*

The seminal managerial action of an interventionist Court is to sift the suit that comes up before it. This may demand the usage of such salutary, but little-used provisions of the Civil Procedure Code (CPC) as contained in Order 7 Rule 11, Order 10 Rule 1, Order 11 Rule 5, Order 12 Rule 6, Order 14 Rule 2, Order 15 Rule 1.

Non-payment of ad-valorem court fee in each merited case is a consistent breach. Filing suits ostensibly for reliefs other than what in substance the action prays for is also endemic. Rejection of such plaints is necessitated.<sup>36</sup> Framing and answering

<sup>34</sup> This practice followed in the Supreme Court of India in the 1990s is hailed as having disposed of thousands of pending cases in groups as per precedents.

An illustration in point to appreciate the ambit of such effort is the case of Secretary, State of Karnataka v/s. Uma Devi (2006) 4 SCC 1

<sup>35</sup> See The C.C. of the Corporation, 1990 Gary Hamel and C.K. Prahalad for sustainable competitive advantage.

What is not a company's Core Competency, should be outsourced; what is difficult for the competitors to imitate, should be cultivated for maximum output as a corporate strategy.

<sup>36</sup> Hardesh Ores Pvt. Ltd. v/s. Hede & Co. (2007) 5 SCC 614.

preliminary issues resulting in disposing of the suit which would otherwise consume needless judicial time and to bring out the same result after years is a matter of managing the case as much as a binding precedent. Statements made by defendants about certain facts in issue would result in disposal of several suits at the first hearing itself. A slight lapse on this score would entail avoidable judicial time in future. Thus when the cause of action does not survive, the suit/petition/appeal has been infructuous, the procedural mandate is to immediately dispose it off.<sup>37</sup> Recording of admissions culled out from the pleadings, or examining parties at the first hearing on important aspects may narrow down the issues in dispute. “An activist Judge is the answer to irresponsible law suits”.<sup>38</sup> Passing judgments on admission may bring about a judgment on a part or full of the claim in suit. Requiring parties to produce original documents in Court may occasion giving inspection in Court and obviate the need for future correspondence. Each of procedural niceties are not ornamental; they must and do result in weeding out the wanton, unmerited cases.

The analogous system prevalent in the UK is the passing of “consent orders” and “unless orders”.<sup>39</sup> The dismissal of trial is imminent unless directional orders are scrupulously followed or its breach is without intentional or contumacious conduct. Once done, the remainder of the suits/appeals/petitions are the ones deserving deliberative, “patient” hearing, which is the specialized expertise - Core-Competence - of the Courts.

(e) Close on the heels is the tenet of Time Management<sup>40</sup> Gerard M. Blair: Personal Time Management for Busy Managers.

The author narrates how the “Eff “ words - effective, efficient, effortless – can be utilized for work practices. as the business maxim applicable to today’s justice system. This involves a study of how to manage a given activity to its completion within a prescribed time and defining outcomes and physical actions within such time frame. With so much work and so little time,

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<sup>37</sup> Shipping Corporation of India v/s. Machado Brothers 2004 AIR SCW 1842 .

<sup>38</sup> T. Arivandandam v/s. T.V. Satyapal 1997 (4) SCC 467.

<sup>39</sup> Litigation Lawyer : A new approach to “Unless orders” – the criteria revised by the English Court of Appeal in 1997.

<sup>40</sup> Gerard M. Blair: Personal Time Management for Busy Managers.

The author narrates how the “Eff “ words - effective, efficient, effortless – can be utilized for work practices.

See Robert W. Bly : Time Management : Make every second count.

even for the most pivotal function of hearing the cases on merits, the need for choosing the most opportune case arises. Time consumed by an unmerited, ill-conceived case adversely affects all the cases waiting in queue which only “stand and stare”.

A management professor brought a tumbler and some paraphernalia to class. He put some big rocks in the tumbler till they came to the top. He asked his students if the tumbler was full. The management students replied in the affirmative. He asked them if they could put in any more rocks. They answered in the negative. He put in some smaller rocks and pebbles. He shook the tumbler so that the pebbles occupied all the vacant intermolecular spaces. Then he asked his students if the tumbler was full. They said that then it was full. He then he sprinkled some gravel and sand till it filled to the top. He again asked his students if the tumbler could take in anymore. They replied in the negative. He then poured in a jug of water till it came to the brim. Then he asked his students the moral of the story. Being management students, they answered that the moral was that no matter how much was put into the tumbler, there was space and time to put in still more. The professor sighed – “that is right, but that is not the moral of this story”. He said, “the moral of this story is that if you do not put in the big rocks in the tumbler first, you will never be able to put them in at all”. “So”, he continued, “tomorrow morning when you get up, ask yourselves, ‘what are my big rocks for today’? And put them in your day first. The smaller rocks and the other things will fit into your day anyway.”

(f) Yet another facet of efficient business governance is its accounting arm. Cost Accountancy is an indispensable part of every business activity. The most significant capital asset of Courts is its time. Time Accountancy would, therefore, be the most notable aspect of a Court’s balance sheet. The double entry book-keeping would command the dual aspect of setting down the time frame for each step of the litigation,<sup>41</sup> the most distinctive being the stage of arguments, and awarding costs, “heavy”, if not “actual”,<sup>42</sup> for any abuse of legal process.

<sup>41</sup> Larry L. Sipes : Reducing delay in State Courts : A march against folly. (1985) 37 Rutgers Law Review 299-317.

An analysis of the delay reduction program in the Federal Courts in the U.S. from 1970.

<sup>42</sup> In the U.K., the system of awarding actual costs is so ingrained in the judicial process that it has encouraged the “rightful” party to prefer a large number of applications, the costs of which would be borne by the “wrongful” party. This has led to the new rule of “capping of costs” in all fast track litigations. Costs cannot exceed a defined upper limit in such suit as per Lord Woolf Report.

(g) Though to a lesser extent, a further Business dictum is that of **Decentralization**. The service of notices, summons, proceedings can be best effected, by each of the litigants/ lawyers desiring to serve in place of the Courts. Service would be by each one for oneself and the Court for none, but the most exceptional. The making of the “paper book” in appeal must go the same way.

(h) The other side of the managerial coin is Specialization. From the era of Industrial Revolution the sole proprietor progressed to be a partner. One partner took care of the Capital; the other concerned himself with labour. The principle of Specialization of aptitudes with Decentralization of work was born. It further evolved into Joint Stock Companies. The shareholders/members who owned the Company and brought in the Capital are a class apart from the Directors who man the company as agents, trustees and managing partners. The specialization of work brings out the best of their talents, aptitude and experience. Today the same applies even in the field of law. A 3-year infant lawyer “specializes” in one branch of law that his Senior excels in and to which he has been exposed since his entry in the profession. Why then should a Judge not specialize in an area of law in which he can give his best? Why should he be thrown in the arena like an Androcles to fight the lion? An argument on the other side is that he would be trained to be an all-rounder. Is that necessitated in the present judicial scenario where he is neck-deep in work which would not abate at least till his retirement? He learns, but at whose cost? And for whose benefit? Should the litigant be the guinea pig? Should his well-acquired talent in one field be wasted to spend his time acquiring talent in another field as on-the-job-training? The desire to “get value for money” has caused the British judiciary to have Judges preside over the Bench in the realm of law to which they have been accustomed and in which they have had experience. In fact, Judge preference is an aspect specially considered for assignment of judicial work.<sup>43</sup> Lord Woolf Report 1996 para 41

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<sup>43</sup> Lord Woolf Report 1996 para 41

Also, the Advocates’ Society conducted “Long Trial Survey” of 2,000 lawyers on Ontario. It designed a questionnaire showing reasons for delay in trials. The respondents suggested reforms to beat the delays in Courts. The survey showed, inter-alia, the need for “specialist” Judges.

(i) The feature of Corporations delving into the public sphere has evolved from the then novel business policy of General motors, the giant auto industry of America. Corporate Social Responsibility has been at the core of the management of General Motors since it declared: “What is good for General Motors, is good for America.”

The Judiciary has left an indelible mark on public life. In substantive laws and their interpretation through precedents, India is a fore-runner and looked upon with awe for inspiration<sup>44</sup>. It, therefore, falls upon it to take the public, the litigants, in its stride, much like worker participation in management. Efforts have been made in the area of legal-aid and allied legal services for a more fruitful access to justice.

This concept can well be enhanced as a partnership of “Judicial Social Responsibility” and “Legal Social Responsibility” with both the lawyers and the Judges putting in their best for the litigants they serve.

(j) No business or profession can survive the vicissitudes of the present times without Continuous Education.<sup>45</sup> Judicial Education, which was initially perceived as a threat in all countries, has now come to stay, especially in areas of racial and gender discrimination, human rights, procedural reforms, judicial ethics, victimology, ADR, environmental issues, judicial accountability and transparency, technology in Courts, court craft, court-room conduct, contempt of Court, recording and appreciation of evidence, role of media, judgment writing, amongst others. The exchange of ideas, thoughts, actions and “best” practices have the same result as trade and commerce. It enriches the giver and the receiver. The client-centered approach to learning, showing and disseminating knowledge and information is best suited for training and educating both the wings of the justice system – the bench and the bar along with the various related services like police, prosecutors, journalists, jurists, NGO’s academicians, students that form its complex organization chart. A profound program in that direction would sharpen and polish the blunt edges in a profession whose most vital capital asset is

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<sup>44</sup> Prof. Laurence Henry Tribe: American Constitutional Law (Treaties) 2000

The author considers “judicial legislation” during the turn of the century – “a period of tremendous constitutional change”.

<sup>45</sup> The Practice of Judicial Education started in the U.S. in the 1930s, in the U.K. in the 1960s and in Australia in the 1980s. The Lord Chancellor himself attended the first judicial education workshop on sentencing policy with all the British Judges.

learning. It would enure for the benefit of the ultimate beneficiaries of the system – the litigants for whom the Courts were established in the first place. A thought goes out to one of the earliest expressions in literature about an appraisal by a commoner on the then prevalent English Justice System : “He has a loss how it should come to pass, that the Law which was intended for every Man’s Preservation, should be any Man’s Ruin” – Jonathan Swift<sup>46</sup>

(k) An area of management which has yielded tremendous profits in the business sector by improving morale, healthy competition and positive peer pressure is the principle of Performance related Payments and Performance related Promotions (PRP). This underlines the need for a “quota for merit” a system of “picking up the best man first” and concerns promotions in the judicial hierarchy at every stage. In a profession in which entry of the best talent is as much craved, as it is eluded, this principle assumes immense significance. An arterial rule is a blend of payment in cash and in kind – the package.

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<sup>46</sup> Jonathan Swift: Gulliver’s Travels.

<sup>47</sup> Thomas W. Church : Justice Delayed: The Pace of Litigation in Urban Courts

He defined a cluster of related factors as “local, legal culture” being “complex systems of practitioner attitudes comprising informal norms, expectations, behaviors and relationships of judges, attorneys and staff in a trial court”. Judicial characteristics such as decisiveness, judge’s control over trial, judge’s work habits such as punctuality, judge’s knowledge of the law etc. were attributes of legal culture.

In a survey, of 21 Courts – Civil & Criminal - he showed the usual traits of lawyers and Judges found everywhere around the globe as the most important factors that unduly lengthen trials:

- (1) aspects of lawyers – unprepared counsel, style of advocacy, work habits, calling unnecessary evidence, lengthy and unfocussed cross-examinations, bar opposition to change, dilatoriness and tardiness with discovery and other procedures, rules ignored with impunity.
- (2) Aspects of judges – tolerating judges, lack of judicial control, judicial failure to limit evidence and arguments, non-user of case management and case-flow management principles for defining and narrowing down issues and lack of pre-trial management of cases.

Changes suggested by the respondents of the survey-

- (1) Clients to sign consent form when Counsel asks for adjournments
- (2) Institution of fixed date system
- (3) Use of specialist judges (increase in specialization)
- (4) Imposition of more rigid limits on adjournments, subject to very reasonable requests.
- (5) Fixing time for trial, arguments
- (6) Administration by case managers (administrators)

See also, Larry L. Sipes : Reducing delay in State Courts : A march against folly

Also, Long Trial Survey conducted by Advocates’ Society in Ontario showed various reasons for delay in trials as above, given by the respondents of the survey.

(l) And the final product to roll out on the judicial conveyor belt is the epitome of management culture - TEAM effort. *“Together Everyone Achieves More”* This is the ultimate leadership concept. Leadership initiative has been at the forefront in all management schools. Lessons in leadership and team spirit are demonstrated from a study of the animal world: Eagles hunt in pairs, hence they seldom lose their prey; Chital (with a great sense of smell and hearing) and Langur (with great vision) move together for survival; Geese fly long distances in “V” formation, taking turns to lead. The message is: “Complimenting is Team Work”.

In the Justice System, much depends upon the “local, legal culture”.<sup>47</sup>

Thomas W. Church : Justice Delayed: The Pace of Litigation in Urban Courts He defined a cluster of related factors as “local, legal culture” being “complex systems of practitioner attitudes comprising informal norms, expectations, behaviors and relationships of judges, attorneys and staff in a trial court”. Judicial characteristics such as decisiveness, judge’s control over trial, judge’s work habits such as punctuality, judge’s knowledge of the law etc. were attributes of legal culture. In a survey, of 21 Courts – Civil & Criminal - he showed the usual traits of lawyers and Judges found everywhere around the globe as the most important factors that unduly lengthen trials:

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(5) Fixing time for trial, arguments

It calls for “the Bench-Bar vision, mission and passion”, as Justice Krishna Iyer proclaimed. Is one a winner without the other? Can one survive without the other?

The fabled anecdote of the hare and the tortoise, declaring the slow and steady tortoise the winner has been replaced on the internet highway by a further narrative. The hare, being ashamed of losing decided to give it another try when he would not succumb to sleep. The tortoise agreed. The race ended with the hare the winner. The tortoise mulled over the situation. He knew he could never run faster. But he could strategise. He went up to the hare and challenged him to another race. Without a thought, the hare concurred. The tortoise suggested another route. The hare darted. He came upto a river and could not cross. The hare was constrained to wait it out. The tortoise caught up. Without another glance, he plunged in the water and was safely on the other side. He continued the race, much to the hare’s chagrin. The hare was not to give up. He knew he had to cope with the exigencies of the relationship. He had to live, not survive. He would not live in vain or shame. He went up to the tortoise and explained that they were made for different things. They had to accept their shortcomings and make the best use of their innate talents. Why then could they not race together? The tortoise had desired just that. They raced again, and won – together.

In a more concrete case, a commander, whilst being introduced to his battalion barked; “You are nothing without me”. This followed an eerie silence. The soldiers wondered about what had befallen them. After a pause, he droned; “And I am nothing without you”. There was a sigh of relief. Both sides understood and took positions. Together they fought the enemy.

Could there have been better leadership, better Management ?

Today’s Court corporation needs such togetherness.

## V. CONCLUSION

The responsibilities of the bar have increased manifold. They need to maintain global standards. They are watched upon and admired or derided. They are heavy on the purse of litigants. Yet

they are as much sought. They tend as much to be affected by the system as their clients. Yet they have not spearheaded the movement for reform of the Justice systems.<sup>48</sup> Can they justify their professionalism, ethics, conduct, indispensability without the corresponding qualitative delivery of goods in the acutely competitive market they have come to do business?

Much is required of a Judge too. As Wallace Mendelson<sup>49</sup> put: "He must mediate between the letter and the spirit; between the traditions of the past and the convenience of the present; between society's need for stability and its need for change; between liberty and authority; between the whole and its parts – all this in context that no lawmaking assembly could be expected to foresee. Plainly, this entails high art..."

Litigants prefer a 'prompt decision to a perfect but belated one'. To give the citizens this basic public service, it is imperative to prevent evidence deteriorating with age. The citizens desire a change in the system because they are the ultimate consumers and the overseers. They would then be assured of their rightful place in a healthier Court climate.

The ineluctable conclusion for the managerial conduct of Courts is a fine blend of the above management precepts. Such an amalgam has positively affected the western judiciaries. Not heeding the call for change can only beget disaster of the system with its already eroding image.

*"You must be the change you want to see in the world"*

*- Mahatma Gandhi*

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<sup>48</sup> See Deborah L. Rhode : Access to Justice : Chapter 8 – A roadmap to reform. The Author underlines the axiom that there is public dissatisfaction with lawyers and litigation processes in all the countries. "Too many key participants in the justice system see too much to lose and too little to gain from any fundamental reform". This is discerned in legal journals as well as legal humor sites. "It underscores the need for reform".

<sup>49</sup> Wallace Mendelson: Supreme Court State Craft: The Rule of Law and Men. Chapter 7 : The Judge's Art.

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## *Protection Against Double Jeopardy in India - Critical Analysis*

### **Introduction**

The principle of double jeopardy is a very old common phenomenon where a person cannot be punished for the same offence more than once. This principle of double jeopardy can be traced to the maxim “*nemo debet bis vexari pro una et eadem causa*” which means a man should not be put in peril twice for the same offence. The core rule is barring repeated criminal prosecution for the same offence – namely ‘*autrefois acquit*’ and ‘*autrefois convict.*’ Actually this principle is very essential to criminal justice administration in every country. It is aimed at protecting the offenders from the harassment and trauma of re-litigation. Almost all countries in the world incorporate this protection in their laws. While some countries have found it necessary to include it in their constitution, others have incorporated it in their statutes. This principle actually developed in English common law of the late eighteenth century. While its origin is thus common, it is found that its reception and implementation have been different.

### **Meaning of double jeopardy**

Double jeopardy is the subjecting of a person to a second trial or punishment for the same offence for which the person has already been tried or punished. It is a procedural defence that prevents an offender from being tried again on similar charges followed by a legitimate acquittal or conviction. This means that if a person is prosecuted or convicted once, he cannot be punished again for that criminal act. According to Black’s Law Dictionary double jeopardy means “the fact of being prosecuted or sentenced twice for substantially the same offence.”<sup>2</sup> The concept has been

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<sup>2</sup> Garner, B. A. (2008). *Black’s Law Dictionary*. 8<sup>th</sup> Ed. p. 528

dealt with by Article 20(2) of the Indian Constitution as well as Section 300 of the Criminal Procedure Code, 1973 and also Section 26 of the General Clauses Act, 1897. In U.S. law, double jeopardy is prohibited by the 5th Amendment to the Constitution of the United States, which states that no person shall “be subject for the same offense to be twice put in jeopardy of life and limb.” The clause bars second prosecutions after acquittal or conviction and prohibits multiple convictions for the same offence.

### **History of double jeopardy**

This rule had its origin in the 12<sup>th</sup> Century, when controversy was raised between Henry II and Archbishop Thomas Becket. At that time two courts of law were there – the royal and the ecclesiastical. The king wanted the clergy subject to be punished in the royal court even after the ecclesiastical court punished him. Becket relied on St. Jerome’s interpretation of Nahum and declared that the ancient text prohibited “two judgments”. He opined that the repeated punishments would violate the maxim *nimo bis in idipsum* that means no man ought to be punished twice for the same offence. Following the dispute, the King’s knights murdered Becket in 1170, despite this King Henry exempted the accused from further punishment in 1176. This concession given by King Henry is considered as responsible for the introduction of the principle in English common law. In the twelfth century, the *res judicata* doctrine had been introduced in English civil as well as criminal law, due to the influence of teachings of Roman law in England. During the thirteenth and part of the fourteenth centuries, a judgment of acquittal or conviction in a suit brought by an appellant or King barred a future suit. During the fifteenth century, an acquittal or conviction on an appeal after a trial by jury was a bar to a prosecution for the same offence. The sixteenth century witnessed significant lapses in the rational development of the rule partly due to the statute of Henry VII, totally disregarding the principle. The last half of the seventeenth century was the period of enlightenment regarding the significance of the rule against double jeopardy. Lord Coke’s writings contributed to it partly and of course, the rest was due to public dissatisfaction against the

lawlessness in the first half of the century. It is only by the seventeenth century that the principle of double jeopardy seems to have developed into a settled principle of common law. During the eighteenth century, extreme procedure was generally followed. Until the nineteenth century, the accused was provided with virtually no protection against a retrial when he or she was discharged due to a defect in the indictment or a variation between what was alleged and proved.<sup>3</sup>

It must be noted that Continental law recognized the principle of double jeopardy. Article 360 of the Napoleonic "*code d'instruction criminelle*" (French Civil Code established under Napoleon I in 1804) provided that, "No person legally acquitted can be a second time arrested or accused by reason of the same act." In Spanish law also, there were references to double jeopardy in the thirtieth century. It is noteworthy that both Continental as well as Common law adopted this doctrine from the common source of Canon law. The origin of the maxim that, "not even God judges twice for the same act" was present in church canons as early as 847 A.D. The protection under the rule was also available in Roman law. In fact, there are primitive notions of double jeopardy appearing in the Bible. The first known codified reference to double jeopardy was set forth in the Digest of Justinian (collection of fundamental works in jurisprudence, issued from 529 to 534 by order of Justinian I, Eastern Roman Emperor). As per the Justinian Code, "He who has been accused of a crime cannot be complained of for the same offence by another person."

The concept continued to change and improve through many kings and queens in England. Thereafter, the writings of Lord Coke and William Blackstone were commingled to provide us with the modern day concept of double jeopardy. In modern times, double jeopardy is not limited only to crimes affecting "life or limb" but, rather, applies to all criminal prosecutions and punishments in which an individual is at risk of multiple attacks on his or her liberty. Colonial Massachusetts gave birth to the modern American approach to double jeopardy in its Body of Liberties published in 1641. Similar to prior pronouncements, the

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<sup>3</sup> Friedland, M. L. (1969). *Double Jeopardy* (p. 3). Oxford: Oxford University Press.

Body of Liberties provided that “no man shall be twice sentenced by civil justice for one and the same crime, offense, or trespass.” Over one hundred years later, in 1784, New Hampshire became the first state to provide protection against double jeopardy in its Bill of Rights, proclaiming that “no subject shall be liable to be tried, after an acquittal, for the same crime or offense.” Yet, it was not until 1790 in the Pennsylvania Declaration of Rights that a phrase resembling our modern phraseology appeared. The Pennsylvania Declaration of Rights succinctly stated that “no person shall, for the same offense, be twice put in jeopardy of life or limb.” In modern times, remnants of double jeopardy exist in many countries, including Australia, Canada, the United Kingdom, parts of Asia, and the United States.

The decision in *Connelly v. Director of Public Prosecutions (UK)*<sup>4</sup> provided the first judicial statement of coherent general principle on the rule. It was held that for the doctrine of *autrefois* to apply, it is necessary that the accused should have been put in peril of conviction for the same offence as that which he is then charged. The word “offence” embraces both the facts which constitute the crime and the legal characteristics which make it an offence. For the doctrine to apply it must be the same offence both in fact and in law.

The American Supreme Court in *Green v. United States*<sup>5</sup> held that the state with all its resources and powers should not be allowed to make repeated attempts to convict an individual for an alleged offence, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty.

The principle was in existence in India even prior to the commencement of the Constitution,<sup>6</sup> but the same has now been given the status of constitutional, rather than a mere statutory guarantee. Double Jeopardy is recognized in different countries like U.S., U.K., Canada, Germany, France, Japan etc. This article

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<sup>4</sup> [1964] AC 1254

<sup>5</sup> 355 US 184 (187-188)

<sup>6</sup> Sec. 26 of General Clauses Act and S. 403(1) of the Criminal Procedure Code, 1898; S. 300, Criminal Procedure Code, 1973

will now discuss double jeopardy in accordance with the Constitution of different countries.

There are significant differences, between the English and American perspective of precisely when “jeopardy” attaches. The English rule, which retains the common-law approach, limits application of double jeopardy to instances in which a defendant has been acquitted or convicted. In other words, the English rule requires a full, completed trial. In contrast, the American rule attaches jeopardy as soon as the jury is sworn, in a jury trial, or when the prosecution offers its first piece of evidence in a trial before the court. Thus, the concept of jeopardy attaches much earlier in the American legal system than in its English counterpart. Despite the apparent staying power of the general double jeopardy concept, England recently diluted its double jeopardy protection with parliamentary passage of the Criminal Justice Act 2003. England’s departure from the stricter version existing in the United States permits a subsequent prosecution following acquittal for certain offenses, such as murder, rape, kidnapping and manslaughter, when new and compelling evidence arises. Additionally, individuals acquitted prior to 2003 may nonetheless be subject to prosecution retroactively under the act. The revised English approach was motivated by notorious trials in which individuals adjudged not guilty later confessed to committing the crimes for which they were accused. Societal tolerance for such perceived travesties of justice waned and the English legislators responded to victims’ rights groups in altering their previously steadfast approach to double jeopardy.

In India, the Fundamental Rights have their origins in many sources, including England’s Bill of Rights, the United States Bill of Rights and France’s Declaration of the Rights of Man.

### **Indian laws on Double Jeopardy**

Article 20(2) of the Constitution is based upon the principle of the “double jeopardy” clause and lays down that no person should be put in jeopardy of his life or liberty more than once. The intention of the founding fathers appears to have been not to disturb the existing law which is to be found in Section 403 of the Code of Criminal Procedure (Old) relating to the extent of

protection against “double jeopardy” in the criminal law of this country. Article 20(2) does nothing more than reproduce in effect the provisions of Section 300 (403 old) of the Code of Criminal Procedure. It is clear that under the Code a discharged person can be put for retrial. Article 20(2) clearly uses the word “and” in a conjunctive sense and it is only where the accused has been both prosecuted and punished for the same offence that a second trial is barred. The person in order to get benefit must have been prosecuted and punished for the same offence. Section 403(1) is more comprehensive in its scope than Article 20(2). Article 20(2) bars retrial of a person for the same offence when he has been convicted and sentenced for the same offence whereas Section 403(1) specially incorporates the principle which gives effect to the pleas (*autrefois acquit* as well as *autrefois convict*).

The principle which is sought to be incorporated into Section 300 of the Code of Criminal Procedure is that no man should be vexed with more than one trial for offences arising out of identical acts committed by him. Though Article 20(2) of the Constitution of India embodies a protection against second trial after a conviction of the same offence, the ambit of the sub-Article is narrower than the protection afforded by Section 300 of the Procedure Code. Section 220(1) of Code of Criminal Procedure provides that if in one transaction many offences are committed by the same person, he may be charged with (separately) and tried at one trial for very such offence. Section 300(2) of the Code allows a subsequent trial of a person on the same facts for a distinct offence for which a separate charge might have been made against him at the former trial under Section 220(1) of the Code. Reading the sections together the conclusion would be that if a person commits two distinct offences in the same transaction he can be charged with them (though separately) and tried at the same trial; but if he is tried, at one trial for one of the distinct offences and acquitted or convicted the subsequent trial for a distinct offence committed in the same transaction is not barred.

Section 300(1) of the Code makes it abundantly clear that a person who once has been tried by a Court of competent jurisdiction and has been convicted or acquitted shall not be liable to be tried again for the same offence till conviction or acquittal

remains in force. As far as the trial for another offence on the same facts is concerned, it depends as to whether a charge about subsequent offence would have been made under Section 221(1) or sentence might have been passed under Section 221(2) of the Code. If offence sought to be charged subsequently is of such nature that a charge for it should have been framed under sub-section (1) of Section 221 or conviction might have been passed under sub-section (2) of Section 221 of the second trial would be barred on the same facts.

Section 236 of the Code provides that if a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences. Section 236, therefore, refers to the case of an offence or offences which are so connected that the same facts may fall within the ambit either of one offence or another, the shades of distinction between them being so fine as to make it doubtful which of the offence or offences really are made out by the facts alleged on behalf of the prosecution.

In order to get the benefit of Section 403(1) of the Code or Article 20(2) of the Constitution it is necessary for an accused to establish that he had been tried by a Court of competent jurisdiction for an offence and he had been convicted or acquitted was still in force. If that much is established, he is not liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under Section 236 or for which he might have been convicted under Section 273 of the Code. Sub-section (4) of Section 300 of the Code, provides that a person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for, any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

In order to enable a citizen to invoke the protection of Clause (2) of Article 20 of the Constitution, there must have been both prosecution and punishment in respect of the same offence. The word “prosecuted and punished” are to be taken not distributively so as to mean “prosecuted or punished.” Both the factors must co-exist in order that the operation of the clause may be attracted. The position is also different under the American Constitution. It may be pointed out that the words “prosecuted” and punishment” have not fixed connotation and they are susceptible of both a wider and a narrower meaning, but in Article 20(2) both these words have been used with reference to an “offence” and the word “offence” has to be taken in the sense in which it is used in the General Clauses Act as meaning “an act or omission made punishable by any law for the time being in force.” The provisions of Section 26 of General Clauses Act, on construction, resemble those of Article 20(2) of the Constitution and notwithstanding the fact that the section permits a second trial after a previous one and acquittal, the provisions are (not) unconstitutional. But under those provisions of the General Clauses Act and Article 20(2) of the Constitution, double punishment would be permissible would be void being repugnant to Article 20(2) of the Constitution.

### **Double jeopardy and Issue estoppels**

In fact, the principle of issue estoppel is not a sufficient ground which can bar a subsequent trial under Section 300 Criminal Procedure Code, 1973. It was in the case of *Pritam Singh v. State of Punjab*<sup>7</sup>, that certain observations were made by the Supreme Court relying upon the Privy Council’s decision in *Sambashivam v. Public Prosecutor Federation of Malaya*<sup>8</sup>, wherein Lord Dermot had observed that the maxim *res judicata pro veritate accipitur* is no less applicable to criminal proceedings than to civil proceedings. The facts of *Pritam Singh’s* case, illustrate the application of the role of issue estoppel vis-a-vis Section 300, Cr.P.C.

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<sup>7</sup> AIR 1956 SC 415

<sup>8</sup> [1950] AC 458

The principle of issue-estoppel subsequently found support in a number of decisions of the Supreme Court. The rule may be reproduced as follows –

*“Where an issue has been tried by a competent Court on a former occasion and the finding of fact has been reached in favour of the accused, such finding would constitute an estoppel or res judicata against the prosecution; not as a bar to the trial and conviction of the accused for different or distinct offences but as precluding the reception of evidence to disturb the finding of fact when the accused is tried subsequently even for a different offence which might be permitted by law.”*

It must, however, be stated that in order to invoke the rule of issue-estoppel it is necessary that the parties in the two trials must be the same and fact-in-issue proved or not in the earlier trial must also be identical with the one which is raised and agitated in the subsequent trial.

The principle of “double jeopardy” may be distinguished from the rule of “issue estoppel.” The principle of issue estoppel is a different principle, viz., where an issue of fact has been tried by a competent court on a former occasion and a finding has been reached in favour of an accused, such a finding would constitute an estoppels or res-judicata against the prosecution not as a bar to the trial and conviction of the accused for a different or distinct offence but as precluding the reception of evidence to disturb that finding of fact when the accused is tried subsequently even for a different offence.<sup>9</sup>

The rule of issue estoppels prevents re-litigation of the issue which has been determined in a criminal trial between the state and the accused. If in respect of an offence arising out of a transaction of a trial has taken place and the accused has been acquitted, another trial in respect of the offence alleged to arise out of that transaction or of a related transaction which requires the court to arrive at a conclusion inconsistent with the conclusion reached at the earlier trial is prohibited by the rule of issue estoppels.<sup>10</sup>

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<sup>9</sup> *Piara Singh v. The State of Punjab*, AIR 1969 SC 961

<sup>10</sup> *The State of Andhra Pradesh v. Kokkiligada Meeraiiah & Another*, AIR 1970 SC 771

The rule is not the same as the plea of double jeopardy, because, firstly, the rule does not introduce any variation in the Code of Criminal Procedure, either in investigation, enquiry a trial and secondly it does not prevent the trial of any offence as does the rule of double jeopardy, but only precludes evidence being led to prove a fact in issue as regards which evidence has already been led and a specific finding recorded at an earlier trial before a competent court. The rule, thus relates only to the admissibility. The rule depends upon well known doctrines which control the re-litigation of issues which are settled by prior litigation.<sup>11</sup>

While dealing with the case of *Lalta v. State of U.P.*<sup>12</sup>, the Apex Court has drawn distinction between “Issue Estoppel” and “*autrefois acquit.*” After referring and relying on the decisions of the Apex Court in the case of *Pritam Singh v. State of Punjab*<sup>13</sup>, and in the case of *Manipur Administration v. Thokehom Bira Singh*<sup>14</sup> and in the case of *Sambasivam v. Public Prosecutor*<sup>15</sup> the Apex Court has held that –

*“Where an issue of fact has been tried by a competent Court on a former occasion and finding of fact has been reached in favour of the accused, such a finding would constitute an estoppels or res-judicata against the prosecution, not as a bar to the trial and conviction of the accused for a different offence but as precluding the reception of evidence to disturb that finding of fact when the accused is tried subsequently even for a different offence which might be permitted by the terms of Section 403(2) of the Code, Section 403 does not preclude the applicability of this rule of “Issue estoppels.”*

The rule of issue estoppels is not the result of any enactment. It has been borrowed from English decision. The maxim “*res judicata pro veritate accipitur*” is no less applicable to criminal than to civil proceedings.<sup>16</sup>

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<sup>11</sup> Singh, Mahendra P, Eastern Book Company, Lucknow, 2006, pp. 158-159

<sup>12</sup> AIR 1970 SC 1381

<sup>13</sup> AIR 1956 SC 415

<sup>14</sup> AIR 1965 SC 87

<sup>15</sup> (1950) AC 458

<sup>16</sup> *Ibid.*

### **Double Jeopardy in other Countries: A Comparative analysis**

Numerous countries maintain variations of double jeopardy. Provisions of double jeopardy of some of those countries are discussed below.

#### **United States of America**

The phrase “double jeopardy” stems from the Fifth Amendment to the U.S. Constitution: “nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb.” This clause is intended to limit prosecutorial abuse by the government in repeated prosecution for the same offense, as a means of harassment or oppression. It is also in harmony with the common law concept of *res judicata*, which prevents courts from relegating issues and claims that have already been the subject of a final judgment.

While numerous countries maintain variations of double jeopardy, the American approach remains one of the more potent provisions. The American interpretation, however, has not always provided criminal defendants a formidable defense. For nearly two hundred years, the Fifth Amendment’s double jeopardy protection was limited solely to actions by the federal government and its subdivisions. Not until the Supreme Court’s 1969 decision in *Benton v. Maryland*,<sup>17</sup> did the Double Jeopardy Clause extend equally to state governments. Benton considered the Fifth Amendment promise against multiple prosecutions and multiple punishments to “represent a fundamental ideal in our constitutional heritage” and, accordingly, held double jeopardy to be applicable to the states through incorporation of the Fourteenth Amendment. Having so found, the Supreme Court decision in Benton mandates that double jeopardy determinations now be governed by federal standards rather than state nuances.

Nonetheless, states retain certain flexibility under double jeopardy due to the dual sovereignty doctrine. In 1922, the Supreme Court explicitly recognized the power of distinct sovereigns to prosecute an individual for criminal conduct falling within the jurisdiction of both in *United States v. Lanza*.<sup>18</sup>

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<sup>17</sup> 395 U.S. 784 (1969)

<sup>18</sup> 260 U.S. 377 (1922)

Thereafter, in 1985, the Court further expanded the dual sovereignty doctrine to permit separate prosecutions by distinct state sovereigns in *Heath v. Alabama*.<sup>19</sup>

By holding that each state has independent power to determine an individual's guilt or innocence under the state's criminal code for all conduct occurring within that state, the Supreme Court permitted a subsequent prosecution of Heath for murder, which resulted in a much harsher sentence than had been received in the other state prosecution. The Supreme Court held that separate, independent sovereigns possess the right to try a criminal defendant for conduct occurring within their separate borders. The conduct, constituting independent criminal acts in each state, is not protected by double jeopardy because the conduct offends both sovereigns equally. The dual sovereignty doctrine was extended recently to embrace dual prosecution by the federal government and tribal courts on Indian reservations in *United States v. Lara*.<sup>20</sup>

Thus, although the Fifth Amendment protects against multiple prosecutions by the same sovereign or subdivisions thereof—double jeopardy poses no bar to separate prosecutions by independent sovereigns. Two of the more renowned instances of separate prosecutions by independent sovereigns include the Rodney King case defendants' subsequent federal trials following state acquittals and Terry Nichols's subsequent state capital trial following a federal trial resulting in a life sentence. Finally, double jeopardy does not affect the ability of a private individual to sue civilly for conduct that may be prohibited by criminal and civil law. The paradigm example continues to be the O. J. Simpson case, in which Simpson was subsequently sued civilly for wrongful death following his acquittal for murder.

Though the Fifth Amendment applies only to the federal government, the Supreme Court has ruled that the double jeopardy clause applies to the states as well, through incorporation by the Fourteenth Amendment.

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<sup>19</sup> 474 U.S. 82 (1985)

<sup>20</sup> 541 U.S. 193 (2004)

## **United Kingdom**

The doctrines of *autrefois acquit* and *autrefois convict* persisted as part of the common law from the time of the Norman Conquest; they were regarded as essential elements of protection of the liberty of the subject and respect for due process of law in that there should be finality of proceedings.

The Parliament of the United Kingdom passed legislation in the Criminal Justice Act 2003 introduced by then Home Secretary David Blunkett to abolish the previously strict form of prohibition of double jeopardy in England. Retrials are now allowed if there is 'new and compelling evidence'. All cases must be approved by the Director of Public Prosecutions and the Court of Appeal must agree to quash the original acquittal.<sup>21</sup>

## **Australia**

Australian double jeopardy jurisprudence is *very similar to other common law countries*. While there is no constitutional protection against re-trials following acquittal, there have been few examples of statutory exceptions. In all state jurisdictions prosecutors can appeal against the sentence handed down by the trial judge and in South Australia and Tasmania the prosecution can appeal against an error of law made by the trial judge in certain situations. However the acquittal will still stand valid and the purpose of the appeal is merely to clarify the relevant laws.

In contrast to other common law jurisdictions, Australian double jeopardy law has been held to extend to prevent prosecution for perjury following a previous acquittal where a finding of perjury would controvert the previous acquittal. This was confirmed in the case of the *Queen v Carroll*<sup>22</sup>, where the police found new evidence convincingly disproving *Carroll's* sworn alibi two decades after he had been acquitted of the murder of a young girl and successfully prosecuted him for perjury. Public outcry following the overturning of his conviction by the High Court has led to widespread calls for reform of the law along the lines of the UK legislation.

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<sup>21</sup> Retrieved on 17.01.2015 from [http://www.cps.gov.uk/legal/section19/chapter\\_j.html](http://www.cps.gov.uk/legal/section19/chapter_j.html)

<sup>22</sup> *The Queen v. Raymond John Carroll*, (2002) 213 CLR 635; [2002] HCA 55

## Canada

In Canada the concept of double jeopardy is contained in section 11(h) of the Canadian Charter of Rights and Freedoms.<sup>23</sup> However, this prohibition applies only after an accused person has been “finally” convicted or acquitted. In contrast to the laws of the United States, Canadian law allows the prosecution to appeal from an acquittal. If the acquittal is thrown out, the new trial is not considered to be double jeopardy because the first trial and its judgment would have been annulled. In rare circumstances, a court of appeal might also substitute a conviction for an acquittal. This is not considered to be double jeopardy either - in this case the appeal and subsequent conviction are deemed to be a continuation of the original trial. For an appeal from an acquittal to be successful, the Supreme Court of Canada requires that the Crown show an error in law was made during the trial and that the error contributed to the verdict.

## Germany

The Basic Law for the Federal Republic of Germany (*Grundgesetz*) does provide protection against double jeopardy, if a final verdict is pronounced. A verdict is final, if nobody appeals against it. Article 103 (3) of the Basic Law provides<sup>24</sup> –

*“Nobody shall be punished multiple times for the same crime on the base of general criminal law.”*

The German Code of Criminal Procedure (*Strafprozessordnung*) permits a retrial if it is in favor of the defendant or if following events had happened<sup>25</sup> –

- I. if a document produced as genuine, for his benefit, at the main hearing was false or forged;
- II. if a witness or expert, when giving testimony or an opinion for the defendant’s benefit, was guilty of willful or

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<sup>23</sup> Retrieved on 18.01.2015 from <http://publications.gc.ca/collections/Collection/CH37-4-3-2002E.pdf>

<sup>24</sup> Retrieved on 19.01.2015 from [http://www.gesetze-im-internet.de/englisch\\_gg/basic\\_law\\_for\\_the\\_federal\\_republic\\_of\\_germany.pdf](http://www.gesetze-im-internet.de/englisch_gg/basic_law_for_the_federal_republic_of_germany.pdf)

<sup>25</sup> Section 362, retrieved on 20.01.2015 from [http://www.gesetze-im-internet.de/englisch\\_stpo/englisch\\_stpo.html#p2094](http://www.gesetze-im-internet.de/englisch_stpo/englisch_stpo.html#p2094)

negligent violation of the duty imposed by the oath, or of willfully making a false, unsworn statement;

III. if a judge or lay judge participated in drafting the judgment who was guilty of a criminal violation of his official duties in relation to the case;

IV. if the person acquitted makes a credible confession, in or outside the court, that he committed the criminal offence.

In the case of an order of summary punishment, which can be issued by the court without a trial for lesser misdemeanours, there is a further exception. The Code accordingly provides<sup>26</sup> –

*“Reopening of proceedings concluded by a final penal order to the convicted person’s detriment shall also be admissible if new facts or evidence have been produced which, either alone or in conjunction with earlier evidence, tend to substantiate conviction for a felony.”*

### **International instruments on double jeopardy**

There are a number of international instruments and legal regimes which provide for restrictions on successive criminal proceedings. There are provisions that have transnational effect; that is, provisions which address the question of how one state should act in relation to criminal proceedings which have been concluded, or are to be brought, in another state. It is technically called “inter-state” provisions. There are two principal contexts in which the recognition of foreign criminal judgments might be an issue. The first arises where a person who is present in State A is charged with an offence by the authorities of State A, and claims that his trial should be barred on the basis that he has already been tried and convicted or acquitted in relation to the same matter in State B. Here, the question is whether the criminal judgments of State B will be recognized by State A’s rule against double jeopardy. The second context is that of extradition: if State B requests the extradition of a person from State A, should State A refuse the extradition request on the basis that that person has already been tried and convicted or acquitted in relation to the same matter in State A (or perhaps even in State C)? The only

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<sup>26</sup> Ibid, Section 373a

international instrument which recognizes the foreign judgments for the purposes of double jeopardy is the Schengen Convention, 1990.<sup>27</sup> Article 54 of the Convention provides –

*“A person whose trial has been finally disposed of in one Contracting Party may not be prosecuted in another Contracting Party for the same acts provided that, if a penalty has been imposed, it has been enforced, is actually in the process of being enforced or can no longer be enforced under the laws of the sentencing Contracting Party.”*

The International Covenant on civil and Political Rights, 1966 also contain the provisions of double jeopardy. Article 14(7) of the Convention provides<sup>28</sup> –

*“No-one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”*

The European Convention on Human Rights (ECHR), as ratified by the United Kingdom in 1953, made no provision in relation to double jeopardy. Such provision is now made by Protocol 7 to the Convention, which was done at Strasbourg in 1984. Article 4 of this Protocol provides that<sup>29</sup> –

*“1. No-one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.*

*2. The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.”*

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<sup>27</sup> Retrieved on 12.01.2015 from <http://ials.sas.ac.uk/postgrad/AGIS-035/Materials/Vervaele/10.pdf>

<sup>28</sup> Retrieved on 16.01.2015 from <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

<sup>29</sup> Retrieved on 14.01.2015 from [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

Article 50 of the Charter of Fundamental Rights of the European Union, 2000 also deals with double jeopardy. It provides<sup>30</sup> –

*“No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.”*

### **Analytical discussion on double jeopardy in India with decided cases**

As discussed earlier, the protection against the double jeopardy is a constitutional as well as a statutory guarantee in India. The principle has also been recognized under the provision of General Clauses Act. The Constitution of India recognize only *autrefois convict* whereas the Code of Criminal Procedure, 1973 incorporates *autrefois acquit* as well. The rule against double jeopardy has been recognized as a fundamental right in the Constitution of India. The most important thing to be noted is that, sub-clause (2) of Article 20 has no application unless there is no punishment for the offence in pursuance of a prosecution.

Double Jeopardy clause under article 20(2) of Indian Constitution is closely similar to 5<sup>th</sup> amendment of United States. In US, the procedure relating to double jeopardy was first evolved as element test in the case of *Blockburger v. United States*.<sup>31</sup> In *Blockburger*, the Court said that “where the same transaction or act constitutes a abuse of two separate statutory provisions, the test to be applied to establish whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not.” This test has long been employed both to measure the correctness of successive prosecutions and to address multiple punishment issues by determining presumptive legislative intent, and is now the exclusive test for defining “same offense.”

Under the provisions of the Indian Constitution, the conditions that have to be satisfied for raising the plea of *autrefois convict* are firstly; there must be a person accused of an offence; secondly; the proceeding or the prosecution should have taken

<sup>30</sup> Retrieved on 15.01.2015 from [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>31</sup> 284 U.S. 299 (1932)

place before a 'court' or 'judicial tribunal' in reference to the law which creates offences and thirdly; he accused should be convicted in the earlier proceedings. The requirement of all these conditions have been discussed and explained in the landmark decision, *Maqbool Hussain v. State of Bombay*.<sup>32</sup> In this case, the appellant, an Indian citizen, was arrested in the airport for the illegal possession of gold under the provisions of the Sea Customs Act, 1878. Thereupon, an action was taken under section 167(8) of the Act, and the gold was confiscated. Sometimes afterwards, he was charge sheeted before the court of the Chief Presidency Magistrate under section 8 of the Foreign Exchange Regulation Act, 1947. At trial, the appellant raised the plea of *autrefois convict*, since it violates his fundamental right guaranteed under article 20(2) of the constitution. He sought the constitutional protection mainly on the ground that he had already been prosecuted and punished inasmuch as his gold has been confiscated by the customs authorities. By rejecting his plea, the court held that the proceedings of the Sea Customs Authorities cannot be considered as a judicial proceedings because it is not a court or judicial tribunal and the adjudgment of confiscation or the increased rate of duty or penalty under the provisions of the Sea Customs Act does not constitute a judgment or order of a court or judicial tribunal necessary for the purpose of supporting a plea of double jeopardy. The court also held that the proceedings conducted before the sea customs authorities were, therefore, not 'prosecution' and the confiscation of gold is not punishment inflicted by a 'court' or 'judicial tribunal'. The appellant, therefore, cannot be said to have been prosecuted and punished for the same offence with which he was charged before the Chief Presidency Magistrate Court.

In *Thomas Dane v. State of Punjab*,<sup>33</sup> a case similar to the case of *Maqbool Hussain*, the appellant sought to take out some foreign exchange from India which was confiscated by the customs authorities after following due process under the Sea Customs Act. Later he was prosecuted before a criminal court under the Foreign Exchange Regulation Act and the Sea Customs

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<sup>32</sup> AIR 1953 SC 325

<sup>33</sup> AIR 1959 SC 375

Act and he was duly convicted for the offence. The High Court of Punjab dismissed his appeal. The appellant preferred filed a writ petition in the Supreme Court on the ground that Art 20 (2) barred his prosecution. The Supreme Court dismissed the petition on the ground that in imposing confiscation and penalty under the Sea Customs Act and the FERA, the concerned authorities acted judicially but did not constitute a court.

In *Rao Shiv Bahadur singh v. State of V.P.*<sup>34</sup> Supreme court held that what is forbidden under article 20 is only conviction or sentence under an *ex post facto law* and not the trial thereof. It cannot be reasonably urged that the prohibition of double jeopardy applies only when both the instances therefore arise after the Constitution. Article 20 does not have retrospective effects but the laws passed which have retrospective effect should be confined to article 20. Laws passed even when the constitution was not in existence, does not make the constitutional sovereignty ineffective. The court further held that the whole idea of article 20 would be defeated in its implication even to *ex post facto* laws passed after the Constitution. Every such *ex post facto* law can be made retrospective, as it should be, if it is to regulate acts committed before the actual passing of the Act, and it can well be urged that by such retrospective operation it becomes the law in force at the time of the commencement of the Act. It is obvious that such a construction which nullifies Art. 20 cannot possibly be adopted.

In *Venkataraman v. Union of India*,<sup>35</sup> an enquiry was made before the enquiry commissioner on the appellant under the Public Service Enquiry Act, 1960 & as a result, he was dismissed from the service. He was later on, charged for committed the offence under Indian Penal Code & the Prevention of Corruption Act. The court held that the proceeding held by the enquiry commissioner was only a mere enquiry & did not amount to a prosecution for an offence. Hence, the second prosecution did not attract the doctrine of Double Jeopardy or protection guaranteed under Fundamental Right Article 20 (2).

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<sup>34</sup> AIR 1953 SC 394

<sup>35</sup> AIR 1954 SC 375

It is to be noted that Article 20 (2) will be applicable only where punishment is for the same offence, In *Leo Roy v. Superintendent District Jail*,<sup>36</sup> the Court held that if the offences are distinct the rule of Double Jeopardy will not apply. Thus, where a person was prosecuted and punished under sea customs act, and was later on prosecuted under the Indian Penal Code for criminal conspiracy, it was held that second prosecution was not barred since it was not for the same offence.

It was held by the Supreme Court in *Manipur Administration v. Thokehom Bira Singh*<sup>37</sup> that if there is no punishment for the offence as a result of the prosecution, Article 20(2) has no application. While the sub-Article embodies the principle of *autrefois convict*, Section 300 the Code of Criminal Procedure combines both *autrefois convict* and *autrefois acquit*. Section 300 has further widened the protective wings by debarring a second trial against the same accused on the same facts even for a different offence if a different charge against him for such offence could have been made under Section 221(1) of the Code, or he could have been convicted for such other offence under Section 221(2) of the Code. Article 20(2) of our Constitution, it is to be noted, does not contain the principle of “*autrefois acquit*” at all.

The court in *Manipur Administration v. Nila Chandra Singh*,<sup>38</sup> held that to operate as a bar under Article 20(2), the second prosecution and the consequential punishment must be for the same offence, i.e., an offence whose ingredients are the same. The court further held that one of the important conditions to attract the provision under clause (2) of article is that, the trial must be conducted by a court of competent jurisdiction. If the court before which the trial had been conducted does not have jurisdiction to hear the matter, the whole trial is null and void and it cannot be said that there has been prosecution and punishment for the same offence.<sup>39</sup> While protecting under Article 20(2) the court in *Raja Narayanlal Bansilal v. M.P. Mistry*,<sup>40</sup> held that the constitutional right guaranteed by Article 20(2) against double jeopardy can be

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<sup>36</sup> AIR 1958 SC 119

<sup>37</sup> AIR 1965 SC 87

<sup>38</sup> AIR 1964 SC 1533

<sup>39</sup> *Bai Nath Prasad Tripathi v. State*, AIR 1967 SC 494

<sup>40</sup> AIR 1961 SC 29

successfully invoked only where the prior proceedings on which reliance is placed are of a criminal nature instituted or continued before a court of law or a tribunal in accordance with the procedure prescribed in the statute which creates the offence and regulates the procedure.

However, the Code of Criminal procedure recognize both the pleas of *autrefois acquit* as well as *autrefois convict*. The conditions which should be satisfied for raising either of the plea under the Code are: firstly; that there should be previous conviction or acquittal, secondly; the conviction or acquittal must be by a court of competent jurisdiction, and thirdly; the subsequent proceeding must be for the same offence. The expression “same offence” shows that the offence for which the accused shall be tried and the offence for which he is again being tried must be identical, and based on the same set of facts.<sup>41</sup>

In *State of Bombay v. S.L. Apte*,<sup>42</sup> the question that fell for consideration was whether in view of an earlier conviction and sentence under Section 409 IPC, a subsequent prosecution for an offence under Section 105 of Insurance Act, 1935, was barred by Section 26 of the General Clauses Act and Article 20(2) of the Constitution. The Court held that to operate as a bar the second prosecution and the consequential punishment there under, must be for ‘the same offence’. The crucial requirement therefore for attracting the article is that the offences are the same, i.e., they should be identical. If, however, the two offences are distinct, then notwithstanding that the allegations of facts in the two complaints might be substantially similar, the benefit of the ban cannot be invoked. It is, therefore, necessary to analyze and compare not the allegations in the two complaints but the ingredients of the two offences and see whether their identity is made out. The Court further held that though Section 26 in its opening words refers to ‘the act or omission constituting an offence under two or more enactments’, the emphasis is not on the facts alleged in the two complaints but rather on the ingredients which constitute the two offences with which a person is charged. This is made clear by the concluding portion of the section which

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<sup>41</sup> State of Rajasthan v. Hat Singh, AIR 2003 SC 791

<sup>42</sup> AIR 1961 SC 578

refers to 'shall not be liable to be punished twice for the same offence'. If the offences are not the same but are distinct, the ban imposed by this provision also cannot be invoked.

An employee of the Boarder Road Organization was court-martialled and found to be guilty of some of the charges framed against him and was sentenced to rigorous imprisonment for one year. Thereafter he was dismissed from service under the relevant Service Rules. The Supreme Court ruled in *Union of India v. Sunil Kumar Sarkar*<sup>43</sup> that it did not amount to double jeopardy under Article 20(2). The two proceedings operated in two different fields even though the crime or the misconduct might arise out of the same act. The two proceedings did not overlap - court-martial proceedings dealt with penal aspect of the misconduct while the proceedings under the Service Rules dealt with the disciplinary aspect of the misconduct.

The Supreme Court of India in *Kolla Veera Raghav Rao v. Gorantla Venkateswara Rao & Others*<sup>44</sup> has affirmed that Section 300(1) Cr.P.C is wider in its scope than Article 20(2) of the Constitution. While Article 20(2) of the Constitution only says that "no person shall be prosecuted and punished for the same offence more than once", Section 300(1) Cr.P.C states that no one can be tried and convicted for the same offence or even for a different offence but on the same facts. Thus, it can be seen that Section 300(1) of Cr.P.C. is wider than Article 20(2) of the Constitution. While, Article 20(2) of the Constitution only states that 'no one can be prosecuted and punished for the same offence more than once', Section 300(1) of Cr.P.C. states that no one can be tried and convicted for the same offence or even for a different offence but on the same facts. In the present case although the offences are different but the facts are the same.

The Supreme Court in *The Institute of Chartered Accountants of India v. Vimal Kumar Surana*<sup>45</sup> has declared that the provisions of the Chartered Accountants Act, 1949 do not act as a bar against the prosecution of a person who is charged with the allegations which constitute an offence or offences under other laws including

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<sup>43</sup> AIR 2001 SC 1092

<sup>44</sup> AIR 2011 SC 641

<sup>45</sup>(2011) 1 SCC 534

the Indian Penal Code (IPC). In holding so the Supreme Court declared that punishment of a person for a same act did not foul of the constitutional safeguard against double-jeopardy when the same act constituted offence under different statutes and therefore the accused could legally be punished under the statutes differently.

### **Conclusion**

In every legal system there is provision for "double jeopardy" as no person should be punished twice for the same offence. Doctrine of double jeopardy is a right given to the accused to save him from being punished twice for the same offence and he can take plea of it. In different, cases it is interpreted in different manner due to the circumstances of the cases. Our Constitution also provides such right guaranteed under Fundamental Rights to safeguard the interest of the accused person. The rule against double jeopardy is a universally accepted principle for the protection of certain values within the criminal justice system. It serves many purposes such as preventing the arbitrary actions of the state against its subject, ensures finality in litigations etc., which are of great importance for the protection of human rights of the accused persons. It is a centuries old principle, which survived not by chance, but for many good reasons.

Thus we can conclude by saying that in general, in the countries observing the rule of Double Jeopardy, a person cannot be convicted twice for the same crime based on the same conduct.

The defence of Double Jeopardy also prevents the State from retrying a person for the same crime after he has been acquitted. However, acquittal in one state or nation does not, always bar trial in another.

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*Reflections on Gender Based Violence  
With Special Reference to Protection of  
women From Domestic Violence Act,  
2005 : An Anlysis*

**Concept of Gender Based Violence**

Gender based violence is violence that is directed at individuals on the basis of their gender, with women and girls making up the vast majority of victims (though boys and men can also be the target). It may take many different forms and there may be distinctive pattern or manifestations of gender violence associated within particular communities, cultures or regions and historical epochs.

Gender based violence has emerged as a global issue extending across regional, social, cultural and economic boundaries. It takes place throughout society, in the home, in the community and in State institutions (including prisons, police stations and hospitals). It can be grouped into five main, though not exclusive categories:

- Sexual Violence: e.g. rape, incest, forced prostitution and sexual harassment;
- Physical Violence: e.g. wife battering and assault, honour killings, female infanticide, child assault by teachers etc;
- Emotional and Psychological Violence: e.g. the acts of violence, insult and name calling, humiliation in front of others, blackmail and the threat of abandonment;
- Harmful Traditional Practices: female infanticide, female foeticide, denial of certain foods and forced and/or early marriages.

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- Socio-economic Violence: e.g. discrimination access to basic health care, low levels of literacy, inadequate shelter and food, economic deprivation, armed conflicts and acts of terrorism.

From the concept of gender based violence, we can summarize the following three main characteristics:

(a) Gender based violence is violence against women based on women's subordinate status in society. It includes any act or threat by men or male dominated institutions that inflict physical, sexual or psychological harm on a woman or girl because of her gender in most cultures, traditional beliefs, norms and social institutions that legitimize and therefore perpetuate violence against women.

(b) Gender based violence includes physical, sexual and psychological violence such as domestic violence, sexual abuse etc.; traditional practices harmful to women like honour killings, acid throwing etc.; Violence in armed conflict such as murder and rape; emotional abuse such as coercion and abusive language.

(c) Gender violence occurs in both the 'public' and 'private' spheres. Such violence not only occurs in the family and in the general community but is sometimes also perpetuated by the State through the policies or actions of agents of the State such as the police, military or immigration authorities. It happens in all societies, across all social classes, and with women particularly at risk from men they know.

### *International Legal Framework*

Any insight into this area must begin with the landmark United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979. CEDAW Convention emphasizes that discrimination against women and girls violate the principles of equality and respect for human dignity. It provides a comprehensive framework for challenging the various forces that have created and maintained discrimination based on sex.<sup>1</sup> The General Recommendation 19 adopted in the 11th Session of CEDAW, in 1992, describes gender violence as follows:

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<sup>1</sup> R.N. Choudhary, Crime Against Women, p. xix (2003).

“Violence which is directed against a woman because she is a woman or which affects women disproportionately. It includes acts which inflict physical, mental or sexual harm or suffering, threats of such acts, coercion, and other deprivation of liberty”.

In a landmark resolution 48/104 adopted by the United Nations General Assembly at its 48th Session, in December 1993 the Declaration on the Elimination of Violence Against Women (DEVAW) was passed. Violence against women is defined through it as:

“Any Act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life”.<sup>2</sup>

At the United Nations Conference on Human Right held at Vienna in 1993, it was adopted that: “Gender based violence and all forms of sexual harassment and exploitation . . . are incompatible with the dignity and worth of the human person and must be eliminated”.<sup>3</sup> The Fourth World Conference on Women (1995) and the Beijing Declaration and Platform for Action devoted an entire Section to the issue of violence against women. The Beijing +5 conference held at New York in the year 2000, addressed issues of domestic violence, trafficking, HIV/AIDS and globalization. The above international conventions hence explicitly acknowledge the State’s responsibility for human rights violations by private actors in both the public and private sphere.<sup>4</sup> By becoming State parties to such international women’s conventions, States agree to condemn discrimination in all its forms and to ensure compliance by their governments and to take all appropriate measures to effect the elimination of discrimination in all its forms by any person, organization or enterprise and to modify or abolish existing laws, regulations, customs and practices<sup>5</sup> After having a glance at the

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<sup>2</sup> United Nations Declarations on Elimination of Violence Against Women, 1993 Article 1.

<sup>3</sup> Vienna Declaration and Programme of Action, 1993, Point. I, para 18.

<sup>4</sup> Kanchan Mathur, Countering Gender Violence, Initiative towards Collective Action in Rajasthan, p. 33 (2004).

<sup>5</sup> Act 2 of CEDAW Convention, 1979

international perception of gender based violence, we will examine our own constitutional provisions.

### *National Legal Framework*

Article 14 of the Constitution of India provides for equality before the law. Under Article 15(3), the State has the power to make special provisions for women and children. Article 14 read with Article 15(3) measures up to international standards in CEDAW and other international conventions. It follows that the violence against women in any form is a violation of rights to equality. State inaction in the field of preventing violence would itself be a violation of the fundamental right to equality. In India, courts rely on these international instruments not only in interpreting legislations, but also view these instruments as facets of fundamental rights guaranteed under the Constitution. Thus, in the case of *Vishaka v. State of Rajasthan*<sup>6</sup> it has been observed by the Apex Court:

“Any international Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee.”

In addition, Article 39(d) provides for equal pay for equal work and Under Article 42, provisions are to be made by the State for securing just and humane conditions of work and for maternity relief. Article 51A(e) imposes a duty on every citizen to renounce practices derogatory to the dignity of women. The entire concept of gender equality enshrined in our Constitution would be futile if a woman's right to live with dignity or her right to be treated at an equal footing with her male counterparts is not ensured by society. Besides, the severe punitive approaches of criminal law, constant monitoring by the National Human Rights Commission (NHRC), the untiring efforts of women organizations and the National Commission for Women (NCW) to liberate women from the hitherto unjust social, political and economic subjugation and suppression on violation of their human rights.<sup>7</sup>

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<sup>6</sup> (1997) 6 SCC 241.

<sup>7</sup> <http://www.legalserviceindia.com/articles-fundamental-rights.htm>

### *Gender Based Violation: A Human Rights Violation*

The conceptualization of violence against women and girls as a violation of human rights was one of achievements of the women's movement during the Second World Conference on Human Rights in Vienna in 1993. The United Nations Commission on Human Rights set forth a resolution that integrated women's rights within the mechanisms of assuring protection of human rights. By the adoption of DEVAW, 1993 (mentioned above), international law can be interpreted to have defined gender based violence as a human rights violation. This declaration clearly states that violence against women constitutes a violation of women's rights and freedoms. So gender based violence is incompatible with the value of a democratic State and the rule of law. The use of a human rights framework has the underlying notion that all human beings are entitled to lives without what is thought to be preventable sufferings. Since universal gender inequality creates conditions of exploitation and subordination for women in the economic and social sphere, the lack of attention of these rights is of greater concern to women. Women globally are demanding that their rights should move beyond promises, into guarantees.<sup>8</sup>

#### *Sites of Gender Based Violence*

Gender based violence is the fate of millions of women all over the world and this is affecting their productivity both in their homes, communities and places of work. Identifying where the violence towards women occurs and new institutionalized power relations keeps women in a subordinate position and can be gathered at three levels of gender based violence. These are at the home or family level, the community level and the State level.<sup>9</sup>

##### *(a) The Family*

The institution of the family, besides being a major site of gender based violence is also an area where historical gender relations are often played out. On the one hand, the family is the source of positive nurturing and caring where individuals are

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<sup>8</sup> Indira Jaising, "Making Human Rights Norms Measures upto Women's Need", Lawyers Collective, Vol. 12 No. 2, p. 4 (1997).

<sup>9</sup> <http://www.mainstreamweekly.net/articles1936.htm> accessed on 15.03.2011.

bonded by mutual respect and love but on the other hand, it can be a social institution which exploits the labour of its members, where male sexual power is violently expressed and where socialization patterns disempower women. The family is considered by feminists to be the core institution within which gender inequalities are organized and reproduced. Family is the arena where physical abuse (spousal battering, sexual assault, sexual abuse) and/or psychological abuse (Domestic Violence can also take such forms as confinement, forced marriage of woman arranged by her family without her consent, threats, insults and neglects; over control of a woman's sexuality through either forced pregnancy or forced abortions. Violence within families and households takes place in the home and so it is often seen as a 'private' issue and information about it is lacking.<sup>10</sup>

*(b) The Community/Society*

The community plays a critical role in reinforcing the structure of the family and the position of women within it. The community not only defines gender relations within an ideal family and thereby often sets the stage for female subordination; it also perpetrates certain forms of violence. Violence against women within the community is often characterized by attacks on the 'honour' of women and by association on their communities as part of an assault by one group on another. Communities justify the behavior of male abusers aimed at establishing control over women in the family and support harmful traditional practices such as battering and corporal punishment. Workplace can also be a site of violence either in government services or in a business company. Women are vulnerable to sexual aggression (harassment, intimidation) and commercialized violence (trafficking for sexual exploitation).<sup>11</sup>

*(c) The State*

State is the arena that protects women's human rights and at the same time constrains them. The State becomes a major instrument in transforming certain legislative, administrative and

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<sup>10</sup> Tina Johnson, Gender Based Violence, Journal of Common Wealth Magistrates and Judges Association , Vol. 15 No. 3, p. 56 (2004).

<sup>11</sup> [http://www.unifem\\_eseasia.org/resources/traffick2.html](http://www.unifem_eseasia.org/resources/traffick2.html) accessed on 15.02.2011.

judicial practices which empower women to vindicate their rights and at the same time the negligence on the part of the State may be the cause of increased violence against women while the active intervention of the State may actually be the catalyst for the realization of certain women's rights. The history of legal reforms to protect women's rights in the Indian context is replete with examples of the State's dual role. While several Acts have been passed to protect women from violence, especially domestic violence, the weak implementation of these very acts and legislations continue to keep women in a position of subordination and powerlessness. State inaction in incidents of violence against women is one of the major causes that allows such violence to continue. Taking together the family, the community and the State constitutes not only a pervasive and interactive system for legitimizing violence, but the central point for acts of violence as well.<sup>12</sup>

Due to the immense vastness of the issue, it is not feasible to deal with every aspects of gender violence and it confines itself to one of crucial aspect of gender based violence i.e. domestic violence occurring within the family.

According to Black's Law Dictionary<sup>13</sup> "domestic violence means violence between members of a household, usually spouses, an assault or other violent act committed by one member of a household against another". The most important aspect of this kind of violence is the fact that, "it happens behind closed doors" and is most often denied by the woman who has been the victim of violence. It is this aspect of the crime that sets it apart from all other kinds of social violence.

#### *Domestic violence – National Perspective*

##### (a) *Constitutional Perspective*

Unlike a few other Constitutions in the world, the Indian Constitution bestows on the government the power to make "special provisions for women and children" in Article 15(3). Equality rights are an integral part of the fundamental right

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<sup>12</sup> [www.unifemeseasi.org/genders/downloads/unifemsheet5.pag](http://www.unifemeseasi.org/genders/downloads/unifemsheet5.pag) accessed on 15.03.2011.

<sup>13</sup> Black, Law Dictionary , VII p. 1564 (1999).

guarantees. These rights can be easily enforced by taking recourse to Article 32 and 226 of the Constitution.

The enactment of the legislation on Protection of Women from Domestic Violence Act, 2005 was passed by the Parliament with recourse to Article 253 of the Constitution. This provision confers on the parliament the power to make laws in pursuance of international treaties, conventions etc. The Domestic Violence Act was passed in furtherance of international treaties, conventions, etc. The Domestic Violence Act was passed in furtherance of the recommendation of the United Nations Committee on CEDAW. The Act encompasses all the provisions of the Specific Recommendations that form a part of General Recommendation No. 19 of 1992.

*(b) Protection of Women and Fundamental Rights*

The statement of objects and reasons declares that the Act was passed keeping in mind the fundamental rights guaranteed under Articles 14, 15 and 21. Article 21 confers the right to life and liberty in negative terms, stating that it may not be taken away except by procedure established by law, which is required, as a result of judicial decisions, to be fair, just and reasonable.

*(c) Position prior to the Act*

Position prior to the Act regarding domestic violence is discussed under the following heads:

*(i) Under the Civil Law Provisions*

For married woman in India, in the pre 2005 era, the legal system offered remedies to divorce, separation and maintenance under matrimonial laws. The most significant omission from our matrimonial laws is the fact that none of them, whether Hindu, Muslim, Christian or Parsi, contain any declaration of a right to reside in the matrimonial home. This is the root cause of the vulnerability of a woman in her matrimonial home. It is also one of the major factors by which it is possible to drive a woman out to the street and to blackmail her into agreeing to an unfair settlement. Without the recognition of a right to reside, the civil law on divorce provides little in terms of support to women in violent situations.<sup>14</sup>

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<sup>14</sup> Dr. Surinder Mediratta, *Crime Against Women and the Law*, p. 324 (2009).

It may be argued that a woman has the right to contest a divorce in cases where the terms of settlement cannot be reached. While this is possible, contested divorces involve protracted legal proceedings during which women have no access to support services. Experiences of working with Section 125 of Code of Criminal Procedure, 1973 show that there are huge delays even in obtaining interim orders for maintenance.

The breakdown of marriage in our society with its attendant discrimination means virtual civil death for women. Hence, in many cases women who do not want to divorce but want to end the violence resort to it. The law on divorce has no answers for such women.<sup>15</sup>

(ii) Under the Criminal Law Provisions

Remedies under criminal law are confined to the prosecution and possible conviction of the offender. The most commonly used provisions of criminal law in dealing with cases of domestic violence is Section 498 A of the Indian Penal Code, which makes cruelty to a wife by her husband or relatives an offence. The provision attracts a maximum punishment of three years on conviction. The explanation of the term 'cruelty' provided in this Section includes within its ambit not only physical but also mental injury.<sup>16</sup>

The first limitation to this provision is that it does not protect women from violence in relationships that are not matrimonial in nature. The second limitation inherent in criminal laws is that it is not aimed at providing relief, namely maintenance, shelter, custody etc. merely recognizing and providing for the offence does not ensure that women will take recourse in law, as they do not, in most circumstances, have the support of families, friends and relatives. Thirdly, criminal law provisions, being state driven have little space to gauge or reflect the victim's needs. Being a non-compoundable offence, Section 498 A does not allow a woman any scope for entering into a settlement once the case reaches the courts. There have been cases where women drop charges in the hope of reconciliation and when such reconciliation does not fructify they find it difficult to

<sup>15</sup> *Ibid.*

<sup>16</sup> Available at <http://www.legalserviceindia.com/articles/dv.html>.

file and pursue another complaint. Fourthly, there is a higher standard of proof required in criminal law, which is proof beyond reasonable doubt. In many cases this high burden is difficult to discharge, as women find it difficult to recall incidents of violence. Finally, Section 498 A is plagued with implementation problems. There are many instances where the police refuses to file complaints under this provision and recommend reconciliation instead. Section 304 B on dowry deaths, comes into play only when the woman is dead. It is our belief, that the inherent limitations of criminal law and the non-availability of civil reliefs both prevent women from using criminal law provisions and leads to failed prosecutions, and allegations of misuse from various quarters have been made.<sup>17</sup>

If the limitations of the pre 2005 legal regime are to be listed, it would be as follows:

1. There was no definition of the term 'domestic violence' that comprehensively reflected a woman's experience of violence in an intimate relationship.
2. There was no law to recognize a women's right to residence or her right to civil remedies.
3. Legal relief for violence could only be availed of by women in matrimonial relationships.
4. Relief under civil laws involved protracted legal proceedings without the guarantee of a satisfactory outcome.
5. Criminal laws do not allow space for any negotiations.
6. Even these limited remedies were difficult to access as women rarely had the wherewithal to approach the Court. Hence, a mechanism to facilitate a woman's access to courts was missing.

It must be clarified at this juncture that listing the inadequacies of the legal regime is not to say that such remedies are not needed. The conclusion of the critique is that without a right to civil reliefs it is unlikely that women would access the remedies available. The idea of a separate law on domestic

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<sup>17</sup> Vineet Kapoor, "Protecting Women from Domestic Violence", *The Tribune*, p. 13, March 19, 2011.

violence was forwarded in an attempt to build on existing remedies and bring it within the rubric of one law.

### **PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005: AN OVERVIEW**

The Act was passed by the Parliament in August 2005 and assented to by the President on 13<sup>th</sup> September, 2005. But implementation was pending as detailed consultations were required with the state and other agencies for framing of rules. The Ministry simultaneously issued another notification laying down the rules framed for the implementation of the Act. These rules may be called “The Protection of Women from Domestic Violence Rules, 2005”. The rules provide for, amongst other things, the appointment of protection officers, service providers and counselors. Action can be taken in the event of the respondent breaching the protection order passed by the Magistrate in favour of the aggrieved woman, which is also provided in these rules.<sup>18</sup>

Domestic violence is one of the gravest and the most pervasive human rights violations. Protection of Women from Domestic Violence Act, 2005 is a comprehensive law and addresses all issues related to women in detail. The passing of the Domestic Violence Act is an important mark in the history of the women’s movement in India, which has confronted the problem of domestic violence for over two decades. The legislation addresses most of the concerns relating to gender based violence that happen in the private sphere. It endeavours to provide both civil and criminal remedies, without too many procedural hassles, making it accessible for the aggrieved woman to approach the system and obtain relief. It provides quick and easy remedies for a victim of violence.<sup>19</sup> But the legislation has many challenges before it.

The significance of a legislation is judged by the unambiguous provisions and its implementation that lies in the hands of the executive which is the actual scale of measuring the effectiveness of the Act. The Act is a piece of crucial social

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<sup>18</sup> Vineet Kapoor, “Protecting Women from Domestic Violence”, *The Tribune*, March 19, 2011.

<sup>19</sup> Dr. Lalit Dadwal, “Domestic Violence: Causes, Consequences, Legislative and Judicial Response”, *Army Institute of Law Journal*, Vol. II, p. 245 (July, 2008).

legislation though it is not free from drawbacks or loopholes. There are so many challenges in the way of proper implementation of the Act. There are important features of the legislation as well as many challenges in the way of proper implementation of the act which are discussed below:-

(A) *Main Features of the Act*

The Act provides the following features:

(a) *Women's Rights under Domestic Violence Act*

The following rights are granted to a woman who is a victim of domestic violence under the Protection of Women from Domestic Violence Act, 2005.

(i) Right to live in a violence-free environment

It is the right of a woman who is in a domestic relationship to live in a violence free environment. If her right is violated she has a right to claim it by making an application under various provision of the Act.<sup>20</sup>

(ii) Residential Rights

Section 17 of the Act envisages that every woman in a domestic relationship shall have the right to reside in the shared household whether or not she has any right, title or beneficial interest in the same. It further envisages that the aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent.

In the case of *Ajit Bhai Patel v. Vatslaben Ashok Bhai Patel*,<sup>21</sup> the Supreme Court observed that wife not only acquires a right to be maintained thereunder but also acquires a right of residence, which is a higher right and extends to joint properties in which the husband has a share and is on a higher pedestal to the existing right of maintenance or that which was conferred under previous legislations.<sup>22</sup>

(iii) Right to claim monetary expenses

A woman has the right to claim monetary relief to meet expenses incurred and losses suffered by her. There is no such limit but the monetary claim includes:

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<sup>20</sup> Dr. Devinder Singh, *Human Rights: Woman and Law*, p. 232 (2010).

<sup>21</sup> (2008) 4 SCC 649.

<sup>22</sup> <http://www.legalserviceindia.com/articles/dv.html>

- (i) the loss of earning;
- (ii) medical expenses;
- (iii) the loss caused due to destruction, damage or removal of any property from the control of an aggrieved person;
- (iv) the maintenance for herself as well as her children.

(iv) Right to Claim Compensation

The woman who is aggrieved by an act of the respondent can move an application before the magistrate seeking one or more reliefs under the Domestic Violence Act. The relief sought for may include a relief for issuance of an order for payment of compensation or damages, without prejudice to the rights of such persons to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent.<sup>23</sup>

(v) Right to Claim Damages

The Magistrate may on application being made by an aggrieved person pass an order directing the respondent to pay compensation and damage, for injuries, including mental torture and emotional distress caused by the act of domestic violence committed by that respondent.

(vi) Right over stridhan or any valuable security<sup>24</sup>

Stridhan means women's property, the woman has the right over her stridhan but if the same was in possession of any other person she can claim the same by making an application for seeking possession of the same. On receiving an application, the Magistrate may direct the respondent to return the possessions of the aggrieved person, her stridhan, any other property or valuable security to which she is entitled.<sup>25</sup>

(vii) Right to issuance of orders

An aggrieved person has the right to get the following orders issued in her favour through the courts once the offence of domestic violence is prima facie established namely:

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<sup>23</sup> Dr. Devinder Singh, *Human Rights: Woman and Law*, p. 232 (2010).

<sup>24</sup> Dr. Devinder Singh, *Human Rights: Woman and Law*, p. 233 (2010).

<sup>25</sup> Available at <http://www.mainstreamweekly.net/articles1936.htm>.

Protection Order,<sup>26</sup> Residence Order,<sup>27</sup> Custody Order,<sup>28</sup> Compensation Order,<sup>29</sup> Monetary Relief,<sup>30</sup> Interim and ex parte Order

*(b) Role of Law Enforcement Agencies*

Earlier the enforcement of law was largely the responsibility of the “police” that itself never accepted domestic violence as a crime, rather it always perceived such violence as a part and parcel of Indian culture. The Act provides women the right to obtain assistance and protection. A woman who is victimized by acts of domestic violence will have the right to obtain the services and assistance of police officers, protection officers, and service providers. Protection officers have to serve as a link between the Court and the woman as well as enable her to access the support services provided under the Act. The fact is kept in mind that it might be easier for a woman to approach an NGO rather than the police or Court directly.<sup>31</sup>

*(c) Complementary in Nature*

The Act supplements the existing legislations. Section 26 of the Domestic Violence Act states that all the reliefs that can be obtained under this Act, can be sought by the aggrieved person in any pending proceedings before any other Court, civil or criminal where the aggrieved person and the respondent are parties. Hence, the aggrieved person can approach the same Court for relief under this law and need not file new proceedings in case either she or the respondent have filed any case against each other.

For example, if the respondent files for divorce in the family Court or in the District Court, the aggrieved person can make an application for relief under the Domestic Violence Act in the divorce proceedings. Therefore, the Domestic Violence Act in effect, acts as a single window clearance system. The relief

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<sup>26</sup> Section 18 of Domestic Violence Act, 2005.

<sup>27</sup> Section 17 of Domestic Violence Act, 2005.

<sup>28</sup> Section 21 of Domestic Violence Act, 2005.

<sup>29</sup> Section 22 of Domestic Violence Act, 2005.

<sup>30</sup> Section 20 of Domestic Violence Act, 2005.

<sup>31</sup> Dr. Lalit Dadwal, “Domestic Violence, Causes, Consequence, Legislative and Judicial Response”, *Army Institute of Law Journal*, Vol. II, (2009).

under this Act is in addition to any other relief sought. The aggrieved person can also take out fresh proceedings if she so desires.<sup>32</sup>

*(d) Dissolution of Public Private Divide*

The Act has understood domestic violence as a human rights violation and has made an effort to dissolve the public private divide. Efforts have been made to identify domestic violence as a crime by itself rather than shielding it under the existing crimes of cruelty, rape, assault etc.

*(e), Expanded definition of women*

The Act is primarily meant to provide protection to the wife or female live-in-partner, from violence at the hands of her husband or male live-in-partner or his relatives. The Act extends its protection to women who are sisters, widows or mothers or any other female relative living in the shared household in a domestic relationship.

*(f) Domestic Incident Report*

The machinery provided under this Act comes into motion on filing of a Domestic Incident Report (DIR). Therefore, an application could be made to the Magistrate asking for the grant of any, all or some of the reliefs assured to an aggrieved person under the Act. This Act recognized the need of victims for counseling (Section 14), medical help, vocational training, shelter homes, and other facilities.<sup>33</sup>

*(g) Wider definition of Domestic Violence*

The definition of domestic violence under Section 3 is very wide as it covers actual abuse or threat of abuse that may be physical, sexual, verbal, emotional and economic abuse. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

*(h) Recognized Live-in-Relationship*

For the first time in Indian legal history, the law has recognized the identity of a woman having a relationship in the

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<sup>32</sup> Indira Jaising, *Law of Domestic Violence*, p. 44 (2007).

<sup>33</sup> P.K. Das, *The Protection of Women from Domestic Violence Act and Rules*, p. 37 (2009).

nature of marriage and ensures them effective protection in tune with the constitutional provisions.

*(i) Speedy Justice*

It provides speedy disposal of complaints. Section 12 provides that the first date of hearing should be fixed within 3 days of receipt of an application and the Magistrate should endeavour to dispose of every application within a period of 60 days from the date of its first hearing. Section 16 provides that if a Magistrate considers that the circumstances of a case so warrants or if either party to the proceedings so directs, he may conduct the proceedings in camera.<sup>34</sup>

*(j) Spreading Social Awareness*

To make this statute a social reality, Section 11 of the Act recognizes the need for improved awareness amongst the victims about their rights; better societal orientation towards gender justice; training and sensitization of the state functionaries including judges about the implication of domestic violence and allocation of sufficient funds and resources towards the cause. It imposes duty on Central government and State Government to give wide publicity to the issue through the media.<sup>35</sup>

*(k) Remedial in Nature*

It is not punitive in nature. The various modes of relief provided for under it are aimed, principally, at protecting the victims from any further abuse and compensating her for the abuse already suffered and additionally, at restoring stability and harmony in the family unit. So, all provisions have been structured so as to give effect to this dual purpose.

*(l) Secular in Outlook*

It deals with domestic violence regardless of the religion of the parties, as many a time wrongs are perpetrated using the protection offered by personal laws. It is thus secular in outlook in protecting women's rights. The term "Woman" here is religion neutral.<sup>36</sup>

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<sup>34</sup> Ashok D. Ippe, *The Protection of Women from Domestic Violence Act*, p. 49 (2008).

<sup>35</sup> Available at [http://en.wikipedia.org/wiki/Protection\\_of\\_Women\\_from\\_Domestic\\_Violence\\_Act\\_2005](http://en.wikipedia.org/wiki/Protection_of_Women_from_Domestic_Violence_Act_2005).

<sup>36</sup> *Ibid.*

*(m) A Civil Remedy*

It is a civil law directed towards providing compensation and support to women. In contrast with existing criminal laws. (Section 498A, IPC, 1870).

*(n) Retrospective in Nature*

The Act may also be applied retrospectively and empowers the Magistrate to take cognizance of any Act of domestic violence alleges to have been committed even prior to commencement of Act.<sup>37</sup>

*(B) Challenges to the Legislation*

The significance and usefulness of the legislation is seen by determining whether the practicality of the Act has been ensured. The responsibility of implementation lies in the hands of the executive which will be the actual scale for measuring the effectiveness of this Act. For determining the issues related with effectiveness of the Act and challenges before it, the big question is how perfect the drafting of the law is, how much of it has received social acceptance, how readily the victims of violence can access the machinery established under the Act, how willing and competent the state officials are in providing the enumerated reliefs and how much of the law enforcement and monetary resource is directed towards its implementation. All these issues are discussed below.

*(a) Lack of Proper Infrastructure*

The Protection of Women from Domestic Violence Act, 2005 is a piece of crucial social legislation, though the Act is not free from loopholes. The manner in which the law has been operationalised/implemented does indicate the need for multiple agencies like a protection officer, service provider etc. To assist the women in distress and to assist the Court in discharge of its function.<sup>38</sup>

1. The required number of protection officers has not been decided upon as of yet. Moreover, the protection officer does not

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<sup>37</sup> Dr. Lalit Dadwal, "Domestic Violence: Causes, Consequences, Legislative and Judicial Response", *Army Institute of Law Journal*, Vol. II, p. 252 (2007).

<sup>38</sup> Available at <http://www.legalserviceindia.com/articles/domesticviolence.html>

have social work experience or a law background. They are government officials from various departments vested with an additional responsibility and this has adversely affected their capacity to intervene. The protection officer is not appointed on a full time basis and thus they are facing constraints of time and in some cases they are overwhelmed by their substantial workload. They have not been provided with staff to work. They can delegate their functions to ensure effectiveness. There is also a lack of basic legal training for them.<sup>39</sup>

2. Only registered NGOs can play the role of service providers. It negates the idea of wider community involvement. The requirement of registration of NGOs as service providers with the designated authority will deny victims a valuable help from the non-registered NGOs. The reasons for non-registration of NGOs is their lack of awareness of this law. Moreover, some NGOs are reluctant to register under this law as they perceive a loss of autonomy and believe that they shall be vested with the responsibility of implementing the law once registered.<sup>40</sup>

3. There are provisions in the Act for notification of medical facilities and shelter homes by the State Government without the receipt of applications for registration. Concrete efforts on the part of the government are desired.<sup>41</sup>

*(b) Very Broad Definition of Domestic Violence*

The wide definition of domestic violence and the interpretation of verbal, emotional, sexual and economic abuse i.e. degrees of domestic violence, has promoted unnecessary litigation even for petty domestic disputes and covered normal day scenarios in its realm. Such a wide definition and violence in different shades will become hell for the husband. So the degrees of domestic violence should be defined narrowly and with precision to prevent the breakdown of a marriage, otherwise this will strike at the very foundation of marriages. Although a wider definition of domestic violence is given, it does not speak about

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<sup>39</sup> Ibid.

<sup>40</sup> Available at [http://en.wikipedia.org/wiki/protection\\_of\\_women\\_from\\_domestic\\_violence\\_act\\_2005/](http://en.wikipedia.org/wiki/protection_of_women_from_domestic_violence_act_2005/).

<sup>41</sup> Available at [http://domesticviolenceact05.blogspot.com/2011/03/frontline\\_reports\\_about\\_domestic.html](http://domesticviolenceact05.blogspot.com/2011/03/frontline_reports_about_domestic.html).

anything regarding forced sex or sex without the wife's consent i.e. marital rape.

*(c) Gender Biased Legislation*

This Act imposes a lot of responsibility on men without giving them rights, whereas it gives a lot of rights to women without requiring them to be responsible. Giving such sweeping legal powers to women while withholding protection to male victims is tantamount to systemic legal victimization of men.<sup>42</sup>

*(d) Violative of Principles of Natural Justice*

The Universal Declaration of Human Rights (UDHR, 1948) proclaims that, "everyone charged with a penal offence has the right to be presumed innocent until proved guilty, according to law". However, the Act works on the promise that an accused man is guilty until proved innocent which violates the presumption of innocence and the principles of fair trial guaranteed under Articles 20 and 21 of the Constitution of India.

*(e) Ambiguity regarding the Definition of Domestic Relationship*

The Act defines an aggrieved person as a woman who is or has been in a domestic relationship with the respondent. So it is not clear whether it includes a child or not. The Act does not make any provisions for the protection of domestic servants which is a significant lacuna because the ill treatment of maid servants is a common phenomenon in the Indian social setup. The Act does not extend protection to male children as well.

*(f) No Wider Utility and Application*

The biggest beneficiaries or main users are still 'married woman', however this Act covers widows, sisters, mothers, etc. This fact puts a question mark on its wider utility and application. This is an indication of its wider non-acceptance and non-recognition of domestic violence in the non-marital sphere. The law makers look upon domestic violence only as a legal problem and are concerned more about protection and less about 'prevention'.<sup>43</sup>

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<sup>42</sup> Available at <http://www.legalserviceindia.com/articles/domesticviolence.html>.

<sup>43</sup> Ashok D. Ippe, The Protection of Women from Domestic Violence Act, p. 204 (2008).

*(g) Option of In Camera Proceeding*

According to Section 16 of the Act if the Magistrate considers that the circumstances of the case so warrants, and if either party to the proceedings so desires, he may conduct the proceedings in camera. Sometimes the proceedings in camera may be frightening for the aggrieved 'party', particularly when no family person is around. So the aggrieved party would want the proceedings to be in the apex court. The option of the respondent for in camera proceedings should not be accepted. It is suggested that instead of either party, the choice for proceedings to be in camera should be that of the aggrieved party.<sup>44</sup>

*(h) Right to Residence: A Limited Right*

The right to reside in a shared household has been severely limited due to the ruling of *S.R. Batra v. Smt. Taruna Batra*.<sup>45</sup> Even in cases, where it is granted, it is being given in the form of alternative accommodation rather than shared household. The effect of this judgment was to deny hundreds of women living in joint families, the protection of a roof over their heads only for the reason that the parents-in-law owned the home, notwithstanding that it was the only place of residence for the woman.

*(i) Prone to Misuse*

The Act can be easily misused. The fact that a complaint by a woman will be treated, prima facie, as true and genuine opens up a whole new realm of possibilities where innocent men will be accused and implicated in false cases, just because they refuse to give in to her unreasonable demands. This has intimidated and instilled fear in the minds of innocent people. When a person who has not committed any crime, begins to fear punishment under the provisions of law, it is not a law anymore, it is state sponsored terrorism.<sup>46</sup>

*(j) Delay in Dispensation of Justice*

Domestic violence always tends to focus on conciliation between the perpetrator and the victim, even within the criminal

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<sup>44</sup> Available at <http://www.legalserviceindia.com/articles/domesticviolence.htm>

<sup>45</sup> AIR 2007 SC 1118.

<sup>46</sup> Available at [http://www.domesticviolence.com/conclusion\\_on\\_domestic\\_violence/](http://www.domesticviolence.com/conclusion_on_domestic_violence/).

justice system. This is due to judicial perception regarding the importance of perceiving the family unit, even to the detriment of a victim of domestic violence. Section 14 is counter productive in two ways in recognition of this Act:

- It might jeopardize speedy disposal of a case;
- It may also convince the aggrieved to continue in that situation without taking any future action.

So, counseling is used as a tool for a woman to accept a violent situation and to put her marriage back on the road.<sup>47</sup>

*(k) Legalising adultery/polygamy in the shade of a live-in-relationship*

This Act attempts to legalise live-in-relationships, thereby violating laws against polygamy and also disregarding the rights of a legally wedded wife. The live-in-relationship sometimes, may amount to an offence, such as bigamy or adultery and it may not be justified to grant legal recognition, even, impliedly, to such a relationship. This Act is silent on the status of children out of live-in-relationships.

The Act is silent so far as the time limit for a shared household is concerned, as to how long a couple has to have been living in a shared household. It means that a woman who lives with a man even just for weeks without being married to him, can at any time seek relief at par with his own wife.

*(l) No plan for legal literacy and sensitization*

Any legislation should have a simultaneous legal literacy and sensitization plan. It is an open fact that the victims of domestic violence themselves do not accept it as something wrong. There is total ignorance regarding rights as well as the law on the part of a woman. Therefore, laws remain as paper tigers rather than being instruments of social change.<sup>48</sup>

*(m) No express provision regarding Marital Rape*

Though the Act cover physical abuse, sexual abuse, verbal or emotional abuse as well as economic abuse, it is silent on 'forced

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<sup>47</sup> Vineet Kapoor, "Protecting Women from Domestic Violence", *The Tribune*, p. 13, March 19, 2011.

<sup>48</sup> Dr. Lalit Dadwal, "Domestic Violence: Causes, Consequences, Legislative and Judicial Response", *Army Institute of Law Journal*, Vol. II, p. 252 (2009).

sex' or 'sex without the wife's consent', that is, 'marital rape'. While the west has legally recognized the consent of women even in marital relationships violation/rejection of which is equivalent to a criminal Act, in India this is an area still awaiting legal recognition.<sup>49</sup>

To conclude, it may be said that the strategy of the Indian state towards this problem, and particularly that of a woman relies largely on the law and often only on the law. The lawmakers are looking at domestic violence only as a legal problem and are concerned more with "protection" and less with "prevention". There is no mechanism to make it mandatory for the state to enforce the law in totality; consequently in most states implementation is half-hearted. One can find extreme disparity in the appointment of protection officers, providing inadequate budgetary support, maintaining poor records thus making the collection of data difficult. The Act needs a centrally sponsored scheme for effective implementation.

The Act could play a stellar role in the protection of women's rights in the household and in guarding them from domestic violence. In the very first instance, recognition of domestic violence as something acceptable, where it has become yet another social practice is necessary and indeed commendable in a patriarchal society. Having recognized the rights of women and the violation of these rights, the next step to be taken is providing innovative and efficacious remedies to enforce the same. The conceptualization of the Act is thus far from admirable.

## **CONCLUSION AND SUGGESTIONS**

A fight for gender equality is not a fight against men. It is a fight against traditions that have chained them – a fight against attitudes that are ingrained in society – it is a fight against the system – a fight against the proverbial Laxman Rekha which is different for men and different for women. Society must rise to the occasion. It must recognize and accept the fact that men and women are equal partners in life. They are individuals who have their own identity.

Dr. Justice A.S. Anand

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<sup>49</sup> Available at [http://en.wikipedia.org/wiki/protection\\_of\\_women\\_from\\_domestic\\_violence\\_act\\_2005/](http://en.wikipedia.org/wiki/protection_of_women_from_domestic_violence_act_2005/).

13th September, 2005 was a significant day in the history of women's movements. Following ten years of persistent effort, the Protection of Women from Domestic Violence Act, 2005 received the assent of the President. It has fulfilled a long standing demand of women's organization and other groups for a civil remedy for domestic violence. The present Act is comprehensive in its coverage of all types of domestic violence and provides remedies for women enduring domestic violence or facing the possibility of such violence.<sup>50</sup>

At a purely theoretical level, the Act has been a colossal leap for the women of India because it has, for the first time, recognized the fact that Indian women are not only the victims of individual acts of physical and sexual abuse, as in the case in many societies but also the victims of well established oppressive social systems that constantly and systematically stunt their emotional growth and perpetuate their dependence on the male members of their family and has attempted to remedy the situation. However, at a more practical level, domestic violence as defined under the Act is so far reaching in its scope that it gives rise to the possibility of an unprecedented volume of frivolous and vexatious legislations under the Act, for the purpose of harassing the family of the husband or of the complainant into meeting some demand or fulfilling some expectation. Moreover, vindictive litigation of this nature has a disastrous impact on the impressionable minds of the children in the family. Only time will tell whether or not the Act will be misused, for there cannot be any perceptible change in a woman's status overnight. It will take at least a decade before things change but atleast some women would benefit which would set a precedent for others.<sup>51</sup>

The Act, by and large, is a valuable piece of legislation. Its shortcomings do not, on final analysis, blot out the immense benefit the Act could be of to women. The fact that it deals with domestic violence regardless of religion of the parties covers every woman's fundamental rights.

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<sup>50</sup> Accessed on <http://www.legalserviceindia.com/articles/domesticviolence.html> accessed on 08.03.2011

<sup>51</sup> Preeti Mishra, Domestic Violence Against Women- Legal Control and Judicial Response, p. 484 (2007)

The effects of domestic violence on human society are immense, and almost impossible to measure with a single yardstick. The cumulative effect of the menace of domestic violence affects every area of life and takes a huge toll on the nation in terms of its various resources in addition to the human.<sup>52</sup> This Act being a piece of social legislation requires that first the social climate be creative and made conducive. Domestic violence can never be eliminated from society unless society refuses to tolerate it. This will require an internal change to the basic nature of society the world over, beginning with the recognition of the worth of every human being as an individual. If the law does not back up in terms of implementing punishment on those who violate others within the sacred walls of the institution called family and home, the weaker will continue to be violated and abused by the stronger – physically, mentally, materially and spiritually.<sup>53</sup>

Legal reforms are meaningless unless they are preceded by social reforms. The emancipation of women requires more than the laws, breaking free from the shackles of social taboos, education and economic independence. It is imperative that the battle against the menace of domestic violence be waged first by social scientists rather than by lawyers, and it requires the use of classrooms rather than the Court rooms. There is a dire need to recognize, resist and report the malaise of domestic violence.<sup>54</sup> Only enacting the law, is not the way to eliminate the atrocities over women in the society. Sincere efforts are required to be made by all the concerned agencies particularly the non-governmental organizations, law enforcement officials, legal aid authorities, and the government itself to fully empower women in all respects and to achieve the desired objective of the legislation.

How this law reaches women and how and in what context it is delivered would determine whether women have access to justice as equal citizens. This Act fulfills, at least on paper, many of the hopes that women have articulated over the last several

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<sup>52</sup> Ibid at 485.

<sup>53</sup> Indira Jaising, "Making Human Rights norms measure up to Women's Need", Lawyer collective vol.12 No.2:4 (1997)

<sup>54</sup> Suman Gupta, "protection of Women from Domestic Violence Act, 2005:Some Concerns/ Reflections/Issues", Cri LJ p.248(September 2008, Vol.114).

years. It is the first comprehensive acknowledgement of domestic violence. The Act would become a reality if it takes cognizance of the objections raised and suggestions made by those who have been involved with women's issues and gender justice. This Act has some flaws in it which need to be amended.

To prevent further damage to marital harmony and social stability in India, the following suggestions are made:

*1. Need for Adequate Infrastructure and Budgetary Allocations*

Adequate infrastructure and appropriate budgetary allocations are needed in all states for effective implementation of this law. Infrastructure budgets and the number of courts should be enhanced to meet the demands of the law. This may be done through gender budgeting. (It refers to various government initiatives that seek to address gender issues in the domain of public expenditure and policy) which is now an accepted tool of budgeting. In light of the high incidence of domestic violence, there should be separate allocations for the implementation of laws relating to domestic violence. Though the responsibility of putting in place infrastructure has been vested with State governments, one cannot lose sight of the fact that the Protection of Women from Domestic Violence Act, 2005 is a central law. The centre has a duty in the federal structure to make adequate budget available to the states for the purpose of implementation of this law. There is a definite need to increase the budget for support and for allocation of funds to implement this Act. It is suggested that a scheme should be formulated to ensure a regular annual flow of a specified amount every year with ongoing financial monitoring.<sup>55</sup>

*2. Appointment of an Independent and full-time Protection Officer*

Focus must be placed on the appointment of protection officers. It is desirable that a cadre of independent, full-time protection officers with the requisite qualifications and gender perspective be appointed. They would not be effective without adequate infrastructure and budget such as allowance for transport, mobile phone, private office space, official letterheads and so on. Thus, what is needed is not merely infrastructural aid

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<sup>55</sup> Available at <http://www.Legalserviceindia.com/articles/domesticviolence.htm>

but institutional status as well. There is a need to review and perhaps ensure some uniformity in the qualifications of protection officers, particularly in view of the need to appoint a full time cadre of protection officers to effectively implement the law.

### *3. Prompt Registration of Service Providers*

The registration of service providers must commence in earnestness as not only will women be able to access them better, but because the protection officer will be able to rely on them for guidance. As far as financial resources of NGOs are concerned, the existing schemes of assistances to the NGOs should be modified. Apart from this the availability of good condition shelter homes should be promptly ensured by the Government. Concrete efforts on the part of the Government in this regard is desired. The requirement of registration of agencies with the designated authority will deny victims valuable help from the non-registered NGOs.

### *4. Need to build a multi-agency Response*

There is a need to build a multi-agency response between the protection officers, police, legal service authorities, service providers etc to aid women facing domestic violence. The police at the State and district levels should take adequate steps to sensitize and motivate their subordinates to utilize the services of women groups at an optimum level. State governments should encourage at least one woman group in each district to take up programmes for the care and protection of victims of domestic violence. The Government should not interfere in the autonomy and functioning of the NGOs in lieu of their patronage, support and cooperation except for periodic evaluation of the performance of these organizations by non-official experts who may be appointed by a competent authority.

### *5. Need to give training to various Functionaries*

Police officers, prosecutors and judges at all levels of hierarchy need to be exposed to gender equality education which would enlighten them on existing assumptions, myths and stereotypes about women and how these can interfere with the fair and equitable administration of justice. There is an urgent need

to train various functionaries involved on a regular basis for them to discharge their functions in an effective and sensitive manner.<sup>56</sup>

*6. Need to widen the definition of an “aggrieved person”*

Having regard to the fact that a child is disadvantaged in matters of access to Court and it was never the intention to exclude children from the ambit of the law, it is suggested that the definition of aggrieved person be amended to include children as well as domestic servants.

*7. Need to amend definition of child to be in conformity with other penal laws*

Section 2(b) defines child as any person below the age of eighteen years and therefore, an adult means a person of eighteen years or above. The Act mentions the respondent as an adult male person. Under Indian Penal Code, a person of 12 years or above is fully responsible for his acts where as under this Act, a complaint cannot be filed against a person below the age of 18 years. A boy of 16 can be convicted under Section 498 A of Indian Penal Code for subjecting his sister-in-law to cruelty but no complaint can be filed against him for domestic violence under this Act. So, it is submitted that the age limit for liability for one’s actions under this Act should be the same as prescribed under the Indian Penal Code.

*8. Need to give Restricted Recognition to live-in-relationship*

Live-in-relationships sometimes may amount to an offence, such as bigamy or adultery and it may not be justified to grant legal recognition, even impliedly, to such a relationship. So, it is submitted that it should be provided in the Act that the female partner in a live-in-relationship will be entitled to remedies under this Act only if such relationship does not amount to an offence.

*9. Option of camera Proceedings*

It is suggested that instead of either party the choice for proceedings to be in camera should be that of the aggrieved party. Sometimes the proceedings in camera may be frightening for the aggrieved party, particular when no familiar persons are around.

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<sup>56</sup> Preeti Mishra, Domestic Violence Against Women- Legal Control and Judicial Response, p.507 (2007).

If the aggrieved party wants the proceedings to be in open Court, the option of the respondent for in camera proceedings should not be accepted.

### *10 Awareness Creation and Capacity Building*

The Central and State Governments are duty bound to build awareness of the law in the public domain. As awareness advances amongst the general public, more people will come forward for the enforcement of their rights. Laws alone are not enough, the mindset of society and the units of society i.e. family needs to be changed and brought in tune and with the notion of equality in the true sense of the term. If equality is ensured in the real sense, the evils of domestic violence can be curbed.

### *11. Collection of data with the object of reviewing the functioning of the Law*

Monitoring of law is an integral part of implementation. The Central and State governments should put in place a system of collating and computerizing data on domestic violence, including Court orders and DIRs filed. The compilation of data in order to evaluate the functioning of the law should be done on an annual basis.<sup>57</sup>

### *12. Need to Replace it with a Gender Neutral Legislation*

This Act should be made gender neutral and equal protection should be provided to men and women against physical, emotional, verbal and economic abuse. Domestic violence should be replaced by a more benign, sensible, gender neutral legislation that ensures women and men their rightful, honourable place within and outside the home, in order to promote domestic harmony, reduce litigation and prevent legal terrorism and extortion through the misuse of law.<sup>58</sup>

### *13. Focus must be on prevention instead of protection only*

The lawmakers are looking upon domestic violence only as a legal problem and are concerned more with 'protection' and less with prevention. The focus should not be on relief measures only, but on structural changes which will empower women and make

<sup>57</sup> Available at <http://indianlawyers.wordpress.com/tag/protection-of-women-from-domestic-violence-act-2005> accessed on 08.03.2011.

<sup>58</sup> Available at <http://jurisonline.in/2010/03/domestic-violence-act-sociological-perspective> accessed on 08.03.2011

them independent and hence less vulnerable to violence. The emphasis should not be on “relief and rescue” but on ‘independence and empowerment’. There should be a change in the socialization process i.e. male and female should be brought up in a similar manner only then will the attitude of men change towards women in the future.

#### *14. Establishment of a Network of Social Defence*

A widespread network of social defence services should be established in a large number of states. Under this, counseling centres, shelter homes, and medical facilities should be setup in various states and in every district, which should be accessible to women in distress at any time of the day or night. These institutions should provide all kinds of assistance, legal, financial or psychological counselling should be provided before the actual commission of crimes so that the family may be saved from breaking up.

#### *15. Need to incorporate provisions for recognizing Marital Rape*

This Act has provided civil remedies similar to how the provision of cruelty gave criminal remedies, while keeping the status of matter of marital rape in continuing disregard. Section 3 of the Act condones sexual abuse in a domestic relationship of marriage or live-in and can be remedied only if it is life threatening or grievously hurtful. It is not about the freedom of decision of a woman’s want. Since, marital rape is not an offence, the evidence is inadmissible and proving the offence of marital rape in Court will be nearly impossible. How can the law ignore such a huge violation of a fundamental right of freedom of any married woman, the right to her body, to protect her from any abuse. It is hereby suggested that an amendment to said Act should be made to give recognition to marital rape as an offence/criminal act.

#### *16. Wider publicity to reach the real victims*

Rural women are victims of domestic violence more than urban women. The Act should be implemented effectively in rural areas so as to make it successful. The government should ensure wide publicity in these areas through every means possible.

### *17. Epilogue on right to residence*

Right to residence is one of the most ill-drafted and pernicious provisions in this Act. It is suggested that the following modifications must be incorporated into the Act immediately:

The Supreme Court guidelines on shared households as pronounced in *Batra v. Batra*, (2007 SC) must be formalized and incorporated into the Act. Shared households cannot be the self acquired property of parents of the male in a domestic relationship. Often, a couple invests a whole lifetime in acquiring property so that they can spend their twilight years in peace and harmony. An irate daughter-in-law in a strained relationship with her husband should not be allowed to rob them of that.

Often Indian joint families across multiple generations, both vertically and horizontally, tend to live in a joint family. If an unscrupulous woman is allowed a residence order in such joint family property, it will result in the dispossession and displacement of multiple members of the joint family. The need of residence for an estranged wife or a live-in can surely be met without necessarily dispossessing countless others. However, amendments suggested above, need to be made urgently so as to make the law more effective.

To conclude, we infer that although the intentions of the Act are laudable, and the changes that it has introduced are significantly progressive, the sensitivities implicit in the provisions of the Act, especially in the context of the unique and peculiar form that India's social structure has acquired over the years would make its implementation complicated and its success uncertain. The effective implementation of Act would, in the future, depend upon proper training of the protection officers and the efficient functioning of service providers. The significant battle against domestic violence in India is social rather than legal and can be fought only if a comprehensive scheme for education of women is put in place at all levels of the social structure so as to not only make them aware of their rights under the Act and other similar legislations but also to pave the way for their financial independence and to uproot the self perpetuating sense of inferiority that has seeped so deep into their mind sets. It is also

assumed in light of modern legal notions that base socio cultural and religious patterns that have been a major inspiration for the high degree of domestic violence in our society, would become a thing of the past in the following decades because the stark reality is that the future of development and society lies in the future of women equally with men.

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## *Free Speech and Obscenity Law in India*

### 1. Reflections on Freedom of Speech and Expression

The Constitution of India under Article 19(1) (a) guarantees to its citizens the freedom of speech and expression. Freedom of speech and expression is a composite expression which is different from ‘speech and expression’. Article 19 guarantees the right to the former and not to the latter. Freedom of speech and expression has a well-recognized connotation which means the liberty to express one’s views, opinions and beliefs. It does not mean the right to say whatever, whenever, and wherever one likes. So, this right guaranteed under Article 19(1) (a) is not absolute, rather it is subject to exceptions which are contained under Article (19) (2) which reads as follows:

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevents the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with Foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

This freedom of speech and expression like other fundamental rights guaranteed by the Indian Constitution is not without restrictions, i.e., absolute.<sup>1</sup> The freedom of speech and

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<sup>1</sup> It can be restricted provided three independent prerequisites are satisfied-

- (i) The restrictions must have authority of law to support it. Freedom of expression cannot be curtailed by executive orders or administrative actions which lack the sanction of law.
- (ii) The law must fall within one or more heads of restrictions specified in Article 19(2). Restriction on freedom of expression cannot be imposed on such omnibus grounds as “in the interest of general public” which is permissible in the case of fundamental Rights like freedom of trade and business.
- (iii) The restriction must be reasonable. It must not be excessive or disproportionate. The procedure and the manner of imposition of the restriction also must be just, fair and reasonable.

expression is the hallmark of a free person as it is essential for the full development of human personality. In the United States of America as well the freedom of speech and expression is recognized as the foundation of free Government, for it is only through free debate and free exchange of ideas that the Government remains responsive to the will of the people and peaceful change becomes possible. It also rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential for the welfare of the people. The First Amendment to the Constitution of U.S.A. prevents any public authority from assuming a 'guardianship of the public mind' by means of regulating their speech. This provides that:

The Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Freedom of speech and expression is a *sine qua non* of the functioning of a democratic polity. Democracy means a government by persuasion and unless there is freedom for discussion of political as well as other matters, the polity could not be termed a democracy. And, as a natural corollary, the term includes the freedom of press as well. <sup>2</sup> Freedom of Speech and expression is the bulwark of democratic government. This freedom is essential for the proper functioning of democratic process. The freedom of speech and expression is regarded as the first condition of liberty. It occupies a preferred position in the hierarchy of liberties

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<sup>2</sup> Kashyap, Subhash, C., *Our Constitution: An Introduction to India's Constitution and Constitutional Law*, 120 (National Book Trust, 2014); Justice Patanjali Shastri in *Romesh Thapar v. State of Madras* (AIR 1950 SC 124, 128) succinctly brought out this notion in the following words-

Freedom of speech and the press lay at the foundation of all democratic organizations, for without political discussion no public education, so essential for the proper functioning of the process of the popular government, is possible. A freedom of such amplitude might involve risks of abuse. But the framers of the Constitution may well have reflected with Madison, who was the leading spirit in the preparation of the First Amendment of the Federal Constitution, that is better to leave a few of its noxious branches of their luxuriant growth than by pruning them away, to injure the vigour of those yielding the proper fruits."

The National Commission to Review the Working of the Constitution (2002) recommended the freedom of the press be specifically included under Article 19(1) (a).

giving succor and protection to all other liberties. It has been truly said that it is the mother of all liberties.<sup>3</sup>

The freedom of expression is not confined to any particular field of human interest. It can be exercised not only for religious purposes, but for political, economic, scientific, cultural or informational ends also.<sup>4</sup> The nature of man and very system of society itself requires that certain restrictions and limitations be placed on this fundamental right.<sup>5</sup>

In *Sakal Papers Ltd. v. Union of India*<sup>6</sup>, the Court was of the opinion that the right to propagate one's ideas is inherent in the conception of freedom of speech and expression. For the purpose of propagating his ideas every citizen has a right to publish them, to disseminate them and to circulate them. He is entitled to do so either by words of mouth or by writing. The right guaranteed thus extends, not merely to the matter which he is entitled to circulate, but also to the volume of circulation. In other words, a citizen is entitled to propagate his views.

The Supreme Court in *Rakeysh Om Prakash Mehra & Anr. v. Government of NCT of Delhi & Anr.*,<sup>7</sup> added a new dimension to freedom of speech and expression and held that the Constitution guarantees not only freedom of speech but also freedom after speech. It further added that the freedom of expression is of an inestimable value in a democratic society and is based on the rule of law.

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<sup>3</sup>Jain, M.P., *Indian Constitutional Law*, 1078(Wadhwa and Wadhwa Company, Nagpur, 2012)

<sup>4</sup>Dholakia, H.C., *Right to Freedom of Speech and Expression in India*, 146 (Maharaja Sayajirao University of Baroda, 1980)

<sup>5</sup> In the U.S.A., the state may impose valid restrictions upon the freedom of speech and expression, in the exercise of the police power, on the grounds which may be broadly classed under the following heads-

- (i) Protection of individual from libel and slander,
- (ii) Protection of community against dissemination of obscenity,
- (iii) Prevention of interference with administration of justice,
- (iv) Protection of State against internal discord or overthrow of orderly government by force,
- (v) Punishing incitement to crime,
- (vi) Protection of state against external aggression.

<sup>6</sup>AIR 1962 SC 305; also in *Life Corporation of India v. Prof. Manubhai D. Shah* (AIR 1993 SC 171) the Court opined that the speech is God's gift to mankind. Through a speech a mankind conveys his thoughts, sentiments and feelings to others. Freedom of speech is thus a natural right which human beings acquire on birth. It is therefore, a basic human right.

<sup>7</sup> 2013 (197) DLT 413

The freedom of speech and expression includes liberty to propagate one's views. It also includes the right to propagate or publish the views of the other people, otherwise this freedom would not include the freedom of press.<sup>8</sup>

In *Khushboo v. Kannaiammal*<sup>9</sup> the Supreme Court upheld the right to freedom of speech and expression. The right to freedom of speech and expression is one of the most important fundamental rights, it said. It includes circulating one's views by words or in writing or through audio-visual instrumentalities, advertisements and any other communication channel. It also comprises the right to information, right of press, etc. Thus, this fundamental right has a vast scope.

From the above contents, it is evident that the Court has always placed a broad interpretation on the value and content of Article 19 (1) (a), making it subjective only to the restrictions permissible under Article (19)(2). Efforts by intolerant authorities to curb or suffocate this freedom has always been firmly repelled, more so when public authorities have betrayed autocratic tendencies.

The purpose of the present paper is to examine the notion of the obscene, the test of obscenity and its judicial application to the recent obscenity cases.

## **2. Article 19 of the Constitution *vis-à-vis* Obscenity**

Reasonable limits or restrictions can be imposed on the exercise of the right to freedom of speech under Article 19(2) in the interest or on the grounds of: (i) Security of the State, (ii) Friendly relations with foreign countries, (iii) Public Order, (iv) Decency or Morality, (v) Contempt of Court, (vi) Defamation, (vii) Incitement to offence, and (viii) Sovereignty and integrity of India. This right is one of the most important basic human rights and is essential for safeguarding and promoting other human rights. One of the restrictions on the freedom of speech and expression is the protection of public decency and

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<sup>8</sup> The Supreme Court in *Ramesh Thappar v. State of Madras*, AIR 1950 SC 124 by majority expressed the view that there can be no doubt that the freedom of speech and expression include freedom of propagation of ideas and that freedom is secured by freedom of circulation. Liberty of publications is essential to that freedom as the liberty of publication indeed without circulation publication would be of little value.

<sup>9</sup> 2010 SC 3196

morality. So, obscene works and other things of similar nature are not to be protected. Justice Hidayatullah in *Ranjit D. Udeshi v. State of Maharashtra*<sup>10</sup> observed while dismissing the appeal (where the appellant was charged under Section 292 of the Indian Penal Code, 1860) that 'no doubt this Article 19 guarantees complete freedom of speech and expression but it makes an exception in favour of existing laws which imposes restrictions on the exercise of the right in the interest of public decency and morality. Speaking in terms of the Constitution, it can hardly be claimed that obscenity which is offensive to modesty or decency is within the constitutional protection guaranteed to freedom of speech and expression, because the Article dealing with the right itself excludes it. That cherished right on which our democracy rests is meant for the expression of free opinions, to change political or social conditions or for the advancement of human knowledge. This freedom is subject to reasonable restrictions, which may be thought necessary in the interest of the general public with one such is the interest of public decency and morality.' He further observed that 'when everything is said in its favour we find that in treating with sex the impugned portions viewed separately and also in the setting of the whole book pass the permissible limits judged of from our community standards and as there is no social gain to us which can be said to preponderate, we must hold the book to satisfy the test we have indicated above.'

D. D. Basu opined that 'decency or morality' is not confined to sexual morality alone. Decency indicates that the action must be in conformity with the current standards of behavior. The question whether an utterance is likely to undermine decency or morality is to be determined with reference to the probable effects it may have upon the audience to which it is addressed.<sup>11</sup>

The restriction under Article 19(2) can be validly imposed on decency and morality and any law against obscenity would be protected under the same clause. But it is not always necessary that the immodest representation be restricted in the interest of decency or morality, especially where it is conducive to the propagation of ideas or information of public interest.

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<sup>10</sup> AIR 1965 SC 881

<sup>11</sup> Basu, D.D., *Constitution of India* 283 (Lexis Nexis Butterworths Wadhwa Nagpur, 2009)

In India, in a test to define whether a matter is obscene or not, the court followed the same test as laid down in the Hicklin's Case<sup>12</sup> which says that 'the test of obscenity is this, whether the tendency of the matter charged as obscene is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall. It is quiet certain that it would suggest to minds, of the young of either sex, or even to persons of more advanced years, thoughts of a most impure and libidinous character.' This test got the judicial recognition in India for the first time in the case of Ranjit D. Udeshi vs. State of Maharashtra.<sup>13</sup>

In a plethora of cases *viz.*, K. A. Abbas *v.* Union of India,<sup>14</sup> Raj Kapoor and Others *v.* State and Others,<sup>15</sup> Bobby Art International *v.* Om Pal Singh Hoon,<sup>16</sup> Suo Moto *v.* State of Rajasthan,<sup>17</sup> R. Basu *v.* NCT of Delhi and Anr.,<sup>18</sup> Pratibha Naithanni *v.* Union of India,<sup>19</sup> Samresh Bose and Anr. *v.* Amal Mitra and Anr.,<sup>20</sup> Ajay Goswami *v.* Union of India,<sup>21</sup> Director General of Doordarshan *v.* Anand Patwardhan,<sup>22</sup> Maqbool Fida Husain *v.* Raj Kumar Pandey<sup>23</sup> etc., the Supreme Court applied the same test while dealing with the question of obscenity.

### **3. Obscenity: Reflections of Law and Precedents in Modern India**

#### **3.1 Concept of 'Obscenity'**

The concept of obscenity differs from country to country and from place to place depending on the standards of morals of the contemporary society. An obscenity occurs if any statement or act strongly offends the prevalent morality of the time.<sup>24</sup> It is derived

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<sup>12</sup> R. v. Hicklin (1868) 3 QB 360

<sup>13</sup> AIR 1965 SC 881

<sup>14</sup> AIR 1971 SC 481

<sup>15</sup> AIR 1980 SC 258

<sup>16</sup> AIR 1996 SC 1846; (1966) 4 SCC 1

<sup>17</sup> AIR 2005 Raj 300

<sup>18</sup> 2007 Cri. L. J. 424

<sup>19</sup> AIR 2006 (Bom) 259

<sup>20</sup> AIR 1986 SC 967; (1985) 4 SCC 289

<sup>21</sup> AIR 2007 SC 493

<sup>22</sup> (1996) 8 SCC 433

<sup>23</sup> 2008 Cr. L. J. 4107

<sup>24</sup> Merriam-Webster Dictionary Online, 2010

from the Latin word 'obscaena' (offstage).<sup>25</sup> The word can be used to indicate a strong moral repugnance, in expression such as 'obscene profits' or 'the obscenity of war'. The definition of obscenity is very vague. According to the dictionary meaning, 'it is offensive to chastity, delicacy or decency, expressing or presenting to the mind or view something that decency, delicacy and purity forbid to be exposed, offensive to morals, indecent, impure';<sup>26</sup> 'offensive to chastity or modesty, expressing or preventing to the mind or view something that delicacy, purity or decency forbid to be exposed, impure as obscene language, obscene picture, impure, indecent, unchaste, lewd.'<sup>27</sup> The word 'obscene' ... was originally used to describe anything disgusting, repulsive, filthy or foul. This use of the word is now said to be somewhat archaic or poetic, and it is ordinarily restricted to something offensive to modesty or decency, or expressing or suggesting unchaste or lustful ideas, or being impure, indecent or lewd.<sup>28</sup> 'Obscenity' includes on the one hand what is merely inauspicious, foul and indecent and on the other hand what is immodest and calculated to excite impure emotions and desires.<sup>29</sup>

Craies defining it states that 'the precise meaning is decidedly ambiguous' but 'the test of criminality' ... is whether the exhibition or matter tends to deprave."<sup>30</sup> H. S. Gaur defines obscenity as 'applied to language spoken, written or printed and to pictorial productions, and includes what is foul, and indecent, as well as immodest or calculated to excite impure desires.'<sup>31</sup> What is considered as a piece of literature in America may be obscene in France and what is considered in both the countries as not harmful to public order and morals may be obscene in any other country. But to insist that the standard should always be for the writer to see that the people especially adolescents ought not to be brought

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<sup>25</sup> A cognate of the Ancient Greek root skene, because some potentially offensive content, such as murder or sex, was depicted offstage in classical drama.

<sup>26</sup> An American Dictionary of the English Language (Unabridged), New York, 1828

<sup>27</sup> Webster's New International Dictionary of the English Language, Springfield, Mass., 1936

<sup>28</sup> Maclaren, J. *Ain R. v. Beaver*, (1905) 9 O.L.R. 418

<sup>29</sup> Anderson's Dictionary of Law (1889)

<sup>30</sup> (1957) 2 MLJ 559; See also, W. F. Craies, 'Obscenity', The Encyclopedia Britannica, xix,953

<sup>31</sup> Gaur, H.S., *Penal Law of India* (Law Publishers, Allahabad, 2013)

into contact with sex or if they read a reference to sex in what is written even if that is the dominant theme or not they would be affected. This would be to require authors to write books only for adolescents and not, for adults. Early English writers wrote only with unmarried girls in mind, but society has changed since then to allow literature and artists to give expression to their ideas, emotions and objectives with full freedom except that it should not fall within the definition of 'obscene' having regard to the standards of contemporary society. In India also this is fast changing. Adults and adolescents have available to them a large number of classic novels, stories and pieces of literature which have the content of sex, love and romance. If a reference to sex by itself is considered obscene, no books can be sold except those which are purely religious. In the field of art and cinema also, the adolescent is shown situations which even a quarter of a century ago would be considered derogatory to public morality. But this differs having regard to changing conditions and mores taken for granted without in any way tending to debase or debauch the mind. What we have to see is whether a class and not an isolated case, into whose hand the book, article or the story falls suffers in their moral outlook, becomes depraved by reading it or might have impure and lecherous thought arise in their mind. The change of obscenity must, therefore, be judged from this aspect. Traditionally, legal controls over material or conduct which involves nudity or is sexually explicit has been expressed in terms of the concept of obscenity and indecency.

The essential characteristics of obscenity, in its ordinary meaning, is offending against the recognized standards of propriety or modesty- as it is for indecency, albeit to a lesser degree.

### **3.2 'Obscenity' versus 'Vulgarity'**

The word 'obscene' has not been defined anywhere in any law in India. Only Sections 292<sup>32</sup>, 293<sup>33</sup> and 294<sup>34</sup> of the Indian Penal Code, 1860 contains this word in the provisions and say that sale etc., of obscene objects and singing, reciting or uttering in

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<sup>32</sup> Section 292 of the IPC reads as: "Sale etc., of obscene books, etc.: Whoever

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book,

public an obscene song, ballad or words to the annoyance of others is punishable. The Supreme Court of India for the first time in

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pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section, shall be punished with [on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees.

Exception: This section does not extend to-

- (a) any book, pamphlet, writing, drawing or painting, representation or figure-
  - (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern, or
  - (ii) which is kept or used bona fide for religious purposes;
- (b) Any representation sculptured, engraved, painted or otherwise represented on or in -
  - (i) Any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or
  - (ii) Any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose."

<sup>33</sup>Section 293 of the IPC reads as: Sale, etc., of obscene objects to young person: Sale, etc., of obscene objects to young person.- Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished 1[on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees."

<sup>34</sup>Section 294 of the IPC reads as: Obscene acts and songs: Whoever, to the annoyance of others-

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

Ranjit D. Udeshi *v.* State of Maharashtra<sup>35</sup> defined the offence of obscenity as ‘what has to be considered as obscene or indecent has changed from time to time and may not be exactly the same in different countries. Where obscenity and art are mixed, art must be so prepondering as to throw the obscenity into shadow or the obscenity so trivial and insignificant that it can have no effect and may be overlooked. Mere incorporation of sex and nudity in art and literature cannot, by itself, be regarded as evidence of obscenity in the shadows, or obscenity should be so insignificant that it can have no effect and may be overlooked. A balance should be maintained between freedom of speech and expression and public decency and morality and when the latter is substantially transgressed, the former must give way.’ The word ‘vulgar’ has also not been defined anywhere in the Indian Penal Code, 1860. The Supreme Court in *Samaresh Bose v. AmalMitra*<sup>36</sup> observed that ‘what arouses a feeling of disgust, revulsion and also boredom but does not have the effect of depraving, debasing and corrupting the morals of any reader of a novel is vulgarity.’ In the *Samresh Bose* case, the court also pointed out the distinction between ‘obscenity’ and ‘vulgarity’ stating that “a vulgar writing is not necessarily obscene”. Vulgarity arouses a feeling of disgust and revulsion and also boredom, but does not have the effect of depraving, debasing and corrupting the morals of any reader of a novel. Whereas, obscenity has the tendency to deprave and corrupt those whose minds are open to such immoral influences.

### 3.3 Test of ‘Obscenity’

Section 1(i) of the Obscene Publication Act, 1959 retains the term ‘obscene’ as the Common Law test. It reads -

For the purpose of this Act, an article shall be deemed to be obscene if it effects or (where the article comprises two or more distinct items) the effect of any one of this item is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.

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<sup>35</sup>AIR 1965 SC 881

<sup>36</sup>AIR 1986 SC 967

In *Regina v. Hicklin*<sup>37</sup> the court held that ‘obscene material is marked by a tendency ‘to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall.’ It was understood that this test could be applied to isolated passages of work, and the ruling made it possible to label a work obscene not on the basis of the intended readership but on how it might influence anyone in society (e.g. women and children). This perspective later formed the basis of anti-obscenity laws in legal systems influenced by British Law, particularly in countries that were at one time part of the British Empire

In *Roth v. United States*<sup>38</sup>, a test for obscenity was derived that included the following five-part structure:

- (i) The perspective of evaluation was that of an ordinary, reasonable person,
- (ii) Community standards of acceptability were to be used to measure obscenity,
- (iii) Works whose predominant theme was questionable were the only target of obscenity law,
- (iv) A work, in order to be evaluated for obscenity, had to be taken in its entirety, and
- (v) An obscene work was one that aimed at exciting individual’s prurient interest.

Lord Widgery in *R. v. Anderson*<sup>39</sup> stated that ‘so far as the Post Office count is concerned, there is no doubt in our judgment that obscene as an alternative to indecent has its ordinary or as it is sometimes called dictionary meaning. It includes things which are shocking, lewd and indecent and so on’.

After the *Anderson* case, *Miller Test*<sup>40</sup> propounded three criteria to test ‘obscenity’. Those were: (i) Whether ‘the average person, applying contemporary community standards’ would find that work, ‘taken as a whole’, appeals to ‘prurient interest’, (ii)

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<sup>37</sup>(1868) L.R. Q.B. 360

<sup>38</sup>354 U.S. 476 (1957)

<sup>39</sup> (1972) 1 Q.B. 304, 311-312

<sup>40</sup>*Miller v. California* 413 U.S. 15 (1973)

whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable State law, and (iii) whether the work, 'taken as a whole', lacks serious literary, artistic, political or scientific value.

The Supreme Court of India in *Ranjit D. Udeshi v. State of Maharashtra*<sup>41</sup> followed the Hicklin test and held that the 'the test of obscenity is that whether the matter charged as obscene has capacity to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall.'

In *Samresh Bose v. Amal Mitra*<sup>42</sup> the Supreme Court observed-

The concept of obscenity is moulded to a very great extent by the social outlook of the people who are generally expected to read the book. It is beyond dispute that the concept of obscenity usually differs from country to country depending on the standards of morality of contemporary society in different countries. In our opinion, in judging the question of obscenity, the judge in the first place should try to place himself in the position of the author and from the view point of the author the judge should thereafter place himself in the position of a reader of every age group in whose hands the book is likely to fall and should try to appreciate what kind of possible influence the book is likely to have on the mind of the reader. The judge should then apply his judicial mind dispassionately to decide whether the book in question can be said to be obscene within the meaning of section 292 of the Indian Penal Code, 1860 by an objective assessment of the book as a whole and also separately of the passage complained of as obscene.

Therefore, it can be said that the problem of defining what is obscene is not easy to solve. Social changes in the behavior and outlook of people from age to age brings a variation in the idea of obscenity. If, one compares the dress worn by a woman, from time to time in different parts of the world and even at the same part at

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<sup>41</sup>AIR 1965 SC 881

<sup>42</sup>AIR 1986 SC 967

different periods of history, one will be astounded with the variable idea of obscenity prevalent in the world over. The changes in the idea of obscenity may be in terms of persons. It may even be that with the same person the same thing may not be obscene at all stages of his life. The definition of what constitutes obscenity differs from culture to culture, between communities within a single culture, and also between individuals within those communities. Harry M. Clor<sup>43</sup> avers that obscenity is not a legal term. It cannot be defined so that it will mean the same to all people, all the time and everywhere. Obscenity is a figment of the imagination, an undefinable something in the minds of some and not in the minds of others. It is not the same in the minds of the people of every clime and country, nor the same today as it was yesterday and will be tomorrow.

Law against obscenity is often made or defended in the name of public morality. Such law seems to presuppose that there is such a thing as public morality that has some claim on the individual members of the community. Obscenity has some connection with sex, and sex is related to love an intimate private concern of all men. Thus, the problem of obscenity in society involves far reaching questions about the nature of our community, the ends and values by which civil society should be governed, and it is also involves the most delicate and personal interests of individual human beings. In their form and their content, these materials violate and depreciate fundamental standards of morality or decency.

### **3.4 Tale of Two Cases : Moving from Hicklin Test to Community Standards Test**

In Aveek Sarkar Case,<sup>44</sup> a German magazine named "STERN" having worldwide circulation published an article with a picture of Boris Becker (a world renowned Tennis player), posing nude with his dark-skinned fiancée by name Barbara Feltus, a German film actress photographed by none other than her father. Wherein the photograph, Boris Becker placed his hand upon the breast of Miss Barbara. The article states that, in an interview,

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<sup>43</sup> Harry M. Clor , *Obscenity and Public Morality: Censorship in a Liberal Society*, 210(Chicago: The University of Chicago Press, 1969)

<sup>44</sup> Aveek Sarkar v. State of West Bengal AIR 2014 SC 1495

both Boris Becker and Barbaba Feltus spoke freely about their engagement, their lives and future plans and the message they wanted to convey to the people at large in posing for such a photograph. The article pictures Boris Becker as a strident protester of the pernicious practice of "Apartheid". Further, it was stated that the purpose of the photograph was also to signify that love champions over hatred. The article along with the photograph was reproduced in an Indian magazine "Sports World" as a cover story in its issue 15, dated 5<sup>th</sup> May 1993 with the caption "Posing nude, dropping out of tournaments, battling Racism in Germany. Boris Becker explains his recent approach to life"-Boris Becker Unmasked.

'Anandabazar Patrika', a newspaper having wide circulation in Kolkata, also published in the second page of the newspaper the above-mentioned photograph as well as the article on 06.05.1993, as it appeared in Sports World magazine. A lawyer practicing at Alipore Judge's Court, Kolkata, filed a case under Section 292 of the IPC, against the appellants, the Editor, the Publisher and Printer of the newspaper as well as against the Editor of Sports World, former Captain of Indian Cricket Team, late Mansoor Ali Khan of Pataudi, before the Sub-Divisional Magistrate at Alipore. He alleged that the photograph will corrupt and deprave the minds of the young, both children and youth of this country and were against the cultural and moral values of society. The complainant also stated that unless such types of obscene photographs are censured, banned and accused persons are punished, the dignity and honour of our womenkind would be in jeopardy. He further alleged that both the publishing houses had published the photograph particularly with the intent of increasing sale. He further contended that the accused should also be prosecuted under Section 4<sup>45</sup> Section 4 of the

<sup>45</sup> Section 4 of the Indecent Representation of Women (Prohibition) Act, 1986 reads as:  
Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women.- No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form:

Provided that nothing in this section shall apply to-

- (a) any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure-

Indecent Representation of Women (Prohibition) Act, 1986 reads as:

Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women :-

No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form: of the Indecent Representation of Women (Prohibition) Act, 1986 since the photograph *prima facie* gives a sexual titillation and its impact is moral degradation and would also encourage the people to commit sexual offences. The respondents claimed that since the magazine was not banned in India and was never considered obscene, they would take the plea of Section 79<sup>46</sup> of IPC. Since there was no action taken against the sale of "STERN" in India, the respondents reasonably assumed that the reproduction of the photograph was valid in the eyes of law.

However, the Magistrate held that that accused persons were to be examined under Section 251<sup>47</sup> of Cr.P.C. and ordered that they would be put to face the trial for offences punishable

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- (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet paper, slide, film writing, drawing, painting photograph, representation or figure is in the interest of science, literature, art, or learning or other objects of general concern: or
  - (ii) which is kept or used bona fide for religious purposes;
  - (b) any representation sculptured, engraved, painted or otherwise represented on or in-
    - (i) any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act 1958(24 of 1958); or
    - (ii) any temple, or on any car used for the conveyance or idols, or kept or used for any religious purpose;
  - (c) any film in respect of which the provisions of Part II of the Cinematograph Act, 1952(37 of 1952) will be applicable.

<sup>46</sup> Section 79 of the IPC reads as: Act done by a person justified, or by mistake of fact believing himself justified by law: Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

<sup>47</sup> Section 251 of the Code of Criminal Procedure, 1973 reads as: Substance of accusation to be stated: When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge.

under Section 292 of IPC. He stated that alternatively, they could be tried under Section 4 of the Indecent Representation of Women (Prohibition) Act, 1986 adding that it would be too early to give them the benefit of Section 79. The respondents appealed before the High Court of Calcutta under Section 482<sup>48</sup> of the Code of Criminal Procedure, 1973 for quashing the proceedings pending before the Alipore Magistrate Court. The High Court refused to quash the proceedings against which an appeal was preferred before the Supreme Court.

The Supreme Court found the appellants innocent of the charges levied against them under Section 292 of IPC and Section 4 of the Indecent Representation of Women (Prohibition) Act, 1986 and overturned the decision of the lower court. The appellants were also given the defence of Section 79 of IPC. The Supreme Court held that 'the question of obscenity must be seen in the context in which the photograph appears and the message it wants to convey. The Court further said that the correct test to determine obscenity would be the 'Community Standards Test' and not Hicklin Test.'

Hicklin Test as laid down in *Regina v. Hicklin*<sup>49</sup> was 'whether the tendency of the matter charged as obscene is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall.' On application of Hicklin Test, a publication can be judged for obscenity based on isolated passages of a work, considered out of context. Works can be judged by their apparent influence on susceptible readers, such as children or weak-minded adults.

In *Roth v. United States*,<sup>50</sup> the Court observed that sex and obscenity are not to be seen as synonyms. It was held that only those sex-related materials which had the tendency of exciting lustful thoughts were found to be obscene and the same has to be judged from the point of view of an average person, by applying contemporary community standards.

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<sup>48</sup> Section 482 of the Code of Criminal Procedure, 1973 reads as: Saving of inherent powers of High Court: Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

<sup>49</sup>(1868) L.R. Q.B. 360

<sup>50</sup>354 U.S. 476 (1957)

In Canada, 'Lady Chatterley's Lover' was held not obscene in *Brodie v. The Queen*. In *Butler Case*<sup>51</sup>, the community standard test was held to be the dominant test. The court had applied the community standard test and not Hicklin test in *Towne Cinema Industries v. The Queen*.

In *Ranjit D. Udeshi Case*<sup>52</sup> the obscenity charges leveled against 'Lady Chatterley's Lover' were upheld. However, the judges had indicated that the concept of obscenity would change with the passage of time and what might have been obscene at one point of time would not be considered as obscene at a later period. Even though the case is heavily criticized for having curtailed the freedom of speech and expression, this observation in the case stands out to show how community standards mattered even then.

Section 292 of the IPC requires any material which is in question to be 'taken as a whole'. When a matter is taken as a whole, if it is lascivious and tends to deprave and corrupt a person who reads, sees or hears the matter contained therein, it is considered as obscene. The Hicklin test is in contravention of IPC. Further, the term 'obscene' and 'obscenity' have not been defined in the IPC which makes the application of the community standards test more suitable to India. The community standards test is more adaptive to any changing society.

The Court in this case held that the test to be applied to determine obscenity is the Community standard test and not the Hicklin test. Applying the 'Community Tolerance Test', the Court held that the photograph has no tendency to deprave and corrupt minds of people in whose hands magazine would fall. Further it went on to say that the message which the article conveys is to eradicate the evil of racism and apartheid in society and to promote love and marriage between a white skinned man and a black skinned woman. It held that the said picture and article cannot be said to be objectionable as to initiate proceedings under Section 292 of the IPC and Section 4 of the Indecent Representation of Women (Prohibition) Act, 1986. It reversed the order of the Calcutta High Court. In this case, the Supreme Court observed that the decisions in such cases must be taken keeping in mind the

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<sup>51</sup>Regina v. Butler [1992] 1 S.C.R. 452

<sup>52</sup>Ranjit D. Udeshi v. State of Maharashtra AIR 1965 SC 881

contemporary national standards and not that of a group of sensitive persons.

Following its precedential trends, the Supreme Court in *Devidas Ramachandra Tuljapurkar v. State of Maharashtra*<sup>53</sup> upheld the 'community standards test' validated by *Aveek Sarkar*'s<sup>54</sup> and *Shreya Singhal*'s<sup>55</sup> case and held that one cannot be allowed to use indecent language against 'historically respected personalities like Mahatma Gandhi and one cannot pass the contemporary community standards test meant to adjudge the obscenity of an alleged literary work'. Noting that free speech is not an absolute right, the Bench comprising of Justice Dipak Misra and Justice Prafulla C Pant said that freedom of speech and expression does not allow a person to cross 'contemporaneous community parameters' of decency.

If the society accepts the portrayal of sexual activities on the silver screen, the Court must not strike it down for the sake of a few sensitive persons. If it is acceptable to the society in general, the court must accept it too. Materials may have sometimes have contents which are not acceptable to society. In such a scenario, one needs to look into the bigger picture and the message being conveyed through the otherwise obscene material. The message should be helpful and beneficial to society. It is important to see the full picture, instead of squinting your eyes at certain explicit scenes.

#### **4. Conclusion**

The right to "freedom of speech and expression" is one of the most basic inalienable rights guaranteed by the basic law of the land. By freedom of speech and expression, what is meant is that a person has a right to express his convictions and opinions freely by word of mouth, writing, printings, pictures or any other mode. This right is considered as the basis of liberty. But this right is not absolute as the Constitution imposes limitation on the same under Article 19(2). Decency and Morality can be the basis of restriction when it comes to the obscenity issue. Obscenity is not a legal term. The concept of obscenity is not the same everywhere.

<sup>53</sup>(2015) 6 SCC 1

<sup>54</sup> AIR 2014 SC 1495

<sup>55</sup>*Shreya Singhal v. Union of India*(2015) 5 SCC 1

The concept varies from place to place and from time to time. It is the most difficult word to define astutely and to define the same has been the biggest task before the judiciary. The judicial approach to define it on a case to case basis has given an idea of this concept. The Hicklin test has been the only test in the hands of the Indian judiciary to deal with the offence of obscenity for a long time. This test was applied in the Ranjit D. Udeshi Case<sup>56</sup> where it was stated that 'the test of obscenity is this, whether the tendency of the matter charged as obscene is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall. It is quiet certain that it would suggest to minds, of the young of either sex, or even to persons of more advanced years, thoughts of a most impure and libidinous character.'

But in Aveek Sarkar v. State of West Bengal<sup>57</sup>, a power shift has been witnessed in the Indian judiciary by rejecting British Test and adopting an American Test. It discarded the Hicklin test as laid down in R. vs. Hicklin that it followed for a very long time and moved to 'Community Standard Test' as laid down by the American Court in Roth v. United States.<sup>58</sup> The test laid down in Roth's Case says that what amounts to obscenity is to be judged from the perspective of an ordinary reasonable man and community standards of acceptability were to be used to measure obscenity.

While dealing with question of obscenity, what has to be seen is whether a class not an isolated case, into whose hand the book, article or the story falls suffers in their moral outlook or becomes depraved by reading it or might have impure and lecherous thoughts arise in their minds. The charge of obscenity must, therefore, be judged from this aspect.

Society is changing and decisions in such cases must be taken keeping in mind the contemporary national standards and not that of a group of sensitive persons. If the society accepts the portrayal of sexual activities on the silver screen, the Court must

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<sup>56</sup>In Ranjit D. Udeshi v. State of Maharashtra, the appellants were convicted for keeping copies of '*Lady Chatterley's Lover*' in India but in England the jury acquitted the publishers as the publication did not fall foul of obscenity test.

<sup>57</sup>AIR 2014 SC 1495

<sup>58</sup>354 U.S. 476 (1957)

not strike it down for the sake of a few sensitive persons. If it is acceptable to the society in general, the court must accept it too. It is important to see the bigger picture and the central theme of the work instead of squinting one's eyes at certain explicit scenes and contents only. The focus should be on the central theme of the work. The whole work should be taken into consideration rather than an isolated passage, then only can one reach the idea embedded beneath those words, contents or pictures and the message it tries to convey.

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## *Administration and Governance*

### INTRODUCTION

The terms “Administration and Governance” at first glance appear to be one and the same, but in reality and in practice they are not. However, the terms are two sides of the same coin. While the word “administration” refers to the government, power and files; the word “governance” pertains to community, service and life. The power may be legislative, executive, political, political executive or judiciary. Administration concerns more with statues, rules, regulations, circulars and enactments. Whereas governance relates to proper and effective implementation of statues, rules, regulations, circulars and enactments for the welfare of subjects and towards the advancement of social justice. The word governance is of wider import than the word administration. In day today usage for common man both expressions are used interchangeably. The word governance means and includes administration but not vice-versa. The United Nations Development Program has defined the word governance broadly as the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences.

The introduction of these two terms can further be elaborated. Good governance often refers to the task of running the government in an effective manner. It is qualitatively and conceptually superior to just a good government. The right to a legitimate and accountable government, promotion of a society where the rule of law and fundamental human rights are respected, ensuring a socially and economically equitable society that is inclusive in nature are all inherent to the concept of good governance. Good governance depends on various factors. A

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government in discharge of its sovereign functions, has to discharge many constitutional obligations and in discharge of these obligations it should be capable of enabling, and enhancing the power of the State for sustainable human development. It is essentially a package to strengthen institutions of the government and civil society with the objective of making governments more accountable, open and transparent as well as democratic and participatory.

For good governance, there should be a government which is stable and truly representative of the majority of the people, accelerates the economic growth and development and ensures the welfare of all sections of society. In all this, the fact that transparency is also an important attribute of good governance must not be forgotten. Openness and the opportunity for public participation have emerged as universal principles of good governance. The interested group should be provided with opportunities to observe and contribute in the policy making of the state, where availability of relevant information would give them a chance to advance their ideas in the policy making process. However, at the same time there is always the risk that groups with a vested interest could take advantage of the open decision making process to distort the policy. What is essential is not necessarily that everyone shall speak, but that everything worth saying shall be effectively said and heard. The common man is often not aware of true facts of many aspects as the sources of information available to him are very limited.

From the day of creation of this universe, every human being has been involved in one or the other avocation. As per, Biblical Scripture verses, within six days the Creator created this universe and set apart the seventh day as "Sabbath" day, a Holiday for prayer and rest (Genesis and Exodus). This is necessary and required as one has to gain strength both mental and physical, to work to earn one's livelihood and to live with human dignity. In the process of earning livelihood etc., one has to come in contact with certain individuals, institutions, associations, companies both government and non-government, and private and public sectors. Apart from the associations, one has to undergo certain processes

both in terms of law and practice. At this juncture, law comes into the picture governing the field, contemplating terms and conditions, and in the process providing relief by way of a fine or a sentence for illegal or wrong doings.

In the good old days, human wants were the bare minimum of food, clothing and shelter. As the days, months and years rolled by simple civil society changed became complex. Now, in the twenty-first century, this complex civil society sees unlimited human wants and desires even to the extent of endeavoring to live in space, developing space tourism and space stations and outsourcing pregnancy. All this has become possible because of the advancement of science and technology, followed by human intellectual and creative power. At the same time, law has also developed at a fast pace and now there are various special legislations. Of late, the Apex court of India has suggested that the Central Government enact special legislations to legalize active euthanasia (Medical Assisted Killing). The apex court of India in the case of Smt. Aruna Shanbhaug held in March 2011 that in the Indian context and under the law of the land, passive euthanasia is permissible, but not active euthanasia. Also, there is a sensitive issue pending before the world organization on the abolition of the death penalty, in light of the Universal Declaration of Human Rights, 1948, Section 2 (D) of the Protection of Human Rights Act, 1993, and Article 21 of The Constitution of India 1950 that governs each and every human being including a convict and a condemned.

In the past, police officials were given enormous power under various enactments, so much so that the state was perceived and known as a police state. Gradually and primarily after independence, the police state became a welfare state guided and governed by the rule of law under the Constitution of India. Now, every sphere of human activity is under the control and management of the state. In other words, now the state policies and activities are oriented towards better well being of citizens to achieve the goals of a welfare state and that of social justice as per the Directive Principles of State Policy and the Constitution. Although the DPSPs are not enforceable by any court, the principles laid down therein are nevertheless fundamental to the governance of the country. The fundamental rights are guaranteed to citizens

and individuals. The DPSPs, on the other hand, aim to achieve social and economic equality coupled with advancing social justice. The DPSPs under part IV of the constitution cast a constitutional duty on the state to apply these principles in making laws for better governance.

The term “governance”, in a parliamentary and representative democratic system, which we have embraced has four limbs of government. First, the Legislature, Second, the Executive, Third the Judiciary and lastly, the media sector, particularly electronic channels and print media. All the four limbs or estates put together form governance under the Constitution. The Central/State Legislatures pass the laws. The Union/State Executives, Political Executives, bureaucrats and administrators with the assistance of State/Central Civil Servants execute the laws, rules, and regulations to fulfill the desires and aspirations of the Constitution and to uphold Rule of Law. It is in this process of executions of Laws, Rules etc., sometimes ambiguity arises either because of defective legislation, wrong interpretation, misconception, improper understanding of a particular law, political pressure and interference or extraneous considerations. Politicization of Administrative Systems, such as, appointments, postings, transfers, promotions, extension of services, inquiries, rewards, punishments and disciplinary matters relating to civil servants, is a major cause for degeneration in administration and governance. In feudal, unlike in modern times, bureaucracy’s, “Loyalty” rather than “Skill” is the passport to privilege or immunities. In the good old days of Raja-Maharajas and the Zamindari system the term loyalty was in vogue. After independence and gaining freedom, the word loyalty is in vogue for political parties and in their circles. The word loyalty is more a political coin than a legal coin. It is akin to worshipping individuals or parties in power. Nowhere in the constitution of India, are there service rules or conduct rules governing the service conditions of public authorities, public servants and government servants where the word loyalty is mentioned. The word loyalty is a high end word or refined word for a sick mind. Loyalty (swaminishte) seemingly signifies the meek submission of an administrator and administration to a particular individual or party in power or

authority that does so at the cost of governance. Today the political class is different and it is not like those who fought for India's independence, nor do they have the virtues of a large permanent machinery worth mentioning. This is given the numbers of cases of maladministration and corruption and consequent atrociously poor, partisan and shabby decisions that are made. The senior bureaucrats instead of guiding the emerging young talents are promoting sycophancy. **To be precise, loyalty to an individual or party or association in power in the legal sense amounts to surrender of administration by the administrator. Whereas loyalty to the Constitution of India, its provisions and principles of Equality under Article 14 and the rule of law certainly and undoubtedly amounts to governance and good governance in a popular and broader sense.** After adopting the constitution of India in the year 1950 the public servants and public authorities, if at all are to be loyal they shall be loyal to the constitution of India and rule of law contained in Article 14 of the constitution of India. Basically, all public servants and public authorities are equal, in principle, under Article 14 of the constitution of India. However, there is a constitutional arrangement and a scheme bifurcating the functions into a broader category as the legislator, executive and judiciary. The constitution lays down the structure and defines, delimits and demarks the role and the function of every organ of the state, including the judiciary and establishes norms for their interrelationships, checks and balances. Thus, it is only the functional difference that makes the differentiation possible. The adverse effect of any of these factors would be on the individuals or the Institutions involved in day today governance. Ever since India achieved Independence about six and half decades ago, in our governance system there is no required accountability, transparency and commitment. Although the advent of the Right to Information Act, 2005 created an environment of transparency, people are empowered in the legal sense but not in practical terms. In a parliamentary democracy, the bureaucracy cannot be wholly autonomous like the election commission of India, Comptroller and Auditor General of India, Central Bureau of Investigation and Central Vigilance Commission. Also administration and governance is not one man's work. It involves various issues, stages, applications of law and the process has to go through various

hands and sometimes various departments as well. So naturally it will take some time. Even then there are instance that are not warranted, where simple issues and matters are unsettled for months and years together including high profile cases relating to politicians, bureaucrats and of late even Judges and celebrities involved in heavy stake matters. On this account, independent India had a modest and not entirely bad start. In 1957, for example, Feroz Gandhi, MP and son-in-law of Pandit Nehru, the then P.M. rose from the treasury benches and broke what came to be known as the 'Mundhar Scandal', free India's first big financial scam. Haridas Mundhra, a Calcutta based industrialist had nudged government-owned LIC to buy into his companies, whose shares subsequently tanked. Retired Justice, Shri. M.C.Chagla, appointed as the one-man commission of inquiry, under the commission of Enquiry Act, 1952 held a transparent, open-to-public inquiry. In 24 days, Justice Chagla indicted the then Finance Secretary Haribhai Patel and two LIC officials. But - and this is crucial - he also held TT Krishnamachari, the Finance Minister, responsible for the Finance Secretary's actions becoming perhaps the first case where responsibility was fixed for supervisory failure. As a result, "TTK" resigned. The adoption of E-Governance at all the levels of the Government in the day today administration has made it much easier and quick, minimizing human labour and time. Still, at all levels of governance many disputes, issues and matters are awaiting decision for years together. This is despite the fact that law, procedure and accountability is same for everyone, big or small.

Under our Constitution, Part IV gives sufficient indication as to how good governance shall be maintained by the State. Under Article 31-A of the Constitution, the state is given wide powers for acquisition of any rights or taking over of the management of any property for public interest in order to secure the proper management of the property and such action shall not be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 or Article 19. The state can interfere with private rights under Article 31-A, but these powers have to be exercised very carefully and under extraordinary circumstances. Of course, power exercised under some provisions were challenged in various cases and the Article

has lost its efficacy to some extent, though it still survives and is at the disposal of the State. Under Article 39, the State should direct its policy towards securing that citizens, both men and women have the right to tackle means of livelihood equally; that the ownership and control of material resources of the community are distributed so as best to serve the common good; that the operation of the economic system does not involve production to the common detriment; that there is equal pay for equal work for both men and women; that the health and strength of workers, men and women, and the tender age of children are not abused; and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Children are to be given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity and childhood and youth are to be protected against exploitation. The state shall make provision for securing just and humane conditions of work for maternity relief. The state shall take steps to organize village panchayats. It is the duty of the state to raise levels of nutrition and the standard of living and the state shall take care of people who are economically backward. The state shall also endeavour to make suitable legislations to provide to all workers a living wage, conditions of work ensuring a decent standard of life and full enjoyment or leisure while also ensuring social and cultural opportunities. With the 42<sup>nd</sup> amendment, the Constitution also added fundamental duties. These are some of the constitutional provisions, which envisage good governance for India.

Governance is not about elaborate and complex procedures, formation of committees over committees, including expert committees, enquiries against enquiries, dubious tendering processes, scams over scams, framing of rules, regulations, appeals against appeals, revisions against revisions and review etc. It is also all about winks and nods of the powers that be.

All cadres, such as, the IAS, IPS, IFS, IRS, KAS and judicial services ends with lip service and not power. These cadres amongst other cadres, stress on the lip service and governance but not on power and administration. At this juncture, army personnel come to mind. Like the Indian Army personnel pledge their life for their motherland at the borders of the nation fighting against the

enemies, the above service cadres particularly IAS officials should pledge in their chosen field to fight against poverty, ignorance, illiteracy, inefficiency and corruption prevailing in official dom and society for its betterment and ensure good governance within the framework of the constitution and the laws made thereunder. To achieve this one need not go to the border and physically fight against the enemies. IAS and KAS could also mean Indian Army Service and Karnataka Army Service. If both work in tandem nothing short of a miracle could be achieved through good governance and administration. In England and Denmark, it is said that the QUEEN or KING reign (nominal head) and the elected legislators (executors) rule the nation. In our country, the legislators (nominal head) reign and the IAS officials (executors) rule the nation, both virtually and practically. So much so that an onerous duty and responsibility is cast on them to achieve better governance and administration.

Poor governance arises essentially from inefficiency, negligence, delay tactics, destruction and burning of records, corrupt practices or dereliction in official conduct. This can be tackled, if supervisory responsibility is effective and efficient. Corruption, Justice Chagla, demonstrated, could be challenged by following the simple premise: "higher the post, greater the responsibility". Unquestionably, corruption has a negative impact on development, trims down social services and reroutes investments in infrastructure and institutions. It weakens the state and its ability to promote development and social justice. Corruption is the enemy of good governance.

The overall effect of inefficiency, corruption and corrupt practice and dereliction in official conduct is that it erodes the rule of law and adversely affects better governance at the cost of justice to the needy, downtrodden, orphan, poor and weaker sections. **The plain fact of the matter is that corruption is a product of one's mindset. The malice is so deep rooted, widespread and ingrained in our culture and system, that it is accepted as a part of life and administration. Corruption cannot be addressed by CCTV's, sweeping orders, stringent laws, technical devices, high sounding slogans and promises, rules, regulations, administrative notifications, circulars, official and unofficial**

**memorandums or by establishing special courts, special tribunals and police stations. Mere** institutional mechanisms like the central vigilance commission, Lokayukta or departmental vigilance wings cannot combat corruption without informed and sustained participation of the community. It is an attitude problem. Corruption undermines the supremacy and majesty of the law and the equality of law. The net result of corruption is that “sometimes righteous men get the punishment of the wicked and the wicked man gets the reward of the righteous” and justice is hijacked.

**Conclusion: Suggestions**

Only a genuine partnership between the government and its people can bring about a positive change to create a just society. Fighting corruption and its ill-effects needs to become a community movement. A virtuous bureaucracy is a need of the hour. The education system should lay more emphasis on the values of Indian culture. As a first step, the teaching of moral education should be made compulsory up to the graduate level and for all competitive examinations.

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## ***“Role of District Legal Services Authorities in the matters of Rapes and Rehabilitation of Rape Victims.”***

### **Abstract**

*Recent incidents of rape by juveniles with girls of two to three years of age, has shocked the national conscience. The judicial conscience of the Hon'ble Court at Chennai was so perturbed that the Hon'ble Court suggested chemical castration of rapists who were guilty of having committed rape on a girl child. The Hon'ble Court directed the Central Government to give sincere thought to necessary amendments in relevant Laws. Without discussing the nature of chemical castration, we should honour the sentiments of the Hon'ble Court at Chennai on the uncontrolled crime of rape, especially when this happens with a girl child who cannot even speak properly. The State should immediately adopt a mechanism to control this menace or crime against humanity without any delay, to prevent further incantations of judicial conscience of courts for such punishments that cannot be supported in democracies like India. The District Legal Services Authorities are instrumentalities of the State to develop and implement such mechanisms. The Chairmen of the District Legal Services Authorities are District Judges of their respective District. The District Judge while discharging his functions on the judicial side has very limited scope for developing any general mechanism because a Judge has to confine his conscience to the controversy before him. But as Chairman, District Legal Service Authority, a District Judge can exercise an unlimited reformatory function to implement the National Plan Mission adopted and provided by the National Legal Services Authority through the respective State Legal Services Authorities. The District Legal Service Authorities should, with a change of mindset of its members develop mechanisms for implementing the same. There shall be no problem for implementation of mechanisms as the District Magistrate, Senior Superintendent of*

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Post Doctoral Research Scholar, Rajeev Gandhi National Law University Patiala, Punjab on the research topic, “Protection of Rights and Rehabilitation of Transsexual Persons in India and the World Community”

*Police, Chief Medical Officer etc. are ex-officio members of the District Authorities.*

## **1. Introduction**

The rape of a girl after having been kidnapped from Ramleela function at Delhi was in the headlines of every national newspaper, Recently a 28 day old girl was raped by a man of 25 years in Uttar Pradesh. Another incident reported at Bageshwar, Uttarakhand was regarding the rape of a two to two and a half year old girl by her cousin brother. The cousin brother not only raped her, but killed her to prevent the heinous crime of rape being made public. In this research paper, it is elaborately discussed why a person commits rape with such small girls who do not even understand the very nature of sexual activities. The role of the District Legal Services Authorities in developing a mechanism to prevent such heinous crimes of rape and the rehabilitation of rape victims is also discussed.

Without mentioning the reasons, needs and requirements of the Legal Services Authorities, this research paper directly touches upon the issue and the Role of District Legal Service Authorities (in short the District Authorities). The National Legal Services Authority (in short NALSA) and up to some extent, the State Legal Services Authorities (in short the State Authorities) have very little scope to interact with people directly for the purpose of creating awareness and carrying out the objectives mentioned in the '*national plans*' adopted and approved by NALSA and the State Authorities. The District Authorities can very effectively discharge all the functions entrusted by the State Authorities and NALSA.

## **2. Physiology and Psycho-crime of accused in matters of rape:**

These two terms are related with physiology and the mental faculty of the rapist, why he commits rape and why he chooses a toddler, a girl of two or three to satisfy his lust. Another query related to this issue is what a man considers a woman to be. In a

<sup>2</sup> Himanshu Dhawan, "Delhi Rape spurs UN, US, UK advisories", *The Times of India*, New Delhi, January 2, 2013 at 4.

<sup>3</sup> Sudhir Kakkar, "Is an Indian Woman a Person", *The Times of India*, New Delhi, January, 9, 2013 at 12.

scenario where the United Nations, on the Delhi rape incident has referred to rape as India's National problem,<sup>2</sup> it will be proper to introspect if an Indian woman is treated as a person.<sup>3</sup>

In a society that has traditionally defined a person through her relationships rather than her individuality, a woman certainly is a person when she is a mother, a daughter, a sister or a wife. Any woman who does not fit in these categories is a female on the street who in the notorious public pronouncement of former President of India, Gyani Jai Singh Jee, "Bhog Ki Cheez Hai" (is an object of enjoyment). Stripped of these relationship categories and just as an individual; a woman is not a person but an object, a body for male enjoyment.<sup>4</sup> A famous Child Psychologist once remarked, "An infant is born without a history but soon, the family give it theirs." It shows the mental construction of the male family members and how they convey the ideology of gender and gender relations.<sup>5</sup>

It shows that men consider women as an article for enjoyment. This is the reason that women do not have a say in family and domestic decision-making. In most of the cases, they have no worth in economic affairs of the family. What then can be said about their right to sexual orientation? Sexual orientation right is the prerogative of men. That is the reason marital rape has not yet been made punishable in India. The new law, which has been enacted for the protection of women from sexual exploitation is against a group of women i.e. married women. Public opinion reflects<sup>6</sup> that marital rape should be made punishable to improve the position of women in domestic and economic decision-making of the family. Every married woman has experienced the agony of marital rape.

In a recent research published in the European Journal of Social Psychology,<sup>7</sup> shocking results are shown as the reasons for gender bias. According to the research, a man's brain considers a

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<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> An Empirical study conducted by the Author, published in Doctoral Thesis on the title, "Evolving the Principles for ensuring Social, Economic and Political Justice to Women; A Study.", Chapter 7 at 533.

<sup>7</sup> "Nazar Ka Fark", *Hindustan, Hindi daily*, New Delhi, July 30, 2012 at 10.

woman and man on different angles and parameters. In the case of a man, the brain of a man behaves globally, whereas, for a woman the brain of the man behaves locally. The global behaviour of a man's brain is known as '*universal cognizance process*', whereas, in local behaviour, it is known as '*regional cognizance process*'. The '*regional cognizance process*' or local behaviour is prevalent with respect to household articles like purchase of a house, vehicle, and other domestic articles. Thus, the brain of a man considers and treats a woman locally i.e. as an article or a sex object. As per research, this is also true of a woman's brain. The brain of a woman considers another woman locally under '*regional cognizance process*'. Meaning thereby, a woman considers another woman on equal footing like a household article. In this research, the scientists have opined that this behaviour of a man treating man and woman on different angles and standards may be due to genetic causes. Recreational activities and producing young ones is a natural phenomenon associated with women. Thus, from time immemorial women were and are considered by men from reproductive and sexual pleasure angles. This individual and social behaviour of men has remained consistent in practice for a long period, become an irrevocable habit and this habit has resulted in genetic evolution adopting the same. But in this research, there is confusion on the issue as to why the brain of a woman considers another woman as an article or a sex object. The research states that this issue requires further research on a woman's brain psychology. Whatever may be the reason, women are considered worldwide as a sex object and an article for enjoyment.

The empirical study conducted by the researcher also justifies the research published in the European Journal of Social Psychology.<sup>8</sup> This study put forth a question on the preference of sex selection of a child. It was found that approximately 90% women preferred to have a male child as their first issue. Only 10% of the women left it to nature's mercy. This shows that the girl child is not the preference for a majority of the women in society. It also shows that there is a strong feeling in the brain of a woman to reproduce a male child reason, because they are insecure

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<sup>8</sup> An Empirical Study conducted by the Author, published in Doctoral Thesis on the title, "*Evolving the Principles for ensuring Social, Economic and Political Justice to Women; A Study.*", Chapter 7 at 524.

about the future of the female child in a male dominated society. They are afraid if a female child is born she may face many problems in society such as physical and sexual torture like rape and molestation; and familial and socially indifferent treatment like dowry, dissolution and divorce. Ultimately, who would choose to be born as a child with a secondary category status in the family as is the ground reality instead of with the nomenclature of a goddess? The preference of a male child may be for many reasons and one of the reasons may be a genetic cause as suggested in the European Journal of Social Psychology.<sup>9</sup>

Gender bias is an inherent characteristic of a human being. It is in his psychology and physiology. That is the reason a male child of tender age considers a girl child as an article for enjoyment and because of this psychology, considering a child is a very easy prey, he never hesitates to commit the rape of small girls without knowing the social and legal consequences of his act.

Family is the primary school for the children.<sup>10</sup> Unfortunately, gender discrimination starts from the very beginning in a family. Different standards of treatment of the son and daughter in the family, makes the girl child part of the weaker sex and gender. This family tendency coupled with the inherent and genetic characteristics to consider a girl a body for enjoyment, boys of tender age do commit rape even with small girls. Parents, grandparents and other senior members of the family must be sensitized to the consequences, and accordingly, put an end to this indifferent treatment between sons and daughters. The male preference must be checked to improve the gender imbalance, which may be one of the causes for a rape. The sensitized parents and other family members should transform the rich heritage and culture from the present generation to the next by way of their conduct. Herein begins the role of the District Authorities. Through scientific programmes, the District Authorities must provide information on the rich heritage to every family in society. Here also comes the role of ethics. Unfortunately, in Indian society the role of ethics is considered in a different context. A man has no

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<sup>9</sup> *Supra* note 5.

<sup>10</sup> Dr. Gyanendra Kumar Sharma, "*Reconciliation and Other Proceedings before Family Courts in India*", Sharda Publications, Chapter IV at 142.

ethical, social and moral authority to transform the teachings of Gita unless he has made the philosophy of Gita as integral part of his life. Accordingly, a father having a glass of wine and a cigarette between the tips of his fingers has no moral authority to ask his children to keep away from the drinking and smoking culture.<sup>11</sup> The culture of non-smoking and drinking and other such activities can be transferred by conduct without even saying a single word. Accordingly, the concept of gender neutrality as an ethical means should be introduced in the family and must be reflected and transferred to the next generation by conduct. This is the real challenge before the District Authorities.

Society cannot be changed by law alone. It is the internal, external and conscious behaviour of inhabitants that are responsible for change in society. The law whether liberal, moderate or deterrent in nature may be a supportive mechanism or tool for change in society. It is the role of District Authorities not only to inform about the existing laws but also to convey the moral philosophy of Indian tradition to change the mindset, both individual and social.

Socially and scientifically, the age of puberty has been reduced, whereas, the law has increased the age for consensual sexual behaviour. The age of sexual puberty has decreased because of many factors. Improper use of the Internet and other social media sites is one of the factors. Society and the law are not static; accordingly, human conscience and behaviour are also not static. The law is in place to regulate the behaviour of human beings. On a change of behaviour in human beings, the law should be modified accordingly especially if it is not possible for the existing law to cater to the needs of changing society.

Accordingly, there are two factors, namely: (i) physiology i.e. decreasing the age of sexual majority (puberty) of children, not properly addressed and redressed by the society and law; and (ii) psycho crime i.e. mindset of male to consider a female as an object for male enjoyment which, in my opinion is responsible for the commission of rape of small girls of 2-3 years of age. A boy of

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<sup>11</sup> *Ibid.*

tender age, to fulfil his physiological requirement and psychological lust, commits the crime.

### **3. Legislation without proper research:**

After Nirbhaya's case in Delhi, the Parliament of India amended the provisions of the Indian Penal Code related to crimes against women. Along with other amendments to several sections of the Indian Penal Code, the definition of rape was amended as well in accordance with the judgment of the Apex Court in *Sakshi vs. Union of India*.<sup>12</sup> Anal intercourse with any woman by a man under the contingencies mentioned in Section 375 of the Indian Penal Code are also included in the definition of rape. Any sexual activity by the husband with the wife, the wife not being less than fifteen years of age is not an offence. Any sexual activity means all sexual activities mentioned in the definition clause of rape including anal intercourse, sexual activities with manipulation of body parts, oral sex etc. If after the marriage, a husband by force or against the will and desire of the wife compels the wife for any sexual activity (like anal intercourse, any sexual activity by manipulation of body parts, oral sex etc.) other than vaginal intercourse, there is no remedy available to a wife against the torturous sexual activities of her husband. Prior to the Criminal Law Amendment Act, 2013, the position was different. A wife was under an obligation to her husband for vaginal sexual activity even without her consent, will, wish or desire. But the amended definition of rape has made the wife an article or a sex object for the husband, to be used at the husband's desire. The husband may opt to have anal intercourse, sexual activities with manipulation of body parts, oral sex, etc. however tortuous it may be for the wife. There is no remedy in law for the wife as after the amendment to the definition of rape, a legal license is given to the husband for sexual torture of the wife. Such sexual activities cannot be said to be cruelty (yet to be decided by courts) by the husband as the same is protected under the law made by the Parliament.

In fact, the Criminal Law Amendment Act 2013 was enacted and passed by the Parliament without proper scientific research. Rights of a woman as a wife were not considered by the

<sup>12</sup> (2004) 5 SCC 518.

legislation, while enacting the Criminal Law Amendment Act, 2013. It is not too late. Necessary amendments should be incorporated in the definition of rape to protect the rights of a married woman.

All legal problems will come to an end, if marital rapes are made punishable. Let the law leave the married couple to regulate their sexual behaviour on their free will. Why has the law guaranteed unwanted immunities to the man as a husband and why is their distrust in the woman as a wife and in the regulation of her sexual behaviour? The present scenario is an example of gender bias and justifies the research published in the European Journal of Social Psychology.<sup>13</sup> The possibility of misusing any law cannot be a ground to deny legal protection to any deprived class of society. The law should ensure protections against its misuse.

#### **4. District Legal Service Authorities, Nature of work, what is and what ought to be?**

**A. Present Scenario:** The District Authorities are working very extensively under the national plan of action and the guidelines of State Authorities. The activities of District Authorities are provided by the State Authorities. The District Authorities make monthly plans for discharging their activities. The need to assess activities (need assessment) is in turn considered by the State Authorities. The implementation of activities makes a difference. Presently, two important functions are generally recognized, as necessary to be discharged by District Authorities. They are holding Lok Adalats and organizing legal literacy and awareness programmes. So far as the holding legal literacy camps and sensitization programmes is concerned, District Authorities have misunderstood the preamble of the Legal Services Authorities Act. Holding camps and organizing legal awareness programmes without any impact assessment mechanism is nothing but mere formality of organizing camps and programmes. Sometimes, the district administration and the police department do not even bother to participate in the camps/programmes related to the functions of the district and police administration. This is the area that District Authorities are lagging behind in. It can be understood with an illustration-

<sup>13</sup> *Supre* note 5.

*There are certain programmes initiated by the Government for rape victims and for woman empowerment. By organizing legal literacy camps and awareness programmes, these programmes and schemes are circulated amongst the people in general and women in particular.*

*The district administration is responsible for circulation and implementation of these plans. The programmes are not properly circulated and implementation is at it's worst. For proper implementation of schemes/programmes, the District Magistrate, the Superintendent of Police, the Chief Medical officer, and other Heads of Departments have been made members of the District Authorities. It is an illusion that the District Authorities have the power to get the programmes implemented. The District Authorities are confined to the circulation of schemes and that too it is done only partially through legal literacy camps and sensitization programmes. The implementation is left at the mercy of the district administration by the District Authorities due to the misunderstanding that it is out of the purview of the Authority and lies within the jurisdiction of the administrative officers. According to the preamble of the Legal Services Authorities Act, the Authorities are constituted for the purpose of ensuring that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The question is whether partial circulation of schemes amounts to securing justice to the deprived classes of the society. The researcher is of the firm view that it does not even amount to partial implementation of the principles enshrined in preamble of the Act. It is the responsibility of the District Authorities not only to circulate the schemes to the last person but also to ensure that they are implemented. That is the reason the object mentioned in the Preamble of the Act is not achieved and the District Authorities are unable to reach right onto the last person in their jurisdiction.*

Thus, all members of the District Authorities should be sensitized to discharge their functions as per the goal enshrined in the Preamble of the Act. NALSA should organize sensitization programmes for the chairmen and other members of the District Authorities, in order to make its functioning effective and in consonance with the objects and reasons of the Legal Services Authorities Act.

## **B. What Ought to be:**

The District Authorities are constituted under the District Legal Service Authorities Act, 1987 to work under the guidelines issued by NALSA and the State Authorities. The preamble of the District Legal Services Authorities Act, 1987 reflects the unequivocal and undisputed intention that legal services should be provided to the needy as mentioned in the Act itself. For ready reference, it will be proper to reproduce the preamble of the Legal Services Authorities Act, 1987, which states that it is:

“An Act to constitute Legal Services Authorities to provide free and competent Legal Services to the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and to organize LokAdalats to secure the operation of the legal system to promote justice on the basis of equal opportunity.”

Article 39 A of the Constitution of India provides that the State shall secure the operation of the legal system to promote justice on the basis of equal opportunity and shall in particular, provide free legal aid, by suitable legislations or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The plain reading of Article 39 A of the Constitution of India and the preamble of the Legal Services Authorities Act, makes it clear that District Authorities shall ensure free and competent legal services to the weaker sections of society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The preamble of the Legal Services Authorities Act, provides the following responsibilities for the Authorities constituted under the Act, namely-

### **I. To provide legal services:**

- a. free and competent; and
- b. to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities; and

II. To organize LokAdalats to secure the operation of legal system to promote justice on the basis of equal opportunity. The term '*free and competent legal services*' is important. The legal services to be provided should be free and competent. Further, the legal service should be of such a nature that can ensure justice to all irrespective of economic or any other disability or backwardness.

The aforementioned nature of legal services cannot be confined to the circulation of laws, schemes and plans or just in the passing of an order to provide some services to an advocate of the deprived class. The District Authorities have to ensure free and qualitative legal services to the weaker sections of society to ensure justice delivery. In plain words, it can be said that sensitizing people regarding their rights is not sufficient to honour the constitutional command enshrined in Article 39 A and in the legislative schemes mentioned in the Preamble of the Legal Services Authorities Act, 1987. Providing free and competent legal services is a term of larger scope than adjudication of cases. The District Authorities are not only responsible for providing free and competent legal services but also in ensuring opportunities for justice delivery to the weaker sections of society. Free and competent legal service is a means, whereas, justice delivery is an end to be achieved by the District Authorities. The work of District Authorities should not be confined to papers and lectures, rather it should be reflected in the ground realities. In laymen's language "*kamdharatal par dikhnachaiye*"

This is the reason a District Judge has been made the Chairman of the District Authority with the District Magistrate, the Superintendent of Police, the Chief Medical Officer, Heads of the other Departments, the President of the Bar Association etc. as its members. At the cost of being repetitive, free and competent legal services cannot be confined to circulation of legislative principles and administration policies. The District Authorities have to develop mechanism(s) to implement the legislative principles and administrative policies, to ensure justice delivery that is lacking due to the absence of liberal and purposive construction of the Preamble of the Legal Services Authorities Act, by the District Authorities. The District Authorities are confined to the responsibility of organizing sensitization programmes for legal

awareness, for circulation of laws, rules, regulations and administrative schemes without developing any mechanism(s) on-

- a. effects of the sensitization programmes on the public (the feedback mechanism); and
- b. for implementation of rules, regulations, administrative policies on the ground realities to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Without any mechanism for the implementation of rules, regulations, administrative policies etc. at the ground level to ensure justice to the public as enshrined in the Constitution of India and Preamble of the Legal Services Authorities Act, it is only half a journey made by the District Authorities. This intention is reflected from the constitution of the District Authorities. Apart from the District Judges who are heading the Authorities as the Chairmen, all officers responsible for the implementation of laws, rules, regulations and administrative policies are made members of the District Authorities. The intention of the legislation is clear that is to give proper effect to the implementation of the policies. Meaning thereby that the District Authorities cannot leave the function of implementation of policies to ensure justice, on its members in their official capacity. Other than through the members of the Authority, it has to be ensured by the District Authorities that policies have been implemented and justice delivered. Presently, most of the District Authorities are confined to the circulation of laws, rules, regulations, administrative policies, schemes etc., which is a half way journey for the Authorities.

When a sensitization camp is organized by a District Authority, it must develop a feedback mechanism to know the effects of the camp on its target group. Any activity without any feedback cannot be justified. There are so many ways to get feedback. Increasing the number of complaints on issues concerning the camp organized is one of the feedback processes. Ensuring access to justice is directly related to effective sensitization programmes conducted by the District Authorities is another mechanism. It can be clarified with an example. If a District

Authority organizes a sensitization programme on forest fires, sensitizing people on the consequences of a forest fire is only one step taken. The District Authority must also ensure that through this mechanism the number of fire incidents decrease after the sensitization camp.

### **5. Role of the District Authorities in matters of rape and Rehabilitation of rape victims.**

The role of District Authority in context to above explanation may be summarized as follows-

1. Holding sensitization programmes and legal literacy camps to raise awareness amongst the public about their rights, duties etc. During the camp, those present must also be acquainted with all legislative principles and administrative policies regarding rehabilitation of rape victims. All the laws, policies etc. relating to the menace of crimes against women within the jurisdiction of the District Authorities should be effectively circulated.
2. The District Authorities should ensure the reporting of crimes against women through sensitization programmes, for the public and police department. Even after the judgment in *Lalita Kumari v. Govt. of U. P. & Ors.*<sup>14</sup>, the number of crimes reported in a police station is negligible and not easy and comfortable for the rape victims and their family members. The District Authorities through the legal volunteers must reach out to the victim to every incident of a crime against women and report the same to a police station. Non-reporting of crimes against women is the biggest hurdle in the deliver of justice to women.
3. Moving the matter for fair trial is essential. Fair trial is the responsibility of the judge concerned. It is the duty of the District Authorities to ensure that every incident of rape reaches the court concerned. Thereafter, it is an inalienable judicial conduct of the presiding judge of the court to ensure fair trial. Most cases of rape are committed by relatives of a victim. Hence, it is the duty of the District Authorities to ensure that criminal law is put into motion

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<sup>14</sup> AIR 2012 SUPREME COURT 1515.

in such cases as well. No case should be unreported on account of social stigma against the victim or the victim's family. The mindset of family members and the public at large in society should be changed regarding the reporting of crimes against women. They should be informed that reporting the crime will not result in any stigma to the victims and their family members. They should be encouraged to raise their voice against such crimes. They must also be acquainted with the rights of rape victims for compensation and a proper, effective and adequate rehabilitation process, if they report the matter and it reaches the court.

4. It is the duty of District Authorities to ensure proper rehabilitation of the rape victim. The District Authorities should try that despite heinous crime like rape, the victim should be able to come to the mainstream society. It is only possible when an effective mechanism for rehabilitation of rape victims is adopted. Generally the concerned court after awarding some compensation refers the matter to District Authorities for rehabilitation of the victim. In the rehabilitation mechanism, the District Authorities should ensure the education of the victim, her training for development of some skill, work avenues to the victim to get social and economic independence, the protection of her right to sexual orientation (as in such cases matchless hurried marriages of victim occur) etc. By all the mechanisms mentioned above, the District Authorities should try to rehabilitate the victims to bring them to mainstream society.

5. Sensitizing family of the rape victims is necessary. The District Authorities should arrange some psychological sessions for the victims and their family members. In a traditional society like India, the incidence of rape, in most cases is linked with the individual, family or social behaviour of the victim. Sometimes the dress code or the individual behaviour of the victim towards others is held responsible for the rape. It is the duty of District Authorities to sensitize the parents of the rape victims that it was an accident with the victim and that the victim should not be blamed for it, nor should the parents sit idle on account of social stigma. The family must cooperate in putting criminal law into motion and must assist in the proper rehabilitation of the victim.

6. Legal education classes should be held by the District Authorities in schools and colleges for sensitization of students regarding gender bias. The gender sensitization programmes should be based on social, ethical and legal concepts. Spiritually speaking, the human body gets inertia by the soul that has no sex or gender. The human body is the house for every soul and it has no sex or gender variation. The soul is immortal and always tries to live in peace. Hence, any act of violation of privacy of the human body disturbs the peace of the soul. This concept along with the legal consequences of crime against women must be passed on to all the students, boys or girls. Students are soft targets for change of mindset. Holding legal literary camps and sensitization programmes specially targeting school going girls would be very effective in enlightening the young brains of girls on protective measures they can take to prevent a crime against their privacy and dignity. Thus, the District Authorities should take initiatives to change the mindset of students on gender-based treatment.

7. The District Authorities must initiate special drives against alcohol and contraband. Drinking alcohol and consuming contraband is one of the reasons for crime against women. The District Authorities should take an initiative to check drinking and taking intoxicants, which is rather challenging considering the Government policies on transport and distribution of intoxicants.

8. There is a vast difference in the granting of compensation and the rehabilitation of rape victims. The District Authorities should not satisfy their conscience only by granting compensation to the victims when their case is referred to the Authority by a court. The Authorities must develop an implementable mechanism for the rehabilitation of rape victims and must then ensure its implementation. There should be continuous and consistent efforts by District Authorities till the final rehabilitation of rape victims is completed.

#### **6. A Case Study-Rehabilitation of a rape victim.**

The District Legal Services Authority, Bageshwar, under the mechanism adopted for rehabilitation of rape victims has tried to rehabilitate Guriya (fictitious name), aged about 14 years, studying in class 8. The District Legal Services Authority,

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Bageshwar provided advise and approached the Special Judge (POCSO), Bageshwar, Uttarakhand where it was decided vide judgment dated 28-11-2014,<sup>15</sup> that the rehabilitation of the victim would be done as follows-

1. The District Magistrate, Bageshwar was directed to ensure the education of the rape victim, through the sensitization mechanism to prevent any humiliation in school or college, as per the scheme of the government on the education of girls. The District Magistrate was also directed to ensure career-oriented training is given to the victim as per the scheme of government, so that the victim may become an economically independent individual and a valuable member of society.
2. The Secretary District Legal Services Authority, Bageshwar was directed to ensure that psychological counselling sessions are provided to the victim by a female psychologist with the permission of her parents, at the place(s) comfortable to the victim without any publicity. The counselling sessions must be confidential and an exclusively private affair between the counsellor and the victim.
3. Considering all the aspects mentioned under rule 7 of the Protection of Children From Sexual Offences Rules, 2012, this court recommended that a compensation of Rs. 2,00,000/- (Two lakhs ) is to be paid to the victim by the State from any of the funds within 30 days. The compensation so paid shall be kept in a fixed deposit scheme in the name of the victim for at least 10 years to ensure her financial security in the future.

Guriya was sexually exploited by her uncle (elder brother of victim's father), which resulted in her pregnancy. She delivered a girl child. The baby girl could not survive. An F.I.R. was lodged against the accused and after affording the opportunity of being heard to all concerned, the accused was convicted and sentenced by the Special Judge (POCSO), Bageshwar. Vide said judgment the Special Judge (POCSO) also suggested a rehabilitation scheme which is under the process of implementation by the District Authority at Bageshwar.

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<sup>15</sup> S.S.T. Case No.10 of 2014, decided by Special Judge (POCSO), Bageshwar, Uttarakhand, vide judgment dated 28-11-2014.

In compliance with the proposed scheme no. 2, the Secretary, District Legal Services Authority, Bageshwar has ensured psychological counselling sessions for the victim and her parents. It was suggested to the parents by the psychologist that they not marry Guria, till she achieves economic and social independence in society. During the counselling sessions, the enthusiasm and eagerness of the victim to do something for her future reflected from her face. She agreed to a vocational training programme rendered by a local N.G.O. In compliance with the proposed rehabilitation scheme no. 1, the District Magistrate Bageshwar ensured vocational training free of cost to the victim. During the training, Guria stayed in Rajkiya Balika Ashram Padhti Vidyalaya, Bageshwar on State expenses. For rehabilitation scheme no. 3, the District Magistrate also moved the Government for a compensation of Rs. 2,00,000/- (two lakhs) in compliance with the direction of the Special Court (POCSO), Bageshwar.

Guria is from a socially and economically backward class and even rupees one thousand/month seems like a distant dream for the victim's family. As per the information given by the NGO, she will be able to earn Rs. 4000-5000 per month easily after the final phase of training. The NGO also ensured that she was provided with sufficient work and bolstered it with other logistic support for her livelihood after the training programme. Thus, with the help of the District Authority, Bageshwar, a rape victim is now in the process of getting rehabilitation. The District Authority is confident that shortly she will be in the mainstream of society. She will also continue her education arranged by the State Government, along with her work. The District Authority, Bageshwar will support her till she completes rehabilitation.

7. Conclusion with request to change of mind set of the Chairman and Members of the District Authorities-

In conclusion, an important aspect is discussed in the concluding remarks, which is the change in mindset of the chairman and the other members of the District Authorities. Change in mindset is a phrase frequently discussed in judicial conferences, seminars and training programmes. One of the parameters for change of mindset may be whether the judicial

conscience of the chairman and other members is ready to accept new innovations within the parameters of law.

Any new beginning or adopting of new horizons cannot be successful without change in the mindset of the chairman and the members of the Authorities. The question arises what constitutes a change in mindset. The answer to this query lies in another query, which is why does a man work. Does he work for the benefit and interest of others as a socio-legal services provider or does he work for his own satisfaction. As per the philosophy of the Gita, everybody works for the satisfaction of his or her soul. When a soldier fights a war to defend the nation, it is not his national interest but the lust of his soul to defend the country. His soul enjoys defending the country. Likewise, when a saint delivers spiritual virtues to the disciples, it is not because he desires to eradicate the evil from society, but his soul enjoys eradicating ills from society by virtue of rendering the spiritual knowledge. Likewise, when a Judge works hard with full dedication, he does not work for the interest of the judicial institution or for the benefit of litigants, but his soul enjoys working hard for ensuring justice to the inhabitants and ensuring the rule of law for society. Dedication to work is an art, which cannot be learnt without a change in mindset.

Thus, the test for change in mindset is that one should enjoy work rather than do work. When a member of an Authority does work without enjoying it, it amounts to a formal working environment without a change in mindset in a traditional manner. But when the soul of a member starts enjoying work, he will be a dedicated member of the Authority with a change in mindset. It is only possible when they are trained, not only in the legal sphere but in ethical norms as well. From the above discussion, a change in mind set can be defined as development of the mental faculty to enjoy work. It is only possible with socio-legal, ethical training and regular practice of doing detached hard work. By practicing hard work with enjoyment, it will develop into a habit of enjoying work, which is the need of the hour.

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## *News from States*

### **ANDHRA PRADESH**

**NATIONAL LOK ADALAT APRIL, 2015 FOR SETTLEMENT OF LABOUR AND FAMILY MATTERS:-**The National Lok Adalat for the month of April, 2015, was conducted on 11-4-2015 and settled 13,196 cases pertaining to Labour, Family matters and other cases and the settlement amount was Rs.22.50 crores. Out of them, 5,335 cases were of pre litigation stage and the settlement amount was Rs.3.22 crores and 7861 pending cases and the settlement amount was Rs.19.27 crores.

**OBSERVANCE OF WORLD ENVIRONMENTAL DAY :-**On the observance of World Environmental Day on 5-6-2015 Legal Awareness Programmes were conducted in the State by DLSAs and MLSCs for the benefit of general public at different places like market yards, schools and colleges, Mahila Pranganams, Court premises, hospitals, etc. On this occasion, the DLSA, Visakhapatnam organised green rally from R.K.Beach to Visakha Museum and plantation of trees at Rythu Bazar and court premises in addition to conducting awareness programmes. The general public had been explained about the Environmental Laws, need of Protection of Environment and the availability of legal services and Lok Adalat mechanism. On this occasion, 46 Legal Literacy Camps were conducted wherein 4,939 persons have attended.

**OBSERVATION OF WORLD DAY AGAINST CHILD LABOUR :-**On 12-6-2015, on the occasion of World Day against Child Labour, the DLSAs and MLSCs organised Legal Awareness programmes at different places like Grama Panchayat, Government Schools, social service institutions, Orphan Homes, Hostels etc., and created awareness among the target groups about the prohibition of Child Labour, Rights of Children, importance of education, free education to the children, Government Scholarships, Consumer Protection Act, Legal Services Authorities Act, Lok Adalat, Mediation etc. On this occasion, 42 Legal Literacy Camps have been conducted in various districts wherein 4717 persons have participated.

**NATIONAL LOK ADALAT FOR JUNE, 2015:-**The National Lok Adalat was conducted on 13-6-2015 for settlement of Motor

Accident Claims Insurance Claims and other cases. In this National Lok Adalat, 14,063 cases were settled involving settlement amount of Rs.90.68 crores. Out of them, 15,096 cases were of pre litigation stage and the settlement amount was 4.74 crores and 12,467 pending cases were settled and settlement amount was 85.93 crores.

**VISIT OF MEMBER SECRETARY TO MENTAL HEALTH INSTITUTE:-**As per the directions of Hon'ble Supreme Court of India in WP (Crl.)No.1900/1981 and Crl.(MP) No.8032/2014 in the case of Dr.Upendra Bakshi Vs. State of Uttar Pradesh, the Member Secretary APSLSA along with the team of officers visited the Mental Health Institute, Visakhapatnam on 15-6-2015 and submitted report as directed by the Hon'ble Supreme court of India.

**VISIT OF PARLIAMENTARY STANDING COMMITTEE :-**The Parliamentary Standing Committee on personnel, Public Grievances, Law and Justice comprising of the Chairmen Hon'ble Dr. E.M. Sudarsana Natchiappan and Hon'ble Members visited Hyderabad on 19-6-2015 and interacted with the Legal Services functionaries, and the beneficiaries of Legal services programmes.

Sri G.Shyam Prasad, Member Secretary, APSLSA, Sri A.Venkateshwar Reddy, Secretary, High Court Legal Services Committee, Secretaries of District Legal Services Authorities, selected panel lawyers, mediators and beneficiaries have participated and explained Hon'ble Committee about the progress of legal services schemes, programmes in the State of Andhra Pradesh.

**TRAINING OF SECRETARIES:-**The Secretaries of DLSAs have been imparted training on 20-6-2015 about the legal services Schemes and programmes. Sri G.Shyam Prasad, Member Secretary, APSLSA and other resource persons have imparted training to the Secretaries on various legal services schemes and programmes, maintenance of accounts, submission of Utilisation Certificates and other allied aspects following the curriculum and guidelines issued by NALSA.

**ESTABLISHMENT OF LEGAL AID CLINICS :-**During this quarter, 14 Legal Aid Clinics have been established in various Jails in Krishna, Kadapa and West Godavari Districts wherein Clinics

are not established. Thus Legal Aid Clinics, now have been established in all the 85 jails in the State of Andhra Pradesh. During this quarter, 4 Legal Aid Clinics have been established in Visakhapatnam and West Godavari Districts. Thus in the State of Andhra Pradesh there are 852 Village Legal Care and Support Centres have been established so far in jails, Villages, Community Centres etc.

**TRAINING TO THE POLICE AND OTHER STAKEHOLDERS ON JUVENILE JUSTICE** :-During this quarter the DLSAs of Anantapur, Krishna, Kurnool and Visakhapatnam have conducted training programmes to the Special police units and other stakeholders of juvenile justice system as per the directions of Hon'ble Supreme Court of India in the case of Sampurna Behrua. A total number of 326 Stake Holders have been imparted the training.

**JAIL VISITS** :-The Secretaries of DLSAs and Chairmen, MLSCs have visited Jails and interacted with the inmates and authorities and provided necessary legal assistance and to advise to the prisoners. The deficiencies were brought to the notice of the Director General of Prisoners and necessary action has been initiated for rectification and deficiencies.

**STATISTICS**:-During this period in the entire State of Andhra Pradesh comprising of 13 districts, 2554 Lok Adalats have been conducted and 25,861 cases have been settled and the settlement amount was Rs. 93.70 crores. The Permanent Lok Adalats for Public Utility Services have settled 245 cases pertaining to various Public Utility Services during this quarter. In the Mediation Centres, 30 cases have been settled.

Legal Aid has been provided to 904 persons during the period and the beneficiaries are 219 women, 42 children, 277 persons in custody and 366 persons of other categories.

1401 Legal Literacy Camps were conducted by creating legal awareness among the public on legal services schemes, programmes, Lok adalats, Rights of Women, Rights of Children, Environmental laws, Labour laws, Senior Citizens Act, Women related laws etc.

## BIHAR

Month	No. of Lok Adalat (continuous Lok Adalat & Special Lok Adalat) organised	No. of cases disposed of
April, 2015	70	611
May, 2015	84	50
June, 2015	63	60
Total	217	721

Month	No. of Legal Awareness Camps held	No. of Persons benefited
April, 2015	19	1447
May, 2015	67	4269
June, 2015	73	4787
Total	159	10503

## CHHATTISGARH

- (1) नालसा के निर्देशानुसार वर्ष 2015 में विशेष मामलों पर नेशनल लोक अदालत का आयोजन छत्तीसगढ़ के समस्त न्यायालयों में किया गया है। इसी अनुक्रम में माह 11 अप्रैल 2015 में लेबर एवं फ़ैमिली संबंधी मामलों पर नेशनल लोक अदालत का आयोजन किया गया, जिसमें कुल 28812 प्रकरण रखे गये तथा 27207 प्रकरणों का निराकरण हुआ एवं 19686372 रुपये का अवार्ड किया गया। इसी प्रकार माह 09 मई 2015 में एमएसीटी एवं बीमा संबंधी मामलों पर नेशनल लोक अदालत का आयोजन किया गया, जिसमें कुल 2342 प्रकरण रखे गये एवं 220 प्रकरणों का निराकरण तथा 44951830 रुपये का अवार्ड पारित किया गया।
- (2) दिनांक 18.04.2015 को माननीय कार्यपालक अध्यक्ष महोदय की अध्यक्षता में समस्त जिला विधिक सेवा प्राधिकरणों के अध्यक्ष, सचिव, स्थायी लोक अदालत के सभापति एवं पेंशन लोक अदालत के सदस्यों की बैठक ली गयी एवं विधिक सेवा योजनाओं का मूल्यांकन एवं समीक्षा किया गया तथा माननीय कार्यपालक अध्यक्ष महोदय द्वारा विधिक सेवा कार्यक्रम /योजनाओं के अधिक से अधिक आमजन को लाभान्वित किये जाने के संबंध में आवश्यक दिशा-निर्देश दिये गये।
- (3) 19 अप्रैल 2015 को जिला विधिक सेवा प्राधिकरण, राजनांदगांव द्वारा तहसील विधिक सेवा समिति छुईखदान में लीगल एड क्लीनिक एवं प्रबंधक कार्यालय का स्थापन की गयी, जिसका शुभारंभ माननीय कार्यपालक अध्यक्ष महोदय द्वारा किया गया।
- (4) दिनांक 09 मई 2015 को जिला विधिक सेवा प्राधिकरण बलौदाबाजार में लीगल एड क्लीनिक का शुभारंभ किया गया।

- (5) 18 एवं 19 अप्रैल, 2015 को जिला विधिक सेवा प्राधिकरण रायपुर में एवं दिनांक 20 एवं 21 जून का जिला विधिक सेवा प्राधिकरण दुर्ग में एमसीपीसी नई दिल्ली के द्वारा आयोजित एआरसीएम कार्यक्रम सफलतापूर्वक आयोजित किया गया।
- (6) माह जून में दिनांक 13 एवं 14 जून का अन्तर्राज्यीय “मानव तस्करी” विषय पर दो दिवसीय कार्यशाला का आयोजन छत्तीसगढ़ उच्च न्यायालय, राज्य विधिक सेवा प्राधिकरण, छत्तीसगढ़ शासन के विभाग, यूनिसेफ के संयुक्त तत्वाधान में आयोजित किया गया। उक्त कार्यशाला में छत्तीसगढ़ राज्य के मानव तस्करी के विशेष प्रभावित जिले बिलासपुर, जांजगीर-चांपा, रायगढ़, जशपुर, सरगुजा, महामसुंद, कांकेर, कोण्डागांव, जगदलपुर एवं दन्तेवाड़ा पर विशेष जोर दिया गया। उक्त कार्यशाला में माननीय न्यायमूर्ति वी.एन.सिन्हा बिहार उच्च न्यायालय एवं कार्यपालक अध्यक्ष बिहार राज्य विधिक सेवा प्राधिकरण एवं माननीय न्यायमूर्ति श्री एस. पूजाहारी, उच्चन्यायालय उड़ीसा एवं श्री जोसेम थाईस, यूनिसेफ मुख्य अतिथि के रूप में शामिल हुये। इसके अलावा बिहार, झारखण्ड एवं उड़ीसा राज्य विधिक सेवा प्राधिकरण के सदस्य सचिव, उक्त राज्यों के न्यायिक अधिकारीगण एवं छत्तीसगढ़ उच्च न्यायालय के समस्त न्यायाधीशगण उपस्थित रहे। इसके अलावा उक्त कार्यक्रम में जिला न्यायाधीश/अध्यक्ष, सचिव, जि0वि0से0प्रा0, मुख्य न्यायिक मजिस्ट्रेट, अन्य नामांकित न्यायिक अधिकारीगण अभियोजन अधिकारी, यूनिसेफ, महिला एवं बाल विकास विभाग, पुलिस विभाग, श्रम विभाग, कलेक्टर जशपुर, नारायणपुर, पुलिस अधीक्षक बलरामपुर एवं नारायणपुर, रेल्वे विभाग, विधि छात्र, मिडिया इत्यादि उपस्थित रहे।
- (7) दूरदर्शन पर विधिक सेवा कार्यक्रम का प्रसारण - छ0ग0 राज्य विधिक सेवा प्राधिकरण एवं जिला विधिक सेवा प्राधिकरणों द्वारा दूरदर्शन केन्द्र रायपुर के माध्यम से “लीगल हिंट” के नाम से प्रसारित विधिक सेवा कार्यक्रम का आयोजन प्रत्येक द्वितीय एवं चतुर्थ शुक्रवार (अब प्रत्येक द्वितीय एवं तृतीय शनिवार को किया जाता है, इसी अनुक्रम में माह अप्रैल से जून 2015 में भी प्रत्येक द्वितीय एवं चतुर्थ शुक्रवार को विधिक सेवा कार्यक्रमों का प्रसारण दूरदर्शन केन्द्र रायपुर से किया गया है, जिसमें सेवारत न्यायिक अधिकारी/सेवानिवृत्त न्यायिक अधिकारी/वरिष्ठ अभिभाषक, पेनल अधिवक्ता गण द्वारा विभिन्न विषयों पर रिकार्डिंग प्रसारण एवं लाईव प्रसारण दूरदर्शन रायपुर केन्द्र से किया गया है।
- (8) दिनांक 18 जून 2015 को नालसा के निर्देशानुसार तैयार मल्टीयूटिलिटी वैन को माननीय कार्यपालक अध्यक्ष महोदय के द्वारा हरीझण्डी दिखाकर राज्य विधिक सेवा प्राधिकरण के कार्यालय से रवाना किया गया। तत्पश्चात् उक्त वैन के माध्यम से छत्तीसगढ़ के समस्त जिलों/तहसीलों में विधिक सेवा योजनाओं/कार्यक्रमों का व्यापक प्रचार-प्रसार किया जा रहा है।

## GOA

The District Legal Services Authority, North Goa had organized Legal Literacy Programmes at Ponda, Pernem, Bicholim, Panaji and Mapusa Talukas on the subject of Rights of availability of different Welfare and social security schemes, Pre-natal sex selection and pre-natal Diagnostic Techniques (PNDT) Act and benefits of Free Legal, Protection of Children and drug trafficking,

delayed birth and death registration, Child Labour, Right of Women and protection of Women from Domestic Violence, Labour welfare Laws and Schemes for the benefits of the workers, Labour Laws and Lok Adalat for settlement of labour disputes, Consumer Rights Act, Minimum Wages Act, Factories Act, Maternity Benefits Act and need of workers, Beti Bachao and Beti Padhao and importance of Civil and Fundamental Rights of Girl Child, Right to Education Act and Child Rights, Environment on Wild Life, etc.

During the quarter April-June, 2015, the DLSA, North Goa has conducted in all 18 Legal Awareness Camps/Programmes on various topics in which 1049 peoples were benefited.

As regards, District Legal Services Authority, South Goa Margao have organised legal aid programmes/Camps in respect of Free Legal Aid, Registration of late Birth & Deaths, Right to Information Act, Land Development and Construction, Child Marriage, Dowry, Physical, Mental & Sexual abuse, Child Trafficking, Sexual exploitation, International Convention on Child right, Child Labour, Ensuring Education of Children, Juvenile Justice Act, Plea Bargaining, Industrial Dispute Act, Trade Union Act, Minimum Wages Act, HIV/AIDS, International Labour Day, Goa Children's Act and Homeopathic Management of HIV/Aids, etc. During the above period in all 22 Legal awareness programmes were organised in which 1070 people were benefited.

Other than Legal Literacy Camps, the District Legal Services Authorities at District level and Taluka legal Services Committees at Taluka levels also had organized Lok Adalats as well as permanent and continuous Lok Adalats. At District and Taluka Levels there were total 2211 cases, placed before the Lok Adalats, out of which 1199 cases have been settled under the Lok Adalat Scheme and the compensation awarded is Rs.1,01,54,566/- including compensation awarded in MACT cases. The Goa State Legal Services Authority had also organized National Lok Adalat at High Court level during the said quarter. Total 127 matters were placed before Lok Adalat and out of which 5 matters were settled and the compensation awarded is Rs.29,59,361/-.

In the said period, Legal Aid beneficiaries were as follows:-

**LEGAL AID BENEFICIARIES DURING THE QUARTER.**

In custody	97
Women	90
Child	-
SC/ST	1
Disabled	-
Other eligible persons	<u>44</u>
Total	<u>232</u>

**HARYANA**

**Sensitization Programme for Police Officials**

On **18.4.2015**, a sensitization programme was held by the DLSA, Panipat for the police officials at Panipat. Chief Judicial Magistrate-cum-Secretary, DLSA, Panipat explained in detail the law on identification. The police officials were also apprised of the scientific methods which can be used as per law for doing investigation effectively. Interactive session was done with the police officials.

**Legal Awareness Camp at Government School, Village Rasoolpur**

On **21.4.2015**, legal awareness camp was held by the DLSA, Kaithal at Government School at Village Rasoolpur. It was attended by about 80 students. The concept of legal aid was explained to the students. They were also made aware of the Right to Information Act and the law on child labour.

**Special Legal Literacy Camp on Environment**

A special Legal Literacy Camp was organised by DLSA, Faridabad on **21.4.2015** on the topic environment. The said camp was organised in the Government Senior Secondary School, Faridabad. The students were enlightened on the Environmental Law. They were encouraged to adopt good habits for keeping the environment neat and clean. The session was also followed by an interactive session whereby everyone was made aware of the significance of knowing legal rights and duties.

### **Special Legal Literacy Programme in Senior Citizens Club Situated at Yamunanagar At Jagadhri**

On **21.04.2015**, a legal awareness programme for the senior citizens was organized at the Senior Citizens Club at Jagadhri by DLSA, Yamunanagar. About fifty senior citizens attended the said legal awareness programme. The important provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 were explained in comprehensible language through a power point presentation to the participants by the Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority.

### **Awareness on Earth Day**

On **22.4.2015**, DLSAs of Faridabad and Ambala organized awareness camps on environmental awareness. Competitions were also organized amongst the students with an idea to make them aware of the importance of environment. The need to respect, protect and preserve the natural world was emphasized in the said awareness camps.

### **Special Legal Awareness Camp on “Workers in Unorganized Sector”**

On **24.4.2015**, a Special Legal Awareness Camp was organized on the topic “Workers in unorganized sector” by DLSA, Gurgaon. Sh. Harnam Singh Thakur, District & Sessions Judge-cum-Chairman, DLSA, Gurgaon was present along with Sh. Yashwinder Paul Singh, Additional District & Sessions Judge Gurgaon and the Chief Judicial Magistrate-cum-Secretary, DLSA, Gurgaon. Sh. R.C. Mishra, Director General of Police Vigilance Gurgaon and Sh. Vatsal Vashist SDM Gurgaon were also present on the said occasion. Advocates practicing in the labour courts and Members of Industrial Associations were also present. Sh. Harnam Singh Thakur, District & Sessions Judge highlighted the plight of the workers in the unorganized sector which forms major part of the work force of our country. He emphasized that all of us should join hands so that the workers in unorganized sector get benefits of the relevant law and schemes. Sh. Yashwinder Paul Singh, Additional District & Sessions Judge, Gurgaon also threw light on the kind of workers which are working in such sectors, and the purpose behind the enactment of special legislation and schemes. Sh. R.C. Mishra, Director General of Police Vigilance

Gurgaon also highlighted the role which can be played by all the persons in the implementation of the welfare Acts and Schemes. Sh. Vatsal Vashist, SDM Gurgaon also sensitized the gathering about the Act and the plight of the labourers. The panel advocates practicing in the field of labour law also highlighted the difficulties which workers face.

### **Marg Darshak: Orientation Programme for Investigating Officers**

The DLSA, Panchkula continued its orientation programme namely MARG DARSHAK in the month of April, 2015. Under this programme, on **25.4.2015**, a special lecture on the medico legal cases was organized for the investigating officers and station house officers of Panchkula. Sh. Sunil Gambhir, HCMS, Doctor of General Hospital Sector 6, Panchkula, who has vast experience in medico legal cases, addressed the gathering of investigating officers and station house officers. He elaborated and explained the important aspects of medico legal examination of the victim and the accused. He also dealt with the precautions to be taken while sending the samples to forensic laboratory for examination. Sh. Hem Raj Mittal, CJM-cum-Secretary, Panchkula also held interactive session on the subject, and answered the various queries of the participants. Sh. Manvir Rathee, Panel Advocate, also apprised the participants of the latest judgments given by the Hon'ble Supreme Court on the subject.

### **National Lok Adalats on 25.4.2015 & 9.5.2015**

On **25.04.2015**, National Lok Adalat on the Labour and Family Matters was held and 680 cases were settled involving an amount of Rs.40,34,853/-. Second subject-wise National Lok Adalat was held on 09.05.2015 with regard to Bank & Insurance Matters across the State of Haryana and 172 cases were settled involving an amount of Rs. 4,26,88,744/-.

### **Inauguration of Legal Services Clinic in Law Faculty at SRM University, Sonapat, Haryana**

A legal services clinic aims at two objects. One is to improve the clinical legal skills of the students and the second is to inculcate an attitude amongst the students to provide effective legal services to the poor and marginalized people. The HALSA, in collaboration with SRM University, opened another Legal Services Clinic on

Saturday, **April 25, 2015** at Law Faculty, SRM University, Sonapat, Haryana. It was inaugurated by Hon'ble Mr. Justice Satish Kumar Mittal, Executive Chairman of HALSA. Hon'ble Mr. Justice Rajan Gupta and Hon'ble Mr. Justice Augustine George Masih, Judges of the High Court of Punjab & Haryana, also graced the occasion.

The inaugural programme was also attended by the judicial officers, members of the district administration, representatives of local village bodies and students. The inauguration was followed by a cultural programme and screening of a documentary on "Access to legal aid". Hon'ble Mr. Justice S.K Mittal explained the objectives of National Legal Services Authority (Legal Services Clinics in Universities, Law Colleges and other Institutions) Scheme, 2013. His Lordship also said that the principle of rule of law and the philosophy of the Indian constitution mandates that every citizen should have reasonable access to justice. His Lordship also emphasized that the entire legal aid movement is aimed at removing the barriers to access to justice so that the rule of law is maintained.

#### **Special Legal Literacy Programme in Government Senior Secondary School (Girls), Shehzadpur, District Ambala**

**On 27.04.2015**, DLSA, Ambala organised an awareness programme on 'Female Foeticide'. The programme was attended by 250 students. The important aspects of Law relating to Female Foeticide were explained in comprehensible language to the students.

#### **Special Legal Literacy Camp for Officials at Grass Root Level**

Under the aegis of Haryana SLSA, DLSA Jhajjar organized a special legal literacy camp for officials at grass root level on **30.04.2015** at Govt. Sr. Sec. School, Jhajjar. Programme Officer, CDPO, Supervisors, Anganwadi workers etc. attended the said legal awareness programme. Chief Judicial Magistrate-cum-Secretary, DLSA, Jhajjar addressed the audience on the objectives of NALSA/HALSA, relevant provisions of Legal Services Authority Act, 1987 and various schemes of NALSA/HALSA. They were made to understand the importance of their role in bridging the gap between weaker and marginalized section of the community and justice delivery system. Panel advocate also addressed the audience and made them aware about the different aspects of legal aid schemes promulgated by NALSA/HALSA.

### **Awareness through Community Radio**

In the months of **April and May, 2015** various legal awareness programmes were conducted through community radio stations at Ambala, Faridabad, Palwal and Sirsa. In the said programmes various legal topics were covered such as Protection of women for domestic violence act, law on bail, free legal aid, victim compensation scheme etc.

### **International Labour Day**

On **1.5.2015**, Labour Day was celebrated. The legal awareness camps were organized across the State of Haryana for labourers by the DLSAs under the aegis of Haryana SLSA. An effort was made, in these camps, to make labourers aware of the various beneficial enactments and schemes meant for their upliftment and welfare.

### **Legal Literacy Camp for Officials at Grass Root Level**

On **2.5.2015**, as per the instructions of Haryana SLSA, a legal awareness camp for officials working at grass root level was organized by DLSA, Kaithal. In the said camp, the participants were also made aware of the disaster management and the law relating to the same. It was also attended by about 50 panel advocates and para legal volunteers. The Research Officer, Haryana Institute of Public Administration delivered lecture on Disaster Management and also explained the subject through Power Point Presentation.

### **Legal Awareness Programme for Spreading Navchetna- Legal Literacy Programme**

In order to spread legal awareness, a programme "Navchetna" of six days was held from **4.5.2015 to 9.5.2015** at Bal Bhawan, NIT, Faridabad in collaboration with the various government and government aided schools by DLSA Faridabad. Competitions in the form of rangoli, skit, nukkud natak, group dance and painting were organized on daily basis. The topics identified for the programme included stop drug abuse, right to education, fundamental rights and duties, stop female foeticide etc. In the Navchetna programme, more than 4000 students of 240 different Govt. and Private schools participated in various activities such as painting competition, skits, nukud natak, rangoli competition, poster making competition.

Every day some socio legal issues were selected, and different competitions were held on those topics. On the first day, after the formal inauguration, group dance competition was organized. Twenty five schools participated in this competition. Students performed group dances through which the message of “Beti Bachao Beti Padhao” and “stop female foeticide” was spread. As many as 300 students participated in the competition and 450 students witnessed the function.

On second and third day, painting competition was organized as per schedule. The topics of drawing competition were stop child labour, save environment, right to education, stop drug abuse and save water. 750 cheerful students from 160 schools participated in the competition.

30 school students participated and performed meaningful nukud natak and small skits through which the rights of Senior Citizens, stop child labour, right to education and right of transgender and domestic violence act were projected in front of the gathering for awareness of the masses. As many as 550 students participated in nukkud natak and skit competition. On sixth day i.e. the final day of scheduled programme, a rangoli competition was organized. The topics for rangoli competition were female foeticide, save water and save earth. 450 students of 40 schools participated in the rangoli competition to create legal awareness.

As hundreds of school students participated and attended the programme, lectures on the topics of legal significance were delivered on each day to the students by panel advocates of DLSA Faridabad. Panel advocates educated the participants about different schemes of NALSA and HSLSA, right to education, rights of transgender, save water, save environment, stop drug abuse, stop female foeticide apart from other legal issues. The idea behind this project was to teach topics of legal significance to the students by getting them involved in extracurricular activities.

#### **Awareness about Rights of Women**

On 7.5.2015, DLSA, Bhiwani organized a Legal Literacy Camp on the Rights of Women. Chief Judicial Magistrate-cum-Secretary, DLSA, Bhiwani eloquently explained to the students various statutes enacted with the purpose to safeguard rights of women. All the girl students along with teachers took pledge to live their life with dignity.

### **Legal Awareness Camp at Govt. Sr. Sec. School, Village Guhna**

On **15.5.2015**, a legal awareness camp was organized by DLSA, Kaithal at Govt. Ser. Sec. School, Village Guhna. In it awareness was spread about the various laws meant for the protection and welfare of children. Child Marriage Act, Law prohibiting child Labour, Right to Education Act, 2009 were explained in comprehensible language to the students.

### **Legal Awareness Camp for Officials at Grass Root Level**

On **16.5.2015**, a legal awareness camp for the officials working at Grass Root Level was organized by the DLSA, Kurukshetra. It was attended by the Anganwari workers, Health workers, Patwaris, Women Panchyat Members and Principals. The participants were explained about the concept of "Free Legal Aid". Various schemes and functions of the Legal Services Authority were explained to them.

### **Awareness Referral Coaching and Mentoring (ARCM) Programme at Karnal**

On **16.05.2015 and 17.05.2015**, ARCM Programme was organized by Haryana SLSA in collaboration with the Mediation and Conciliation Project Committee (MCPC), Supreme Court of India. Sh. Harish Bhardwaj and Ms.Rashmi Bhushan conducted the ARCM Programme. On the first day, in first three sessions, Master Trainers from MCPC and Mediators from District Mediation Centre at Karnal conducted live mediation in which the litigants also participated actively to demonstrate their enthusiasm towards ADR mechanism. Sixty six cases were taken up for mediation, out of those 10 cases were settled. Master Trainers observed and guided the mediators throughout the session and kept on mentoring them. Thereafter, ARCM programme for lawyers was conducted by the Master Trainers. Para Legal Volunteers, teachers, Anganwari workers and journalists also participated in this programme. The concept of mediation was explained in comprehensible language to the audience. On the next day i.e. on **17.5.2015**, as per the schedule, two simultaneous sessions were conducted. A critiquing programme was conducted with the mediators of District Mediation Centre, Karnal, and they were trained on the basis of previous days experiences by the Master Trainer. In another Session, awareness-cum-referral programme

was conducted for referral Judges. They were told about role of referral Judges in the mediation process. They were impressed upon to take advantage of various alternate remedies available under Section 89 CPC and were also apprised of several aspects of mediation process.

#### **Legal Awareness Workshops for Teachers**

The DLSA, Panchkula organized the legal awareness workshops for the teachers. On **19.5.2015**, a workshop was organized at Army Public School, Chandimandir. It was attended by about one hundred teachers of Army Public School. Sh. Manbir Singh Rathi, Panel Advocate explained the important provisions of POCSO Act and the Rights of Children. Law relating to women and Senior Citizen was also explained to the participants. On **22.5.2015**, such workshop was organized for the teachers of Kendriya Vidyalayas. The said workshop was attended by about fifty teachers.

#### **Mega Health Check-Up Camp at Central Jail, Ambala**

On **20.05.2015**, a Special Medical Check Up Camp for the inmates of Central Jail, Ambala was organized by DLSA, Ambala in association with Maharishi Markandeshwar Institute of Medical Sciences and Research, Mullana. A team comprising of ten doctors checked the inmates. A Mobile Dental Van was also brought to the Central Jail, Ambala. Free Medicines were distributed to the needy. The said camp was inaugurated by Sh. Deepak Gupta, learned District & Sessions Judge-cum-Chairman, District Legal Services Authority, Ambala.

#### **Sixth State Level Annual Function held in the Tagore Auditorium of M.D. University, Rohtak on 23.05.2015**

The State Level Annual Function was held in the Tagore Auditorium of Maharshi Dayanand University, Rohtak on **23.05.2015**. Hon'ble Mr. Manohar Lal, Chief Minister of Haryana, was the Chief Guest. Hon'ble Mr. Justice Shiavax Jal Vazifdar, Acting Chief Justice, High Court of Punjab & Haryana & Patron-in-Chief, Haryana State Legal Services Authority (HALSA) presided over the function. The function was also graced by the Hon'ble Mr. Justice S.K.Mittal, Executive Chairman of Haryana SLSA; Hon'ble Mr. Justice K.Kannan, Administrative Judge, Rohtak Sessions Division who was also the Guest of Honour;

Hon'ble Mr. Justice Rajesh Bindal; Hon'ble Mr. Justice R.S.Malik and Hon'ble Mr. Justice B. B. Parsoon, Judges of High Court of Punjab & Haryana, Chandigarh and Hon'ble Mr. Ram Bilas Sharma, Education Minister, Haryana.

Mr.Vijai Vardhan, IAS, Additional Chief Secretary, Department of Higher Education; Sh. T.C.Gupta, Principal Secretary, Secondary Education Department, Haryana; Sh. Sudhir Rajpal, Acting Vice Chancellor, Maharshi Dayanand University, Rohtak and many other dignitaries were present on the said occasion.

The dignitaries also visited the exhibition displayed by the students and appreciated the paintings and slogans made by students of schools and colleges on various socio-legal topics. Mr.Vijai Vardhan, IAS, Additional Chief Secretary, Department of Higher Education welcomed the audience. A key note address was delivered by Hon'ble Mr. Justice S.K.Mittal, Executive Chairman of Haryana SLSA. Hon'ble Mr. Justice K.Kannan, Judge, Punjab and Haryana High Court & Administrative Judge, Rohtak Sessions Division in his speech appreciated the efforts made by HALSA in collaboration with the Education Department, Haryana.

Hon'ble Mr. Justice S.K.Mittal, Executive Chairman, HALSA explained, in his address, the aims & objectives of Students Legal Literacy Mission. His lordship, inter alia, said that Haryana SLSA is committed to make people aware of their rights. His Lordship further stated that poverty and legal illiteracy are the major challenges. His Lordship also apprised the audience about the schemes and the efforts being made by the Haryana SLSA in providing free legal services to weaker and marginalized section of society. Hon'ble Mr. Ram Bilas Sharma, Education Minister, Haryana also addressed the gathering.

Mr. Justice Shiavax Jal Vazifdar, Acting Chief Justice, High Court of Punjab & Haryana & Patron-in-Chief, Haryana State Legal Services Authority (HALSA) appreciated the efforts made by HALSA in collaboration with Education Department Haryana. His Lordship emphasized that Legal Literacy is must, and people should be made aware of their rights. His lordship also sought the cooperation of the students to eradicate legal illiteracy, and said that students can play a major role in making people aware about the laws.

Hon'ble Shri Manohar Lal, Chief Minister, Haryana, the Chief Guest of the function, appreciated the efforts made by HALSA, in eradicating legal illiteracy. He also motivated the students and appreciated their work in the field of Legal Literacy Mission.

The state level winners awarded with certificates, cash prizes and medals. Documentary, prepared by HALSA, was shown to the audience. Documentary showed the activities being done by the Haryana SLSA like providing of free legal aid to weaker and marginalized section of society, spreading of legal awareness amongst masses, payment of compensation to the victims of crime, organizing Lok Adalats, working for unorganized labour etc.

The annual day showcased the artistic talents of the students. An array of scintillating performances by the students on various socio-legal topics mesmerized every one present. Educative presentations made by the students reflected the socio-legal problems which the society is facing today, and the need to tackle the said problems. The performance by deaf and dumb students was quite moving. A thundering applause followed the said splendid performance.

Mr. Sushil Kumar Gupta, District & Sessions Judge, Rohtak extended a vote of thanks.

#### **Legal Awareness Camp at Girls Sr. Sec. School**

On **26.5.2015**, a legal awareness camp was organized by the DLSA, Narnaul. The students were made aware of the law relating to children. The functions of the Legal Services Authority were also explained to the students. The importance of fulfilling the Fundamental Duties as envisaged in the Constitution of India was also explained eloquently by the Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Narnaul.

#### **Training Programme for Advocates Conducted by DLSA Gurgaon in association with Lawyers Collective**

A training programme was organized on **28.5.2015** for panel advocates, mediators and female advocates appointed under the Model Prosecution Counsel Scheme in association with Lawyers Collective by DLSA, Gurgaon. Dr. Vageshwari Deswal, Professor, Delhi University was the key speaker of the training programme. Ms. Kiran Sharma, Ms. Gaytri and Ms. Asha Singh, Advocates from Lawyers Collective, were the other speakers in the program.

Power point presentation was given by Dr. Vageshwari Deswal regarding the law on crime against women for understanding the amendments made in the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973. The various forms of rape i.e. custodial rape, marital rape and gang rape were also elaborated along with the provisions of POCSO Act. Victim Compensation Scheme was also discussed in this regard along with the judgment given in the case titled as Laxmi Vs. Union of India. The work which has been done by DLSA Gurgaon under the Victim Compensation Scheme was also brought to the notice of participants. The panel advocates were sensitized about the scheme, and they were told to take appropriate steps for protection of the victim as per the scheme and as per the provisions of IPC, POCSO Act. The female advocates under the Model Prosecution Counsel Scheme were told to sensitize the victim regarding the aforementioned scheme so that the benefits of this scheme reach the victims who require rehabilitation.

#### **Inauguration of Legal Care and Support Centre at Village Bhangera Yamunanagar**

A Legal Care and Support Centre in Village Bhangera, District Yamuna Nagar was inaugurated by Hon'ble Mr. Justice S.K. Mittal, Executive Chairman of Haryana SLSA on **30.05.2015** in the esteemed presence of Ms. Sarita Gupta, Learned District & Sessions Judge-cum-Chairperson, DLSA Yamuna Nagar at Jagadhri; Sh. Vikram Aggarwal, Learned District & Sessions Judge-cum-Member Secretary, Haryana SLSA; Dr. S.S. Phulia, Deputy Commissioner, Yamuna Nagar; Sh. Arun Singh, Superintendent of Police, Yamuna Nagar and other officers of the District.

Apart from being welcomed by the villagers, a special welcome address was delivered by Dr. S.S. Phulia, Deputy Commissioner, Yamuna Nagar. Hon'ble Justice S.K. Mittal, Judge, Punjab & Haryana High Court, Chandigarh-cum-Executive Chairman of Haryana State Legal Services Authority in his speech apprised the villagers of the activities which are being performed by DLSA and the purpose of opening Legal Care and Support Centre in their village. His lordship exhorted the villagers to avail the services of DLSA and drive the maximum benefits of the schemes of the Government through the Panel Advocate and the Para Legal Volunteer appointed in the Legal Care and Support Centre by the DLSA.

Ms.Sarita Gupta, Learned District & Sessions Judge-cum-Chairperson, District Legal Services Authority, Yamuna Nagar at Jagadhri extended the vote of thanks. The function was attended by more than 200 villagers. Booklets published by the HALSA were also distributed amongst the villagers.

#### **Awareness Camps on World No Tobacco Day**

World No Tobacco Day is held on May 31 on each year. On **31/5/2015**, DLSAs across the State held awareness camps under the aegis of Haryana SLSA to draw attention to the health problems that tobacco use can cause. It was emphasized in the camps that it is not just the smokers who are at risk. The people around them, the so called passive smokers, are also vulnerable to developing smoking related diseases. Tobacco, no matter which form it is, like cigarettes (even light or filtered), cigars, chewable tobacco, huqqa or even the ever popular sheesha, is a silent killer.

#### **Awareness Camps at Villages**

DLSA, Kaithal organized various legal awareness camps at different villages in the month of June 2015 with the idea to reach out to the people living in the remotest area and to make them aware about the functions of the Legal Services Authorities and about free legal aid. The villagers were explained in detail the concept of legal aid. This apart, the rights under various laws, particularly relating to women and children, were explained in comprehensible language to the villagers. On 03.06.2015, a camp was organized at village Kharkra. On 07.06.2015, it was organized at village Sirta. On 11.06.2015, a camp was organized at village Jagdishpura. On 14.06.2015, it was organized at village Theh Mukeriya. Many other villages were also covered in the said legal awareness campaign.

#### **World Environment Day**

On 5/6/2015, Legal Awareness Camps were organized by the DLSAs under the aegis of Haryana SLSA across the State of Haryana. In the said camps, it was emphasized that it is our fundamental duty, as per the Constitution of India, to protect and improve the environment. Important laws and judgments relating to environment were explained to the participants. It was also emphasized, in the said camps, that the well-being of humanity, the environment and the functioning of the economy,

ultimately depend upon the responsible management of the planet's natural resources. On the said day, plantation was also done at several places.

### **Special Legal Literacy Camps for Officials at Grass Root Level**

Under the aegis of Haryana SLSA, special camps for officials working at grass root level are organized in the various districts of Haryana from time to time so that the officials working at the grass root level get sensitized about the need to remove the barriers to access to justice. On 6.6.2015, it was also organized at Karnal by DLSA, Karnal. In Jind also camp for grass root officials was organized by DLSA, Jind.

### **Legal Awareness Camps through Bolero Van**

Legal awareness camps through Bolero Van from **16.6.2015 to 30.6.2015** were organized in the villages by the DLSA, Bhiwani. In the said camps, villagers were apprised of the various laws such as PC&PNDT Act, Bonded labour (Abolition Act, 1976). Laws relating to women and children were also explained to the villagers in comprehensible language. Lectures on the Fundamental Duties, contained in Para IV(A) of the Constitution, were also given to the villagers and they were sensitized about the need to discharge the Fundamental Duties.

### **Children Homes, Shelter Homes, Observation Homes**

To ensure proper legal protection to the vulnerable and marginalized section, the Chairmen cum District and Sessions Judges along with Chief Judicial Magistrates-cum-Secretaries have been making visits regularly every month to Children Homes, Shelter Homes, Observation Homes and Old age homes across the State of Haryana under the instructions and guidance of the HALSA. Deficiencies are taken up with the concerned authorities. Legal aid is also provided in appropriate cases.

### **Special Legal Literacy Camp for Villagers**

On 09.06.2015, a Special Legal Literacy Camp was organized by the DLSA, Kaithal at Village Rasoolpur. In the said camp, the Panel lawyer explained in a comprehensible language the various functions of Village Legal Care and Support Centre and Front Office. The concept of Free Legal Aid was also explained to the villagers. They were also sensitized about the ill effects of narcotics, drugs and alcohol.

### **World Day against Child Labour**

World day against child labour was observed on 12/6/2015. On the said occasion, Legal Awareness Camps were organized under the aegis of Haryana SLSA with the purpose of raising awareness and activism to prevent child labour. In the said camps, law relating to child labour was explained. Child rights were also highlighted.

### **Legal Awareness through Bolero Jeep**

Haryana SLSA sent Bolero Jeep in District Ambala to conduct awareness programmes from 16.06.2015 till 15.07.2015. Accordingly, a schedule covering various Village Gram Panchayats, Schools and Colleges was prepared, and a total of 25 awareness camps were held. The resource persons in the said drive were Advocates empanelled with DLSA, Ambala and Para Legal Volunteers/ Social Workers. Various topics such as Senior Citizens, Food Adulteration Act, Fundamental Duties & Flag Code of India and Process of Mediation etc. were discussed in the said camps.

### **Workshops for Panel Lawyers**

In order to ensure that panel Advocates render quality legal services, various workshops for the panel lawyers were held by the DLSAs in the month of June, 2015. In the said workshops, it is emphasized that it is quite important to render quality legal services to marginalized section of society and that there is a need to combine up-to-date legal knowledge and skills with good client care to deliver services in a way that is useful.

#### **(i) Lok Adalats**

During the period from **1<sup>st</sup> April to 30<sup>th</sup> June, 2015**, DLSAs and Sub-Divisional LSCs under the guidance of Haryana SLSA organized **144** Lok Adalats/Special Lok Adalats wherein **18,392** cases were taken up out of which **4,739** cases were disposed of by amicable settlement and an amount of **5,75,12,726/-** was awarded as compensation to the claimants in **267** MACT cases.

#### **(ii) Rural/Mobile Lok Adalats**

During the period from **1<sup>st</sup> April to 30<sup>th</sup> June, 2015**, DLSAs and Sub-Divisional LSCs under the guidance of Haryana SLSA organized **76** Rural/Mobile Lok Adalats at village level for

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providing justice to the common man at his door step. In these Rural/Mobile Lok Adalats 1790 cases pending in the courts as well as at pre-litigative stage of the concerned village and adjoining villages were taken up, out of which 1343 cases were settled.

**(iii) Permanent Lok Adalats pertaining to Public Utility Services**

In all at present the PLA(PUS) are working in all the 21 districts of Haryana. During the period from 1<sup>st</sup> April to 30<sup>th</sup> June, 2015, these Permanent Lok Adalats, Public Utility Services settled 6,250 cases out of 45,810 cases taken up therein.

**(iv) Daily Lok Adalat**

To make the Lok Adalat a permanent and continuous process, the Haryana SLSA requested all the District & Sessions Judges-cum-Chairmen, DLSAs to hold daily Lok Adalats.

They were further requested that every court in these Session Divisions should convert into a Daily Lok Adalat from 2:00 p.m. to 2:30 p.m., extendable to 3:00 p.m. depending upon quantum of work [4:00 p.m. to 4:30 p.m. extendable upto 5:00 p.m. from March, 2012 onwards]. During the period from 1<sup>st</sup> April to 30<sup>th</sup> June, 2015, 13362 Daily Lok Adalats were organised wherein 42318 cases were taken up out of which 27936 cases were disposed of by amicable settlement and an amount of Rs.2,73,91440/- was awarded as compensation to the claimants in 201 MACT cases.

**(v) Mediation**

During the period from 1<sup>st</sup> April to 30<sup>th</sup> June, 2015, 1896 Cases were referred by Referral Judges to the Mediators for mediation and conciliation in the District Mediation and Conciliation Centres, out of which 445 cases were settled by the Mediators.

**(vi) Legal Literacy/Legal Awareness Camps/Seminars**

During the period from 1<sup>st</sup> April to 30<sup>th</sup> June, 2015, 2,158 Legal Literacy/Legal Awareness Camps were organized and 14,88,857 persons were benefited by these Legal Literacy/Legal Awareness Camps.

**(vii) Free Legal Aid**

**During the period from 1<sup>st</sup> April to 30<sup>th</sup> June, 2015, 2,191 persons were provided with free legal services by Sub-Divisional Legal**

**Services Committees, District Legal Services Authorities, Haryana State Legal Services Authority and High Court Legal Services Committee.**

**JAMMU & KASHMIR**

**Constitution of Core Groups in terms of NALSA Scheme for Legal Services to Disaster Victims through Legal Services**

The Chairpersons of Ganderbal, Pulwalwama, Anantnag, Kupwara and Baramulla were directed to constitute core groups headed by judicial offices in terms of NALSA Scheme for Legal Services to Disaster Victims through Legal Services in the areas that were recently hit by cloud burst so as to coordinate with District Administration for timely evacuation of victims of cloud burst to temporary shelter camps opened in these Districts, ensure smooth distribution of relief material to these victims, open temporary village legal care and support centres manned by PLVs to transmit the grievances to the victims of disaster to the District Administration for redressal and assess the damage caused to the life and property of the victims so that the cases for the disbursement of relief are processed expeditiously by District Administration in these Districts.

**Lok Adalats/National Lok Adalats and Awareness Camps**

During the quarter, 117 Lok Adalats/National Lok Adalats were held and 4787 cases of different nature were settled and an amount of Rs. 92036179 were awarded in 441 MACT cases. During the quarter 24 Legal Awareness Programmes regarding PLV training, Women and Child in need of care and protection, NDPT Act, Domestic violence, child labour, Beti Bachao Beti Padhao were organised.

**JHARKHAND**

In order to live up to the aspiration of founding fathers of the constitution of India by ensuring "Access to Justice" for all, the Jharkhand Legal Services Authority has started intensively addressing issues related to not only ignorance of rights but also a plethora of Govt. Welfare Schemes (Central & State Govt.) by creating awareness amongst entitled beneficiaries who are weaker & marginalized sections of the society including Sr. Citizen, Widow, Children, Differently abled persons & prisoners. Taking into consideration the fact that creating awareness is not enough,

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the JHALSA through its main workforce the Para Legal Volunteers is engaged in providing benefits of the rights and schemes to the entitled persons in pursuance of the Judgement of the Hon'ble High Court of Jharkhand in W.P. (PIL) No. 383/2014 by the division bench presided by His Lordship Hon'ble the Chief Justice Virender Singh, High Court of Jharkhand-cum-Patron-in-Chief, JHALSA.

**Inauguration of LED Display Board - First Time in India by State Legal Services Authority and State level Colloquium on the Role of Legal Services Institutions in Effective Implementation of Government Beneficial Schemes including various schemes for Unorganised Sector Workers**

Division Bench of Hon'ble High Court of Jharkhand presided by His Lordship Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA in W.P. (PIL) 2810/2012 had directed the State of Jharkhand to install LED Boards at Public Places for spreading awareness amongst the common people. 10.00 AM, 16th May 2015 was indeed a great momentous occasion for the whole State of Jharkhand that first of its kind, the LED Board was inaugurated by Hon'ble Mr. Justice M.Y. Eqbal, Judge, Supreme Court of India and Hon'ble Mr. Justice Virender Singh, the Chief Justice, High Court of Jharkhand-cum-Patron-in-Chief, JHALSA in benign presence of Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA, Hon'ble Mr. Justice R.R. Prasad, Judge, High Court of Jharkhand & Chairman, HCLSC, Hon'ble Judges of the High Court of Jharkhand & Sri Rajiv Gauba, the Chief Secretary, State of Jharkhand along with Principal Secretaries, Secretaries of the State of Jharkhand, Judicial Officers and Para Legal Volunteers.

The State level Colloquium was inaugurated by Hon'ble Mr. Justice M.Y. Eqbal, Judge, Supreme Court of India, Hon'ble Mr. Justice Virender Singh, the Chief Justice, High Court of Jharkhand, Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA, Hon'ble Mr. Justice R.R. Prasad, Judge, High Court of Jharkhand & Chairman, HCLSC and Sri Rajiv Gauba, the Chief Secretary of the State of Jharkhand by lighting the lamp.

## **SALIENT FEATURES OF THE SPEECH :-**

### **Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA**

- His Lordship stressed on the need of Full Time Secretaries & said that with their help the Govt. Schemes may bespread all over the State. The goal of JHALSA is to reach up to the last person in the queue.
- If 7 categories of people are covered then most percentage of the downtrodden people are covered i.e.Senior Citizen, Women, Widow, Child, Prisoners, Diŕerently Abled Persons and Mentally Ill persons. Civilization of Society is achieved if proper care is taken of these categories.
- To provide justice at the doorstep to all and to assist the people in disposing the pre-litigation matters it should always be kept in mind that we should work silently and never expect anything from anybody. This principle is essential for all persons especially Secretaries of DLSAs. Their satisfaction should lie on the welfare of others.

### **Sri Rajiv Gauba, the Chief Secretary, Govt. of Jharkhand**

- Inauguration of the LED Display Board is a landmark achievement for JHALSA for dissemination of useful information for various Welfare Schemes being implemented by the Centre and State for the poor, needy and ignorant, not only for them but also for all of us as plethora of schemes are launched day by day and it is not possible for us to keep track of all such schemes and also for those who are ignorant of law and latest schemes of the Government, the Role of Civil Society Organisation and the Role of the Govt. Organisation and the Role of Institutions like Legal Services Authorities comes into play.

### **Hon'ble Mr. Justice Virender Singh, the Chief Justice, High Court of Jharkhand-cum-Patron in Chief, JHALSA**

- A great job done by Justice Patel in which the involvement of Chief Secretary of the State and other Govt. officials in providing full cooperation for starting this LED display board, which will be helpful in making aware all of us to know various schemes, which are launched every month.

- In order to reach the people living in the remotest area, we have to work for it. Such LED Board shall also be installed in different DLSAs and Taluk Level to reach to the remotest area.
- The PLVs living in the remotest areas can spread awareness about the schemes through Taluk and Sub Division Level.
- Various Schemes like Kasturba Gandhi Vidyalaya have been started to rehabilitate girls who have witnessed trauma. So we should ensure that these schemes should reach the needy and they can reap the fruits of these schemes also.
- About 56.6% of the children are malnourished. We have organized Awareness programme in this regard.
- As per NSS about 47 crore people are from Unorganised Sector and about 3 crore from organized sector.
- Social Security Schemes cover life and security, health and maternity benefits, old age protections and other benefits

**Hon'ble Mr. Justice M.Y. Eqbal, Judge, Supreme Court of India**

- As an Executive Chairman of JHALSA a lot of difficulties were faced by me to ensure Full time Secretaries of the rank of Civil Judge, Sr. Division for all the 22 Districts at that time and Govt. of Jharkhand was kind enough to sanction 22 post of Full time Secretaries for the DLSA. This concept was first of its kind in the country.
- ☞ With respect to the problems of the Unorganised Workers a Regional Meet was held in Ahmedabad and after deliberation it was suggested to NALSA to identify such un organized Workers.
- ☞ So far Jharkhand is concerned, identify ig the unorganized workers may not be a difficult job. If we proceed from Ranchi to wards Khunti district by road several stone crush ersmines maybe seen where the labourers are doing stone crushing, who are totally unorganized. Nothing has been done so far as such unorganized workers are concerned.
- Such unorganized workers can be empowered with the help of NGOs, PLVs. We can prepare a list of those workers and then govt. beneficial schemes can be given to them. They are to tally unaware of such schemes.
- Similarly in the district of Khunti, Legal Awareness programme regarding Govt. beneficial schemes can be organized on Fridays as such unorganized workers also together the rein local *melas* held on every Friday.

- In the district of Lohardaga, Gumla etc. different agricultural workers, who are unorganized can be identified and provided legal awareness.
- About 60% of the economy comes from the self-organized Sector.

**Hon'ble Mr. Justice R.R. Prasad, Judge, High Court of Jharkhand & Chairman, HCLSC**

- ☞ This is the need of the hour as the innocent, gullible and poor people of the State are not aware of their constitutional as well as legal right and also are unaware of the various welfare schemes.
- LED display Board will be helpful in disseminating information relating to welfare schemes.

**Issues that came up for consideration in the First Technical Session**

(a) UWIN Card is being prepared by the Lab our deptt. and in rural area the BDO/C.O. is the Registering Authority and in the Urban area the Tax Daroga is the Registering Authority and identification by Panchayat Sewak and requirement of Aadhar Card a regetting the process delayed and DLSA is required to be involved in the process through its vast pool of PLVs and PLV can very well identify the person and get the card prepared for 100% Unorganised Workers of the district. This should be goal of all DLS As.

(b) Co-operation of Labour Deptt. Officials, District administration will help the DLSAs/SDLSC in providing benefits. Hon'ble **Mr. Justice M.Y. Eqbal**, Judge, Supreme Court of India said that these issues can very well be discussed in the meeting of P.D.J. with the D.C. and S.P. of the District where all the hurdles coming in the way of registration of Unorganised Workers for UWIN Card may be removed. Hon'ble **Mr. Justice D. N. Patel**, Judge, High Court of Jharkhand & Executive Chairman, JHALSA called upon the Secretaries of the DLSAs/SDLSCs to send the problems coming in their way in providing benefits of the schemes to the poor and marginalised sections of the society as also the solutions in Bullet Points. So that

necessary guide lines may be issued by the Authority in co-ordination with the Govt. of Jharkhand.

**Second Technical Session Topic :**

- (a) Developing Road Map
- (b) Identifying tools to reach out to the target group

In the 2<sup>nd</sup> Technical Session the topic for discussion was Jharkhand Victim Compensation Scheme and lively discussion took place in which need for guide lines was felt in regard to enquiry & quantum of compensation. Pamphlets related to the Government Beneficial & Welfare Schemes released on the occasion to spread awareness among the Workers of Unorganised Sector & other common people.

**National Lok Adalat**

As per direction of NALSA National Lok Adalat was organized on 14<sup>th</sup> April, 2015 and 9<sup>th</sup> May, 2015 at High Court, District Court and Subdivision level by High Court Legal Services Committee, District Legal Services Authorities and Sub divisional Legal Services Committees across the state of Jharkhand under the aegis of Jharkhand State Legal Services Authority. The National Lok Adalat was especially organized for **Labour and Family matters** on 14.4.2015. In the said National Lok Adalat a total No. of **175289** cases has been disposed of and total amount of **Rs. 34,69,77,420/-** has been settled.

The National Lok Adalat was especially organized for **MACT & Insurance matters** on 9.5.2015. In the said National Lok Adalat a total No. of **141483** cases has been disposed of and total amount of **Rs. 73,26,65,904/-** has been settled..

**Visit of Hon'ble Mr. Justice D.N.Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA at Observation Home, East Singhbhum, Jamshedpur on 15th April, 2015**

As Juvenile Justice is one of the prime objectives of Legal Services Authorities, it is our obligation to the Juveniles to open up all opportunities including the legal services for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual. In this process JHALSA take all necessary steps to achieve the goal of Juvenile Justice System.

To fulfil the said objectives, Hon'ble Mr. Justice D.N.Patel, Judge, High Court of Jharkhand & Executive Chairman, Jharkhand SLISA visited Observation Home at Jhamshepur (Jharkhand) on 15th April, 2015. On the said occasion Member Secretary, JHALSA, Principal District Judge-cum-Chairman, DLSA, Jamshedpur, Deputy Commissioner-cum-Vice Chairman, DLSA, Jamshedpur, Superintendent of Police, Jamshedpur, and Judicial Officers were present. On the occasion Hon'ble Executive Chairman, JHALSA issued necessary directions to the concerned Authorities for better implementation of JJ System.

**Training for Fresh Batch of PLVs under "NALSA Scheme for Para-Legal Volunteers (Revised) & Module for the Orientation-Induction- Refresher Courses for PLVs Training" at Ranchi**

In the light of "Scheme for Para-Legal Volunteers (Revised) & Module for the Orientation-Induction- Refresher Courses for PLV Training", District Legal Services Authority, Ranchi organized the Orientation- Induction Course for fresh batch of PLVs nominated from a total of 18 blocks from the district of Ranchi from 17<sup>th</sup> to 21<sup>st</sup> June, 2015.

**Some of salient features of the above said PLV training programme are as under :**

- more than 50% of the PLVs were women.
- most of them were computer literate and well educated.
- willingness and participation of PLV were highly encouraging
- On the occasion Hon'ble Mr. Justice Virender Singh the Chief Justice, High Court of Jharkhand-cum-Patron-in-Chief, JHALSA released the new jacket especially designed and manufactured for PLV
- On the occasion a short film "Beti Bachao Beti Padhao" prepared by Doordarshan Kendra, Ranchi in association with DLSA, Ranchi has also been released by Hon'ble Dignitaries.

**During the course of Valedictory Session, His Lordship Hon'ble Mr. Justice Virender Singh, the Chief Justice, High Court of Jharkhand-cum-Patron-in-Chief, JHALSA highlighted the following points :**

- PLVs have to spread awareness among the people to restrain Child Marriage.

- With the help of PLVs, effective relief work was undertaken during the natural disaster of flood in Jammu & Kashmir and shared some of the experiences in helping flood victims in J & K State with the assistance of Para-Legal Volunteers.
- With the help of PLVs school was opened and run in the State of Jammu & Kashmir.
- PLVs must serve the people of his village and block effectively.
- JHALSA has taken the pledge to march towards village
- The PLVs need not know fine niceties of law but they should have basic understanding of law.

**Further Hon'ble Mr. Justice D. N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA said**

- PLVs must maintain high standard of behaviour and PLVs should be courteous and well behaved with govt. officials. PLVs should be compassionate and filled with empathy in dealing with common people.
- PLVs should not think as to what benefits they are going to get, instead they should think what benefits others are getting from them. His Lordship expressed, who scrubs sandal wood get fragrance in his palms automatically.
- On selected "Common Service Centre" the PLVs are being deputed to serve the common people with justice.
- PLVs will be deputed in every block for assisting the Unorganised Sector Workers in registration process of UWIN Card.
- The PLVs are to bridge the gap between the poor, down trodden, last man in the queue and the Judicial System.
- The work of PLVs is increasing day by day and they must be able to keep pace with the expectations from them.
- PLVs must maintain the register of their work because in the National Meet of PLV it may fetch him the best PLV Award.

**KARNATAKA**

**1. Lok Adalats:** In the quarter April, 2015 to June 2015, KSLSA has organized Monthly National Lok Adalat at all the DLSAs, TLSCs and also at High Court level. The category wise detail of cases disposed off in Monthly National Lok Adalat is as shown under:-

**Details of Monthly National Lok Adalat Organised and Cases settled from April 2015 to June 2015**

Sl. No.	Monthly National Lok Adalat held on	Nature of cases	No. of cases disposed off			Settlement Amount
			Pending cases	Pre-litigation cases	Total	
1.	11-04-2015	Labour & Family Matters	4386	34588	38974	5,21,05,497
2.	13-06-2015	MACT & Insurance Claims	5451	254	5705	86,03,58,111

Besides the above, the Regular Lok Adalats were conducted by all DLSAs/TLSCs and High Court in the State. The details of these Lok Adalats are as shown under:

**Details of Lok Adalat Organised and Cases settled from April 2015 to June 2015**

No. of Lok Adalat organized	Total No. of cases settled	No. of Cases Disposed of					Compensation paid in MVC Cases Rs.	Compensation paid in LAC Cases Rs	Pre-litigation cases	Total of (Col 3 & 12)
		Civil	Criminal	LAC	Bank	MVC				
2	3	4	5	6	7	8	9	10	11	12
1,679	11,434	2,581	8,351	80	59	363	5,84,54,193	32,08,525	2,280	13,714
978	7,206	449	6,440	139	7	171	11,26,80,542	3,00,000	1,050	8,256
1,786	14,074	1,901	9,418	216	71	2,468	29,99,02,602	50,32,653	1,377	15,451
<b>4,443</b>	<b>32,714</b>	<b>4,931</b>	<b>24,209</b>	<b>435</b>	<b>137</b>	<b>3,002</b>	<b>47,10,37,337</b>	<b>85,41,178</b>	<b>4,707</b>	<b>37,421</b>

**2. Permanent Lok Adalat:** 2,103 cases were disposed of by seven Permanent Lok Adalats, in which settlement amount was **Rs. 7,92,90,319/-**.

**Details of Cases Settled by PLA under Different Categories  
from April 2015 to June 2015**

Month	Total No. of sittings held	Transport	Postal, telegraph or Telephone service	Supply of power, light or water	Public Conservancy or Sanitation	Service in hospital or dispensary	Bank	Insurance Service	Total no. of Case settled
April-2015	108	0	374	16	1	0	228	0	619
May-2015	119	0	517	14	0	0	358	4	893
June-2015	129	1	210	26	0	2	348	4	591
<b>Total</b>	<b>356</b>	<b>1</b>	<b>1,101</b>	<b>56</b>	<b>1</b>	<b>2</b>	<b>934</b>	<b>8</b>	<b>2,103</b>

**3. Mediation Centres & ADR Centres:**Total 130 Cases were settled in the Mediation & ADR Centres.The details of referred and settled cases in the Mediation Centres is as shown under:

**Details of Cases Settled in Mediation Centres from April 2015 to June 2015**

Sl.No	Month	No. of Cases referred	No. of Cases Compromised
1.	April- 2015	245	52
2.	May- 2015	222	26
3.	June- 2015	502	52
	<b>Total</b>	<b>969</b>	<b>130</b>

**4. Free Legal Aid and Advice:**During the quarter April to June 2015, Karnataka State Legal Services Authority has provided Legal Aid & Advices to the following number of persons:

**Details of Legal Advice and Legal Aid Beneficiaries from April 2015 to June 2015**

Month	No. of Legal Aid given				Legal Advice given
	SC/ST	Women	Others	Total	
April- 2015	33	67	103	203	4,581
May- 2015	9	50	97	156	4,381
June- 2015	68	97	145	310	5,013
<b>Total</b>	<b>110</b>	<b>214</b>	<b>345</b>	<b>669</b>	<b>13,975</b>

**5. Free Legal Advice given:** During the quarter, free legal advice was provided to 873 persons CDPO, 1,872 persons were benefitted in Village Legal Care Support Centers, 10,612 persons were benefitted in Legal Aid Clinics, 377 Under Trial Prisoners were provided free legal aid and 26 persons were benefitted in NIMHANS and DIMHANS.

**6. Legal Literacy/Legal Awareness Camps:** During the quarter July to September 2015, 1,270 programmes were organised by all District Legal Services Authorities and Taluka Legal Services Committees in the State. In which 3,12,766 beneficiaries were empowered on various aspects of Law.

**Details of Legal Awareness/Literacy Camps Organised from April 2015 to June 2015**

S.No	Month	Total No. of Legal Awareness/ Literacy Camps Organized	Total No. of Persons Benefitted
1.	April- 2015	423	1,47,211
2.	May- 2015	401	68,218
3.	June- 2015	446	97,337
	<b>Total</b>	<b>1,270</b>	<b>3,12,766</b>

Report showing the various Legal Literacy Programmes held by the DLSAs and TLSCs in the State from April 2015- June 2015

**MONTHLY NATIONAL LOK ADALAT:**

Karnataka State Legal Services Authority organized Monthly National Lok Adalat on 13-06-2015 for settlement of Motor Accident Claims and Insurance litigations in the State.

The Monthly National Lok Adalat was inaugurated by Hon'ble Sri Justice Subhro Kamal Mukherjee, Acting Chief Justice, High Court of Karnataka and Patron-in-Chief, Karnataka State Legal Services Authority in the High Court premises.

The Monthly National Lok Adalat sittings were held in the High Court of Karnataka under the supervision of Hon'ble Sri Justice N.K.Patil, Judge, High Court of Karnataka and Executive Chairman, Karnataka State Legal Services Authority. Hon'ble Sri Justice Anand Byrareddy, Hon'ble Sri Justice Raghvendra S. Chauhan, Hon'ble Sri Justice A.S.Bopanna,

Hon'ble Sri Justice L.Narayana Swamy, Hon'ble Sri Justice Aravind Kumar, Hon'ble Smt. Justice Rathnakala, Hon'ble Sri Justice R.B.Budihal presided over the lok Adalat sittings in the High Court premises.

Hon'ble Sri Justice Subhro Kamal Mukherjee, Patron-in-Chief, Karnataka State Legal Services Authority along with Hon'ble Sri Justice N.K.Patil, Executive Chairman, Karnataka State Legal Services Authority also visited the City Civil Court complex for inspection of lok Adalat sittings and they also interacted with the conciliators, officials, advocates and litigants who participated in the lok adalats. Totally 5,705 cases were settled in the High Court and other Courts of the State in the said Monthly National Lok Adalat.

### **WORLD ENVIRONMENT DAY**

**BENGALURU:** The Karnataka SLSA in coordination with the Department of Horticulture observed the World Environment Day on 05-06-2015. A plantation programme was arranged in the Cubbon Park premises which was inaugurated by Hon'ble Sri Justice Subhro Kamal Mukherjee, Acting Chief Justice and Patron-in-Chief, Karnataka State Legal Services Authority by planting saplings. In the programme the Hon'ble Judges of the High Court of Karnataka, Registrars of the High Court, Officers of the Karnataka State Legal Services Authority, Advocates & Officers and officials of Horticulture Department participated. About 200 saplings were planted on the occasion. The morning walkers in the Cubbon Park also joined hands in the plantation programme and requested for taking up a plantation drive in Bengaluru to protect the orignity of Bengaluru City as a Garden City.

The Karnataka State Legal Services Authority in coordination with DLSA, Bengaluru Urban observed the World Environment Day on 06-06-2015. A plantation programme was arranged in the Freedom Park which was inaugurated by Hon'ble Sri Justice N.K.Patil, Judge, High Court of Karnataka and Executive Chairman, Karnataka State Legal Services Authority. In the programme Hon'ble Sri Justice N.K.Patil, Sri S.R.Somashekhara, Prl. District & Sessions Judge and Chairman, DLSA, Bengaluru Rural District, Sri H.P.Sandesh, Chief Judge, Small Causes Court, Sri Ashok G.Nijagannavar, District & Sessions Judge & Member Secretary, Karnataka State Legal Services Authority, Sri Mustafa Hussain S.A, District & Sessions Judge & Special Officer, Karnataka State Legal Services Authority, Member Secretaries of Bengaluru Urban and Rural District Legal Services Authorities and other Judicial Officers participated.

**MYSURU:** District Legal Services Authority, Mysuru in association with Bar Association, Periyapatna, Government Ayurvedic Medical College, Mysuru, Forest Department and Tibetan Settlement, Bylakuppe, Mysuru district observed the Tree plantation programme on 27-06-2015. A plantation programme was arranged in the Sarajeya Monastery which is inaugurated by Hon'ble Sri Justice N.K.Patil, Judge, High Court of Karnataka and Executive Chairman, Karnataka State Legal Services Authority. In the programme he said the Karnataka State Legal Services Authority has taken up the project "Water for life- Save every drop of it".

**RAICHUR:** District Legal Services Authority, Raichur in association with District Bar Association and Forest Department, Raichur observed the Tree plantation programme on the eve of World Environment Day on 05-06-2015 which is inaugurated by Sri P.G.M.Patil, District & Sessions Judge & Chairman, DLSA, Raichur.

**HAVERI:** District Legal Services Authority, Haveri in association with District Bar Association, District Administration, City Municipal Corporation, Department of Horticulture, Forest Department, Department of Information, Education Department, Parisara Geleyara Balaga and District Judiciary, Haveri observed the Tree plantation programme on the eve of World Environment Day on 05-06-2015 which is inaugurated by Sri V.Srishananda, District & Sessions Judge & Chairman, DLSA, Haveri. Sri K.B.Asode, I Addl. District & Sessions Judge presided over.

**SHIVAMOGGA:** District Legal Services Authority, Shivamogga in association with District Bar Association, Forest Department, Shivamogga observed the Tree plantation programme on the eve of World Environment Day on 05-06-2015 which is inaugurated by Smt. J.M.Khaji, District & Sessions Judge & Chairperson, DLSA, Shivamogga. Sri K.B.Asode, I Addl. District & Sessions Judge presided over. Sri N.Devendrappa, President, Bar Association participated.

**CHIKBALLAPURA:** District Legal Services Authority, Chikballapur in association with District Bar Association, Karnataka State Pollution Control Board, and Forest Department, Chikballapura was organized legal awareness programme on the eve of World Environment Day on 05-06-2015. A plantation programme was arranged in St. Joseph Convent and Girls P.U.College premises which was inaugurated by Sri N.S.Bellunke, District & Sessions Judge & Chairman, DLSA, Chikballapura.

**D.K.MANGALORE:** District Legal Services Authority, Mangalore in coordination with District Bar Association & District Prison, Mangalore

was organized World Environment Day on 05-06-2015. A plantation programme was arranged in the premises of District Prison which was inaugurated by Sri B. Ganesh, Senior Civil Judge & Member Secretary, DLSA, Mangalore. Sri B.T.Obaleshappa, Superintendent of District Prison presided over.

**BELAGAVI:** District Legal Services Authority, Belagavi in coordination with District Bar Association, Forest Department & Karnataka State Environment Protection Board, Belagavi was organized legal awareness programme on the eve of World Environment Day on 05-06-2015. A plantation programme was arranged in the premises of Advocates association which was inaugurated by Sri P.Krishna Bhat, District & Sessions Judge & Chairman, DLSA, Belagavi. Sri Vinay B.Mangalekar, President of Bar Association presided over.

**YADGIR:** District Legal Services Authority, Yadgir in coordination with District Bar Association, Deputy Conservator of Forest & Mahatma Gandhi School, Yadgir was organized Tree plantation programme on the eve of World Environment Day on 05-06-2015. A plantation programme was arranged in the campus of Mahatma Gandhi school which was inaugurated by Sri Ravindra Karabari, Member Secretary, DLSA, Yadgir more than 400 students participated in the said programme.

**MADIKERI:** District Legal Services Authority, Madikeri in coordination with District Administration, Karnataka State Pollution Control Board, Regional Office, Bharat Scouts & Guides Institute, Bar Association, Horticulture Department, ODP Institute and Forest Department, Madikeri was organized World Environment Day on 05-06-2015. A plantation programme was arranged in the newly constructed court campus, Vidyanagar which was inaugurated by Sri Master RKGMM Mahaswamiji District & Sessions Judge & Chairman, DLSA, Madikeri. Sri M.Papireddy, President of Bar Association participated in the Chief Guest.

#### **INTERNATIONAL DAY AGAINST CHILD LABOUR:**

The Karnataka SLSA in coordination with DLSA, Bengaluru Urban District and Christ School, Bengaluru observed the International Day against Child Labour on 12-06-2015 by organizing a legal awareness programme for the students of Christ School. The programme was inaugurated by Hon'ble Sri Justice N.K.Patil, Judge, High Court of Karnataka and Executive Chairman, Karnataka State Legal Services Authority. Sri Narendra Kumar Gunaki, Chairman, District Legal Services Authority, Bengaluru Urban, Sri Ashok G.Nijagannavar, Member Secretary, Karnataka

State Legal Services Authority, Sri Mustafa Hussain S.A, Special Officer, Karnataka State Legal Services Authority, Sri K .L. Ashok, Deputy Secretary, Karnataka State Legal Services Authority, Sri Ron Vasudev, Member Secretary, District Legal Services Authority, Bengaluru Urban participated in the programme. About 400 students of Christ School participated and were benefitted.

**TUMKUR;** District Legal Services Authority, Tumkur in coordination with Bar Association, Labour Department & Women and Child Development Department, Tumkur observed the International Day against Child Labour on 12-06-2015. The programme was inaugurated by Sri. N.K.Sudhindra Rao, District & Sessions Judge & Chairman, DLSA, Tumkur.

**SHIVAMOGGA:** District Legal Services Authority, Shivamogga in coordination with District Administration, District Child Labour Planning Society, Labour Department & Women and Child Development Department, Department of Public Instruction, District Children Helpline, Tumkur observed the International Day against Child Labour on 12-06-2015. A programme was arranged in Kuvempu Rangamandira. The programme was inaugurated by Smt. J.M.Khaji, District & Sessions Judge & Chairman, DLSA, Shivamogga.

**DHARWAD:** District Legal Services Authority, Dharwad in coordination with Bar Association, National Child Labours Planning Society, Zilla Panchayat, Labour Department, Police Department, Department of Public Instruction & Information and Publicity Department, Dharwad observed the International Day against Child Labour on 12-06-2015. A programme was arranged in Vidyaranya P.U.College, Higher Section, Hebballi Agasi, Dharwad. The programme was inaugurated by Sri M.Ramesh Rao, District & Sessions Judge & Chairman, DLSA, Dharwad. Sri S.B.Kadakola, Principal, Dyaranya P.U.College presided over.

**MANGALORE:** District Legal Services Authority, Mangalore in coordination with District Administration, District Child Labour Planning Society, Labour Department, Bar Association, Police Department, Children Helpline & other departments, Mangalore observed the International Day against Child Labour on 12-06-2015. A programme was arranged in Netravathi Conference Hall, Zilla Panchayat. The programme was inaugurated by Sri. C.M.Joshi, IAddl. District & Sessions Judge, Mangalore, Sri Ibrahim, Deputy Commissioner of Mangalore district presided over.

**HAVERI:** District Legal Services Authority, Haveri in coordination with District Administration, Zilla Panchayat, Bar Association, Women and Child

Development Department, District Child Labour Planning Society & Labour Department Haveri observed the International Day against Child Labour on 12-06-2015. A programme was arranged in D.Devaraj Urs Bhavan. The programme was inaugurated by Sri. K.B.Asode, I Addl. District & Sessions Judge & I/c Chairman, DLSA, Haveri. Sri K.B.Anjanappa, Executive Officer, Zilla Panchayat, Haveri presided over.

**BELAGAVI:** District Legal Services Authority, Belagavi in coordination with Bar Association, Labour Department & District Child Labour Planning Society, Belagavi observed the International Day against Child Labour on 12-06-2015. The programme was inaugurated by Sri P.Krishna Bhat, District & Sessions Judge & Chairman, DLSA, Belagavi. Dr. G.L.Praveenkumar, Deputy Commissioner, Belagavi District presided over.

### **MADHYA PRADESH**

The M.P. SLSA conducted the following activities during the quarter April-June, 2015:

#### **Legal Literacy Camps**

Type of Camps	Total No. of Camps Held on	No. of persons Benefitted	No. of Persons Benefitted	
			SC	ST
Legal Literacy Camp	675	66297	6067	4462
Micro Legal Literacy Camp	39	2516	235	756
MNREGA Camp	9	335	20	30

#### **Settled Cases through Mediation**

Months	Pending cases	Total Received Cases	Total Cases	Success full Cases	Unsuccessful Cases	Total Successful & Unsuccessful Cases	Total Pending Cases	Percent Of Successful Cases
April 2015	6161	1720	7881	338	1663	2001	5880	16.89
May 2015	5880	1479	7359	225	1176	1401	5958	16.06
June 2015	5958	1779	7737	412	1037	1449	6288	28.43
<b>Total-</b>	<b>6161</b>	<b>4978</b>	<b>11139</b>	<b>975</b>	<b>3876</b>	<b>4851</b>	<b>6288</b>	<b>20.10</b>

### Settled Cases through Lok Adalat

Type of Lok Adalat	No. of Lok Adalat	Referred Cases	No. of Settled cases	Benefitted persons	Award amount
Permanent & continuous	359	64315	56061	59769	138846974
Public utility services	38	954	54	103	0
MNREGA	10	554	554	554	0
Jail	7	8	4	8	0
Plea bargaining	0	52	45	81	0
Monthly National Lok Adalat	3	498881	418791	0	1784460853
<b>Total</b>	<b>417</b>	<b>564764</b>	<b>475509</b>	<b>60515</b>	<b>1923307827</b>

Apart from the above mentioned activities, Madhya Pradesh SLSA has also organized a **Mega Legal Literacy Camp** on 18.04.15 at village-Chorbarhata (Chichli) District - Narsinhpur. This Mega Literacy Camp was focused on remote and tribal areas with a view to increase accessibility to justice and creates awareness about various government schemes for women, children and senior citizens. Mega Literacy Camp at village Chorbarhata, organized in coordination with administration and District Legal Services Authority, Jabalpur. As a result as many as 3496 persons were benefitted through different government schemes. One of the attractive features of above camp was that apart from dispensation of pending dues, medical check-up camp were also held in the same premises where doctors ranging from physicians, eye specialists, all rendered their services for a free health check-up and facilitated issue of disability certificates.

In this camp information related to various schemes of NALSA, SLSA as well as various schemes which are running by Government of Madhya Pradesh were provided.

#### KERALA

1. DLSA, Kottayam, in association with the Bar Association, Kottayam conducted a Quiz programme for the Junior Lawyers at 3 P.M. on 07.04.2015 at the Bar Association Hall, Kottayam.
2. TLSC, Kannur conducted an awareness class at Anjarakandy, Kavinmoola on 11.04.2015 on the topic 'Protection of Rights

of Women'. Legal Literacy Classes were conducted by the Taluk Legal Services committee Kannur, at Taluk Office, Kannur on 22.04.2015 on the topic 'Indian Penal Code' and on 23.04.2015 on the topic 'Medical Jurisprudence'.

3. TLSC, Devikulam, arranged a class on Children's Law in association with ICDS Adimaly and Social Justice Department on 16.04.2015. About 101 members attended the programme. Legal awareness classes on the topics 'Senior Citizens Act', 'Child Protection Act' and 'Doctor Patient relationship' was conducted in association with ICDS Project, Munnar. 113 members attended the programme. On 24.04.2015, a Legal awareness class was conducted to teenagers and parents. 82 members attended the programme.
4. TLSC, Peermade conducted a legal awareness class for Estate labourers of Boy's Estate Mundakkayam on 07.04.2015. 30 members participated in the class. Another legal awareness class was conducted on 29.04.2015 for estate labourers of Pattumala Estate. 28 labourers participated in the programme.
5. TLSC, Aluva, conducted a legal awareness class for the members of Kudumbasree of Mookkannoor Grama Panchayath at Parish Hall, Family Church, Thabore on 28.04.2015
6. DLSA, Kottayam, conducted a medico legal camp at Alamparappu SC Colony on 09.05.2015. More than 200 people attended the function. Also conducted a Medico-Legal awareness programme, for the inmates of the District Jail, Kottayam on 28.05.2015, about the health hazards of smoking and the harmful effects of tobacco products, liquor and drugs.
7. DLSA, Idukki, Thodupuzha, a legal awareness class was conducted at Saramkuthy Residential Association on the topic 'General Laws and Domestic Violence Act'. About 150 members participated in the class.
8. TLSC, Devikulam, conducted a legal awareness Class on 05.05.2015. About 60 members attended the class. At the Mobile Lok Adalat conducted on 06.05.2015, TLSC, Devikulam arranged a Legal awareness Class. 51 members attended the programme.

9. DLSA, Kottayam, in association with the Kerala State AIDS control Society (KSACS), Kottayam, District Net work of People living with HIV/AIDS (KTDNP+), Vihaan Care and Support Centre and (CSC) Council of People living with HIV/AIDS in Kerala (CPK+) conducted Programme for children affected with HIV on 29.04.2015 at the Vihaan Care & Support Centre, Near Medical College, Kottayam. Mr. Hari K.Namboothiri, Trainer United Nations & KSACS conducted interactive classes on "Life Skill Education for Children" and "Rights of People Living with HIV/AIDS", for protecting their human rights. A "District Children Forum" comprising of nine HIV infected/affected children was formed in the meeting.
10. TLSC, Devikulam, arranged a legal awareness class on 08.05.2015 at the NSS camp conducted by Munnar Model Residential School. 30 students participated in the programme. On 19.05.2015 legal awareness class was conducted on the topics MNREGA, Right to Information Act and Right to Service Act. 54 members attended the programme. On 30.05.2015, a legal awareness class was conducted on Women Empowerment Day. 120 members attended the programme.
12. The Taluk Legal Services Committee, Kannur conducted two legal literacy classes on the topics 'Protection of Senior Citizen' & 'Protection of Women Rights' and 'Cyber Law' on 17.05.2015.
13. TLSC, Devikulam conducted a legal awareness class on 01.06.2015 at Munnar Govt. High School from 10 am to 12 noon. 84 members attended the class.
14. TLSC, Udumbanchola, arranged a legal awareness class on the subject Child Labour (Prohibition and Regulation) Act, 1986, Child Labour (Prohibition and Regulation) Rules, 1988 etc. On 26.06.2015, a legal awareness programme was conducted at Devikulam Spl. Sub Jail. 44 inmates attended the programme.

## **MAHARASHTRA**

The Maharashtra SLSA organized National Lok Adalat on 11<sup>th</sup> April 2015 in all the Courts of the State of Maharashtra. The State Legal Services Authority in co-ordination with DLSAs gave wide publicity and to make more people aware about the

Following DLSAs/TLSCs arranged programmes in connection with

“May Day” (01.05.2015)

Name of DLSA/TLSC	Programme
TLSC, Thaliparamba	Programme in connection with May Day conducted at Cherupuzha Grama Panchayath. 50 CDS members participated in the legal awareness class.
DLSA, Idukki, Thodupuzha	In connection with the observance of International Labour Day, a legal awareness class was conducted. 56 members attended the programme.
TLSC, Devikulam	TLSC, Devikulam observed International Labour Day and legal awareness class was conducted on that day. 56 members attended the class.

SLSA and following DLSAs/TLSCs arranged programmes in connection with “World Environment Day”(05.06.2015)

Name of SLSA/ DLSA/TLSC	Programme
KeLSA	Kerala State Legal Services Authority, in Association with Corporation of Cochin, observed ‘World Environment Day’. A function was organized at Town Hall, Ernakulam at 4.40 p.m., which was inaugurated by the <b>Hon’ble Mr. Justice Thottathil B. Radhakrishnan, Judge, High Court of Kerala and Executive Chairman of KeLSA.</b> Sri. Tony Chammany, Respectful Mayor presided over the function and Smt. B. Bhadra, Deputy Mayor of Kochi, delivered special address in the function. About 50 students attended the programme. Saplings were distributed.
DLSA, Idukki, Thodupuzha	Observed “World Environment Day’ by planting saplings around the court complex. The Judicial officers and staff of District Court participated and saplings were planted.
TLSC, Udumbanchola	The World Environment Day was observed.
TLSC, Peermade	The World Environment Day was observed. Saplings were planted in the Court Compound and Environment oath was taken by the participants.
TLSC, Devikulam	The World Environment Day was observed in Govt. HSS, Devikulam. A legal awareness class was conducted for the students. 122 students attended the class

organization of National Lok Adalat, Posters displaying the informative details of National Lok Adalat are published and displayed at all conspicuous places in the State. An audio advertisement is also played at selected important State Transport Bus Stands in the State. For making wide publicity of National Lok Adalat, an animated advertisement giving information about National Lok Adalat is also prepared and is released in the concerned District/Taluka. The National Lok Adalat received tremendous response from litigants on 11<sup>th</sup> April 2015 and 1,24,120 cases were settled in a day.

With a view to make people literate about the laws, various Government Schemes beneficial for the public at large and also ADR methods and its benefits, the Maharashtra SLSA organized Legal literacy programmes throughout the State in the month of April 2015 on the topic (1) Government Scheme beneficial for the public at large (2) ADR methods and its benefits.

The Maharashtra SLSA and High Court Legal Services Sub-Committees at Nagpur and Aurangabad had organized programmes on the project titled "Tackling the problems of farmers and preventing them from committing suicide" on 4<sup>th</sup> May, 2015 at Aurangabad. Hon'ble Chief Justice of Bombay High Court was the Chief Guest and Hon'ble Shri Justice P. V. Hardas, former Judge of Bombay High Court and the then Executive Chairman of Maharashtra State Legal Services Authority presided over the said function. During the inauguration of the programme, the Maharashtra SLSA had released the book titled "Handbook on Legal Services" at the auspicious hands of Hon'ble Shri Justice Mohit S. Shah, the Chief Justice of High Court, Bombay and Patron-in-Chief of Maharashtra State Legal Services Authority.

The first session was chaired by Hon'ble Shri Justice P. V. Hardas, former Judge, High Court of Bombay and the then Executive Chairman, Maharashtra State Legal Services Authority and was co-chaired by Hon'ble Shri Justice R. M. Borde, Judge, High Court of Bombay, bench at Aurangabad and the Chairman, High Court Legal Services Sub-Committee, Aurangabad. The topic of first working session was 'Role of Legal Services Authorities, involvement of Panel Advocates, Para Legal Volunteers and NGOs for effective implementation of the Project titled "Tackling the problems of Farmers and preventing them from committing

suicide". The Resource Persons Shri Vijay Anna Borde, social worker, Aurangabad, Shri Datta Patil, YUVA Rural Association, Nagpur, Shri Sandip Raje Bhosale, and Dr. Srinivas Khandiwal enlightened the participants on different aspects of the subject in the programme. During the said programme, students of M.P. Law College performed the street play on the topic "Farmers' Suicide". The Judicial Officers, Panel Advocates, NGOs, College Students participated in the said programme.

On 1<sup>st</sup> May 2015, International Labour Day was celebrated throughout the District and Taluka Places in the State. On the said occasion, various Legal Awareness Camps were organized.

On 31<sup>st</sup> May, 2015, "Anti Tobacco Day" was celebrated in all District and Taluka places. Various awareness programmes were arranged on the said topic.

On 12<sup>th</sup> June, 2015, the Maharashtra State Legal Services Authority organized an awareness programme on the occasion of "World Day against Child labour" throughout the State of Maharashtra.

Total 71 Mobile Lok Adalats took place during this period and about 735 cases were settled.

Total 140 Legal Literacy Camps were organized during the said period through Mobile Lok Adalat.

Total 664 Lok Adalats were held in the State of Maharashtra, in which 83341 matters were settled and an amount of Rs. 590833874/- was awarded as a compensation in MACT cases.

Total 1516 legal literacy camps were held in Maharashtra during the said period.

## **MANIPUR**

### **APRIL, 2015**

**Lok Adalat:-**Manipur SLSA had organised the National Lok Adalat on Family matters on 11<sup>th</sup> April, 2015. In the said National Lok Adalat 88 cases were taken up and out of which 15 cases on family matters were disposed of.

Live Phone-in Programme was held on 27/04/2015 from 7.00 a.m. to 7.30 a.m. at Sangai & Kangla Channels of AIR, Imphal. Smt. Kh. Gomati Devi, Retd. District & Sessions Judge, Manipur was

the subject expert on the topic “**Domestic Violence against Women**” and Shri Ng. Tejkumar Singh, Director of Prosecution acted as the Moderator.

### MAY, 2015

**Lok Adalat** – Manipur SLSA had organised the National Lok Adalat on MACT and Insurance claim cases on 9<sup>th</sup> May, 2015. In the said National Lok Adalat 31 cases were taken up and out of which 20 cases were disposed of and compensation amount of Rs. 23,87,000/- were awarded.

Manipur SLSA observed the “**May Day**” on 1<sup>st</sup> May, 2015. The said observance was attended by hundreds of labourers around the Women’s market, Imphal. Shri Ch. Momon Singh, Lecturer, LMS Law College, Shri Ch. Bimolchandra Singh, General Secretary, All Manipur Bar Association and Ms. Ch. Premlata Devi, Asst. Director, Human Rights Law Network, Manipur attended the said observance and they delivered speech on rights of the labourers and the laws laid down for protection of their rights.

Live Phone-in Programme was also aired on 18/05/2015 (Monday) from 7.00 a.m. to 7.30 a.m. at Kangla & Sangai Channels of AIR, Imphal. Shri L. Nabakishore Singh, IAS, Commissioner (Disabilities), Govt. of Manipur was the subject expert on the topic “**Rights of Disabilities**” and Shri Ng. Tejkumar Singh, Director of Prosecution, Manipur was the Moderator of the said Programme.

### JUNE, 2015

During the month of June, 2015, Manipur SLSA in association with the DLSAs of the state organised ~~38~~one day Legal Awareness Programmes at different places of the state creating awareness to people on different topics such as protection of Women From Domestic Violence Act, Juvenile Justice, Child Trafficking & Child labour, Rights of the labourers, Right to Information Act, Right to Education Act, Food security Act etc as well as different welfare schemes of Government such as MGNREGA, TPDS, IAY, RSBY etc.

“**World Environment Day**” was observed by Manipur SLSA in association with Imphal East DLSA and Village Legal Care and Support Centre, Chanam Sandrok on 5<sup>th</sup> **June, 2015**. The said function was attended by hundreds of villagers from Chanam

Sandrok and surrounding villages. Smt. A. Noutuneshwari Devi, Secretary, Imphal East District, Legal Services Authority, Shri K. Dhane, Singh, Legal Aid Counsel, Imphal East District, Shri Keisham Ningthembir Meitei, President, Gamma Ray Club graced the function as Chief Guest, Guest of Honour and President respectively. Smt. A. Noutuneshwari Devi addressed the gatherings about the needs for preserving the environment in view of the changing climate of the state as well as the world. Smt. A. Noutuneshwari Devi and other dignitaries also planted saplings at the premises of the Gamma Ray Club, Chanam Sandrok, Imphal East and she stated the need for taking care of the saplings by the villagers to make it fully growth

**“World Day Against Child Labour”** was also observed by Manipur SLSA on **12<sup>th</sup> June, 2015**. Smt. A. Noutuneshwari Devi, Secretary, Imphal East District, Legal Services Authority, Shri W. Rabichandra Singh, Director, Sacred Heart Hr. Secondary School, Shri K. Dhane, Singh, Legal Aid Counsel, Imphal East District, Shri N. Melei Singh, V.P., Sacred Heart Hr. Secondary School and Shri Salam Devananda Singh, Advocate graced the function as Chief Guest, President and Guests of Honours respectively. Smt. A. Noutuneshwari Devi and other dignitaries addressed the gatherings that large numbers of children are engaged in domestic work in the home as well as hotels and other non-organized sectors. They were exploited of their right to free and compulsory education. Smt. A. Noutuneshwari Devi further states that children’s being the pillar of the nation should be given proper education and guidance right from the beginning.

Manipur SLSA in association with the High Court of Manipur had organised a **two Days Workshop on “CYBER CRIME”** on 20<sup>th</sup> & 21<sup>st</sup> June, 2015 at the Auditorium of High Court of Manipur. The said Workshop was inaugurated by Hon’ble Mr. Justice N. Kotiswar Singh, Executive Chairman, MASLSA in the august presence of Hon’ble Mr. Justice Kh. Nobin Singh, Judge, High Court of Manipur. Shri Sourav Mitra, Engineer, CDAC, Kolkata delivered lectures on the topics - “Emerging Environment in ICT”, “Overview of Cyber-crime” & “Fundamentals of Cyber Forensics”. Dr. Anirban Majumdar, Professor, NUJS, Kolkata also delivered lecture on the topic “Techno-legal challenges in Cyber-crime including Cyber Law”. The said function was attended by Judicial Officers, Advocates, Police Officers, law students, PLVs etc.

Live Phone-in Programme was aired on 15/06/2015 from 7.00 a.m. to 7.30 a.m. at Kangla and Sangai Channels of AIR, Imphal. Shri L. Birendrakumar Sharma, Retd. Judge, Family Court was the subject expert on the topic "Laws on Drug Abuse" and Shri Ng. Tejkumar, Director of Prosecution was Moderator of the said Programme.

## **MEGHALAYA**

### **APRIL, 2015**

1. Visit to Psychiatric Home/Ward at Tura, West Garo Hills District on the 6.04. 2015.
2. Awareness Programme held at Embee Rose Bud Secondary School, Tura, West Garo Hills District on the 10.04.2015.
3. Visit to District Jail, Tura, West Garo Hills District on the 10.04.2015.
5. The Meghalaya SLSA through the DLSA had organised the National Lok Adalat on the 11.04.2015, cases for labour and Family matter and 88 cases were disposed of and the settlement amount was Rs. 2,95,500/- .
6. Visit to District Jail, Tura, West Garo Hills District on the 17.04.2015.
7. Training Programme for PLV's held at Mawphlang C&RD Block office, East Khasi Hills District on the 20.04.2015.
8. Visit to District Jail, Tura, West Garo Hills District on the 24.04.2015.

### **MAY, 2015**

1. Awareness Programmes-Cum-Observation of "International Labour Day" held at Khliehriat, East Jaintia Hills District, District Library Auditorium, Jowai, West Jaintia Hills District, Dikki Bandi Stadium, Tura, West Garo Hills District, Export Promotion Industrial Park (EPIP) Byrnihat Guest House, Nongpoh, Ri-Bhoi District on 01.05.2015.
2. Visits to District Jail, Tura, West Garo Hills District on the 01.05.2015, 8.5.2015, 15.5.2015, 22.5.2015 and 29.5.2015
3. Visit to Psychiatric Home/Ward at Tura, West Garo Hills District on the 05.05.2015.

4. Awareness Programme-Cum-Observation of "World Environment Day" held in the premises of the District & Sessions Judge, Tura, West Garo Hills District on 5.06.2015.
5. Awareness Programme held at Christian Higher Secondary School, Tura, West Garo Hills District on 7.05.2015.
6. The Meghalaya SLA through the DLSA had organised the National Lok Adalat on the 09.05.2015 for MACT cases and 1 case was disposed off and the settlement amount was Rs.4,00,000/-.
7. Awareness Programme held at Dadenggre C&RD Block, Tura, West Garo Hills District on 16.05.2015.
8. Awareness Programme on observation of "International AIDS Candle Light Memorial held at Don Bosco Youth Centre, Shillong, East Khasi Hills District on 17.05.2015.
9. Inauguration / Flagged off of Mobile Legal Services and Lok Adalat Van at High Court of Meghalaya, Shillong, East Khasi Hills District on 19.05.2015.
10. Visit to Hospital Nongstoin, West Khasi Hills District on 20.05.2015.
11. Training Programme for PLV's held at Mawsynram C&RD Block office, East Khasi Hills District on 22.05.2015.
12. Visit to District Jail, Shillong, East Khasi Hills District on the 23.05.2015.
13. Meeting of District Legal Services Authority, Nongpoh, Ri-Bhoi District with the Panel Lawyer's held in the office chamber of District & Sessions Judge, Nongpoh, Ri-Bhoi District on 25.05.2015.
14. One day Essay writing, Drawing & Painting and Debate Competition held at S.D.O. office Hall, Amlarem, West Jaintia Hills District, on the 28.05.2015.
15. Visit to children's Homes, Nongstoin, West Khasi Hills District on 28.05.2015.
16. Awareness Programme on "ICDS Scheme/SNP" held at Resubelpara, North Garo Hills District on 29.05.2015.
17. Awareness Programme-Cum-Observation of "World Anti Tobacco Day" held at Mihnongtdu Community School Welfare

Association at Jowai Public School, West Jaintia Hills District on 29.05.2015.

18. Awareness Programme held at Multipurpose Hall Deputy Commissioner office Mawkyrwat, South West Khasi Hills District, on 29.05.2015.
19. Awareness Programme-Cum-Observation of "World Anti Tobacco Day" held at Mendipathar College, North Garo Hills District, DRDA Hall, Tura, West Garo Hills District, Tura, West Garo Hills District, Mendipathar College, North Garo Hills District, St. Paul's Higher Secondary School, Nongpoh, Ri-Bhoi District, Williamnagar East Garo Hills District, at Khliehriat East Jaintia Hills District on 31.05.2015.
20. 5 (five) times visit to observation Home at Tura, West Garo Hills District for the month of May, 2015.

#### **JUNE, 2015**

1. One day Programme/Debate on Stop illicit Trade of Tobacco Products as part of "World Anti Tobacco Day" held at St. Edmunds College, Shillong East Khasi Hills District on the 1.06.2015.
2. Awareness Programme-Cum-Observation of "World Anti Tobacco Day" held at Nongstoin, West Khasi Hills District on the 1.06.2015.
3. Awareness Programme held at Hawakhana Deficit School, Tura, West Garo Hills District on the 4.06.2015.
5. Awareness Programmes-Cum-Observation of "World Environment Day" held at Syiem Jingsuk Hall, Amlarem, West Jaintia Hills District, Resubelpara, North Garo Hills District, Williamnagar, East Garo Hills District and District & Sessions Judge premises, Nongpoh, Ri-Bhoi District on the 5.06.2015.
6. The District & Sessions Judge, Nongstoin, DLSA had organised Tree Plantation at 4<sup>th</sup> Battalion MLP Camp, Sohpiam as part of the "World Environment Day" held on the 5.06.2015.
7. Planting of Trees held at District & Sessions Judge premises, Tura as part of Observation of "World Environment Day" held at Tura, West Garo Hills District on the 5.06.2015.
8. Visit to District Jail Tura, West Garo Hills District on the 5.06.2015, 12.6.2015, 19.6.2015 and 26.6.2015.

9. Awareness Programmes-Cum-Observation of “International against Child Labour Day” held at Resubelpara, North Garo Hills District, office of B.D.O, Mairang Block, West Khasi Hills District, Presbyterian Higher Secondary School, Khliehriat, East Jaintia Hills District, Nongpoh, Ri-Bhoi District, St. Mary Mazzetional Girl’s Higher Secondary School, Jowai, West Jaintia Hills District, NEHU, East Khasi Hills District, Shillong, Dikki Bandi Stadium, Tura, West Garo Hills District, Mawkyrwat, South West Khasi Hills District and William nagar, East Garo Hills District on the 12.06.2015.
10. The Meghalaya SLSA through the DLSAs had organised the National Lok Adalat on the 13.06.2015 for MACT cases, during the National Lok Adalat the number of cases was posted 149 Nos and amount settled Rs 61,46,000/-.
11. Visit to District Jail, Shillong, East Khasi Hills District on the 13.06.2015.
12. Awareness Programme held at SGSY Hall, Hall Umsning C&RD Block, Ri- Bhoi District on the 17.06.2015.
13. Visit to MIMHANS, Shillong, East Khasi Hills District by the District Lega Services Authority, Nongstoin, West Khasi Hills District on the 20.06.2015.
14. Visit to Correction Homes, South West Garo Hills District on the 22.06.2015.
15. Awareness Programme on “International against Drugs Abuse & Illicit Trafficking” held at Mawkyrwat, South West Garo Hills District on the 26.06.2015.
16. Awareness Programme on “International Day” against Drugs Abuse held at Resubelpara, North Garo Hills District on the 26.06.2015.
17. Meeting of the District Legal Services Authority, Nongpoh with the Panel Lawyer’s held in the office Chamber of District & Sessions Judge, Nongpoh, Ri-Bhoi District on the 29.06.2015.

## **MIZORAM**

**LEGAL AWARENESS CAMPAIGNS:** The MSLSA and DLSAs organized legal awareness campaigns in both urban and rural areas by way of addresses to the public, circulation of pamphlets, etc. Leaflets/booklets were distributed to the participants in the course of the campaigns. Eight legal awareness campaigns were conducted in which 900 persons attended.

The Special days i.e. World Environment Day – 5.6.2015 and World Day Against Child Labour – 12.6.2015 were also observed.

**JAIL VISITS:** The Member Secretary visited Central Jail, Aizawl and the six District Jails in Mizoram during the quarter to interact with the inmates including the under trial prisoners.

**CERTIFICATION CAMP:** The State Authority in cooperation with the Social Welfare Department and Health Department conducted a Disability Certification Camp at Pangpar Huan (Mental Ward), TNT, Zuangtui, Aizawl during this period. Sixty persons were issued disability certificates. Mizoram SLSA is taking up their cases with the Social Welfare Department for disability pensions and relief.

Besides the above mentioned activities Lok Adalats were regularly organized and 53 cases were settled. Legal Aid counsels were provided to 150 individuals during the period.

#### **NAGALAND**

1. Kohima District Legal Service Authority (KDLSA) in collaboration with Sazolie College, Jotsoma organized a Legal awareness programme -cum- Inaugural setting up of New Legal Aid Clinic at Sazolie College at Jotsoma on 13th April, 2015. The Legal Aid Clinic was inaugurated by the Deputy Commissioner, Kohima, Rovilato Mor, who is also a Member of the KDLSA. Mr. Kangzandgding, Principal of the Sazolie College Jotsoma expressed his gratitude to the KDLSA for setting up the Legal Aid Clinic at his College. Panel Lawyers, Ms. Akumla Lonchari presented a brief highlight on the functioning and purpose of Legal Aid Clinics with Mr. Temsu Walling as the chairperson. Ms. Theyievinuo, the student representative from Sazolie College, expressed the importance and significance of having the Legal Aid Clinic at the college campus. Special Topic on 'Social Media & its challenges' was presented by Mrs. Mezivolu T Therieh, NJS, CJM & Secretary, KDLSA. A topic on 'The importance of Legal Rights and duties' was delivered by Mr. Kezhokhoto Savi, President, Nagaland Voluntary Consumers' Association & Member, KDLSA.

2. A Monthly routine Jail Visit was carried out by the KDLSA Panel Lawyers on 16<sup>th</sup> April, 2015. This was aimed at improving the conditions of Jail, efficiency in management of Jail and providing legal literacy. Observation and inspection were carried

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out related to the nature & details of the UTP who were under Judicial Custody, convicted, released etc. Legal literacy & counselling was aided to the inmates as well as the Jail Staff. Dire needs for up-gradation of basic Infrastructure and utilities such as medical staff and pharmaceutical teams were recorded.

3. Zunheboto District Legal Service Authority, (ZDLSA) organized Legal Awareness Program at Kilo-New Village, on the topic of Government Welfare Schemes on 18<sup>th</sup> April, 2015.

4. One day intensive training programme on the topic "Sexual Harassment at workplace (Prevention, Prohibition and Redressal) Act, 2013" was conducted by KDLSA on 21<sup>st</sup> April, 2015. Resource person Ms. Moajungla, Advocate & Network of Lawyers, highlighted on the Topic, emphasizing on the provision of the Act and the methods for a practical solution to issues related to complaint, interim relief, special protections to the complainants, prevention of victimization, appeal, etc. she also highlighted on determination of compensation, to be paid to the aggrieved woman under clause (ii) of sub-section 3 of section 13, would be considered by the internal committee or the local committee.

5. April 24<sup>th</sup>, 2015 | Nagaland: Dimapur District Legal Service Authority (DDLSA) organised a Seminar on "Sexual Harassment at Work Place" on 24<sup>th</sup> April, 2015

6. ZDLSA conducted a Legal Awareness & Literacy Program at Lukikhe Village, Zunheboto District, while inaugurating a new Village Legal Care & Support Centre on 25<sup>th</sup> April, 2015.

7. DDLSA carried out a two (2) Days National Consultation on "Women's Reproductive Rights, Human Rights and Using the Law" on 28-29 April, 2015. This was organized in collaboration with Women Studies Centre, Nagaland University, the Human Right Law Network/Nagaland Chapter in Collaboration with Naga Mothers Association, sponsored by European Union at Kohima, Nagaland.

8. Tuensang District Legal Service Authority, (TDLSA) organized a seminar on the subject of "Crime against Women, Human Trafficking & Women empowerment" at Noksen Village under Tuensang District in April, 2015.

9. KDLSA organized a Legal Awareness Program at the Northfield School on 1<sup>st</sup> May, 2015. Mr. V.Theyo, Panel

Lawyerchaired the Program while Mr. Pheluopfie, Chairman, School Board, delivered the welcome address. Mrs. Mezivolu T. Therieh (NJS), CJM & Secretary, KDLSA, addressed on the topic of Prevention of Children from sexual offences Act, 2012, aided with a short animated film. Mr. Joshua Sheqi, Panel Lawyer spoke on the topic of 'Correlation of Legal Rights and Duties.' Topic on 'Social Media vis-à-vis cyber crime' was presented by Ms. Akumla Longchari. Interactive sessions with the students and faculty member was conducted, which proved to be productive and conducive, thereby winding up the program.

10. DDLSA conducted a Legal Awareness and literacy program thereby opening up and inaugurating a new Village Legal Care And Support Centre at Dhansripar Village, Doyapur, Dimapur on 2<sup>nd</sup> May, 2015. Training of PLVs was also conducted for the newly established Village Care & Support Centre. Topics on Free Legal Aid, Juvenile Justice Act, Human Trafficking, Domestic Violence, Village Council Act, Lok Adalat, RTI & FIR, MGNREGA, Rights of arrested Persons, Environmental Issues were addressed and discussed during the programme.

11. Longleng District Legal Service Authority, (LDLSA) conducted a Legal Awareness Program for the Villagers of Tangha under Longleng District on 30<sup>th</sup> May, 2015.

12. DDLSA organized a Legal awareness programme, while observing world environment day pm 5<sup>th</sup> June, 2015. Legal Awareness with regard to environmental issues was conducted, followed by a brief interaction sessions. Civic Sense and protection of public property was appraised to the students. Drawing and quote competition was also conducted for students of Class 1 to class 10. Training and demonstration on making eco-friendly paper bags was also conducted.

13. KDLSA conducted a Seminar in collaboration with Humsafar Trust on 18<sup>th</sup> June, 2015 the topic of "Man having sex with man (MSM) with regard to HIV & Human Right". Legal Aid Counsels from all the District of Nagaland consorted with Humsafar Trust, with the objective to create Legal Awareness on confronting with the MSM population in all the Districts of Nagaland. Resource person Mr. Richa Salvi and Mr. Tripti Tandon Secretary (NSLSA), TDP & Special Judge, Anti-Corruption State Vigilance Commission, Nagaland. She spoke on the purpose of

the program and the implication of assembling all DLSAs to share and learn a common experience with the former Member Secretary. Guest Speaker, Shri. Mayang Lima, in his speech highlighted on the various setup and legal aid matter such as Conciliation & Mediation, ADR, and having centralized system of appointing Retainer Lawyer to look into the different districts in Legal Aid matter. He further highlighted the various steps and stages undertaken on shaping up and emergence on the schemes like Legal Aid Schemes, Para-Legal Volunteers Schemes, establishment of Front Offices in the Court Premises, etc. He stressed on the urgent need to provide special training for the Police personnel to handle the Juvenile Cases. He said every child on the street is not in conflict with law. The child in need of care and protection is not to be sent before the Juvenile Justice Board (JJB) but before the Child Welfare Committee and be sent to Children Home and not to Observation Home. After the amendment of Section 279 of the Criminal Procedure Code. Swearing an affidavit can be done by Executive Officers and not only the Judicial Officers and the same have to be informed to the common men, which is the job of the Panel Lawyers and PLVs. He also said that the Ministry of Law & Justice is well to sponsor anyone who wants to compile the judgments of the Customary Courts that has been upheld by the High Court and the Supreme Court.

## **ODISHA**

### **Lok Adalats**

#### **(a) At National level held on 11.04.2015**

As per the instruction of National Legal Services Authority, **Monthly National Lok Adalat for the cases relating to Labour and Family matters** was organized throughout the State on **11.04.2015**. Apart from the High Court Legal Services Committee, 30 DLSAs and 74 Taluk LSCs participated in the said National Lok Adalat. 222 number of Pre-litigation Cases (178 no. of Labour disputes & 44 no. of Family matters) were taken up, out of which, 51 number of Cases ( 28 no. of Labour disputes & 23 no. of Family matters) were settled. Similarly, 7817 number of pending Cases (Labour disputes-3772 and Family matters-4045) were taken up in the said National Lok Adalat, out of which 1316 number of cases (Labour disputes-665 and Family matters-651) were settled. Further, 59 number of cases were disposed of by the High Court

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Legal Services Committee, Cuttack which includes I.D.cases-05 and Motor Accident Claims Appeals-54. A sum of Rs.1,64,93,500/- was awarded as Compensation amount in the above M.A.C. Appeals.

**(b) National Level held on 09.05.2015**

Similarly, **Monthly National Lok Adalat for the cases relating to MACT and Insurance Claims** was also organized throughout the State on **9.5.2015**. 8264 no. of MAC cases were taken up, out of which, 1340 no. of cases (MAC-1267 & MACA-73) were settled/disposed of. A sum of Rs. 29,93,22,089/- was awarded as Compensation amount in the above MAC Appeals. Besides above, 10 no. of Writ Petitions were also disposed of by the High Court Legal Services Committee along with the MAC Appeals.

**(i) At District & Taluk Levels :**

During the period, the DLSAs and TLSCs organized **138 no. of Lok Adalats**. In the above Lok Adalats, total 58,161 no. of cases comprising 459-Civil, 9832-Compoundable Criminal Cases, 48569-Revenue, 46-Matrimonial, 137-Bank, 114-BSNL & 04-MACT cases were disposed of. A sum of Rs.17,35,844/- towards criminal fine and Rs. 89,70,300/- as revenue were collected in the said Lok Adalats. Further, a sum of Rs.17,35,000./- was awarded as compensation in the above Motor Accident Claim Cases.

**(2) Permanent Lok Adalats( for Public Utility Services) U/s.22-B of the Legal Services Authorities Act**

During the quarter, **294** number of new cases relating to Public Utility Services were registered in the Thirteen Permanent Lok Adalats, out of which, **96** no. of cases were settled.

**(3) Generating awareness and spreading Legal Literacy :**

During the quarter, **276 no. of Legal Literacy/Awareness Programmes** were organized by the field units on different topics including the rights of women and on Protection of Women from Domestic Violence (PWDV) Act, Pre-natal Sex Selection and "Pre-Natal Diagnostic Technique (PNDT) Act" Awareness Camps relating to different welfare and social security schemes especially those meant for the Senior Citizens were held. Legal literacy classes in jails on "Plea Bargaining" fundamental duties & other topics were held as per the Calendar of Activities of this Authority. Total

**21,687 no.of persons** were benefitted by attending the said Literacy Camps.

Further, all the District Legal Services Authorities and Taluk Legal Services Committees observed International Labour Day on 1st May, 2015 and World Environment Day on 5th June, 2015 by organizing awareness programmes on the occasions.

**(4) Legal Aid Beneficiaries**

Free Legal Aid and assistance was provided to 795 persons comprising SC- 78, ST- 67, OBC-77, Women-233, Children-09, Incustody-93, General-156 and other weaker sections of the Society - 82.

**(5) Activities of ADR/Mediation Centres :**

During the quarter, 536 no. of new cases were referred by different Courts to the Mediation Centres, and 569 no. of cases ( including previously pending cases) were disposed of, out of which, 76 cases were disposed of on successful mediation.

**(6) Activities of Student Legal Literacy Club :**

To generate legal literacy and awareness, competitions on Debate & Essay at College Levels amongst the college students and competition on Debate & Essay and Drawing at School Levels amongst the members of Student Legal Literacy Clubs were held in the month of April, 2015 and the winners of the District Level Competitions participated in the Zonal Level Competitions.

The Odisha SLSA had organized a State Level Competition on Essay, Debate & Drawing amongst the five Zonal Level Winners of chosen across the State. The winners of State Level Competition were felicitated in a Prize Giving Ceremony by Hon'ble Executive Chairman and other Judges of Orissa High Court on 14.5.2015 at Odisha Judicial Academy, Cuttack. A **short play "DAHANI" (The Witch)** was staged by the members of one of the School Legal Literacy Club of Cuttack.

## PUNJAB

### a. Legal Aid Cases

Number of application received during the quarter April, 2015 to June, 2015.	2075
Number of Applications disposed off.	2024

### b. Break-up of Beneficiaries:

SC	199
ST	17
Backward Classes	15
Women	658
Children	6
Custody	1010
General	425
others	9
<b>Total</b>	<b>2339</b>

### c. Legal Literacy Camps/Seminars:

Number of Seminars/Legal Literacy Camps held during the Quarter April, 2015 to June, 2015.	2416
Number of People who attended the Seminar	241539

### d. Monthly Lok Adalats

Number of Monthly Lok Adalats held during the Quarter April, 2015 to June, 2015,	133
Number of Cases entertained	7438
Number of Cases disposed off	4748

### e. Permanent Lok Adalats for Public Utility Services.

Number of Permanent Lok Adalats (Public Utility Services) set up in the State of Punjab.	22
Total Number of Cases disposed off in these Lok Adalats during the Period April, 2015 to June, 2015.	2533

### f. Counselling and Conciliation Centres:

Number of <b>Pre-litigation</b> cases taken up in Counselling and Conciliation Centres during the period April, 2015 to June, 2015.	8
Number of <b>Pre-litigation</b> cases disposed of in Counselling and Conciliation Centres during the period April, 2015 to June, 2015.	5
Number of <b>Post-litigation</b> cases taken up in Counselling and Conciliation Centres during the period April, 2015 to June, 2015.	997
Number of <b>Post-litigation</b> cases disposed up in Counselling and Conciliation Centres during the period April, 2015 to June, 2015.	166

### National Lok Adalat

National Lok Adalats were held on 11-4-2015 and 13-6-2015 through out Punjab.

### Colloquium on Unorganized Sector

In the month of April 11-4-2015 to 12-4-2015 a Colloquium on workers of Unorganized Sector was organized at Chandigarh Judicial Academy.

### Advance Training of Mediation

In the month of May 22-5-2015 to 24-5-2015, the advanced training programme on Mediation was organized at Chandigarh Judicial Academy.

### Conference on Menace of Drugs

In the month of June 11-6-2015 to 13-6-2015, the Conference on Menace of Drug at Manali, in which the Hon'ble Executive Chairman Punjab Legal Services Authority Mr. Justice S.S. Saron and Sh. Sarvesh Kaushal, Chief Secretary Punjab, addressed the audience.

### RAJASTHAN

01 Mediation & Conciliation Activities from April 2015 June 2015	During April 2015 to June 2015, total 2674 cases were referred for mediation by Hon'ble High Court and subordinate courts, out of which 479 cases were disposed of successfully by mutual consent of the parties .
02 Regular Legal Services April 2015 to June 2015	<b><u>Lok Adalat under Section 19 (including</u></b> Activities from <b><u>conventional Lok Adalats)</u></b> <b>4072</b> Lok Adalats were organized at High Court, District and Taluka level, 1,89,863 cases were taken up and 87,932 cases were disposed of. An amount of Rs. 37,53,81,571/- was awarded in 1702 MACT cases. Legal_Literacy Camps were organized and total 290033 persons were benefited through these Legal Literacy Camps. Legal_Aid From April 2015 to June 2015, 979 persons were benefited through Legal Aid during the said period. <b><u>Legal Aid Clinic</u></b> From April 2015 to June 2015, 2646 applications were disposed of.
03 National Lok Adalat On Activities from April 2015 to June 2015	National Lok Adalat was organized in all the Courts of the State from Taluka to High Court for pending and prelitigation cases related to Labour, Family Disputes etc. In this National Lok Adalat 994 cases were disposed and claims of Rs. 851015/

	- were settled. National Lok Adalat was organized in all the Courts of the State from Taluka to High Court for pending and prelitigation cases related to MACT & Insurance disputes etc. In this National Lok Adalat, 1742 cases were disposed and claims of Rs. 35,93,01,386/- were settled.																																																												
04 Special Schemes for weaker, neglected and marginalized	RSLSA has launched various Schemes for the welfare and protection of rights of weaker, neglected and persons. marginalized persons such as Sr. Citizens, Inmates, Children, Labours, Mentally disabled, Tribals and Sex workers. The object of these Schemes is to assist these persons in getting benefits of Govt. Welfare Schemes for them.																																																												
05 Mega Legal Awareness and Care Scheme	<p>RSLSA has launched Mega Legal Awareness and Welfare Camp Scheme to spread legal awareness and to assist the needy and deserving weaker, neglected and marginalized persons in getting the fruits of various public welfare schemes. In June, 2015, such camps were organized at Dausa, Dungarpur and Tonk. The details of the benefits given in these three camps are as under :-</p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Name of Scheme</th> <th>Dausa</th> <th>Dungarpur</th> <th>Tonk</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Tricycle, Wheel chair, Jaipur Food &amp; other benefits to disabled persons</td> <td>13</td> <td>01</td> <td>23</td> <td>37</td> </tr> <tr> <td>2</td> <td>Pension &amp; other benefits to senior citizens</td> <td>12</td> <td>06</td> <td>23</td> <td>58</td> </tr> <tr> <td>3</td> <td>Widow Pension Scheme</td> <td>08</td> <td>0</td> <td>0</td> <td>08</td> </tr> <tr> <td>4</td> <td>Maharana Pratap Scheme to Provide house to Gadia Luhars</td> <td>0</td> <td>0</td> <td>08</td> <td>08</td> </tr> <tr> <td>5</td> <td>Palanhar Scheme</td> <td>04</td> <td>0</td> <td>12</td> <td>16</td> </tr> <tr> <td>6</td> <td>Benefits to Labours</td> <td>02</td> <td>0</td> <td>0</td> <td>02</td> </tr> <tr> <td>7</td> <td>Benefits of Children</td> <td>14</td> <td>0</td> <td>0</td> <td>14</td> </tr> <tr> <td>8</td> <td>Benefits given in other Schemes</td> <td>244</td> <td>08</td> <td>377</td> <td>629</td> </tr> <tr> <td></td> <td><b>Total</b></td> <td><b>297</b></td> <td><b>15</b></td> <td><b>460</b></td> <td><b>772</b></td> </tr> </tbody> </table>	S. No.	Name of Scheme	Dausa	Dungarpur	Tonk	Total	1	Tricycle, Wheel chair, Jaipur Food & other benefits to disabled persons	13	01	23	37	2	Pension & other benefits to senior citizens	12	06	23	58	3	Widow Pension Scheme	08	0	0	08	4	Maharana Pratap Scheme to Provide house to Gadia Luhars	0	0	08	08	5	Palanhar Scheme	04	0	12	16	6	Benefits to Labours	02	0	0	02	7	Benefits of Children	14	0	0	14	8	Benefits given in other Schemes	244	08	377	629		<b>Total</b>	<b>297</b>	<b>15</b>	<b>460</b>	<b>772</b>
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06 Programmes organized as per Action Plan 2015-16	Special Legal Awareness & sensitization programmes by way of legal literacy camps were organized at District and Taluk Level																																																												

during April 2015 to June 2015	i.e. to restrain Child Marriage, to stop female feticide, women empowerment for uplifting the Status of women in Society, Protection of women from Domestic violence, against child and women trafficking, prohibition of use of tobacco, protection of Rights of Disabled persons, maintenance and welfare of parents and senior citizens, protection from child labour, protection of consumer rights, environment law, and to spread awareness about the laws and provisions of MNAREGA through micro legal literacy scheme. During the period, total 2963 such Legal Literacy Camps were organized.
07 Weekly Programmed "Kanoon Ki Baat" on All India Radio.	RSLSA is regularly holding a weekly programme "Kanoon Ki Baat" on every Sunday evening from 5.45 PM to 6.00 PM on All India Radio, which is being broadcast throughout Rajasthan. This Programme gives basic details of Legal issues and citizens welfare schemes through question and answer sessions.
08 Weekly Programme "Kanoon Ki Baat" on Community Radios. 09 Weekly Programme "Kanoon Ki Baat" Doordarshan.	The Programme broadcast on 'All India Radio' are further broadcast on all the Seven Community Radios of Rajasthan. Hon'ble Mr. Justice Ajay Rastogi, Administrative Judge, Rajasthan High Court and Executive Chairman, RSLSA on launched weekly programme "Kanoon Ki Baat" on Doordarshan to be telecast on every Saturday from 07.00 pm to 07.30 pm. First episode of this programme was telecast on 25.04.2015.
10 Special Child married campaign through Mobile vans	RSLSA has launched a special Child Marriage Restraint Campaign through Mobile Vans in 16 Child Marriage prone district (Ajmer, Alwar, Bhilwara, Baran, Bundi, Chittorgarh, Dausa, Jhalawar, Karauli, Jodhpur, Sawai Madhopur, Merta City (Nagaur), Churu, Pali, Tonk, Udaipur). From 29-03-2015 to 04-05-2015 Total 1607 Camps organized and 202042 persons benefited in this campaign.

## SIKKIM

### AWARENESS PROGRAMMES

36 Legal awareness programmes under Micro Legal Literacy Scheme, Mahatma Gandhi NREGAS, Earth Day, International Labour Day, World Environment Day, Day against Child Labour were held in (East & North) and (South & West) Districts of Sikkim by the Judicial Officers as Chairpersons of DLSAs/TLSCs (East & North) and (South & West) respectively.

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Various legal rights and benefits of weaker section of the society, women and children, rights of persons arrested, various provisions contained in the Constitution of India such as Articles 21, 48-a and 51-A (g), provisions contained in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, features of MG NREGA Scheme enshrined in respective schedules were deliberated for information of the public.

### **ADVANCED TRAINING PROGRAMME FOR THE PARA-LEGAL VOLUNTEERS**

#### **DLSA (South)**

Three days advanced training for the Para-Legal Volunteers under the NALSA's Scheme for PLVs (Revised) & Module for the Orientation-Induction-Refresher Course were conducted by District Legal Services Authority (South) and Taluk Legal Services Committee (South) under the aegis of Sikkim State Legal Services Authority in the Conference Hall, District Administrative Centre, Namchi, South Sikkim from 20<sup>th</sup> to 22<sup>nd</sup> April, 2015. Shri Prajwal Khatiwada, Chairman, DLSA (South), Panel Advocates Shri Bandhan Rai and Ms, Yanzee Pinasha and PLV Shri Passang Tshering Bhutia were the Resource Persons. 43 Nos. of PLVs were trained.

#### **DLSA (West)**

Similarly, three days advance training for the Para-Legal Volunteers was organized by District Legal Services Authority and Taluk Legal Services Committee, West at Gyalshing in coordination with Sikkim State Legal Services Authority in the Conference Hall, Civil Court Complex, Gyalshing, West Sikkim from 24<sup>th</sup> April, 2015 to 26<sup>th</sup> April, 2015. Shri A.J. Sharma, Public Prosecutor, Advocates Ms. Puja Lamichaney and Shri Chewang Norbu Lepcha were the Resource Persons.

#### **DLSA (North)**

District Legal Services Authority, North at Mangan had also organized Advance Training for PLVs w.e.f. 11.04.2015 to 13.04.2015 for Mangan Sub-division in the Conference Hall of the District Administrative Centre, Mangan, North Sikkim wherein 44 Nos. of PLVs were trained during the training programme.

**LOGO FOR THE REGIONAL MEET OF STATE LEGAL SERVICES AUTHORITIES OF NORTH-EASTERN STATES-SIKKIM CHAPTER**

Logo for the Regional Meet of State Legal Services Authorities of North Eastern States – Sikkim Chapter hosted by Sikkim SLSA on 2<sup>nd</sup> and 3<sup>rd</sup> May, 2015 at Gangtok was unveiled by Hon'ble Shri Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim and Patron-in-Chief, Sikkim SLSA and Hon'ble Shri Justice S.P. Wangdi, Judge, High Court of Sikkim and Executive Chairman, Sikkim SLSA/Member, Central Authority, NALSA, in the presence of Hon'ble Mrs. Justice Meenakshi M. Rai. Judge, High Court of Sikkim on 10<sup>th</sup> April, 2015. The programme was also attended by Mrs. K.C. Barphungpa, Registrar General, High Court of Sikkim/Secretary, High Court Legal Services Committee, Mr. N.G. Sherpa, Registrar, High Court of Sikkim, Mr. Suraj Chettri, CJM (East ) / Secretary, DLSA (East), Members of the Bar, Officers of High Court of Sikkim, officers of Sikkim SLSA and Press and Media.

**INAUGURAL FUNCTION OF REGIONAL MEET OF STATE LEGAL SERVICES AUTHORITIES OF NORTH-EASTERN STATES**

The inaugural function of the Regional Meet of State Legal Services Authorities of the North-Eastern States-Sikkim Chapter, 2015 was held on 2<sup>nd</sup> May, 2015 at Chintan Bhawan, Gangtok, East Sikkim. Hon'ble Shri Justice T.S. Thakur, Judge, Supreme Court of India and Executive Chairman, NALSA inaugurated the meet as the Chief Guest presided over by Shri Pawan Chamling, Hon'ble Chief Minister of Sikkim and Hon'ble Shri Justice S.K. Sinha, Chief Justice, High Court of Sikkim and Patron-in-Chief as Guests of Honour in the august presence of Hon'ble Patron-in-Chief, Hon'ble Executive Chairmen of Sikkim, Assam, Tripura and Manipur, Nagaland, Meghalaya, Mizoram and Arunachal Pradesh, along with the Member Secretaries of the respective States including NALSA. The function was also attended by the Judicial Officers, Ex-Officio Members of Sikkim SLSA, Officials from State Departments, Panel Advocates and other dignitaries, Faculty members and students from Sikkim Government Law College and Sikkim University.

**INAUGURATION OF NEW OFFICE OF SIKKIM STATE LEGAL SERVICES AUTHORITY AT DEVELOPMENT AREA, GANGTOK, EAST SIKKIM**

After the function at Chintan Bhawan, Gangtok, East Sikkim, the Hon'ble dignitaries then proceeded for the inauguration of the new office of Sikkim State Legal Services Authority located at Development Area, Gangtok, East Sikkim. Hon'ble Shri Justice T.S. Thakur, Judge, Supreme Court of India & Executive Chairman, NALSA inaugurated the new office building of Sikkim State Legal Services Authority. The building has parking facilities, video conference room, conference hall, Lok Adalat Room, library, Mediation Room, training hall and room for Sikkim SLSA office- bearers.

**REGIONAL MEET OF STATE LEGAL SERVICES AUTHORITIES OF NORTH-EASTERN STATES 'SIKKIM CHAPTER', 2015 HELD AT CONFERENCE HALL OF SIKKIM SLSA OFFICE, DEVELOPMENT AREA, GANGTOK, EAST SIKKIM ON 2<sup>ND</sup> MAY, 2015**

The Regional Meet of the State Legal Services Authorities of North-Eastern States 'Sikkim Chapter 2015' chaired by Hon'ble Mr. Justice T. S. Thakur, Judge, Supreme Court of India and Executive Chairman, National Legal Services Authority was held in the Conference Hall of the new office of the Sikkim State Legal Services Authority located at Development Area, Gangtok, East Sikkim on 2<sup>nd</sup> May, 2015, wherein the following resolutions were resolved:-

1. State Legal Services Authorities of the North-East States would request NALSA to take up with the concerned State Legal Services Authorities to establish cells for children/students from the North-East States who have become victim of racial harassment, to provide effective legal aid, assistance and guidance. So far as possible, people who are deputed to man these cells should be from the North-East States.
2. State Legal Services Authorities of the North-East States shall nominate up to four Gaon Buras from each State to attend a training programme at New Delhi to be conducted by NALSA.

### **LEGAL AWARENESS PROGRAMME AT GNATHANG**

Legal awareness programme with the general public of Gnathang, Kupup and surrounding areas was held at Gnathang on 3<sup>rd</sup> May, 2015 by Sikkim State Legal Services Authority in coordination with the Army Authorities. The programme was attended by Hon'ble Shri Justice Deepak Gupta, Chief Justice of Tripura & Patron-in-Chief, Tripura SLSA, Hon'ble Shri Justice U.B. Saha, Judge, High Court of Tripura & Executive Chairman, Tripura SLSA, Hon'ble Shri Justice T. Vaiphei, Judge, High Court of Meghalaya & Executive Chairman, Meghalaya SLSA, Hon'ble Shri Justice N. Kotishwar Singh, Judge, High Court of Manipur & Executive Chairman, Manipur SLSA, Mrs. Asha Menon, Member Secretary, National Legal Services Authority, Shri K.W. Bhutia, Member Secretary, Sikkim SLSA, Mrs. Matilda Isaacs, Additional Secretary, Sikkim SLSA, Panel Advocates, Army Personnel and public of Gnathang and its surrounding areas.

During the public interaction with Hon'ble dignitaries, the issues discussed were installation of BSNL tower in the region and provision of internet facilities, educated people to be trained as Para-Legal Volunteers and setting up of legal aid clinics. Further, the public was also apprised about the provisions of Forest Act.

### **OTHER ACTIVITIES**

#### **LOK ADALATS HIGH COURT LOK ADALAT**

During the quarter from April to June, 2015 the following Lok Adalats at various Forums were held:-

**HIGH COURT LOK ADALAT**

During the quarter from April to June, 2015 the following Lok Adalats at various Forums were held:-

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
NIL	02	03	13	03	NIL	10

**DISTRICT LOK ADALAT (EAST) AT GANGTOK**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
30	07	77	84	50	15	19

**DISTRICT LOK ADALAT (WEST) AT GYALSHING**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
12	13	09	22	16	05	01

**DISTRICT LOK ADALAT (NORTH) AT MANGAN**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
01	NIL	01	01	01	NIL	NIL

**DISTRICT LOK ADALAT (SOUTH) AT NAMCH**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
05	11	15	26	11	09	06

**TALUK LOK ADALAT( SOUTH) AT RAVANGLA**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
11	03	23	26	21	NIL	05

**TALUK LOK ADALAT (WEST) AT GY ALSHING**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
08	01	08	09	09	NIL	NIL

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**TALUK LOK ADALAT(WEST) AT SORENG**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
11	02	45	47	46	NIL	01

**TALUK LOK ADALAT (NORTH) AT MANGAN**

No. of Lok Adalat held	Previous Pending	No. of Cases received	Total	No. of cases settled	No. of Cases returned	No. of Cases pending
05	01	07	08	05	NIL	03

**LEGAL AID UNDER SECTION 12 OF THE LEGAL SERVICES AUTHORITIES ACT, 1987**

Legal aid was provided to **189** beneficiaries by the Sikkim State Legal Services Authority during the months April to June, 2015 under section 12 of the Legal Services Authorities Act, 1987.

MONTHS	S.C.	S.T.	WOMEN	CHILD	UNDER TRIAL/DETAINED BY CUSTODY	GENERAL	DISABLED	TOTAL
..	15	38	95	08	110	25	Sr.Citizen-05	296

**CASES BEFORE THE MEDIATION CENTRES, EAST DISTRICT AT GANGTOK , SOUTH DISTRICT AT NAMCHI AND WEST AT GYALSHING.**

CENTRE	NO. OF MEDIATIONS HELD	NO. OF CASES TAKEN UP	NO. OF CASES SETTLED	NO. OF CASES RETURNED
Mediation Centre (East) at Sikkim SLSA Office, Sichey, Gangtok	04	03	03	NIL
Mediation Centre (South) at District Court Complex, Namchi, South Sikkim	13	07	03	03
Mediation Centre (West) at Civil Court Complex, Gyalshing, West Sikkim	NIL	NIL	NIL	NIL

## TAMIL NADU

On 01.05.2015, at Chidambaram, Cuddalore District, Hon'ble Executive Chairman Tamil Nadu SLSA had inaugurated a Stall exclusively for Legal Aid to create awareness among the public at large about the services available with the State Legal Services Authority and DLSAs in a Festival Mela. Large number of public and visited the stall and got benefited. Hon'ble Tmt. Justice S.Vimala and Hon'ble Mr. Justice S.Vaidyanathan, Judges of High Court Madras interacted with the public and let them know about the various Acts.

Hon'ble Executive Chairman, Tamil Nadu SLSA had addressed a Panel Lawyer Meet on 3.5.2015, at Palani in Dindigul District to inform the public about availability of Free and Competent Legal Services as per NALSA Regulations, viz "Free and Competent Legal Services Regulation 2010". About 30 Judicial Officers along with 40 "B" Panel Lawyers had attended the Programme. Hon'ble Executive Chairman had also addressed a PLV's Meet in the same District and directed the PLV's to visit the Clinic (Village or Community) twice in a week (i.e) Wednesday and Sunday, as per Nalsa directions, along with the panel Lawyers as per the resolutions passed in the 13<sup>th</sup> All India Meet of State Legal Services Authorities.

The Hon'ble Executive Chairman had addressed a Panel Lawyer Meet on 4.5.2015 at Kodaikanal, Dindigul District to take active part in providing Legal Services to be needy people. The Hon'ble Executive Chairman had also addressed a PLV's Meet in the same District and directed the PLV's to visit the Clinic (Village or Community) twice in a week (i.e) Wednesday and Sunday as per Nalsa directions, along with the panel Lawyers as per resolutions passed in the 13<sup>th</sup> All India Meet of State Legal Services Authorities.

A foundation stone was laid for construction of ADR Centre for Nilgiris District at Udhamandalam by Hon'ble Mr. Justice V.Dhanapalan, Judge, High Court Madras on 24.5.2015. A Legal Literacy and Awareness camp was conducted on the same day.

As per the directions of Hon'ble Executive Chairman of the SLSA, a letter was addressed to observe "world environment Day" on 5<sup>th</sup> June 2015 and to implant tree saplings in and around the ADR Centers across the State. 504 saplings were implanted.

Hon'ble Mr. Justice Satish K.Agnihotri, Judge High Court, Madras and Executive Chairman of the Tamil Nadu State Legal Services Authority had laid a foundation stone for construction of ADR Centre at Pudukkottai on 13.6.2015 in the august presence of Hon'ble Mr. Justice T.Mathivanan, Judge, High Court, Madras. In the above said function an orientation programme for PLV & Panel Lawyers in connection with Lok Adalat and Nalsa Programmes was organised.

The ADR Centre for Nagapattinam District was inaugurated on 14.6.2015 by Hon'ble Mr. Justice M.M.Sundresh, Judge High Court, Madras presided over by Hon'ble Dr. Justice S.Tamilvanan, Judge High Court, Madras in the presence of Hon'ble Mr. Justice T.Mathivanan, Judge High Court, Madras. On the same day a village Legal Care and support Centre was also inaugurated at Thirupooni village, Kilvelur Taluk, Nagapattinam by Hon'ble Mr. Justice M.M.Sundresh, Judge, High Court, Madras.

On 14.06.2015, ADR Centre for Perambalur District was inaugurated by Hon'ble Mr. Justice Satish K.Agnihotri, Judge, High Court, Madras and Executive Chairman, Tamil Nadu State Legal Services Authority in the august presence of Hon'ble Mr. Justice P.Devadass, Judge, High Court, Madras. In the above said function a threefold pamphlet viz. "Hand Book on various Government Schemes for minorities, women and Children" was released by Hon'ble Mr. Justice Satish K.Agnihotri, Judge, High Court, Madras and Executive Chairman, Tamil Nadu State Legal Services Authority.

The ADR Centre for Erode District was inaugurated on 27.6.2015 by Hon'ble Mr. Justice Satish K.Agnihotri, Judge, High Court, Madras and Executive Chairman, Tamil Nadu State Legal Services Authority in the august Presence of Hon'ble Mr. Justice S.Nagamuthu, Hon'ble Mr. Justice M.M.Sundresh and Selvi Justice K.B.K.Vasuki, Judges of High Court, Madras. On the same day an Orientation Programme for Judicial Officers and Para Legal Volunteers on NALSA Schemes for Erode, Karur & Tiruppur District was conducted. The Hon'ble Executive Chairman had launched a legal awareness programme through community Radio in that District. A Hand Book on Government Welfare Schemes for Tamil Nadu Unorganised Labour welfare Board was released by Hon'ble Mr. Justice Satish K.Agnihotri, Judge, High Court,

Madras and Executive Chairman, Tamil Nadu State Legal Services Authority, Chennai.

**Details of disposal on National Lok Adalat**

Sl.No.	Month	Number of Legal Literacy and Awareness Camp Conducted	Number application received
1	April 2015	199	951
2	May 2015	147	339
3	June 2015	192	371

**Details of Legal Literacy and Awareness Camp Conducted:-**

Sl.No.	Month	Number of Benches	Number of cases Taken	Number of Cases Settled	Amount Awarded Rs.
1	11.4.2015	253	67,085	39,303	69,74,04,777/-
2	13.6.2015	264	64,621	27,953	210,83,40,147/-

**TELANGANA**

**MONTHLY NATIONAL LOK ADALAT:-**

The Telangana SLSA conducted Monthly National Lok Adalats during the months from April to June, 2015 in all the 10 districts.

**Parliamentary Standing Committee Meeting:**

Parliamentary Standing Committee Meeting was held on 19.06.2015 at Park Hotel, Hyderabad. Hon'ble Chairman Dr. E.M. Sudarsana Natchiappan and the Hon'ble Members of Parliamentary Standing Committee had interacted with all the stakeholders and authorities under the Act and expressed the satisfaction about the work done by the Legal Services Authority.

**Interaction of Full Time Secretaries of DLSAs with Hon'ble Acting Chief Justice**

The Hon'ble Acting Chief Justice interacted on 20.06.2015 with all the Secretaries of District Legal Services Authorities of Telangana State with regard to National Lok Adalat.

**JAIL VISITS:-**

The DLSAs and Mandal LSCs in various districts visited District jails, Sub Jails, Central Prisons, Special Prisons for Women, Observation Homes in their respective jurisdictions and explained the inmates about the availability of legal services. They also interacted with the prisoners about the facilities and enquired

whether they are in need of legal services or any Legal advice etc and accordingly provided assistance who ever required.

#### **World Environmental Day:-**

On the occasion of World Environmental Day on 05-06-2015, 10 Legal Literacy Camps were conducted and about 1260 persons have participated, enlightening the people about various environmental problems such as pollution, green house effect and measures safeguarding the environment and environmental laws.

#### **World Against Child Labour Day:-**

On the occasion of World Against Child Labour Day on 12-06-2015, 05 Legal Literacy Camps were conducted and about 570 persons have participated. The audience have been explained about the laws enacted for the welfare of children, importance of child education, prevention of child labour etc.

#### **STATISTICS:-**

- During the quarter, from April to June, 2015 about 522 persons were provided legal aid including 56 women, 94 persons in custody and 23 others.
- There are about 1415 Lok Adalats conducted and settled 30192 cases has been settled of both pending and pre litigation in nature and Rs. 41,87,30,439/- was awarded as compensation.
- There are about 86 cases settled pertaining to Public Utility Services, through Permanent Lok Adalat during the quarter.
- The Mediation Centres have settled 249 cases during this quarter.
- There are about 297 Legal Literacy Camps conducted during this quarter in the entire State of Telangana by various District Legal Services Authorities and Mandal Legal Services Committees.

#### **UTTARAKHAND**

##### **Lok Adalat:**

1. During these months, **62 Monthly/Mega/Monthly National Lok Adalats** have been organized and in these Lok Adalats total **4,868 Cases** were disposed off, a sum of **Rs. 3,34,36,367/-** were awarded as compensation to the litigants, a sum of **Rs.**

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**71,42,592/-** was realized as fine and total **5,672 Persons** were benefitted.

2. In this span of time **02 Mobile Lok Adalats** were also conducted by the Uttarakhand SLSA in coordination with DLSA, Dehradun & Pauri Garhwal. **In these Mobile Lok Adalats 391 cases were referred and 13 Cases were settled amicably and 13 persons were benefitted.**
3. **07 Jail Lok Adalats** were organized during these months in **District/Sub Jails** of the State and **14 Cases** were settled through these Jail Lok Adalats. A total number of **15** Under Trial Prisoner/Jail Inmates were benefitted.
4. During the month of April, May and June 2015 total no. of 195 cases were referred to Mediation Centres out of which **91 Cases** were settled in the **Mediation & ADR Centres** established in High Court, District Courts & Outlying Courts of the State.
5. Besides this, **65 Cases** were resolved/settled through **Women/Child Helpline** as per needs & requirements of said cases/complaints.

**Legal Aid & Advice:**

In the months of April, May & June-2015, a total number of **342 persons** (including Under Trial Prisoners) were **provided Panel Lawyers** free of cost to defend their cases in different courts of the State. **54 persons** were also benefitted by giving legal advice.

**Legal Literacy/Sensitization Campaign & Seminars:**

1. On the subject of **Women Rights** a total number of **16 Special Legal Awareness/ Sensitization Camps** were organized during April, May & June 2015 in Villages/Town Areas, Tehsil & Blocks levels, Schools/Colleges, Hospitals of the State. Approx **2,317 persons** including women, children, senior citizens, students, teachers were sensitized on Special Legal Rights to Women, PC-PNDT Act, PWDV Act, Child Marriage, HIV/AIDS, Child Labour, Child Labour, Right to Education Act, RTI & Welfare Schemes/Government Orders to disaster victims etc.
2. During these months **50 Micro/General Legal Awareness Camps** were organized by the DLSAs. The said camps were

organized in remote villages, market places, Universities/ Colleges, Law Colleges, regional congregations/ festivals organized in the State. Approx **6,365 persons** from different strata of society and NCC/NSS Cadets were informed about POCSO Act, Programmes/ Schemes of Legal Services Authorities, Lok Adalats, Right to Education, Welfare Schemes of Central & State Governments, Rules/ Regulations/Provisions benefitted them in day to day life.

3. During the month of April, May & June 2015, total **10 Mega/Multipurpose-cum-Medical Camps** were organized throughout the State. Different Govt. Departments & NGOs have also set-up their stalls in these camps and benefitted the persons attended the said camps. Approx 5,260 persons from different section of society were sensitized on different Provisions/Rules/Acts pertaining to Lok Adalat, ADR Mechanism, MACT Act, F.I.R., New Public Welfare Schemes of Government, Legal Literacy Camps organized by the Legal Services Institutions, Victims Compensation Schemes and Free Medical Facilities available to marginalized persons.
4. **12 Special Legal Awareness Camps** were organized for 'Senior Citizens' highlighting the Rights of Senior Citizens and a total number of 1345 Senior Citizens along with women and children were sensitized about their Legal Rights to Senior Citizen's including welfare schemes/services provided by the Centre & State Governments.
5. On the occasion of "**International Labour Day**" on 1st May-2015, total **13 Legal Awareness Camps & 03 Seminar** were organized to promote and encourage the labour associations and to finish the struggle as well as to promote the requirement of eight-hour work day. By these awareness camps, 2,449 workers including common mass were made aware about the rights under Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act.
6. Highlighting the health risks associated with tobacco consumption and advocating for effective policies to reduce tobacco consumption **13 Legal Awareness Camps** were organized on the occasion of "**World No Tobacco Day**" on 31.05.2015.

7. By observing "**International Children's Missing Day**" on 25.05.2015, **13** Legal Awareness Camps were organized. By these legal awareness camps gatherings were asked to commemorate the missing children who have found their way home, remember those who have been victims of crime, and continue efforts to find those who are still missing. Total 1,320 persons were present in the said camps.
8. In order to sensitize the people about '**Fundamental Duties**', total **16** Legal Awareness Camps were organized at School Level and Community Level, by the DLSAs. In these camps a total number of **3,361 persons**, including Boys/Girls students, persons from different strata of the Society were informed about Free Legal Services, Forest Act, RTE, Consumer Protection Act, Child Marriage, Anti Ragging Act, Domestic Violence Act and programmes/activities of Legal Services Institutions etc.
9. On 12<sup>th</sup> June-2015, a total number of **12 Legal Awareness Camps** and **01 Seminar** were organized. These camps were organized to observe "**International Day Against Child Labour**". The said camps were attended by approx 1253 people who were sensitized on the ill effects of Child Labour.
10. **11 Legal Literacy Camps** were organized on **Moral Education** by the DLSA-Haridwar at Government Children/Observation Homes of the district. Total 226 children/inmates of the said homes were sensitized on the aforesaid.
11. With a view to observe "**World Environment Day**" on 5<sup>th</sup> June-2015, total **16 Legal Awareness Camps** were organized at different places of Uttarakhand. By organizing these camps approx 2150 common mass, Students & Teachers etc. were sensitized about the benefit of clean Environment along with Provisions/Rules and Acts pertaining to issues of Environment Protection by the Secretary of DLSAs, Officer from Forest Department and Advocates.
12. Total **06 Special Legal Awareness Camps** on the **Disaster Management** were organized on different dates and places of the State. The said camps were attended by approx 2,230 disaster victims of flooding areas in the State.
13. During this period **04** Legal Awareness Camps were organized highlighting **PC&PNDT Act**. The aim of these camps to

sensitize common mass on preventive and curative services available in the State and abortion was highlighted as crime. Rules/Provisions pertain to PC&PNDT Act was also informed. Approx 1250 persons were present in these camps.

14. In order to sensitize Under Trial Prisoners about their Legal Rights, detained in District/Sub Jails/Judicial Lock-ups of the State total **26** Legal Awareness Camps were organized in the Jails/Lock-ups of their respective district. Total **2,609 under trial prisoners** were apprised about their legal rights & Free Legal Services available in the State.
15. Three (03) **Special** Legal Awareness Camps were organized for **Labourers** from unorganized sectors through which total **309 Labours** were sensitized about rules/ provisions pertain to abolition of bonded labour, child labour, crime against labour etc.
16. In the month of June-2015, total **11 Special Legal Literacy Camps** were organized highlighting the issues/provisions of '**Victims Compensation Scheme**'. By these camps 1,791 people were informed about Uttarakhand Victim from Crime Assistance Scheme-2013 along with other Provisions, Rules and Acts relating to Victim's Compensation Scheme.
17. As per directions from NALSA to organize legal awareness camp in congregation/festivals, **06** Legal Awareness Camps-cum-Stalls were held in the regional fairs organized in the State of Uttarakhand. These stall were 02 to 05 days long. These stalls were visited by **2,305 persons** and enquired about the various beneficial schemes of the Legal Services Institutions. Books namely, Saral Kanooni Gyan Mala booklets and pamphlets prepared by this Authority were also distributed. Documentary Films based on Mediation Mechanism, Lok Adalat, Women Rights & Consumer Rights were also displayed.
18. In order to sensitize the common mass, 02 Legal Literacy Camps were organized by underlining ill effects and epidemic shadow on the lives of infected families and gatherings were also equipped with the knowledge of proper use of preventive measures to fight against **HIV/AIDS** available in the State. Approx **135 persons** were informed about the aforesaid.

19. As per Calendar of Activities total **09 Legal Awareness Camps** were organized during this period stressing **Anti Ragging** in School/Colleges/Universities of the State. Approx **1266 Students/Common Mass** were informed about the ill effects of Anti-Ragging conducted in the Schools/Colleges of the State.

**Campaign through Mobile Van:**

Mobile Van visited three districts of the State i.e. Dehradun, Uttarkashi and Pauri Garhwal in April, May and June, 2015 respectively with the aim to sensitize the residents/common mass of remote areas/villages on Free Legal Services/ Programmes/ Schemes runs. A total number of **57 villages** were covered by the Mobile Van and approx 2,809 persons/villagers were apprised about the aforesaid by displaying documentary films.

**01 Mobile Lok Adalat** was also conducted during the period in which 43 cases were referred out of which **13 Cases** were settled amicably and 50 persons were benefited.

**Visits/Inspection/Meetings:**

1. During this period **25 Visits** were conducted to **District/Sub-Jails & Judicial Lock-ups** of the State by the Secretaries of the Concerned DLSAs. The aim of the visits to secure legal rights of under trial prisoners and detenues confined in the Jails of the State.
2. During these months **16 visits/inspection** were conducted to Government Observation/Children Homes, Nari Niketan & Govt. Beggar Home of the State. During the visit Children/Inmates were informed about their legal rights including other valuable information. An interaction was also made by the Secretary, DLSAs with inmates & facilities were of the Homes were inspected during the visit. Panel Advocates was appointed in the case of inmates as per their request.
3. Total **23 Meetings** were organized with **Para Legal Volunteers** during these months, which the work done by the PLVs was evaluated and were sensitize/mentor on different Rules & Provisions with reference to discharging of their duties.
4. As per directions of Hon'ble Executive Chairman, Uttarakhand SLSA and to discuss the future legal work plan/activities of district and also to boost coordination of DLSA & TLSC to

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perform legal aid activities effectively in the district, **07 meetings were** conducted with Chairpersons & Secretaries of **Tehsil Legal Services Committees** of their districts.

## **UTTAR PRADESH**

The quarter April, 2015-June, 2015 is of special significance, in that, it saw the organization of the two Monthly National Lok Adalats (MNLAs) on 11<sup>th</sup> April, 2015 and 9<sup>th</sup> May, 2015 focused on the specific subject matters relating to Labour and Family Matters and MACT and Insurance Claims cases respectively. In addition to those specific subject matters, the MNLA also covered all other appropriate matters covering Civil, Criminal, Revenue, Labour etc. that can be taken up for settlement through the mode of Lok Adalats. During the quarter ending June, 2015 in the 217 Lok Adalats that were organized and 3,55,373 cases including 1,59,032 Petty Criminal Cases; 22,307 Revenue Cases; 3,274 Civil Cases; 4,544 Matrimonial Disputes; 728 Bank Loan Disputes; 9667 Labour Cases; 951 Motor Accident Claim Petitions and 1,54,870 Other Cases were decided. Compensation of Rs. 21,00,76,390/- was awarded /paid to the victims/claimants in the Motors Accidents Claims Petitions. Besides total amount of Rs. 2,06,46,209/- was imposed and realized as fine in Petty Criminal Cases.

The U.P. State Legal Services Authority has been at the fore front of taking initiatives for protecting the rights and interest of the juveniles in conflict with law and the child in need of care and protection. Taking cue from the experiment of Lok Adalats, the UPSLSA has been regularly organizing '**Bal Samwad Adalats**' for settling the matters regarding juveniles in conflict with law, who have been implicated in criminal matters, which entails punishment up to 7 years for adult offenders. The initiative has established itself as a harbinger of great relief for such children. During the quarter ending on 30<sup>th</sup> June, 2015 total of 97 matters pertaining to juveniles in conflict with law were settled through the bal samwad adalats.

With the objective of taking justice at the door steps of the people, the UPSLSA has made efforts to reach out to the people in distress, particularly those, whose liberty has been curtailed. This fact is reflected in the proactive involvement of the legal services institutions in organizing the Jail Lok Adalats every month in the

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central and district jails of the State. During the quarter ending on 30<sup>th</sup> June, 2015 through such Jail Lok Adalats 1,033 matters involving jail inmates were successfully disposed/settled.

In addition to providing legal awareness to the people through legal awareness camps organized from time to time, the UPSLSA to provide legal assistance to persons looking for legal advice and counsel, started the **toll free number** in April, 2009. The services are provided for a caller from anywhere in the country, through 3 lawyers having experience of the application of law and working of the High Court and the District Court. During the quarter ending on 30<sup>th</sup> June, 2015 a total of 470 persons have been provided legal assistance through this facility.

During the quarter April-June, 2015 the UPSLSA with the active support and cooperation of the 71 functional DLSAs acting pro-actively took all necessary steps for raising legal awareness about the special rights and entitlements of the under-privileged sections of the society with special focus on certain vulnerable sections. In general terms during this period as many as 533 legal literacy camps were organized, through which efforts were made to educate the assembled mass numbering 57,829. With the objective of realizing the mandate of providing free legal aid as provided under Article 39A of the Constitution of India, the UPSLSA through the other legal Institutions is making sincere efforts in this direction. During this quarter the effort is reflected in the fact that 451 persons were provided free legal aid.

With the objective of taking the Lok Adalat literally at the door steps of the people and for raising the level of awareness of the common masses about various legal provisions and their entitlements under various schemes & programmes of the Government, the Mobile Lok Adalat Van has been provided to the UPSLSA. Special efforts have been made to maximize the utilization of the Mobile Lok Adalat Van, which is reflected from the fact that during the quarter ending in June, 2015 the van has been utilized for holding Lok Adalats and for raising awareness in the districts of Varanasi, Jaunpur, Sultanpur, Mathura, Agra, Firozabad, Etawah, Kanpur Nagar, Kanpur Dehat & Allahabad. During the visit, in addition to holding of Lok Adalats, literature on different legal aspects as has been published by the UPSLSA was distributed amongst the masses.

**Report pertaining to the visit of Hon'ble Mr. Justice Rakesh Tiwari, Executive Chairman, UPSLSA to Jhansi, Agra & Mathura, Varanasi and Maharajganj.**

With the objective of assessing the functioning of the legal services institutions at the ground level, identification of the challenges and bottleneck in the effective implementation of the legal mission and for finding solutions thereto, Hon'ble Mr. Justice Rakesh Tiwari, Senior Judge, High Court of Judicature at Allahabad and Executive Chairman, UPSLSA has taken the initiative of organizing regional workshops/symposiums/conferences and meetings of the District Judges/Chairpersons of the DLSAs of the concerned region. The first of such regional workshop and business meeting of the DLSAs was held on 4<sup>th</sup>& 5<sup>th</sup> April, 2015 at Jhansi. On 4<sup>th</sup> April, 2015 His Lordship met the District Judge, District Magistrate, Superintendent of Police and other officers of Jhansi and impressed upon them to work in a cooperative and coordinated mechanism towards the cause of legal services mission. On 5<sup>th</sup> April, 2015 a workshop was held on the topic 'Gender Inequality in the Indian Context – Problem and Solution' in the Bundelkhand University at Jhansi. The workshop was presided by the Hon'ble Executive Chairman, UPSLSA in the presence of Sri Avinash Chandra Pandey, Vice-Chancellor, Bundelkhand University; Sri Satya Narain Agnihori, Member Secretary, UPSLSA; Sri Ramesh Tiwari, District Judge, Jhansi; Sri Anurag Yadav, District Magistrate, Jhansi; Sri Tej Pratap Tiwari, Secretary, UPSLSA and other high ranking officers. The workshop saw the participation of all the judicial officers of Jhansi judgship; executive officers; academic and other staff members of Bundelkhand University; lawyers; students from various law colleges; volunteers of various social organization; social workers; intellectuals from various fields etc.

The workshop was addressed by Dr. Priti Chaudhary, who in her address showed concern about the declining status of women in our society. Sri Kunj Bihari Gupta, Advocate highlighting the Constitutional and other legal provisions related to women, stressed that the Constitution and the laws, do not make any distinction between male and female, rather they provide equal economic, social and political rights and opportunity. Dr. Neelam Singh, Chief Functionary, VATSALYA a non for profit organization actively working in the field of female foeticide and

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mal-nutrition, in her address highlighted the drastic fall in the child sex ratio over the last few decades in India in general and Uttar Pradesh in particular. Dr. Singh, in this light thumped on the need to change the mindset of the society, towards women and the need of strong implementation of the PC PNDT Act. In the same vein, Sri Ramesh Tiwari and Sri Satya Narain Agnihotri also expressed their view point on the need of making women the centre of positive change in the society, by taking effective measures for empowering women. Prof. Avinash Chandra Pandey, informed the House about the positive steps taken by the judiciary for women empowerment and providing dignified treatment and justice to women.

The Hon'ble Executive Chairman in His Lordship's keynote address, pointed out that the myth of women being weak and disempowered needs to be removed, as they are second to none and can achieve anything and everything that their male counterparts can. His Lordship further remarked that for bringing about a remarkable positive change in the status of women, the existing social realities are also required to be changed, as in most cases it is women who exploit women the most. There is no dearth of laws protecting the rights of women, the need is to ensure their effective implementation. On the conclusion of the first session of the workshop, the Hon'ble Executive Chairman inaugurated legal aid clinic established at Babu Jagjeevan Ram Law Institute of the Bundelkhand University. His Lordship also inaugurated the health centre established at the International Centre of the Bundelkhand University.

At the conclusion of the workshop, literature relating to various commonly in usage legal enactments and schemes related to legal aid scheme was distributed amongst the assembled common populace.

Post the conclusion of the workshop, the Hon'ble Executive Chairman, convened a meeting with the District Judges/ Chairpersons of the DLSAs of Jhansi, Lalitpur, Mahoba, Jalaun at Orai and Hamirpur in the meeting hall of the circuit house at Jhansi. The meeting was also attended by Sri Satya Narain Agnihotri, Member Secretary, UPSLSA and Sri Tej Pratap Tiwari, Secretary, UPSLSA. His Lordship, impressed upon the participating Chairpersons of the 05 DLSAs to provide the

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necessary momentum to the legal services mission and informing them about the decisions taken in the 13<sup>th</sup> All India Meet of the State Legal Services Authorities held on 21<sup>st</sup> & 22<sup>nd</sup> March, 2015 at Ranchi, instructed them to take all necessary steps in accomplishment. Further, large number of other issues as mentioned hereunder were also discussed and deliberated.

1. Organization of **regular Lok Adalats**.
2. Organization of **Monthly National Lok Adalat** focused on subject matters outlined by NALSA.
3. Utilization of services of the local **Print & Broadcast Media** free of cost, for effective & efficacious publicity of the Legal Services Activities.
4. Utilization of the AIR and DD for raising legal awareness on select topics under the **Public Service Broadcast** Platform.
5. Effective utilization of **Budget** and timely dissemination of information to the UPSLSA.
6. **Submission of information** in the prescribed proforma by 5<sup>th</sup> Day of every month to the UPSLSA.
7. Identification of land for the construction of **ADR Centres** and regular monitoring of construction work.
8. **Utilization of full potential** of the Full Time Secretary and the Secretaries, DLSAs.
9. Proper coordination with the Executive, Police and other agencies for effective implementation of the **five focused areas adopted by UPSLSA** (Save the girl child, Vrindavan Widows, Suicide in Jails, Child trafficking and Communal harmony).
10. Utilization of **ADR mechanism** with focus on Mediation as per the law laid down in Afcons case (2010 (8) SCC 24)
11. Establishment of **Legal Aid Clinics** at the level of DLSAs, TLSCs, Villages, Jails, Universities and Colleges and proper monitoring of their activities.
12. Engagement of **PLVs** for legal aid programme and proper assignment and monitoring of their activities.
13. **Accreditation of socially active NGOs** and coordination with them for furthering the legal aid activities.

14. Engagement of **Panel/Retainer Lawyers**, providing proper training, sensitization towards their role and monitoring of the services to be rendered by them.
15. Effective and regular organization of **legal awareness camps**.
16. Preparing plan for utilization of **mobile lok adalat** van for organization of the mobile lok adalats and legal awareness camps in the far flung areas.
17. Publicizing the role and jurisdiction of **Permanent Lok Adalats (PUS)** and extending their activities in coordination with the Chairman of PLA (PUS).
18. Providing the benefit of **free legal aid** to all disadvantaged sections who approach the DLSAs and other legal services institutions.
19. Publicizing the **Toll free help line** service being provided by the UPSLSA.

In the context of the above agenda items, the Hon'ble Executive Chairman, made an ardent appeal to all the Chairpersons to make all out efforts for ensuring identification and settlement of maximum number of appropriate cases in the Monthly National Lok Adalats and other Lok Adalats, giving maximum publicity to those efforts etc. Request was also made to utilize the platform of AIR and Doordarshan under the Public Service Broadcast clause for publicizing and raising awareness on various legal issues of concern for the disadvantaged population.

In addition, matters regarding proper utilization of budget, monthly submission of reports relating to activities undertaken by the DLSAs, construction of the ADR Centres, proper work allocation to the Secretaries, DLSAs and in particular the Full-time Secretaries, effective steps in the context of the focused areas i.e. Save the Girl Child, Suicide in Jails, Child Trafficking and Communal Harmony that have been adopted by UPSLSA, all measures required to be taken for settlement of disputes through various ADR mechanisms in particular through mediation, effective and meaningful operationalization of the legal aid clinics and the PLVs and Retainer Lawyers etc. was also stressed upon. The detailed minute of the meeting has been communicated to all the 05 DLSAs and they have been requested to put into implementation the decisions taken in the meeting.

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### Visit to Varanasi

With the objective of giving fillip to the legal empowerment activities in the eastern part of the State of Uttar Pradesh, the Hon'ble Executive Chairman, thereafter visited Varanasi on 14<sup>th</sup> April, 2015. During the tour of Varanasi, His Lordship visited the Banaras Hindu University (BHU), Varanasi. During this visit to BHU, he inaugurated the website of the Legal Aid Clinic. During the inauguration of the website, the Hon'ble Executive Chairman, interacted with the law students and laid stress on the need of involvement of the law students in various legal aid programmes. The Executive Chairman laid special emphasis on the need of the law students to adopt a village and focus on making the village litigation free, which may be replicated in other villages.

The Hon'ble Executive Chairman gave the assurance that the UPSLSA and all the 71 DLSAs functional in the State of Uttar Pradesh, will extend all necessary cooperation in the noble endeavour of the legal services clinics being run by the law colleges/universities. In this light, emphasis was laid down and an appeal was made to all the participants, to dedicate some amount of their quality time towards the legal services mission for extending the benefits to the marginalized sections of the society.

The Hon'ble Executive Chairman, thereafter attended and addressed a symposium on the topic '**Justice for All- Role of Legal Services Institutions and Legal Services Clinics**' at BHU. The symposium was attended by the Secretary, UPSLSA; the faculty members, department of Law, BHU; representative of social organization; law students etc. Thereafter, the Hon'ble Executive Chairman also presided over meeting with the District Judges/ Chairpersons of the DLSAs of Varanasi, Azamgarh, Bhadohi, Chandauli and Mirzapur. During the meeting, after taking stock of the performance report submitted and presented by the Chairpersons of DLSAs, His Lordship on the agenda mentioned earlier directed the participants to take necessary steps in the right earnest, at the earliest.

### Visit to Agra & Mathura

The UPSLSA has been alive to taking steps for improving the living condition and overall welfare of the destitute widows living at Vrindavan. In furtherance of this effort, for the current

financial year i.e. 2015-2016, the U.P. State Legal Services Authority has *inter alia* adopted the project of Vrindavan Widows. The DLSA, Mathura accordingly has been directed to take all necessary steps in coordination with the district administration, for improving the conditions of the destitute widows. On 19<sup>th</sup> April, 2015 the Hon'ble Executive Chairman, UPSLSA along with the Member Secretary & Secretary of the Authority made a visit to Vrindavan to have a first-hand experience of the conditions under which, the widows living in various homes. In coordination with the local administration and the Mathura DLSA, the Member Secretary and Secretary, UPSLSA conducted surprise visits in many of the widow homes. During inspection for gauging the actual living conditions of the widows, personal interaction was done with many of the widows, the food being provided to the widows, the quality of water and the storage tanks and all other existing amenities were physically examined. Large number of shortcomings was found and directions to all concerned were given on the spot. The full time Secretary, DLSA, Mathura who was also a part of the inspection team, was directed to oversee the compliance of the directions and most importantly to ensure that the living conditions and all necessary amenities including hygienic food, clean water, good clothing etc. is provided without any delay to the widows housed in different homes in and around Vrindavan.

The Hon'ble Executive Chairman, after making an assessment of the condition of widows at Mathura and Vrindavan visited Agra. His Lordship attended a symposium at Dr. B.R. Ambedkar University, Agra and addressed the participants, which included the law students of the University, representatives from the district administration, representative of the social organization, academicians etc. The topic for discussion in the symposium was 'Speedy Trial and Problems of Under trial Prisoners'. In his address, the Hon'ble Executive Chairman in addition to highlighting the provisions under the Constitution & different Statutes and the law laid down under various judgments of the Hon'ble Apex Court, specifically led stress on developing a sensitive attitude towards the plight of under trial prisoners languishing in jails for different period of time and accordingly put all out efforts to extend legal aid to such prisoners, with the ultimate objective of ensuring timely release of such prisoners and for removing all impediments coming in the way of such release.

The Hon'ble Executive Chairman later met with the District Judges/Chairpersons of the DLSAs of Agra, Mathura, Etah, Hathras and Firozabad, in a meeting held for providing the requisite momentum to various programmes and schemes being implemented by the legal services institutions in the districts. The agenda of the meeting was largely the same as was at Jhansi, as has been mentioned earlier. During the visit, the District Jail, Mathura was also inspected and directions to prevent suicides, after analyzing the reasons that are the major causes of suicide in jails.

**Visit to Varanasi, Mahrajganj & Sant Kabir Nagar**

The Hon'ble Executive Chairman on 15<sup>th</sup> & 16<sup>th</sup> May, 2015 visited Varanasi, Mahrajganj and Sant Kabir Nagar. During the visit, which started from Varanasi, His Lordship presided over a high level meeting attended by the District Judge/Chairman, DLSA, Varanasi, D.M. and S.S.P. Varanasi; and other officers including the Secretary, UPSLSA. During the meeting matters related to lok adalat, under trial prisoners, patients at the mental hospital, Varanasi and matters related to legal services activities was discussed.

During his visit to Mahrajganj and Sant Kabir Nagar on 16<sup>th</sup> May, 2015, the Hon'ble Executive Chairman inaugurated the newly constructed ADR building in both the districts.

**Legal Awareness / Publicity on Programmes / Schemes Related to Legal Aid, ADR and Law Pertaining to Women, Children & Marginalized Sections through AIR, DD and Community Radio.**

Under the directions of the Hon'ble Executive Chairman, NALSA and the decisions taken in the 13<sup>th</sup> All India Meet of State Legal Services Authorities at Ranchi, Jharkhand, the UPSLSA in all earnestness has started the awareness programmes on issues of social, legal and those that are important from the perspective of ensuring access to justice; rights and entitlements of the common people and for protecting the rights and interests of women and children. In this context, such programmes are being broadcast on regular basis through AIR and Community Radio. The programme on Doordarshan under the title ' Kanoon ki Batein' though are not being telecast on regular basis, but so far during the last two months, 3 such programmes participated by the officers of the UPSLSA have been recorded and broadcasted.

The Legal Awareness Programme through the Lucknow Centre of AIR, which is broadcast from all the centres in the State of Uttar Pradesh, goes on air at 8:00 pm every Sunday. The programme starting in the month of February, 2015 has been broadcast without break every Sunday. The speakers / resource persons in the programme have been mostly the judicial officers, posted on deputation at the Authority viz. Sri P.K. Srivastava; Sri Tej Pratap Tiwari; Sri Rajesh Pati Tripathi & Sri Rajiv Maheshwaram. On few occasions, resource persons / experts have been outsourced to provide a better perspective on the issues under discussion. In the programmes that have been recorded and broadcast till date, almost all the areas / topics that were suggested by NALSA have been covered.

The programmes that have been telecast on AIR under the participation of the officers of UPSLSA and few experts / resource persons, have covered the topics on ADR Mechanisms with focus on Lok Adalat and Mediation; Legal Aid ; Legal Services Authorities and their activities; Sexual harassment of women at work place; Amendment to rape law; Domestic violence; S. 498A IPC; Unnatural death within 7 years of marriage- presumption; PC & PNDT Act ,1994; Law related to dowry; the increasing crime rate against women and legal protection to women; Protection of Women from Domestic Violence; social and legal issues related to missing children; POCSO Act, 2012; Mal nutrition and Programmes for preventing mal nutrition; consumer protection and law related thereto; Negotiable Instruments Act; Juvenile Justice( Care and Protection of Children) Act, 2000; The Labour Law and Protection to Labour in the Un-organized Sector etc.

To further extend the reach of the programmes on legal awareness, the UPSLSA starting from the month of May, 2015 has also commenced a live call-in programme on FM based community radio of City Montessori School, Lucknow. The officers of UPSLSA and experts / resource persons of other government departments and social organizations have participated in the programmes, focused on topics like ADR, Mediation, Lok Adalat , Smoking & Drug abuse , Right to Information, Falling Sex Ratio in the 0-6 age group and Role of PCPNDT Act, Missing children, Domestic Violence Act etc.

## **WEST BENGAL**

### **Inauguration of ADR Centre in the Districts of Darjeeling and Jalpaiguri**

On 4<sup>th</sup> April 2015, the SLSA conjointly with the DLSAs had been able to notify the cornerstones for the Alternative Disputes Resolution (ADR) centres in the districts of Darjeeling and Jalpaiguri.

The ADR Centre at Darjeeling was inaugurated by the Hon'ble Executive Chairman, SLSA, West Bengal and Judge, Calcutta High Court, Hon'ble Mr. Justice Ashim Kumar Banerjee in the presence of the Hon'ble Zonal Judge of Darjeeling and Judge, Calcutta High Court, Hon'ble Mr. Justice Joymalya Bagchi. Sri Manojit Mondal, Ld. District Judge and Chairman, District Legal services Authority, Darjeeling was present at the said inauguration along with Sri Jay Prakash Singh, Secretary, District Legal services Authority, other judicial officers of the district and the dignitaries of the district administration. The Member Secretary Sri Abhijit Som, State Legal Services Authority, West Bengal was present. The members of the Bar, the President of the Bar Association were also present.

The ADR Centre at Jalpaiguri was inaugurated on the same day by the Hon'ble Executive Chairman, Hon'ble Mr. Justice Ashim Kumar Banerjee. Sri Debashish Mukhopadhyay, the Ld. District Judge and Chairman, District Legal services Authority, Jalpaiguri, was present at the said event. Judicial officers of the district were present as also the members of the Bar including the President and Secretary of the Bar Associations were present in the said programme. The Member Secretary State Legal Services Authority, West Bengal, Sri Abhijit Som had also been present on the said occasion.

NATURE OF CASES	PRE-LITIGATIVE CASES-DISPOSAL	SETTLEMENT AMOUNT	PENDING CASES - DISPOSAL	SETTLEMENT AMOUNT
Land acquisition cases			21	455949
MNREGA	40			
Revenue			5	1831598
Bank	1048	52828626		
Telephone	380	2102471		
Land matter	2			
Other pre-litigation matters	26	1083182		
M.V. Act	114996	5048560		
Civil matters			5	173425
Petty criminal and NGR matters			2057	428245
Consumer Dispute matters			9	330000
MACT			15	3225000

#### **The 5<sup>th</sup> Review Meet of Secretaries of DLSAs on 25<sup>th</sup> - 26<sup>th</sup> April, 2015**

The 5<sup>th</sup> Review meet was organised at Sagardighi, Murshidabad by the State Legal Services Authority with the nineteen Secretaries of the DLSAs. The meet was addressed and opened by Calcutta High Court, Hon'ble Mr. Justice Ashim Kumar Banerjee with his welcome speech and his valuable observations upon the objectives and working of the Legal Services Authorities. The Secretaries of the 19 districts had thereupon presented their respective deliberations upon their arena of work and operation in this field, covering their activities in providing legal services to the eligible persons, dwelling upon child issues, mentally retarded persons, women centric matters, legal literacy in schools, correctional homes, villages, etc.

#### **Inauguration of ADR Centre in the District of Malda on 2nd May 2015**

This day had marked the inauguration of the Alternative Dispute Resolution (ADR) Centre in the district of Malda. The Centre was inaugurated by the Hon'ble Executive Chairman, State Legal Services Authority, West Bengal and Judge, Calcutta High Court, Hon'ble Mr. Justice Ashim Kumar Banerjee in the presence of the Hon'ble Zonal Judge of Malda and Judge, Calcutta High Court,

Hon'ble Mr. Justice Harish Tandon. The Ld. District Judge and Chairman, District Legal services Authority, Malda, Md. Moizuddin was present at the said inauguration along with other judicial officers of the district and the members of the Bar including the President and Secretary of the Bar. The Member -Secretary Sri Abhijit Som and Registrar cum Deputy Secretary, Sri Anjan Kumar Sengupta, State Legal Services Authority, West Bengal along with Sri P.K. Gangopadhyay, Secretary District Legal Services Authority Malda, were also present in the said programme.

### **Inauguration of ADR Centre in the Districts of Purulia and Bankura**

On 9<sup>th</sup> May 2015, two Alternative Dispute Resolution (ADR) Centres were inaugurated - one in the district of Purulia and the other in the district of Bankura.

The ADR Centre at Purulia was inaugurated in the district of Purulia on this day by the Hon'ble Executive Chairman, State Legal Services Authority, West Bengal and Judge, Calcutta High Court, Hon'ble Mr. Justice Ashim Kumar Banerjee in the presence of the Hon'ble Zonal Judge of Purulia and Judge, Calcutta High Court, Hon'ble Mr. Justice Ashoke Kumar Dasadhikari and Judge, Calcutta High Court, Hon'ble Mr. Justice Soumen Sen. Sri Partha Pratim Ray, Ld. District Judge and Chairman, District Legal services Authority, Purulia was present at the said inauguration along with other judicial officers of the district. The Member - Secretary Sri Abhijit Som and Registrar cum Deputy Secretary, Sri Anjan Kumar Sengupta, State Legal Services Authority, West Bengal along with Sri Rohan Sinha, Secretary District Legal Services Authority, Purulia, members of the Bar, the President and Secretary of the Bar Associations were present in the said programme.

Later, on the same day, the ADR Centre at Bankura was inaugurated by the Hon'ble Executive Chairman, Hon'ble Mr. Justice Ashim Kumar Banerjee in the presence of Hon'ble Zonal Judge of Bankura, Hon'ble Mr. Justice Soumen Sen. The Ld. District Judge and Chairman, District Legal services Authority, Bankura, Sri Kundan Kumar Kumai was present at the said inauguration. Judicial officers of the district were present. The Member Secretary Sri Abhijit Som and Registrar cum Deputy Secretary, Sri Anjan Kumar Sengupta, State Legal Services Authority, West Bengal along with the members

of the Bar including the President and Secretary of the Bar Associations were present in the said programme.

#### **Workshop on Protection of Women from Domestic Violence Act**

On 10<sup>th</sup> May 2015 a workshop on the Protection of Women from Domestic Violence Act was organised in which all the Secretaries of the DLSAs had attended. Interactions and vivid discussions of the Act had been done and the parameters for rendering legal aid in the manner of pre-litigation as well as counselling as envisaged under the Act were conversed and debated.

#### **Screening of a short film on legal literacy - 'Joyee' (Winner)**

On 29.05.15, the premier show of a short film on legal literacy entitled 'Joyee' or 'Winner' had been. The film based on the Child Marriage Restraint Act was meant to create awareness about the vices of child marriage and to sensitize the larger masses about the importance of child rights. There are hundreds of villages across West Bengal where child marriage had remained a common practice and the 21<sup>st</sup> century technological advancements and developments have made little impact on them. This film seeks to educate not only those backward sections but serves as an attempt to send the message to millions and the West Bengal State Legal Services Authority had endeavoured to communicate this through all corners with the aid of this film. The Hon'ble Executive Chairman, Hon'ble Mr. Justice Ashim Kumar Banerjee and other Hon'ble Judges of the High Court, Calcutta, Film personalities, eminent drama personalities and other dignitaries graced the said premier show.

#### **Interaction with the Parliamentary Standing Committee under the directions of NALSA Held On 15<sup>th</sup> June 2015**

As apprised by NALSA, the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice had opted for a review of Legal Aid Camps in High Court under NALSA and in this regard, a meet was organised at High Court, Calcutta on 15.06.2015 at 3.00 p.m. The Member Secretary, SLSA along with the Secretaries of all the Districts took part in the meet. A power-point presentation into the varied activities of the SLSA in organizing legal aid camps was made by the Member-Secretary which acclaimed appreciation from the Parliamentary Standing Committee. Interaction was also made with all the Secretaries of the District Legal Services Authority in the said meet.

### **Meet on the Effective Application of ADR Mechanism**

On 30.06.15, a combined meeting of the districts of 24 Parganas (South), 24 Parganas (North), Howrah and Kolkata along with the members of the Bar, the Member-Secretary and Deputy Secretary, State Legal Services Authority and the Secretaries of the District Legal Service Authorities were held in the Sesquicentenary Building of the High Court, Calcutta. The Hon'ble Patron-in-Chief, The Hon'ble The Chief Justice of the Calcutta High Court, Dr. Manjula Chellur and the Hon'ble Executive Chairman, State Legal Service Authority and Judge, Calcutta High Court, Hon'ble Mr. Justice Pranab Kumar Chattopadhyay who had assumed charge of the State Legal Service Authority on 15.06.2015, had presided over the said meet. The Hon'ble Patron-in-Chief and the Hon'ble Executive Chairman had presented their valuable and important deliberations upon the effective implementation of the ADR mechanism and urged the judicial officers to make an honest attempt to apply the said mechanism to reduce pendency of litigations as also to curb future litigations. The members of the Bar were also apprised about the said mechanism.

### **National Lok Adalat**

The National Lok Adalat for the month of May and June was held on 9<sup>th</sup> May 2015 and 13<sup>th</sup> June 2015 on varied matters for disposal of all types of civil and criminal compoundable cases. The category-wise disposal of the number of cases in the said Lok Adalat is as under:

NATURE OF CASES	PRE-LITIGATIVE CASES-DISPOSAL	SETTLEMENT AMOUNT	PENDING CASES - DISPOSAL	SETTLEMENT AMOUNT
MACT			483	107058450
Insurance claims	17	8130000		
Bank matters	823	30676931		
Telephone	188	839444		
M.V. Act and Traffic challan	94706	3634740	75	35900
Compoundable criminal cases			1229	113220
Civil matter			4	474000
Matrimonial matters	13		1	
N.I. Act			3	280000
Labour matters			33	12100
Others	76	8531209	0	

## CHANDIGARH

### A. Lok Adalats and Mediation Centers:-

1. Two National Lok Adalats on 25.04.2015 and 09.05.2015 were organized and total number of **73 Labour** and Family matter cases were settled on 25.04.2015 and on **09.05.2015** total number of **10** MACT cases were settled. During these Lok Adalats **648** summary cases were settled.
2. During the quarter ending June 2015, Permanent & Continuous Lok Adalat Settled **09 cases** at pre-litigative stage and 06 **referred cases** were settled in the District Courts.
3. Permanent Lok Adalat for Public Utility Services disposed of **173 cases** and an amount of **Rs. 436610/-** was awarded as compensation.
4. Mediation and Conciliation Center, settled **114** cases during the quarter.
5. Two Daily Lok Adalats established in the premises of Hon'ble High Court of Punjab and Haryana settled **120 cases** and an amount of **Rs. 15169314/-** has been settled as compensation in Motor Accident Claim Cases.

### B Legal Aid:

During the quarter, free Legal Aid was provided to **242 beneficiaries** under Section 12 of the Legal Services Authority Act, 1987.

### C. Legal Awareness Programmes

During the quarter, the Authority organized **several Seminars/Legal Awareness camps/Workshops** on various topics. The details are given below:

#### 1. Colloquium on "Workers in Unorganized Sector - Challenges and Way forward" on 11th and 12th April, 2015

The Colloquium deliberated on the problems being faced by the workers in the Unorganized Sector and tried to identify the impediments in the implementation of statutory provisions and schemes launched by the Government and suggested possible solutions. The event was attended by Hon'ble Judges of High Court of Punjab and Haryana, Senior Officers and Officials of various

departments of Punjab, Haryana and Chandigarh including Labour, Social Welfare, Child and Women Development and health as well as Judicial Officers, Social Workers, Mediators, Legal Aid Counsel, Para Legal Volunteers, representatives of the Trade Unions and employers of Punjab, Haryana and U.T. Chandigarh. Besides the Inaugural Session, the Colloquium was divided into three working Sessions.

The Colloquium was inaugurated by Hon'ble Mr. Justice T.S. Thakur, Chief Justice of India (the then Executive Chairman, NALSA). The Inaugural Session was also addressed by Hon'ble Mr. Justice Adarsh Kumar Goel, Judge Supreme Court of India, Hon'ble Mr. Justice S.K. Mittal, Judge, High Court of Punjab and Haryana and Executive Chairman, Haryana SLSA, Hon'ble Mr. Justice Hemant Gupta, Judge, High Court of Punjab and Haryana and Executive Chairman, SLSA, U.T. Chandigarh and Hon'ble Mr. Justice S.S. Saron, Judge, Punjab and Haryana High Court and Executive Chairman, Punjab SLSA.

The agenda for the Colloquium was set in the Inaugural Session, wherein the speakers, underlined the importance of the unorganized sector hitherto unknown and unnoticed despite consisting of 94% of the total work force of 46.5 crores. They sketching out the nature of this sector pointed to the low incomes, unstable and irregular implementation and lack of protection either from the legislature or from the trade unions to the workers in the sector. They also emphasized that despite adding more than 60% to the National Income this sector stands ignored despite the suggestions and recommendations of the Second Labour Commission. Pointing out the callous attitude of the Authorities concerned to implement the legislative provisions or schemes propounded by the Government, the speakers rued the lack of sensitivity and the will to give benefit to the workers in the Unorganized Sector.

The speakers reviewed the Government Schemes for the workers in the Unorganized Sector on the basis of statistics and pointed out that the workers in the Unorganized Sector have not benefitted under the schemes. They pointed out that the amount spent is a negligible fraction of the amount available. They also remarked that the largest numbers of the Unorganized Sector Workers are agriculture labour but providing them any social

security is totally unattended to and also emphasized on the need for effective intervention by the Legal Services Authorities to ensure the implementation of the schemes and legislative provisions.

The speakers tracing out the history of plight of the workers in the Unorganized Sector remarked that we can afford to ignore this sector only on our own peril. They called upon all the stakeholders and the Legal Services Authorities to review the implementation of the legislations and the schemes for their effective implementation as their performance was quite dismal and disappointing.

All the speakers in the inaugural session, called upon the Legal Services Authorities to take up the challenging job of reaching out to the workers in all types of Unorganized Sectors for educating them about their rights and entitlements under the Legislature and the Schemes in order to make sure that the commitment which the Constitution makes to them becomes reality. They remarked that justice is to be delivered not only in the courts but also in the implementation of the schemes and the provisions of welfare legislations. They also exhorted that the State Legal Services Authorities at the State and the Centre should step in to use the option of Judicial Process for getting done, what ought to be done without compulsion, if those who are obliged to implement these obligations failed to respond.

## **2. Drug Abuse Awareness Week (25th June 2015 to 2nd July 2015):-**

The State Legal Services Authority, U.T., Chandigarh organized a week long awareness programmes on the occasion of *International day against drug abuse and Human Trafficking*.

On 26th June, 2015, an awareness Camp was organized in Govt. Model Sr. Sec. School, Sec -45, Burail, Chandigarh. Sh. Paras Talwar, Advocate interacted with the students of the School. They were told about the disadvantages of Drug abuse and Human Trafficking.

An awareness Camp was also organized in Village Maloya, Chandigarh on 27th June. Dr. Nareshanand and Ms. Harpreet Kaur, Para Legal volunteer interacted with the people. They were told about disadvantages of Drug abuse.

On 27th June, Authority organized a door to door survey and awareness campaign by visiting colonies of Sec 52 and certain areas of Sector 45, Chandigarh. Total 160 people were interacted with. Lectures on drug abuse and illicit trafficking at both the places were delivered by Ms Surinder Pal Kaur and Ms Rimple Khosla, Para Legal Volunteers alongwith Sh Rajeshwar Singh, Law Officer.

Street - play (Nukkad Natak) titled as 'Shaitan Zindabad' was organised in association with Theatre Arts Group, Chandigarh on 30th June, 2015 in Indira Colony. The main aim of showing this play was to make people aware about the evils of Drugs and the problem of Human Trafficking. The people were told about the ill effects of drugs on the social, mental and personal health of an individual. They were also made aware about the problem and types of Human Trafficking. The Mobile Van of the Authority was taken to various places to show the recorded street plays at various places of the city. The people were motivated to shun the habit of Drug abuse. The pamphlets of the Authority in three languages were distributed among the villagers/residents. On this occasion, Sh Lal Chand, Member Secretary, State Legal Services Authority, UT Chandigarh and Para Legal Volunteers (Col V S Dhillon and Manjit Kaur Malhotra) addressed the gatherings.

### **3. Awareness programmes on Community Radio station**

The resource persons deputed by the Authority got recorded programmes on 91.2 FM Jyotirgama Community radio station of Punjab University Chandigarh. The following programmes were aired on different topics and dates:

1. 10.04.2015 Talk on 'Misuse of Section 498 A IPC' by Ms. Savita Saxena, Advocate.
2. 24.04.2015 Talk on 'Consumer protection Law' by Sh. Gautam Bhardwaj, Advocate.
3. 16.05.2015 Talk on 'Motor Vehicle Act' by Sh. Arun Dogra, Advocate.
4. 23.05.2015 Talk on 'Issue of transgender' by Sh. Ajay Sapehia, Advocate.
5. 30.05.2015 Talk on 'Section 138 of NI Act' by Ms. Vijayata Sharma, Advocate.

#### **4. Legal Literacy Camps in schools of Chandigarh:**

Total 57 legal literacy camps were organized by State Legal Services Authority, U.T, Chandigarh in different schools of Chandigarh. In these camps /classes, the subjects of discussion primarily included fundamental Duties, Juvenile Justice, Rights of Women and Children, Rights of specially abled, Rights of Senior Citizens, E-Courts, Protection of Children from Sexual Offences Act, 2012, Sexual harassment at work places, Mediation, Lok Adalats, Drug Abuse, Improvement of Literacy and Life Skills and Empowerment of Children and Women of the disadvantaged sections of society. Para legal Volunteers and Law students interning with Authority were speakers in these camps.

#### **5. Awareness Camps and Surveys**

Two Awareness Camps and Surveys were organized by this Authority on 14.04.2015 in Maloya colony and a Nukkad Natak was also conducted with the help of students of Army Institute of Law, Mohali. The Mobile Legal Awareness Camps cum surveys were organized in these colonies with the help of Para Legal Volunteers and the Law students/interns pursuing internship with the Authority. On 27.06.2015, 10.06.2015, 11.06.2015 and 12.06.2015 in Maloya, Bapu Dham, Burail and Dadumajra respectively by the interns, Panjab University. They were made aware about the Drug and its Menace on the occasion of International Day of Drug Abuse. The people were also told about their rights, duties and Government Welfare Schemes.

#### **D.Refreshers Programmes for the Panel Lawyers.**

The SLSA conducted (two) refresher Courses for the Lawyers/Para Legal Volunteers/Mediators on 30.04.2015 and 29.05.2015 in Chandigarh Judicial Academy as per the directions of NALSA. In these monthly programmes various topics like Aids, Disability and Labour Law etc were taken up for discussion.

#### **E. Visits to Model Jail Chandigarh:**

Sh. Lal Chand, Member Secretary, SLSA, U.T. Chandigarh visited the Model Jail, Chandigarh regularly during the quarter to monitor the legal aid services to the Jail inmates. Sh. Rajeshwar Singh, Law Officer visited Model Jail, Burail, Sector 45, Chandigarh and interacted with the inmates of each barrack on every Monday

of the weak. He provided free legal aid to unrepresented inmates. On every alternate day Advocates deputed by the SLSA visited the jail. They interacted with the inmates of each barrack and provided free legal aid to unrepresented inmates. A total number of **64** visits were conducted to Model Jail, Chandigarh during the quarter.

#### **DADRA & NAGAR HAVELI**

National Lok Adalat for labour and family matters was organised on 11.4.2015.

Awareness camp on Human Rights, Cyber Security and Government Schemes was organised on 25.4.2015

International Labour Day was observed on 1.5.2015

Anti Tobacco Day and World Environment Day was observed on 5.6.2015

World Day Against Child Labour was observed on 12.6.2015

National Lok Adalat for MACT and Insurance claims was organised on 13.6.2015.

#### **DELHI**

##### **I. LEGAL AID**

###### **1. Visits to Jails and Observation Homes**

Under Project of the year adopted by Delhi SLSA, in order to ensure that legal rights of the inmates are not lost on account of lack of information and lack of assistance and also to support to enforce those rights, the **Legal Services Advocates made 861 visits to Jails and 98 visits to Observation Homes, while Secretaries, DSLAs made 23 visits to Jails and 18 visits to Observation Homes in Delhi.**

###### **2. Annual Meet of Legal Services Advocates**

On 16th May, 2015, DSLSA organized an Annual Meet-cum-Orientation & Training Programme for Empanelled Legal Services Advocates of DSLSA at Constitution Club of India. On this occasion, DSLSA also released its 8th Annual Report 2012-14, Launched its New Website - "dlsa.org" and also launched Toll Free Legal Services Helpline - "1516".

### 3. Beneficiaries of Legal Services

During the quarter April to June, 2015, Delhi State Legal Services Authority has provided legal aid/assistance to following number of persons:

Category	No. of Legal Aid Beneficiaries
Schedule Caste	181
Schedule Tribe	02
Backward Class	02
Women	1596
Children	18
In custody	3083
General	860
Others	88
<b>Total</b>	<b>5830</b>

Besides the above, during the quarter, the Delhi SLSA also dealt with

- 431 cases of DAR/MACT Cases.
- 811 cases of Missing Children.
- 180 cases of victims of sexual assault
- Under Delhi Victims Compensation Scheme, 2011, compensation was awarded in 88 cases and the total amount of compensation was Rs. 1,92,25,000/-.

## II. LOK ADALAT

### 1. Monthly National Lok Adalat:-

As per the Calendar of NALSA, DSLSA organised Monthly National Lok Adalats on Second Saturday of every month for the types of cases specified. However, other types of cases were also taken up by DSLSA in these Lok Adalats. DSLSA organized Lok Adalats in all the 11 Districts, Permanent Lok Adalats, Central Administrative Tribunal, State Consumer Disputes Redressal Commission, District Consumer Disputes Redressal Forums, Debt Recovery Tribunals, Company Law Board & Revenue Courts.

## 2. Daily Continuous Lok Adalat:-

DSLISA has also devised a Mechanism/Protocol for organizing the **Daily Continuous Lok Adalats (DCLAs)** in all the 11 Districts. Every District Legal Services Authority is organising 'Daily Continuous Lok Adalat' on all working days from 4 PM to 6 PM.

**In the above said quarter, the category-wise number of cases disposed of in Lok Adalats is as under:-**

S. No.	Category	No. of cases disposed of	Settlement Amount (in Rs.)	Fine realised (in Rs.)
1	Bank Recovery	52	68,12,604/-	
2	MACT	296	7,72,75,920/-	
3	Matrimonial	158	95,45,000/-	
4	CrI. Compoundable Cases	477	7,22,552/-	62,050/-
5	Cases u/s 138 NI Act	326	1,31,23,927/-	28,200/-
6	Civil Cases	43	1,26,500/-	
7	Electricity Cases	219	1,24,38,344/-	17,000/-
8	Labour/MCD	52	26,400/-	
9	Co. Law Board	105	90,43,500/-	
10	Consumer Cases	53	49,68,680/-	
11	Debt recovery Tribunal	26	70,79,43,707/-	
12	Revenue Cases	28		
13	Traffic Cases	726	17,700/-	2,53,930/-
14	Others	133		
15	Electricity Matters at PLAs	774	3,73,72,434/-	
	<b>Total</b>	<b>3468</b>	<b>87,94,17,268/-</b>	<b>3,61,180/-</b>

Besides the above, **620 cases were also disposed of in special sittings of plea-bargaining** held on the day of Monthly National Lok Adalat, in which settlement amount was Rs. 16,68,850/- and fine realized was Rs. 3,68,000/-.

### III. LEGAL LITERACY

#### 1. Legal Literacy/Awareness Programme at GRCs/NGOs

During the above said quarter, DSLISA organized **583 Legal Awareness Programmes** at Gender Resource Centres/NGOs on the topics of "Fundamental Rights & Duties under Constitution of India, Maintenance and Welfare of Parents and Senior Citizens Act and various schemes available for them, awareness programmes for RWAs pertaining to Consumer Protection Act and redressal mechanism of their complaints with civic authorities,

awareness for organized and unorganized workers about their rights and entitlements under various beneficial schemes, recently floated schemes by Govt. of India, Rights of HIV Patients/ Transgenders, Rights of Women under various enactments, Awareness Programmes for NGOs working for the cause of Mentally Challenged Persons and Awareness Programmes for understanding distinct ethnic and region cultural identities of people particularly from North Eastern States etc. During these programmes, the Ld. Secretaries/Lawyers also made the people aware about the functioning & activities of DSLSA, provision of free legal services provided by DSLSA & District Legal Services Authorities.

Besides the above, on 8<sup>th</sup> April, 2015, the South-West DLSA also organized a meeting with coordinators of 09 GRCs and sensitize them on the topics of "Rights of Transgenders, Street Children and Sr. Citizens and also the facilities provided by DSLSA to poor and needy people".

## **2. Legal Literacy/Awareness Programme for Labourers and observance of International Labour Day:-**

In order to observe International Labour Day, the DSLSA organized following programmes for labourers in the months of April and May, 2015:-

(i) On 18<sup>th</sup> April, 2015, **Sh. Bhupinder Singh, Project Officer**, DSLSA attended a programme organized by Ministry of Labour, Govt. of NCT of Delhi at **Auditorium, APMC, Azadpur, Delhi**. The programme was chaired by Sh. Gopal Rai, Hon'ble Minister of Labour, Govt. of NCT of Delhi. PLVs of different law centres were also present in the programme. The Ld. Project Officer briefed the gathering about the functions and mandate of DSLSA and requested them to spread information in their respective constituencies and refer them to the nearest DLSA in case of any legal need. Hon'ble Minister of Law briefed the gathering about the process that shall be launched soon for registration of Construction Workers' (Regulation of Employment and Conditions of service) Act, 1996. The Hon'ble Minister also interacted with the PLVs and told them about the issues and advised them to be associated with the programme chalked out by the Delhi Govt. for such workers.

(ii) DSLSA in association with Labour Department organized a programme on Labour Issues on **24<sup>th</sup> April, 2015 at Shah Auditorium, Civil Lines, Delhi** from 4.00 PM to 7.00 PM. In this programme, a counter was set up DSLSA near the venue and 02 Legal Services Advocates on the panel of East DSLSA were deputed to aware the participants about the mandate and functioning of DSLSA. 02 staff members from Central office were also deputed to distribute the literature i.e. pamphlets etc.

(iii) The North-East DLSA in association with Labour Department organized **05 programmes at Bhajanpura, Labour Chowk on 23<sup>rd</sup> April, at Gokulpur, Labour Chowk on 24<sup>th</sup> April, at Brahampuri Chowk, Labour Chowk on 27<sup>th</sup> April, at Seemapuri, Labour Chowk on 28<sup>th</sup> April and at Khajuri Khas (Traffic Signal) on 29<sup>th</sup> April, 2015.**

(iv) The North-East DLSA in association with Labour Department and Trade Union of Organized and Unorganized Workers and Construction Workers organized a programme on **29<sup>th</sup> May, 2015 at the office of Labour Commissioner (North-East), Sunder Nagri, Delhi.** The volunteers from voluntary organization SEWA also participated in it.

(v) The New Delhi DLSA organized a programme on 1<sup>st</sup> May, 2015 at Labour Site, Kirbi Place, Delhi Cant. On the topic of "Rights of Labourers".

(vi) The DLSAs also observed the Labour's Day within their offices by affixing posters in and near their offices.

### **3. Legal Literacy Programmes for School Students**

(i) During the abovesaid quarter, the DLSAs organized **381 Legal Literacy/Awareness Programmes** for Schools students on the topics of Fundamental Rights & Duties under the Constitution of India, Environmental Laws, Traffic Laws, Protection of Children from Sexual Offences Act, 2012, Gender Sensitization and issues related to women, Cyber Laws, awareness programmes for understanding distinct ethnic and regional cultural identities of people particularly from North-Eastern states.

Besides the above, DSLSA conducted Mass Legal Literacy Programmes at Kulachi Hansraj Model School, Ashok Vihar on 6<sup>th</sup> May, at St. Anthony's Boys Sr. Sec. School; Paharganj and Mater

Dei School, Tilak Lane on 11<sup>th</sup> May, at Holy Child Sr. Sec. School, Tagore Garden on 12<sup>th</sup> May and at Presentation School, S.P. Mukherjee Marg on 14<sup>th</sup> May, 2015. The Ld. Member Secretary, Ld. OSD, Ld. Project Officer and Ld Secretaries of Central and West DLSAs were the resource persons in these programmes.

(ii) Essay/Quiz Competition in Schools

The details of Essay/Quiz Competitions organized by the District Legal Services Authorities during the abovesaid quarter is as under:-

On 28<sup>th</sup> April, 2015, the North-East DLSA organized inter-school essay competition on Fundamental Duties in Sarvodya Kanya Vidyalaya, C-2, Yamuna Vihar, Delhi, in which more than 50 Govt. Schools of North-East District participated. The students who came first, second and third in their respective schools in the essay competitions held in the months of February, March and April, 2014 participated in this competition.

Quiz Competition was also held by the Central DLSA in Govt. Boys Sr. Sec. School No. 1, Shakti Nagar, Delhi on 16<sup>th</sup> April, 2015.

**4. Legal Literacy Programmes for College Students**

On 9<sup>th</sup> April, 2015, Ld. Secretary, South-West DLSA addressed the staff alongwith students of Sirifort College, Sec-25, Rohini and sensitize them on the topic of "Women's Rights".

**5. Legal Literacy/Awareness Programmes in association with Health Department:-**

The North-East DLSA in association with National AIDS Control Organisation, Department of Health & Family Welfare Ministry of Health & Family Welfare, Government of India organized a programme on 30.04.2015 at Karkardooma Court Complex on the rights of HIV Patients/Transgenders.

**6. Legal Literacy/Awareness Programme at Health Fitness Trust, NGO:-**

During the abovesaid quarter, 03 Legal Awareness Programmes on 4<sup>th</sup> April, 23<sup>rd</sup> May & 27<sup>th</sup> June, 2015, were addressed by Sh. S.S. Tandan, Counsellor of DSLSA at Health Fitness Trust, NGO and the beneficiaries were counselled/sensitized

on various topics such as Maintenance & Welfare of Parents & Senior Citizens Act, Protection of Women from Domestic Violence Act, Dowry cases, Matrimonial Disputes etc.. Beneficiaries were also advised about our Permanent Lok Adalat being run at Shaheed Bhagat Singh Palace, Gole Market, New Delhi where cases of electricity theft and excess billing are taken up and suitable relief is provided by the PLA.

#### **7. Legal Literacy/Awareness Programme at RWA Total 46 programmes were organized at RWAs:-**

(i) On 25<sup>th</sup> April, 2015, the New Delhi DLSA organized a programme at RWA, Defence Colony on the topics of Legal Rights, Privileges and Remedies for Sr. Citizens.

(ii) 01 programme was organized by North-East DLSA in association with RWA and Antrarashtriya Manavadhikar Sangthan at Mithila Chowk, A-Block, Pocket 4 (Near Navjivan Public School), Sonia Vihar, Khjuri Delhi on the topic of Rights of HIV Patients/Transgenders.

(iii) 44 programmes were also organized by South-West DLSAs at RWAs on the topics of Prevention of Corruption Act, Consumer Protection Act and Redressal Mechanism of their complaints with civic authorities.

#### **8. Training Programme for Officers/Officials of Delhi Police**

During the above said period, the Ld. Secretaries organized/addressed **95 Legal Literacy Programmes** for officers/officials of Delhi Police at various Police Stations/DCsP Offices/Specialized Police Training Centre at Rajender Nagar, Delhi and gave lectures on various laws relating to women, children and Sr. Citizens i.e. POCSO Act, JJ Act, Sr. Citizens Act, PWDV Act and also on the Role and Responsibilities of Police Officers dealing with cases of women and children.

**Besides the above**, Secretary, West and East DLSAs also visited CDTs, Gaziabad as resource persons on 23<sup>rd</sup> April and 20<sup>th</sup> May, 2015 respectively.

#### **9. Awareness Programmes at Jails**

Besides the awareness spread by Ld. Secretaries/Legal Services Advocates during their visits to jails, during the abovesaid quarter, the DLSAs organized **16 awareness programmes at jails**.

#### **10. Awareness Programmes/Moral Teaching Classes at Observation Homes:-**

During the abovesaid quarter, **98 awareness programmes/moral teaching classes** were organized by the Legal Services Advocates on the panel of Shahdara and New Delhi DLSAs during their visits to Observation Homes.

#### **11. Legal Awareness Programme for Senior Citizens at Old Age Homes**

During the abovesaid quarter, the New Delhi and North-East DLSAs organized **07 awareness programmes** for Senior Citizens at Old Age Homes on the topic "Maintenance and Welfare of Parents and Senior Citizens Act, 2007".

**12. Special Awareness Programmes for CMM, ACMM and MMs:-** in the month of April, 2015, Secretaries, East and New Delhi DLSAs organized special awareness/Orientation Programmes for CMM, ACMM & MMs of their districts on Delhi Victims Compensation Scheme 2011 u/s 357 and 357A Cr. PC.

**13. Observance of World Health Day:-** In order to observe World Health Day, the New Delhi DLSA organized a Drawing competition at Observation Home for Boys, Delhi gate on : Say No to Social Evils and also organized an Legal Awareness Programme on 7<sup>th</sup> April, 2015.

#### **14. Summer Internship Programme 2015:-**

In the month of June, 2015, DSLSA started its Summer Internship Programme, 2015 for law students of various law schools, colleges or universities from all over India. In first batch, **113 law students divided into 10 groups interned with DSLSA from 1<sup>st</sup> June, 2015 to 22<sup>nd</sup> June, 2015.** During the abovesaid period, they were taken to Tihar Jail, CWCs, Children Homes, Observation Homes, P.S. Mandir Marg, GRCs, SPUWC; Nanakpura, Supreme Court and Supreme Court Legal Services Committee, High Court and High Court Legal Services Committee, various MM Courts at Saket, Tis Hazari and Patiala House for first hand exposure. They were also taken for Heritage Site.

On 1<sup>st</sup> June, 2015, an Orientation programme was also organized for them at Mediation Centre, Patiala House Courts, New Delhi.

### 15. Awareness through Radio/TV Programmes:-

- (i) Radio programmes by Secretary, South DLSA on 15<sup>th</sup> April, 2015 on POCSO Act and Juvenile Justice Act.
- (ii) On 2<sup>nd</sup> May, 2015, Member Secretary, DSLSA participated in a Nyaya Manch Programme held by DSLSA in collaboration with Delhi Police on the topic of "POCSO Act, 2012" which was aired on DD National at 12.00 PM.
- (iii) On 30<sup>th</sup> May, 2015, OSD, DSLSA participated in a Nyaya Manch Programme aired on DD National Channel regarding Missing Children.
- (iv) Secretary, North-East DLSA addressed a phone in programme at Akashwani All India Radio and made aware about the Legal Service Programmes of DSLSA and replied the queries of listener.

### 16. Training Programmes for Legal Services Advocates

During the abovesaid quarter, the DSLSA has organized **28 Training Programmes for Legal Services Advocates.**

### 17. Training Workshop/Sensitization Programmes

DSLSA organizes 'Training Workshop/Sensitization Programmes' every month for:-

1) CWC-Chairpersons	5) Juvenile Welfare Officers (JWOs)
2) CWC-Members	6) Empanelled Legal Services Advocates
3) JJB - Principal Magistrates	7) Public Prosecutors
4) JJB - Members	

- (i) In the captioned period, on 2<sup>nd</sup> May, 2015, DSLSA organized a Workshop for above persons at Conference Hall, DSLSA from 2.30 PM to 4.30 PM on "Human Rights issues concerning Transgenders, Issues concerning Street Children - Rescue and Rehabilitation".
- (ii) On 29<sup>th</sup> June, 2015, DSLSA organized an Orientation-cum-Training Programme for above persons at Conference Hall, Central Office, DSLSA on "Juvenile Justice Act , 2000."

### 18. Training & Sensitization Programme on Sexual Offences and Juvenile Issues:-

On 29<sup>th</sup> May, 2015, DSLSA organized a Training & Sensitization Programme for Prosecuting Officers and Police Officers especially the female SI/IOs at Conference Hall, Tis Hazari Courts, Delhi on the topics of "Sexual Offences" and "Juveniles Issues" in order to ensure the better implementation of the directions/suggestions of the Hon'ble Apex Court issued in case titled as "State of Gujarat Vs. Kisan Bhai". The said programme was also attended by Legal Services Advocates on Session's Panel, Members of CWCs, Newly Empanelled Legal Services Advocates on the panel of JJBs and CWCs. Ld. Member Secretary & Ld. OSD, DSLSA, Ms. Bharti Ali, Co-founder, HAQ and Prof. Ved Kumari, Law Centre-I were the resource persons in this programme.

**19. Observance of Anti-Tobacco Day:-**

- (i) The East, North-East and Shahdara DLSAs in association with CDMO, Department of Health, Govt. of NCT of Delhi jointly organized a programme on 30<sup>th</sup> May, 2015 to observe the "Anti-Tobacco Day" at Common Hall, 1<sup>st</sup> Floor, Karkardooma Courts, Delhi.
- (ii) The North-East and South-West DLSAs in association with Department of Health, Govt. of NCT of Delhi, jointly Government organized a programme at Rahgiri Dwarka on the occasion of Anti-Tabacoo Day on 31st May, 2015. A Nukkad Natak was also played with the help of NGO 'Sahaj Sambhav'.

**20. Observance of World Environment Day:-**

- (i) On 5<sup>th</sup> June, 2015, Ld. Secretaries of DLSAs participated in the Plantation Programme organized at the office of DG (Prisons) and celebrated World Environment Day.
- (ii) On this occasion, the DLSAs also organized 04 awareness programmes at GRCs.
- (iii) The Shahdara DLSA organized an awareness programme for Judges, Lawyers, Staff and General Public in Karkardooma Courts Complex.

**21. Observance of World Day Against Child Labour:-**

On occasion of World Day Against Child Labour on 12<sup>th</sup> June, 2015, the DLSAs organized 09 awareness programmes at GRCs.

The New Delhi DLSA also organized a programme at Jail. The Central DLSA observed the Day in the office of Central DLSA. The East and Shahdara DLSAs jointly organized a programme in association with Chairman, CWC (North-East) and Uthan NGO.

## **22 . Misc. Programmes:-**

- (i) The Shahdara DLSA organized a Free Legal Aid Camp in association with Delhi Tamil Sangthan, Trilokpuri, on 9th May, 2015.
- (ii) Secretary, North-East DLSA attended an awareness programme held for Counsellors of East and North-East District at Udyog Sadan, East Delhi, Nagar Nigam, Patparganj.
- (iii) The East DLSA in association with Centre for Advocacy and Research, Department of Women and Child Development, CAW Cell and Mahila Panchayat organized a Legal Literacy Programme for women on 22<sup>nd</sup> May, 2015.
- (iv) The East and Shahdara DLSAs in association with office of Mayor, Department of Health, jointly organized a programme for counsellors of East Delhi Municipal Corporation on 27<sup>th</sup> May, 2015.
- (v) The North-East DLSA in association with Pranadhar - NGO organized a camp for Self-defence in community at Nav-Adarsh Modal School, Dayalpur, Khajuri Khas, Delhi.

## **23. Steps taken on the Project adopted by DSLSA - "Rehabilitation of Street Children":-**

In continuation of earlier efforts, the North-East DLSA alongwith Delhi Police, Anti Human Trafficking Unit, CWC, District Child Protection Office and NGOs are visiting the identified places, taking the photographs of children, giving counseling and making aware the people from nearby area through interaction and Nukkad Natak. **17 Children who were identified as subject of human trafficking were rescued.**

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*Statistical Information*

**NATIONAL LEGAL SERVICES AUTHORITY**

STATEMENT SHOWING THE NUMBER OF PERSONS BENEFITTED THROUGH  
LEGAL AID AND ADVICE HELD BY STATE LEGAL SERVICES AUTHORITIES UNDER  
LEGAL SERVICES AUTHORITIES ACT, 1987, SINCE INCEPTION (AS ON 30.06.2015).

S.No	State	SC	ST	OBC	Women	Children	Incustody	General	Total
1	Andhra Pradesh	7,181	5,701	9,958	13,126	1,496	10,728	31,327	79,517
2	Arunachal Pradesh	168	1,414	78	369	5	66	1,531	3,630
3	Assam	38,215	28,474	8,286	25,393	1,395	723	1,23,547	2,26,033
4	Bihar	5,051	1,435	8,803	7,165	1,195	1,916	18,462	44,027
5	Chhattisgarh	48,102	57,725	46,688	37,610	7,889	34,960	34,623	2,67,597
6	Goa	77	26	315	2,310	78	3,714	1,720	8,240
7	Gujarat	15,988	8,682	1,490	32,231	576	13,541	44,936	1,17,444
8	Haryana	39,561	105	1,193	11,351	571	39,730	14,664	1,07,175
9	Himachal Pradesh	1,257	179	94	6,581	155	280	5,422	13,968
10	Jammu & Kashmir	1,850	453	1,003	17,733	792	339	12,640	34,810
11	Jharkhand	1,497	2,162	2,741	3,478	399	4,081	3,125	17,483
12	Karnataka	9,180	2,064	19,938	14,597	178	239	88,103	1,34,299
13	Kerala	2,311	567	2,942	16,102	830	21,805	1,60,347	2,04,904
14	Madhya Pradesh	3,15,461	2,69,036	2,26,941	86,882	10,456	60,609	6,80,390	16,49,775
15	Maharashtra	49,694	36,217	23,394	1,00,112	2,303	27,568	37,00,473	39,39,761
16	Manipur	3	23	29	145	15	16	2,363	2,594
17	Meghalaya	334	1,287	66	158	689	985	144	3,663
18	Mizoram	233	32,324	2,524	4,790	534	4,595	6,350	51,350
19	Nagaland	1,128	4,893	2,120	2,041	690	2,312	547	13,731
20	Odisha	32,537	21,961	1,725	36,929	588	4,547	39,433	1,37,720
21	Punjab	10,651	588	4,939	15,457	898	41,402	29,496	1,03,431
22	Rajasthan	19,871	27,925	8,799	17,769	781	23,306	25,336	1,23,787
23	Sikkim	143	532	29	2,335	264	3,380	736	7,419
24	Tamil Nadu	1,98,202	24,277	2,45,510	4,24,510	3,319	34,681	45,74,422	55,04,921
25	Telangana	105	45	51	801	255	694	706	2,657
26	Tripura	642	484	134	5,860	347	2,103	4,158	13,728
27	Uttar Pradesh	7,93,340	1,01,922	6,29,942	3,76,860	1,40,680	16,717	25,45,424	46,04,888
28	Uttarakhand	3,082	1,617	427	3,651	1,842	1,707	18,899	31,225
29	West Bengal	6,497	2,942	2,899	25,415	1,412	16,574	20,729	76,468
30	Andaman and Nicobar Islands	-	-	-	211	-	1,208	404	1,823
31	U.T. Chandigarh	748	10	55	1,423	215	5,945	623	9,019
32	Dadra and Nagar Haveli	-	4	-	411	185	19	992	1,611
33	Daman & Diu	1	2	4	72	120	40	214	453
34	Delhi	6,272	333	368	58,672	8,396	1,16,362	1,03,022	2,93,425
35	Lakshadweep	-	2	-	-	-	1	2	5
36	Puducherry	22,230	36	16,051	21,927	4,538	897	6,454	72,133
37	Supreme Court Legal Services Committee	1,256	252	1,795	2,644	23	6,430	10,156	22,556
<b>TOTAL :</b>		<b>16,32,868</b>	<b>6,35,699</b>	<b>12,71,331</b>	<b>13,77,121</b>	<b>1,94,109</b>	<b>5,04,2201</b>	<b>2, 311,923</b>	<b>1,79,27,271</b>

## Statistical Information

**NATIONAL LEGAL SERVICES AUTHORITY**  
STATEMENT SHOWING THE NUMBER OF LOK ADALATS HELD  
BY STATE LEGAL SERVICES AUTHORITIES UNDER LEGAL SERVICES AUTHORITIES  
ACT 1987 AND CASES SETTLED SINCE INCEPTION (AS ON 30.06.2015).

S. No.	State	No. of Lok Adalats held	No. of MACT Cases Settled	No. of Cases Settled (including MACT Cases)	Compensation Awarded in MACT Cases (in Rs.)
1	Andhra Pradesh	2,07,882	1,39,242	20,48,735	16,04,02,71,021
2	Arunachal Pradesh	641	978	6,157	3,68,76,176
3	Assam	4,207	31,533	419,622	2,72,52,76,427
4	Bihar	27,589	1,35,849	13,76,451	1,15,06,16,418
5	Chhattisgarh	16,949	12,123	55,89,391	2,07,35,70,407
6	Goa	1,041	5,300	15,750	39,04,10,626
7	Gujarat	1,54,114	2,14,850	77,57,073	15,15,88,14,210
8	Haryana	1,13,624	39,914	17,40,440	4,26,24,52,096
9	Himachal Pradesh	9,913	6,503	2,56,306	98,18,74,730
10	Jammu & Kashmir	5,307	11,506	3,41,718	2,58,98,06,849
11	Jharkhand	26,907	5,684	52,47,39	87,64,67,248
12	Karnataka	1,60,538	1,60,438	32,05,937	9,89,09,46,899
13	Kerala	40,232	160,786	536,069	7,80,24,51,062
14	Madhya Pradesh	39,080	2,05,378	1,37,73,027	15,34,29,25,748
15	Maharashtra	42,352	1,06,718	28,09,006	18,25,09,26,101
16	Manipur	104	1,500	5,309	17,70,08,000
17	Meghalaya	208	991	9,699	13,41,12,406
18	Mizoram	1,453	240	2,582	60,94,080
19	Nagaland	296	1,492	4,799	19,81,17,023
20	Odisha	16,050	53,067	48,47,331	4,60,15,81,174
21	Punjab	31,241	18,758	18,85,226	2,05,48,15,083
22	Rajasthan	1,95,396	6,23,297	34,33,890	9,43,45,65,724
23	Sikkim	2,008	169	7,371	91,01,000
24	Tamil Nadu	2,63,361	2,44,854	64,78,677	41,83,96,68,784
25	Telengana	6,314	6,521	2,00,621	1,73,55,48,442
26	Tripura	1,258	7,183	1,01,253	15,07,13,938
27	Uttar Pradesh	48,951	92,066	1,47,36,284	9,54,81,72,908
28	Uttarakhand	1,887	5,161	3,69,521	68,22,04,483
29	West Bengal	23,484	40,956	16,52,427	3,85,64,28,681
30	Andaman and Nicobar Islands	269	38	8,878	78,48,468
31	U.T. Chandigarh	9,013	20,294	672,630	1,68,88,92,323
32	Dadra and Nagar Haveli	25	158	2,308	1,21,47,699
33	Daman & Diu	29	61	2,081	30,99,000
34	Delhi	15,038	23,078	13,03,505	3,85,26,91,732
35	Lakshadweep	319	11	172	4,35,000
36	Puducherry	1,226	9,354	58,063	48,27,20,471
37	SCLSC	8	44	281	-
	<b>TOTAL :</b>	<b>14,68,314</b>	<b>23,86,095</b>	<b>8,09,05,987</b>	<b>1,78,04,96,52,437</b>