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Nyay Disha

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A Quarterly Journal

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SAVE JUDICIARY - SAVE NATION

Briefing by Pravin Patel, Forum's National Convener

Meeting with Chennai Society for Fast Justice on 24-07-2015

Workshop in progress at Puducherry on 25-07-2015

Workshop in progress at Thiruvallur in Tamilnadu on 26-07-2015:

Nyay Disha

Justice In Time - Justice For All

A Quarterly Journal | October 2015

FORUM FOR FAST JUSTICE

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Volume : 1 Issue : 2

INSIDE THIS ISSUE

INVITATION TO SOCIETIES TO SEND PICTORIAL ACTIVITY REPORTS

We give priority to the activities of our Societies For Fast Justice in publishing their reports over articles on judicial reforms.

We wish you to carry out various activities in your cities in lieu of Forum's Aims & Objects and go on sending reports to us on fastjustice@gmail.com with the relevant pictures for publication in January 2016 issue of NYAY DISHA.

With regards.

(Prakash Khatiwala)
Editor.

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FROM THE EDITOR'S DESK

- PRAKASH KHATIWALA

Friends, We are fortunate that this issue of Nyay Disha carries an article by Dr. Justice G. C. Bharuka on the digitization of Indian Judiciary .

Dr. Justice Bharuka for a long time has been displaying a keen interest in judicial reforms and has actively worked towards the improvement in the judicial system through the use of information and communication technology and court management and has done pioneering work in digitization of the Judiciary thanks to his science background. I am also pleased to mention here that Calcutta (why not Kolkatta?) High Court has created a history by video graphing a court proceedings-see the article in this issue.

The apex body of our judiciary SUPREME COURT continues to confound everyone with its controversial statements and deeds. While it ceaselessly professes about controlling the menace of corruption one hand, on the hand it recently acquitted a government official nineteen years after he was booked under the anti corruption statutes. The Supreme Court's justification for the acquittal was that there was no evidence of the official in question having demanded the bribe though the marked money was found on his person. My comment to this miscarriage of justice is oft repeated sentence by the Lallus of the nation “Hame apni nyay vyavsthape vishvas hei”.

This issue also carries an article by young, and vibrant Advocate Ameet Mehta of Mumbai. He very convincingly expounds the benefits of the speedy justice to the legal fraternity. Speedy justice delivery he spells out in no uncertain terms is a ‘win win situation’ for all concerned. While expressing our gratitude to Advocate Mehta for sparing his valuable time in writing the article for Nyay Disha, we also like to say that may his tribe increase leaps and bound.

As usual our ever enthusiastic, dependable and active (rather activist) member Shree Pravin Patel has updated us with his promotional work in the cause of the Forum and providing us with informative articles sourced by him.

Finally our chairman in spite of his advance age has undertaken an arduous journey to USA to promote the Forum’s cause among the highly influential Indian Diaspora which hopefully will extend a helping hand through their generous donations. Kudos to the Chairman Bhagwanjibhai Rayani.

A USA advocate Mansi Shah on Indian Judiciary

Tonight, on 6th October, 2015 I went to a small gathering at Dinesh Uncle and Nayna Auntie's home outside of Chicago, where they hosted Mr. Bhagvanji Raiyani, a 77 year old Indian engineer and businessman who wishes to see India's justice system change to provide quicker, more effective justice.

Currently, India's system is the slowest in the world; he suggested cases last an average 25 years after being filed. After falling victim to the justice system in his own business, he decided to help others navigate the difficult court system. To date he has filed over a hundred public interest cases, where he represents himself and does not hire a trained lawyer. He went on to start an organization called the Forum for Fast Justice (aka Society for Fast Justice; http://www.fastjustice.org/), and is hoping to create a groundswell of support as the organization travels (yatra) through India. His commitment and resolve were stronger than most I had met in my life. I feel lucky to have met him and India is lucky to have him.

His vision, if successful, will truly help position India where it needs to be. Without faster justice and respect for the rule of law, I fear India will never become the super power it is meant to be.

FROM THE CHAIRMAN'S DESK

HAVE YOU EVER HEARD MODIJI SPEAKING ON JUDICIAL REFORMS? NO? THE REASON.....

- BHAGVANJI RAIYANI
Chairman and Managing Trustee,
Forum For Fast Justice

Because 30% of his own party MPs are facing criminal cases in the courts and equal number are liable to be prosecuted but spared as people don't dare to file cases against the powerful MPs. So is the proportion in other Parties' MPs. If the judiciary is fair and fast, these MPs will be in Jail, losing their seats in power. These MPs will never vote for speedy justice delivery system.

While we address our workshops, seminars, conclaves and conventions a question is asked: **WHAT NEXT?**

The question is very relevant in the backdrop of Forum's Nationwide relentless campaign for judicial reforms.

Our historic **NYAY YATRA** crisscrossing the country during January-March 2016 for 35 days is meant for mass awareness of the people to unite for fair and fast justice, accessible to all, rich and poor alike. The justice not only from the courts but also from the governments and institutions, public and private.

This can be possible only if all the stakeholders to the judiciary i.e. judiciary itself, government departments, lawyers, litigants and ancillary staff are counselled and disciplined to work strictly in accordance to the provisions laid down under the relevant laws.

It may require to overhaul and strengthen the system such as antiquated and obsolete laws to be repealed, judges strength to be increased to about 475% as directed in the Supreme Court Judgement in the case of 'All India Judges Association' (2002)4SCC 247, resorting to prebargaining in criminal cases, sending the civil cases to Alternative Disputes Resolution (ADR) or Lok Adalats immediately after they are filed, weeding out frivolous and vexacious cases by imposing heavy costs, filing contempt and perjury proceedings against false evidences and submissions, compensation for restitution to the winning party, restricting adjournments and the time for arguments.

Is it too much for asking? Not at all. Most of these are required to be adhered under the laws. Only the roles of ADR and Lok Adalats are to be widened as suggested.

Difficulty is with the judges and lawyers who are used not to follow the correct procedures and innovative skills for fast disposals of cases.

We, the common man and suffering multitude of litigants don't understand the complexities of laws and unwieldy court procedures. We want simplification of the process leading to the faster disposal of cases.

Do you think judiciary, lawyers fraternity and institutions will see the reason for better productivity as suggested above?

They have to and if they don't?

A List of demands in the form of a resolution passed at the National Convention of Forum immediately after the culmination of NYAY YATRA in March 2016 will be sent to the authorities concerned and if no positive actions are initiated then in that case:

Forum, with its hundred plus Societies spread across the country by next year end will launch a nationwide agitation to put the system in its proper track.

GANDHI 'S EXPECTATIONS FROM OUR JUDICIAL SYSTEM

-CHANDRASHEKHAR S. DHARMADHIKARI
(Gandhian Thinker & Ex-judge of Murnabi High Court)

Introduced in the pre-independence era, the new colonial judicial system was not meant to provide justice to the Indian people. It was introduced just to strengthen the sinews of the British imperial rule. It was such a judicial system which looked at every Indian patriot as traitor and even put them behind bars. In such a situation, the entire judicial system becomes totally unjust and biased. It is also used to protect the vested interests of the people with property and privileges.

Unfortunately, we opted for such an unjust judicial system even in the post independent era. We experienced its seamy side more intensely during the Emergency period when the entire judicial system appeared impotent. It is true that our Constitution did provide for a judicial system which could work free from fear and favors. But most of the political parties and their leaders attempt to use it for the protection and promotion of their political interests. It was for such a reason that Gandhiji had castigated the prevailing judicial system in the following words: "Justice in British Courts is an expensive luxury". There is something sinful in a system under which it is possible for lawyer to earn from fifty thousand to one laldi rupees per month. Now it's the per day.

All laws made by the Parliament and even State Legislatures are mostly drafted in the English language. There is nothing in the existing system to acquaint or familiarize them to those sections of the society for whom these laws are made. Such ignorance of laws on the part of the poor, helps the rich and the powerful in their nefarious game of exploitation and domination. In most of the countries, their own languages are used in their judicial system. India might be the only country in the world where judiciary does not function in people's language and therefore one could not put forward one's plea in his her own language.

This is what Gandhiji has anticipated in Hind Swaraj when he said that the English system might continue even without the Englishmen. But then India would not remain Hindustan but would become "Englistan", he had added. Gandhi had also opined that Hindi should be the working language of the Supreme Court as it is both the national language and the people's language.Regional courts should work through regional languages. He wanted a radical change in the English language dominated judicial system. Even teaching and training in the legal profession should be done through people's language or national language.

Our independence brought a change in the national flag and national song but hardly any change ill the judicial system. There is an urgent need to change it. The present system suffers from three afflictions casteism, corruption and expensiveness.

In earlier times, India had its own judicial system. Whatever was decided by the Panch Parmeshwar (Five Panchas) was taken to be the voice of God. Our present system is of the British origin. Hence decision is always on the basis of majority and minority. Gandhi wanted the present judicial system to be done away with. Vinoba too pleaded for freedom from such unjust judicial system. To that end, the word nyaya (justice) should be replaced by samadhan (solution/satisfaction). In the coming years it should be called samadhan pranali and not nyaya pranali. Today if one party engaged in litigation is happy, the others is unhappy.

In the present system, justice is delivered on the basis of oral evidence, and records. Both could be false and unreliable. There are people or parties who have developed some kind of expertise in this area. In the western countries even the accused do not ordinarily resort to falsehood. But in our country, witnesses, even after taking oath either in the name of God or

that of their religious scriptures, more often than not, resort to lies and falsehood. This is based on my own experience as a judge. Despite all this and ironically enough, our motto continues to be Sazyamevajayare, the truth prevails. Lies spoken in the courtroom does not adversely affect anyone's prestige and self honour. That is why even men of honour and prestige continue to speak lies and produce false documents and evidence in the courtrooms. Sometimes we forget that its impact does not remain confined to only two parties involved in a dispute. Rather it affects the entire society.

Murder, rape and similar other heinous crimes do make their impact on general law and order, peace and happiness of the members of the entire society. For this reason, the judicial system has got to be freed from the closet of the cotulrooms and brought within the purview of the wider society. In the absence of such a participatory judicial system, there would be no solution for the contesting parties in a litigation, what to speak of delivery of true justice. My experience is that a witness might produce false evidence in a courtroom, but could not do so in the people's court. In the presence of the people with whom he has to live for the rest of his life. Therefore, there is an urgent need to organize gram sabhas comprising all adult members of the village community. In old central provinces, along with a gram panchayat there used to be Nyaya Panchayat also. The common people have lot of common sense. Moreover, when justice is delivered in the presence of the entire village population, then justice would be truly delivered. In such a situation the principle of Satyameva Jayate would be proved to the hilt. That is the idea of Panchayati Raj. Without decentralization and wider participation of the community, justice could never be delivered.

Under the present system of administration and justice, in the case of a dispute or clash between two neighbors, police would catch hold of one or both the

disputants and judiciary would punish one of them, who would be found guilty. But the present system does not provide them with an environm ent in which both could live amicably with a deep sense of brotherhood.

Gandhiji sought to spiritualize both the judicial system as well as the legal profession. Hence, a serious attempt should be made towards freedom from the law courts and the present legal system. In this connection the words ofV1noba are worth quoting:

"It is the British who were responsible for the destruction of the Panchayat system for the first time in the Indian history. They greatly succeeded in their attempt as the country was under their tutelage during those days. Villages were also under their control. But even after we got our political independence, the villages continued to suffer from some kind of slavery. Earlier final justice used to be delivered in London, now it is being delivered in Delhi, This is the only difference. The real challenge is to take the power to the villages. What is the symbol of the freedom of the villages? There is none today. Only when no dispute goes beyond the boundary of the village and all of them whatever be their nature, are settled in the presence of the villagers, we can say that the slavery of the villages has ended.

This would be, what I say, the mainstay of future judicial system in the country. In such a system, instead of reprisal of grievances and complaints through legal and judicial system, the primary emphasis would be on love, cooperation and desire to

put an end to all disputes at their very roots. Today our judicial system is not only too expensive, but the entire system is so protracted in terms of time that it fully justifies the saying that 'justice delayed is justice

denied'. It also justifies the saying that 'judgment is delivered, but justice is aborted'. In the two disputants based system, one of them might like to subvert the judicial delivery system through delaying tactics.

Besides, on account of high number of original court cases, it appears that the entire judicial system would collapse under its own weight. Hence, there is gradually developing a parallel system of (in) justice based on money power, muscle power and mafia power. This kind of illegal system is turning out to be most powerful, overshadowing the legally constituted judicial system. What gave a further fillip to the emergence of such system is the indifference and inaction on the part of good people of the country the so-called gentlemen of high gentry. For the common man judiciary is the last pilgrimage for justice. But if he fails to get justice there, he tries to seek some other avenues for justice.

Perhaps that was the reason why Gandhi had said: 'We shall promote arbitration courts and dispense justice, pure, simple, home made swadeshi justice to our countrymen'. Unfortunately, today arbitration system has tumed out to be too expensive.

Courts should turn into service providing centers and not remain just a formal system of judgment delivery. They should be run in the spirit of swadeshi or Indianness. This is the demand of our time. Unfortunately today the common man is just an object of the judicial system and its subject is something else.

The main question is what is the mainstay of the rule of law? power of punishment or the popular will? Or respect for law Is it fair to expect people to obey law only out of fear of the hangman on the earth or yamraj in the heaven. If there would be no feeling of genuine awe and respect for the State made laws then could they be respectfully obeyed? Today law-breakers are more respected than the law-abiders. Not only that, even the hands of law enforcing authorities including the police could not reach up to them, not to speak of catching them.

Ideally, judicial system seeks to establish a social system based on equity, justice and good conduct. Here there is no provision for any kind of reward for abiding by law. That is taken to be normal practice. When I became a judge, mu father, Dada Dharmadhikari, wrote a letter of blessing, wishing me good luck. In that letter he said: 'Today politics and social dealings have become so corrupt that both judiciary and judges are fast losing their social prestige. The God of justice is becoming subservient to the State power. Everyone tries to use his social, political and economic power to put pressure on the judges. But judiciary should never be allowed to become a handmaid of any kind of extraneous power. When a judge does not behave in a heartless and compassionless manner then alone he could act in a neutral and compassionate way. Always remember that a stone is not neutral, it is just hard and devoid of all feelings. The God of justice is compassionate. People should feel his compassion in his neutrality and objectivity. All this leads to one inescapable conclusion: Thfilu is an urgent need to raise a swadeshi judicial system. The need for a fundamental and revolutionary change in the judicial system is widely felt. But no one is sure about the contours of a viable and workable alternative. On the top of it, there seems to be no political will to change the entire system. Hence the present system with all its limitations continues.

A sense of discrimination would have to be maintained while tackling the issue of judicial reforms. Attempts at the reforms of the present judicial system should be done in such a way that its majesty and prestige remains un spoilt. Our democratic system would lose all its meaning, if our judicial system fails to remain fearless, neutral and free from any feeling of malice. Besides, one should not forget that the liberty and dignity of the individuals are primarily protected through the judicial system. Judges and judiciary are described as the "Truth in Action". Saryameva Jayare (truth prevails) is our national motto. Ifand when it becomes an integral part of our everyday life, that would be really an auspicious day. Because Gandhi always underlined the central importance of the 'Golden Rule' of never taking Law into one's hand, which has no exception and is the foundation of rule of law.

Courtesy: Sadbhavana Sadhana, 5th Sepember 2015

'JUDGE, LAWYER OF SAME FAMILY CAN SERVE TOGETHER

Mohit Shah, who recently retired as one of longest-serving chief justices of Bombay HC, discusses key issues - judges' assets, death penalty, reforms - with Sunil Baghel.

WEDNESDAY SEPTEMBER 16 2015

You are the first chief justice since 1978 to complete more than 5 years in the Bombay High Court.

If you want to introduce administrative reforms in state judiciary, you need to have a decent tenure as it takes about six months for a judge to settle down. For the past three decades, we have this practice where the chief justice is from a different state. For a high court like Bombay, a chief justice would need two years to make substantial changes that are acceptable to the bench and the Bar. In certain countries, the CJ does not handle as much judicial work as we do in India. There are various committees to assist a CJ, but ultimately he/she has to shoulder the responsibility for all the decisions and you cannot delegate judicial work to anyone else.

What was the first thing you thought needed to be changed?

Lawyers used to be informed about the cases scheduled for hearing only the previous evening. I thought they should get the information a week in advance so they get enough time to prepare. Now the regular list for the next week is made available on Friday itself. The list of urgent cases still comes out the previous evening, but lawyers are aware of their dates.

You took up a lot of cases suo motu. Any particular cases that you remember?

There was a case of a girl called Roshan Sheikh who was certified as 96 per cent disabled and was denied admission in medical studies. When she told us in the court that she traveled by Mumbai's local trains using prosthetics, it really set us thinking. We told the medical board to assess a person on the basis of "functional disability". Had we stopped at the report of 96 percent disability, nothing would have happened. Learning disability is one such issue.

Another issue was of the gap between the train footboard and platforms. We received maximum appreciation/response from the common people on this issue. It's not very easy for the common man to approach courts or people involved in administration, therefore courts should take up such matters.

You almost took up the Marine Drive LED light issue suo motu.

It is an important part of the city. The authorities concerned themselves said that white LED lights can be replaced with non-white LED lights. We just added a rider in the order that if the yellow LED lights do not provide sufficient illumination on the promenade, then sodium vapour lights should be installed to bring back Marine Drive's glory.

How did you manage your time and what did you do to unwind?

The schedule during the weekdays would be really hectic, so you would get to relax only over the weekend. On most days, you would end up working for about 12 hours. There are many good actors who do theatre in Mumbai, I like watching their plays. You can watch movies in any part of the country, but it's only in Mumbai that I got this opportunity to enjoy theatre.

The first e-court was inaugurated two years ago. It seems e-courts have not taken off as expected.

Currently, four judges in Mumbai are presiding over e-courts. My generation is not so used to computers. I got a computer in my office as a lawyer in 1994. But with new judges, it will keep on improving. I think in about five years' time, e-courts will gather momentum. We are running short of space for court-rooms and storage of documents, so e-filing and e-courts will help in a big way.

What do you think about massive case pendency and high level of vacancy in the judicial system?

In Maharashtra, pendency in district and trial courts has come down from over 41 lakh in June 2010 to under 30 lakh in August 2015. Cases of dishonoured cheques in Mumbai have come down from 3.27 lakh to 57,000.

The sanctioned strength in the high court was recently increased to 94. It was 75 till a few months ago, though the working strength was around 65. We were not allowed to make recommendations for four vacancies on the ground that four judges appointed as CJs of other high courts were still to be treated as Bombay High Court judges. We had recommended five names earlier this year, but they got stuck in the dispute related to the National Judicial Appointments Commission.

Is there a problem in getting good lawyers to join the judiciary as HC judges?

That's true and more so in cities like Mumbai. Let me give an example: There was a lawyer whose name was cleared by us and he too had agreed. But by the time the list reached the Supreme Court, his son had secured admission in a university abroad which would have cost him about Rs 40 lakh annually. So he requested that his

name be withdrawn and we had to agree.

Is there a solution?

It will never be possible to give judges the kind of pay a lawyer can earn. But during the last C]s' conference earlier this year, I had recommended that the way government has been thinking of giving attractive pay packets to heads of public sector banks, lawyers' earnings should also be taken into consideration.

When the Constitution was being framed, the proposed salaries of judges in India were comparable to the judges abroad. But for over three decades, judges' salaries were not revised. In fact, judges of Calcutta and Bombay High Courts were getting more salary before independence than their successors. A book recently released says that before independence, salary of our CJ was more than that of the CJ of the US Supreme Court. The kind pendency we face in the judicial system today is mainly because of vacancies.

What is your view on vacations in thejudicial system?

I feel that vacation is necessary. People don't realise that judges and lawyers work way beyond the court working hours of 11 am to 5 pm. A lot of judges also write judgments during vacations and weekends. And judges normally don't take leave during the regular court working days.

There is a huge debate on abolition of the death penalty. Law Commission has recommended abolishing it in all cases except in the ones related to terrorism.

Death penalty may be necessary in certain cases. A sessions judge can only propose a death sentence, it has to be confirmed by two judges of the high court. There are provisions for an appeal in the Supreme Court, a review petition, a curative petition and finally a mercy plea before the president. So there are a number of safeguards. There is always a debate whether deterrent theory is more effective or the reformative theory, but there is also a preventive theory. That a particular person should be prevented from committing any crime again or where there is no possibility of any improvement, so there's no point in keeping such person in custody for 30-40 years.

There's an old Law Commission recommendation, popularly known as the Uncle Judges theory, that a lawyer related to a judge should not practice in the same court or vice versa.

I don't agree with that perception. In the legal profession, over 50 per cent of people, till recently at least, would join the profession because somebody else in the family is there, whether as a judge or a lawyer. My father too retired as a district judge in 1974 and l joined the profession in 1976. The kind of marks I had, I could have gone for medical studies, but since I had seen my father work, it acted as an inspiration for me. Also, a judge ultimately decides the case on its merits and not by seeing whether a lawyer is related to any other judge or not. People closely related to a judge don't appear before that judge in any case and there is a system of judges recusing from cases. Acceptance of this recommendation can become yet another disincentive for people accepting judgeship.

What are your views on 'cooling off' period for judges taking up assignments immediately after retirement?

I don't think there is any need for a cooling off period for assignments where adjudication is involved, like commissions or tribunals, because that is what judges do even before retirement. But if there is any assignment which has got nothing to do with legal work, cooling off period may be a good idea.

Would you take up an assignment where your experience as a judge doesn't come into play"! There has been speculation that you may be made a state governor.

(Laughs) There is no such proposal before me so far and I am not even inclined to accept any such assignment.

Should judges be made to declare their assets on a website, the way public representalives are required to?

There cannot be a comparison between the two. When people want to decide who they should vote for, they have a right to know about that person. It's not the same for judges. Judges are selected through a different process altogether, they are not seeking votes from the public. And putting information about judges' assets in public domain can be misused.

You have always been at the top in all your endeavours, whether as a student or a chief justice. Any regrets that you could not serve in any other position?

I have no regrets. I am quite happy that I was the chief justice of this premier institution for over five years. The kind of work the CJ of a high court can do, it's not possible to do the same kind of work in any other position. The scope and power under the Article 226 of the Constitution for a high court judge cannot be compared with any other power. The kind of relief and the number of people in farthest parts of the country to whom you can provide relief as a high court judge is unmatchable.

Courtesy : Mumbai Mirror, 16th September 2015.

BRIEF REPORT

WORKSHOPS/GROUP MEETINGS FOR FORMATION OF DISTRICT LEVEL SOCIETIES FOR FAST JUSTICE

held during the period July to September- 2015 In Madhya Pradesh, Tamil Nadu, Pondicherry (UT), Kerala, Karnataka, Hyderabad, Gujarat and Rajasthan

- PRAVIN PATEL
National Convener, Forum for Fast Justice.

I am pleased to inform that during the third quarter of the year 2015, i.e. from July to September 2015, Forum for Fast justice conducted workshops and group meetings at various districts in states (1) Madhya Pradesh, (2) Tamil Nadu, (3) Pondicherry (UT), (4) Kerala, (5) Rajasthan, (6) Gujarat and also at (7) Bangaluru in Karnataka and (8) Hyderabad in Telengana. Besides, two districts of Chhattisgarh. During the course of visit to the states, I also took part in the monthly meeting with Chennai Society for Fast Justice, Kanyakumari Society for Fast Justice, Kochi Society for Fast Justice, Nagpur Society for Fast Justice in which we discussed about Zonal conferences for planning of Nyay Yatra and expanding net work of Society for Fast Justice in more districts. I share the state wise report here under.

1. **Chhattisgarh:** I started my journey from Bilaspur, Chhattisgarh to Madhya Pradesh by car on 4th July, 2015. Workshops were held at 1. Surajpur and 2.Koria district of Chhattisgarh, which are situated on the border of Madhya Pradesh. Both the Society are formed which are now in the process of registration.

2. **Madhya Pradesh:** This was my second visit to M.P. which began on 4th July and ended on 11th July, 2015. I began by having a group meeting at 1. Anuppur and then conducted workshops and meetings at 2. Sahdol, 3. Umaria, 4. Katni, 5. Satna, 6. Jabalpur, 7. Seoni, 8. Chindwara, and 9. Balaghat. At all these districts, formation of Society for Fast Justice is in process. My third visit was of two days which are 26th and 27th August, 2015 on which days, while I was on way to Rajasthan and Gujarat. On 26th August, I had a workshop at Betul and next day at Hosangabad. Both these workshops are also successful where process to form society has already begun. I also met Sri Sharad Kumre at Bhopal with whom I had detailed discussion during which I sought his support to spread out to more districts in Madhya Pradesh. I also shared some of our literature with him. He assured to do the needful. It was already 4 PM and I had to reach Jhalawad in Rajasthan. Condition of road from Bhopal to Rajgarh (which is last district of MP on the border Rajasthan) is so bad that it took over 7 hours to travel about 150 KM stretch. Again on return journey, I had a three hour long meeting with Sri Sharad Kumre who informed that that he is on job and has arranged for formation of Societies for Fast Justice at five districts namely 1. Tikamgarh, 2. Datiya. 3. Singrauli, 4. Vidisha and 5. Sidhi. He has assured to visit few more districts in near future. I also share that Bhopal, Indore and Ujjain are already covered in the third week of January 2015. Thus in all, by September end, we have covered in all 18 districts of M.P. out of total 51 districts, where we hope that Society for Fast Justices will come up in near future.

SOUTHERN STATES VISIT: I had drawn plans to visit Kerala, Tamilnadu, Puduchery (UT), Karnataka and Hyderabad and purchased rail tickets before two months beginning my journey on 21st July by boarding a train to Ernakulam Jn. But all plans were disturbed but got a jolt as the Railway authorities informed by an SMs of the cancelation of the train by which I was to travel in the night to go to Ernakulam, which disturbed all my travel plans. I had no option but to look for alternative arrangement. Ultimately, I could arrange a confirmed accommodation in senior citizen quota in Chennai bound Rajdhani Express that was to leave on 23rd July at 5.30 AM, reaching Chennai at 8.15 P. I had to redraw the travel plan which was subsequently informed to all the concerned persons in their respective areas.

3. **TAMIL NADU:** On 24th July, I took part in the monthly meeting of Chennai Society for Fast Justice held in the evening in which we discussed various matters pertaining to Nyay Yatra and activities of Chennai Society. We also discussed expanding to few more districts. With the help of Dr. Henry Thiagraj, President, Chennai Society for Fast Justice and Dr. Arul Kannan, President, Kanyakumari Society for Fast Justice, I could conduct few workshops and group meetings at Tamilnadu namely 1. Thiruvallur, 2. Madurai, 3. Kanoor, 4. Trichinapally & 5 Namakkal. Except Trichinapally, all other districts are going ahead to form their district level SFFJ. At Trichy, they need some more time to discuss with few more persons and come back to us at a later date. Dr. Henry Thiagraj discussed the matter with few activists at Kanjipurram district and assured us that he will take up the matter with them to form Kanjipurram Society. On 30th July, I left Tiruchirapally by boarding the night train to go to Ernakulum in Kerala.

4. **PUDUCHERRY (UT)** On 25th July, I along with Dr. Henry Thiagraj reached Hotel Surguru, Puducherry where

workshop was organized hosted jointly by Advocate Mr. Vermani and Mr. Selvacoumar. The meeting lasted for over one and half hour and ended on a decision to form Puducherry Society for Fast Justice.

5. **KERALA:** On 31st July, 2015, I reached Ernakulam at 5.30 AM and checked in a hotel located at a walking distance of the office of Mr. Thomas Petah, President of Kochi Society for Fast Justice. On the same day morning to late afternoon, we had a meeting with executive members of Kochi Society for Fast Justice. We discussed about Nyay Yatra and also on formation of societies in all the districts of Kerala. Here during the course of day, they discussed with some persons and we could draw a list of persons in almost all districts of Kerala. I started my visit to the districts on 1st of August, 2015 by visiting 1. Kottayam and 2. Pathanithatta. On 2nd August at 3. Thiruvanthpuram, on 4th August at 4, Thrisur , 5th August at 5. Pallakad, and 6. Trirur in Mallepuram district. Due to acute illness caused due to both diabetes and blood pressure went out of control and was feeling uncomfortable. I had no option but to cancel to go to Kasergode, Kozicode, Kanoor and Waynad districts despite ground work was already done. I was lucky to get a confirmed berth in Second class sleeper coach in senior citizen quota in a train to go to Bangalore where I reached on 5th August.

6. **KARNATAKA:** I reached Bangalore in the morning at about 8 AM on 6th August, 2015, went to the residence of my wife's cousin in R.T.Nagar. They took me to a specialist for checkup and treatment. Next day, I was feeling much better, I talked over phone to few persons mainly Ashok Phillip Mathews, Pradeep Jhanwar and Mrs. Cynthia Stephen for formation of Bangalore Society for Fast Justice. Ashok was to leave for abroad next day, as such was difficult for him. I met both other persons and laid a base for Bangalore Society to form in near future. On 7th August, I went to the residence of Mr. Michel Fernandes, younger brother of veteran trade union leader George Fernandes with whom I discussed about us and our activities and demanding his support. He not only agreed but also stated that he is extremely happy to know our work and words that slipped out of his mouth, "Oh god! We should have met much before!" . This natural utterance from such a senior person shows his seriousness to a great national cause for which Forum and Societies for Fast Justice are working. He has assured to do the best needful to promote our mission. Next day before my departure, in the morning, I had a long meaningful meeting with Mrs. Cynthia Stephen and Mr. Mounesh both of whom are social workers, who have confirmed to do needful by joining the movement in formation of Bangalore Society. I left Bangalore in the afternoon of 8th August for Hyderabad where we had organized a workshop next day.

7. **TELENGANA:** 9th August, 2015: WORKSHOP AT HYDERABAD – TELENGANA I reached Hyderabad at about 7 AM. Sri Balu Akkisa from Andhra Pradesh had already arrived in the morning. He through Sadiq Hussein had organized a workshop where activists from Secundrabad also joined. 85 year old advocate Kadir Jamal was extremely happy with our work. Prof. Dr. Hargopal being pre occupied, assured us of his support. A good team has been prepared both at Hyderabad and Secundrabad which are going in for registration. Sadiq has taken over the responsibility to spread through the remaining districts of Telengana. I left Hyderabad early morning on 11th August for Nagpur, and from there to Bilaspur reaching early morning next day i.e. 12th August, 2015.

8. **RAJASTHAN:** In Rajasthan there are 33 districts and at Gujarat, 26 districts, i.e. 59 districts in all but there is only one society in shape of Jaipur Society for Fast Justice in Rajasthan. As such, on specific advice of our Chairman Sri Bhagvanjibhai Raiyani, I planed to visit both these states to create awareness at few districts including revisiting some of the places where in the past workshops were held in Gujarat.

I reached Jhalawad in Rajasthan at about 10 AM on 28th August where we had a good workshop in the office of Kalu Bhiaya, a leading social activist of the district. Subsequently till 5th September, I successfully conducted meetings at 1. JHALAWAD 2.BARAN 3. KOTA 4. BUNDI 5. CHITTORGARH 6. RAJSAMAND 7. AJMER 8. JODHPUR 9. PALI. 10. SIROHI and 11. UDAIPUR where except Udaipur, in all places we have been successful in having good meetings that has resulted in formation of SFFJ in near future. At Ajmer and Udaipur, concerned persons were not available. We were asked to stay at Udaipur for two more days which I denied and left for Ahmadabad next day in the late morning.

9. **GUJARAT:** I reached Ahmadabad at about 6.30 PM on 5th September. I talked to few persons at Gandhi Nagar who regretted that no meeting is possible since concerned person is out of station. Subsequently, from 6th September to 12th September, 2015, I conducted workshops and meetings at 1. AHMEDABAD 2. PALANPUR 3. EAST KUTCH 4. MORBI 5. RAJKOT 6. JAMNAGAR 7. DWARKA 8. PORBANDAR 9. VERAVAL (SOMNATH-GIR) 10. BHAVNAGA, 11. KHEDA-NADIA 12.GODHRA 13. DAHOD and 14. MAHISAGAR districts where except DWARKA all meetings are successful where SFFJ will be formed soon. I left DAHOD last in Gujarat on late afternoon of 12th September, having night stay at Bhopal on 12th and at BHANDARA on 13th, reaching Bilaspur at 3 PM on 14th September after a successful visit to Rajasthan and Gujarat.

JUDICIAL SUICIDE

- JUSTICE V. M. TARKUNDE

WEDNESDAY the 28th of April 1976 will become known in history as the blackest day in the judicial history of India. On that day the highest tribunal in the land delivered its judgment in what have come to be known as the habeas corpus appeals and held, by a majority of four to one, reversing the decisions of seven High Courts, that whenever the Central Executive proclaims an emergency and suspends the enforcement of the fundamental right guaranteed by article 2.1 of the constitution, no person has any right to judicial protection if his life or personal liberty are taken away by any arbitrary, mala tide and wholly illegal and palpably unjustified executive action.

Since maintenance of the rule of law is the sole function of the judiciary, a declaration by the Supreme Court of its inability to discharge that function in the critical area of executive encroachment on personal liberty can legitimately be described as little short of judicial suicide.

lt was not as if the legal position was such as to leave the Court no alternative but to reach such a totally unjust and undemocratic conclusion. The fact that seven High Courts in the country had taken the opposite view and the further fact that one of the members of the bench, Mr. Justice H. R. Khanna, agreed with them show, to say the least, that two views were possible on the issue which the Supreme Court had to decide. In this situation it was legitimate to expect that the Supreme Court would lean in favour of the rule of law and against executive arbitrariness. In failing to do so, the majority of the bench acted contrary to the conception of justice which has inspired the Indian judiciary from its very inception.

The issue before the Supreme Court was essentially simple. Several persons who are detained under the Maintenance of Internal Security Act, 1971 (the MISA) had filed habeas corpus petitions in different High Courts on the ground that their detention was mala tide, being not justified by the terms of the MISA. It was urged on behalf of the Government that these habeas corpus petitions were not maintainable, because the right to enforce article 21 of the- Constitution had been suspended by a Presidential Order.- Article 21 says that "No person shall be deprived of life or personal liberty except according to procedure established by law". The detenues contended that they were not seeking to enforce the "fundamental right conferred by article 2-1 but were relying on the well-established ruieof law that the executive camiot act to the detriment of any person without the sanction of law. This contention was upheld by seven High 'Courts, whose decisions were challenged by the Government before the Supreme Court. '

The Constitution provides that during the period of a proclamation cf Emergency, the fundamental rights conferred by the article I9 would remain suspended and the President shall have the power of suspending the right to enforce any other fundamental right. it should be clear from the above discussion that the suspension of a fundamental right (or of the right to enforce a fundamental right) results in a corresponding enlargement in the scope on legislative authority, but does not entitle the executive to act to the detriment of any individual without the sanction of law. What the makers of the Constitution obviously intended was that during an Emergency the legislature should be able'to pass laws without observing the limitations arising from fundamental rights, and not that the executive should be able to deprive any individual of life or personal liberty without the least legal justification. In the result the majority in the recent case has involved itself in a curious paradox. On the one hand the majority agrees that even during an Emergency the executive is bound by the rule of law and must act in accordance with every valid piece of legislation, and on the other hand the majority holds that if the executive violates the rule of law and deprives any person of life or personal liberty by a grossly mala fide action, neither the aggrieved party not the judiciary can do anything in the matter. Surely, if two views on the issue before the Court were possible, and we have shown above that they were, it was the duty of the judges to decide in favour of the maintenance of democratic rights and civil liberties, and not in favour of executive absolutism.

Apart from these purely legal considerations, there are

several other reasons, rooted in public interest, which require an early reexamination of the correctness of this decision.

In the first place, this decision is bound to seriously impair and almost totally destroy the independence of the judiciary in the country. During the present Emergency, despite many difficulties, a number of High Court judges had shown remarkable boldness in dealing with arbitrary executive orders. Their attitude was in conformity with the tradition of judicial independence which had been gradually built up and strengthened in our country during a period of more than a hundred years. This tradition is likely to receive a death-blow from the present decision of the Supreme Court. When the highest tribunal in the land, reversing decisions of seven High Courts, makes a deliberate choice in favour of executive absolutism and against the rule of law, it is idle to expect that a judge of a lower tribunal will continue to be critical of executive orders which are illegal, arbitrary or mala tide. It is immaterial in this context that the present decision of the Supreme Court will be operative only during an Emergency and that the present Emergency may or may not last very long. What is material is that any Central Government which has a bare majority in Parliament can proclaim an Emergency and continue it for an indefinite period, and during that period the judiciary will be incompetent to protect any individual if his life or personal liberty is taken away by an arbitrary and unlawful executive action. In such a situation the spirit of judicial independence cannot survive.

Secondly, it is essential that public confidence in the Supreme Court as a citadel of justice and a bulwark of democracy should be-restored. The present decision is bound to damage, if not altogether destroy, that confidence. It is hardly necessary to point out that the present habeas corpus appeals were not concerned with any property rights, nor was the court called upon to pronounce on the validity of any piece 01 legislation. The issue was directly between lawful authority and lawless power, between right and might. A choice in favour of lawless power cannot but damage public confidence in any court of law.

Thirdly, this decision of the Supreme Court has virtually convened the Indian Constitution from- an asset into a liability. Before the present Constitution was promulgated, the rule of law prevailed in the country, and that was so even during the grave emergency in which the country was involved on account of the Second World War. During that period it was never possible for any executive authority to claim the licence of detaining any person without lawful authority. The object of the framers of the Indian Constitution was to improve upon that position and to design an instrument which would strengthen stabilize democracy and the rule oflaw in the country. The present decision of the Supreme Court allows that instrument to be used for the opposite purpose of suspending the rule of law itself- a consummation which was beyond the powers of the executive in the pre Constitution days.

Finally, this Supreme Court decision is bound to have a very harmful effect on public morale during the difficult period-through which the country is now passing. The proclamation of Emergency on 26th June 1975 and the various steps taken to meet the situation created a climate of fear throughout the country. People were afraid to speak out their mind, even in private conversation. Gradually, by the passage of time, the climate of fear began to be dissipated and people began to express their views, although in a halting and cautions manner. This process was aided by the boldness shown by several High Court judges in dealing with various Emergency measures including orders of preventive detention. The present Supreme Court decision has not only dashed the hopes of thousands of starving families whose earning members are under preventive detention, but has made it known to all the people in the country that they will get no judicial protection if for any reason they incur the displeasure of the established authority and are in consequence deprived of their personal liberty.

Thus the Supreme Court decision in the habeas corpus appeals, apart from being legally unsound, is fraught with the greatest harm to our people and our country. -It makes a mockery of the very concept of justice. It is essential that the decision should not be allowed tor long to tarnish the fair name and commendable record of the highest tribunal in the country.

Courtesy: The Radical Humanist, June 1976

DIGITALISATION OF COURTS IN INDIA

(OBJECT, EFFORTS AND ACHIEVEMENTS)

- DR. JUSTICE G.C. BHARUKA

Introduction:

Article 39-A of the Constitution of India provides that the State shall secure that the operation of the legal system promotes justice. It is one of the directive principles contained in Part IV of the Constitution and as such 'fundamental in the governance of the country'. It is no longer debatable that speedy justice is one of the ingredient of Article 21 of the Constitution and, therefore, each litigant has a fundamental right of speedy justice.

Under our Constitution, Judiciary is one of the three pillars of governance. Though it is an integrated system but still for jurisdictional and administrative purposes, under the Constitutional scheme three types of Courts are envisaged, namely, the Supreme Court of India, twenty-fourHigh Courts for the respective states and union territories, and about 15000 subordinate courts with defined jurisdictions which are spread over across the country. These subordinate courts are located at almost 3000 towns. 600 of these towns are district headquarters and the remaining are situated in the talukas or sub districts.

Though we do not have dependable up-to-date data available in public domain, but still based on whatever data is available, there are more than 3 crore cases pending for adjudication in our courts. Some of them are pending even for decades. 90% of these cases are pending in subordinate courts and majority of such cases involve rural masses. It means at least 6 crore families of the country are locked up in litigations of one or the other nature. Persons, who have the experience of working and functional environment of Indian courts, can only visualise the plight of litigants.

History of Judicial Delays and Reform Efforts

The gradual failure of Indian courts to provide timely justice has the distinction of being well identified right from the beginning of the post-independence era. It was discussed and debated in a non-official resolution on 19th Nov., 1954 in the Lok Sabha, which led to the formation of the 1st Law Commission under the chairmanship of Sri M. C. Setalvad, the then Attorney General of India. It submitted its report on 26.05.1958 making extensive recommendations for bringing out the desired reforms. Some of the recommendations were carried out, but the situation did not improve. The National Commission constituted for the review of working of the Constitution, which was headed by Justice M. N. Venkatachaliah, former Chief Justice of India, in its report dated 31st March,2002 observed that, "About half a century of the Constitution at work has tossed up many issues of the working of the judiciary, particularly disturbing has been the chronic and recurrent theme of the near collapse of the judicial trail-system, its delays and mounting costs. The glorious uncertainties of the law have frustrated the aspirations for an equal, predictable and affordable justice."

In 2001, the Supreme Court of India had warned that, "The time is running out for doing something to solve the problem which has already grown into monstrous form. If a citizen is told that once you resort to legal procedure for realization of your urgent needs you have to wait and wait for 23 to 30 years, what else is it if not to inevitably encourage and force him to resort to extra-legal measures for realizing the required relief? A Republic governed by the rule of law cannot afford to compel its citizens to resort to such extra-legal means which are very often contra-legal means with counterproductive results on the maintenance of law and order". Even today the problem, instead of improving, has further glorified with charges of wide spread corruption. The law's delays are showing vital impact on our democratic governance because of various reasons.

The first law Commission of India was of the view that delay results not from the procedure laid down by the Codes of Civil and Criminal Procedures but by reason of non-observance of many of its important provisions particularly those intended to expedite the disposal of proceedings. It was generally agreed that

the provisions of the Code, if properly and rigidly followed, are designed to expedite rather than delay the disposal of cases. The Commission emphatically brushed aside the view which attributed delays mainly to the cumbersome procedure on the ground that one fails to take into account numerous extraneous and personal factors responsible for delays, like inefficient and inexperienced judiciary, insufficient number of judicial officers, incompetent and corrupt ministerial and process-serving agency, the diverse delaying tactics adopted by the litigants and their lawyers, the unmethodical arrangement of work by the presiding judge and the heavy file of arrears.

Efforts for Reform

In order to resolve problem of judicial delays during the last fifty years, the suggestions given by various expert bodies were: (i) certain legislative changes in the procedural and substantive laws (ii) imparting of better training to the judicial officers (iii) effective supervision over the activities of the court staff (iv) increasing court strength by working out an objective policy (v) providing better salary, perks and other facilities to the Judicial Officers and court staff (vi) use of "Alternative Dispute resolution Systems" and (vii) computerization of courts.

Accepting the reports of the expert bodies, the Parliament has, from time to time, made necessary changes in the procedural and substantive laws. Twenty four Judicial Academies including National Judicial Academy at Bhopal have been established for training of the Judges and the court staff. Further, accepting the report of the National Judicial Pay Commission, the Judges and the court staff have been provided higher salaries, perks and other recommended facilities. Apart from this, for promoting ADR, appropriate legislative mechanism has been created. According to the policy framed by the Government, court strength is being increased by 20% every year. In this regard, the Supreme Court is in the process of laying down a policy for determining the required court strength for a particular location.

The Need

It is fundamental that for identification of trends in court performance, the country needs online capturing of basic data of all the courts so that certain standards can be laid down. Such standards can be used for automated evaluation of court performance, planning for future needs, and strategizing new reform efforts, if so required. Basic data can further allow planners to assess relative success rates of different reforms on an objective, rather than purely subjective, basis. Judicial data is also essential for budgetary planning, such as for future increase in the number of courts, judges, staff, and related infrastructure. If budgetary planning is done without the benefit of statistical information, future needs cannot be scientifically worked out. Moreover, it is only the availability of updated judicial data which can enable the management of cases, their flows and case reduction rates, which are the key to timely justice.

Management and Functioning of Subordinate Judiciary

Under Article 235 of the Constitution, the power of control over subordinate courts vests in the respective High Courts. For effective management, supervision and related policy decisions for any institution, availability of the requisite information is the core requirement. Over the time, the age-old manual system of collecting and processing the required management-related information of subordinate courts is becoming increasingly difficult.

It is rather surprising that despite making extensive investments in deploying information and communication technology in courts, the country does not have any centralized online system of collecting and processing the correct and updated data regarding the number of subordinate courts, its human resources, available infrastructure and above all about the details of case pendencies, the workflow and Judge's performances. The High Courts, which have the Constitutional duty of managing the subordinate courts and also themselves, are still continuing with archaic and futile manual system of collecting and analyzing data for taking administrative decisions. Mostly, collection and compilation of data takes unduly long time. Many-a-

time the judicial data are faulty, inaccurate and manipulated. Data so collected being selective in nature, are not even sufficient to formulate policies for developing best practices conforming to domestic need of timely justice.

It would be appropriate to notice here that the present method of collection of data in the Indian judiciary involves manual preparation of weekly, bi-weekly, monthly, quarterly, half-yearly and yearly statements at the level of all the 15000 judicial officers. Thereafter, its compilation, analysis and recording in differently named registers at 640 district court levels, communication of the compiled data to the High Courts, and again entering of such data by the statistical branch of the respective High Courts in voluminous registers is required to be done. Thereafter, with usual delays, these data are made available to the Supreme Court and the Department of Justice in the Ministry of law, Government of India. This archaic system, apart from becoming ritualistic, is consuming enormous valuable resources by way of man power, time, paper, stationary, postage, etc. It also creates unnecessary stress and strain on the judicial officers in pursuing their subordinates to prepare and dispatch the statements in time. The judiciary can overcome this entire futile, outdated, cumbersome and expensive data collection exercise by the process of digitalization and online collection of metadata at source i.e., at the filling counters and the dais of the Presiding Judge. This process will facilitate online availability of all data in the required formats "anywhere, anytime". Once the Judiciary is enabled to do this, it can successfully implement all the core components of judicial excellence including speedy and timely justice.

Studies have shown that at any given point of time, almost 25% percent of courts in the country remain vacant. Further, data as and the expert reports also show that at least 75% of the judicial time is wasted in non-productive exercises like grant of adjournments because of unmethodical listing of cases for a given date. A scientific management and online supervision with the use of cloud technology can surely enhancement of judicial productivity to an appreciably high level.

Unfortunately, benefits of technology could not be fully harnessed for providing timely justice and other related services because of the inapt capacities of the implementing agency in carrying out the policy decisions taken in the e-Courts project. More than one thousand crores provided by the Central and State Governments have been spent in the last two decades, but nothing fruitful in terms of justice acceleration could be achieved. This is evident from the failure of four centrally-funded ICT projects entrusted to them, namely, (1) Computerization District Courts Project, 1997; (2)Computerization of four metro cities, 2002; (3) Computerization of City Courts of State Capitals; and, (4) E- Courts project (First Phase), 2007. In the first three projects, except dumping hardware, nothing else could be done. In the last project, apart from providing hardware, they have hosted district court website with partial dynamic contents. But, these are hardly of any use for either court management or case flow management, which are the core information systems for timely justice. Now proposals have been given for reinventing the wheel. Experience shows that the implementing agency lacks capacity, capability, as also accountability. They are answerable to none for their failures. Art. 311 of the Constitution give them full protection.

The Central Government, particular the Department of Justice, should take note of the fact that now there is no need for repeatedly discovering the causes and solutions for combating the judicial delays . The judicial processes, the delay drivers and the extent of re-engineering required, are all available in documented forms. Change management and ICT training is no more an issue for the Indian subordinate courts. These aspects have already been taken care of in the first phase of the e-courts projects. All the Judicial officers are using laptops and internet facilities which were provided to them in July 2007 under the e-courts project itself. It is time to act with determination to deliver, which, with the resources we have in the country, is quite feasible.

Adoption of Cloud Computing

Looking at the present scenario, the ICT infrastructure and culture in our subordinate courts across the country, I feel that cloud computing is the best technology-based solution for optimizing judicial productivity and formulating policy decisions for combating the judicial delays through automation of various processes and capacity building of the judges. This will be the most cost effective and convenient to use. The reason is that the required hardware has already been provided at all the court locations. The Judges and operational court staff are already using the internet connectivity. In most of the states, internet data cards with arrangement with the private service providers have been given to the judicial officers which can be used both by the judges as also their staff working in the court halls. Because of extensive training given under the e-courts project itself, the judges and the court staff will not have any difficulty in using internet-based user-friendly application (software).One of the important aspect is that in all the 24 High Courts, there are well equipped, air-conditioned computer rooms with qualified maintenance staff and engineers. There are apt provisions for security and back-ups of data. These computer rooms can be upgraded and inter-linked for use as judicial data centres for creating a National Judicial Cloud.

However, in deploying the cloud computing solution, development of a well-defined application based upon the Indian judicial process is most challenging. I believe that though the implementing agency has been, time and again, purchasing and providing the latest hardware in the Indian courts, it has not been able to develop a cloud-based centralised software which would cater to the needs of the entire Indian judiciary and its management. And that is where it has miserably failed the courts as also the litigants of this country more than once over the past two decades.

Under the close and expert supervision of some of the techno-jurists, a core team of computer engineers, after several years of continuous efforts, have been able to successfully develop a web-based ready-to-use, user-friendly application. This application has been developed keeping in mind the various expert reports relating to judicial delays and upon close examination of judicial processes adopted in trial courts. It can easily cater to all the needs of the Indian judiciary for optimizing its performance, providing public services and generating appropriate management-related reports and statements. It has already been successfully beta-tested in real-time environment in over 100 courts. Therefore, no further time is required to be wasted for this purpose.

Conclusion

In my opinion, Judicial reform, with the aid of cloud computing, can very much happen if the Central Government decides to implement it by availing the services of reputed Indian IT companies under well-formulated Service Level Agreements. Central Government as a measure of policy have opted for public-private partnership (PPP) models in several premiere e-governance projects, like passport, company affairs, income tax, railways, civil aviation, banking, etc. The Government can adopt the same model for the judiciary as well.

It will be relevant to state here that "Administration of Justice" falls under Entry 11A of the Concurrent List; therefore the Union has both the legislative as also executive competence to undertake the necessary measures for judicial reforms. It is high time that the Central Government should reappraise the implementation of e-Courts project and take decision to deploy best of the technologies through competent agencies at least the subordinate courts to provide timely justice to millions of poor population. This should be done without loss of any further time. I am sure, if so done, results may start emerging within a couple of months. Otherwise, as our experience unmistakably shows, no amount of funding and its spending through incompetent hands, as is being presently done, will yield any result and "WE THE PEOPLE" will continue to hanker for timely justice.

EFFECTS OF FASTER JUSTICE ON LAWYERS AND LEGAL FRATERNITY

- ADVOCATE AMIT MEHTA

Citizens blame Legal system and legal procedures across India. The biggest issue in minds of citizens are:

a) Delayed Justice b) Cost of Litigation

c) Bureaucratic structures d) Uncertainty in minds over credibility of Judges and Lawyers

It is said "Justice delayed is justice denied". However our study reveals that faster justice has a positive domino effect on the entire cycle of Justice with ensuing benefits to all the stakeholders.

1) **Decreased pendency of cases:** The first and immediate effect of speedy and effective judicial system will be decreased backlog of cases which effectively will reduce the burden of courts thereby creating room for judicial reforms and increasing scope of legislative reforms. This further will result in overall development of the field of litigation as a result of which quality of litigation will become new focal point of judicial system and the legal profession will become a fair game.
2) **Increased faith of citizens in judiciary:** The sorely missing faith of the citizens in the judiciary will get reinforced which will enable them to exercise their constitutional and legal rights without reluctance and create for viable environment for citizens to reach out to a court of law for even smallest of causes thereby increasing overall scope of work for advocates.
3) **More number of lawsuits/cases:** With the overall improvement in terms of speedy and fair judicial system, the number of lawsuits and cases will effectively increase as it will create more room for the same with prompt disposal of cases. The most positively affected areas would be breach of contracts, consumer and class action lawsuits, NI Act matters, property disputes, recovery suits and above all cheque bouncing cases.
4) **Upliftment of legal profession:** The legal profession will experience as overall upliftment as there will be no room for error/delay/inefficiency as the same would be eradicated with adjacent loopholes in the judiciary. Thus, the deserving professionals will get an enhanced output resulting in healthy market of legal services. This would also enhance the credibility of Lawyers across the country and improve their image too.
5) **Increased accuracy:** The accuracy of the legal profession will increase. As the pendency of the proceedings would decrease with quick disposals, the legal professionals will be able to plan the work with great deal of accurately and time based benefits will save a lot of time spent on each matter resulting in increased accuracy and s resources (human, monetary, material) to great extent. And benefits in the form of saving of time, labour and valuable resources such as manpower, money and material.
6) **Lookout towards the profession:** The constructive changes in the judicial system will act as a revolutionary measure as it would change the overall face of the legal system in a developing country like India. People will start looking forward to enter the profession and the academic lookout of the field will drastically change. This will result in intellectuals opting for the profession which will ensure the positive outcomes in the legal profession and the faith of people in the profession itself will increase manifolds.
7) **Deterrent effect:** The fast and effective judicial system will undoubtedly prove as a deterrent to the perpetrators of the crime and will also serve as catalyst in reducing the crimes as the speedy trials will effectively strike the minds of criminals with a fear which is absent today.
8) **Activism:** The awareness among citizens will increase as a result of overall positive effectiveness of the judiciary which will set an avalanche of waves of activism from not only civilian and litigative point of view but also judicial viewpoint.

In conclusion the judicial activism will enhance the functioning and policy decisions of the legislative branch which will also influence the functioning of executive branch and will give a humanitarian finishing touch to the legislative functioning and policy decisions of the country.

जनहित याचिकाओं के जरिए जन मुद्दों को लगातार उठाने की आवश्यकता: प्रशांत भूषण

- न्यायिक ज्वाला, जयपुरके पृष्ठोंसे

नई दिल्ली । स्वराज संवाद अभियान तीन अहम मुद्दों को लेकर देशभर में मुहिम शुरू करेगा । इनमें किसानों के मसले पर जय किसान अभियान, भ्रष्टाचार पर जनहित याचिका के जरिए अंकुश लगाने का आंदोलन करने के साथ सामाजिक सौहार्द के लिए व्यापक जागरूकता कार्यक्रम शामिल होगा । इसके बाद संसद के अगामी सत्र के दौरान संसद मार्च किया जाएगा । इसकी व्यापक रूपरेखा अभियान के राष्ट्रीय कार्यकारिणी की बैठक में तय की जाएगी । ये बातें आम आदमी पार्टी के संस्थापक सदस्य रहे प्रशांत भूषण ने अपने व्याख्यान के दौरान बताई । उनका आप से निकाले जाने के बाद दिल्ली वापसी पर नागरिक समाज संगठनों को ओर से अभिनंदन किया गया ।

इस मौके पर प्रशांत ने कहा कि जनहित याचिकाओं के जरिए जन सरोकारों के मसले उठाने को एक मुहिम में तब्दील करने की दरकार है । ऐसे वकीलों की जमात खडी करनी होगी जो जनहित के मसले में याचिका दायर कर समाज के वंचित व हाशिए के लोगों के हितों की लडाई लडे । प्रशांत ने कहा कि यह बेहद दुखद भी है कि जहाँ न्यायपालिका को व्यापक अधिकार मिले हैं, वहीं इसमें निरंकुशता भी देखने को मिलती है । जनहित के ऐसे मामले जहाँ किसी बडे पूंजीपति के हित प्रभावित होते हों वहां अदालतें अक्सर चुपी साध लेती हैं । मसलन रिज वाले मामले में झुग्गियां हटाने के लिए तो अदालत नो फौरन आदेश कर दिया लेकिन जब उसी रिज में बाद में माल बनने लगे तब अदालत ने कहा कि वे बन सकते हैं । इसी तरह कई बार अदालतें आदेश तो अच्छे दे देती हैं पर उन पर अमल करवाने में कुछ खास नहीं कर पातीं ।

प्रशांत भूषण ने अदालती के गलत फैसलों पर आवाज बुलन्द करने की वकालत करते हुए कहा कि कई बार वकील गलत को गलत कहने से डरते हैं कि जज उनके मामलों में उल्टा फैसला दे देंगे या नाराज होकर मामला लटका देंगे जबकि हमेशा ऐसा नहीं होता है कई बार गलत का विरोध होने से गलत करनेवाले जज डरते भी हैं । वे गलत फैसला देने से बचते हैं । उन्होंने बताया कि सरदार सरोवर बांध का मसला हो या फिर कोई दूसरी लडाई, जनहित के मामले में लम्बी लडाई में हर बार जीत नहीं होती । उन्होंने कहा कि सभी वकीलों को चाहिए कि वे अपनी आजीविका के लिए जरूरी अर्जन के साथ कुछ मामले जनहित के भी उठाऍं । आज जनहित के मामलों का दायरा बढा है ।

उन्होने बताया कि स्वराज संवाद अभियान के राष्ट्रीय संयोजक प्रो. आनंद कुमार ने बताया कि अभियान के तीन अहम मुद्दों पर देश भर में अलख जगाने का फैसला किया है । अभियान की २९ सदस्यों वाली राष्ट्रीय कार्यकारिणी की बैठक में जय किसान अभियान की व्यापक रूपरेखा तय की जाएगी । इसमें दो महीने में करीब छह हपते गांव-गांव तक जाकर किसानों की मुश्किलों, खेती की चुनौतियों और समाधान के उपायों पर बात की जाएगी । साथ ही अमन समिति के जरिए सांप्रदायिक सद्भाव के लिए काम किया जाएगा । उन्होंने कहा कि वैकल्पिक राजनीति के लिए जोखिम उठाने वाले अच्छे लोगों का महामंच बनाया जाएगा ।

तीसरी बार भूमि अधिग्रहन अध्यादेश जारी किए जाने के केन्द्र सरकार के फैसले को संवैधानिक ढांचे की खुली अवहेलना करार देते हुए संवाद अभियान के प्रमुख योगेन्द्र यादव ने कहा कि अध्यादेश किसी आपातकाल जैसी सूरत में लाया जाता है । वह भी जब कि दो सत्रों के बीच कोई अहम फैसला होना हो तब । यह तो मोदी सरकार की मनमानी है कि चुनी हुई संसद की इतनी बडी अनदेखी की जा रही है । अगर अध्यादेश के चाबुक से ही देश को हांकना है तो फिर लोकतांत्रिक ढैंचे की क्या दरकार है । इस मौके पर आप विधायक पंकज पुष्कर, विजय प्रताप, सुनीलम, प्रो. हरीश खन्ना, जयवीर पवार, राजवीर, प्रो. अनिल मौजूद थे । कार्यक्रम की अगुआई डूटा अध्यक्ष नंदिता नारायण ने की ।

- न्यायिक ज्वाला, जयपुरके पृष्ठोंसे

१० वर्षों में १३०३ को मृत्युदंड सुनाया, फांसी महज ३ को

नई दिल्ली । मुम्बई बम विस्फोट मामले में याकूब मेमन को दी गई मौत की सजा को लेकर जहाँ देशभर में चर्चा है, वहीं राष्ट्रीय अपराध रिकॉर्ड ब्यूरो (एनसीआरबी) की रपट कहती है कि गत १० सालों (२००४-२०१३) में देशभर में १,३०३ लोगों को मौत की सजा सुनाई गई है । लेकिन इसमें से मात्र तीन का ही गत १० सालों में फाँसी दी गई । १४ अगस्त, २००४ को पश्चिम बंगाल के अलीपुर केन्द्रीय कारागार में धनंजय चटर्जी को उसके ४२ वें जन्मदिन पर फाँसी दी गई थी । उस पर एक किशोरी के साथ दुष्कर्म और उसकी हत्या का आरोप था । २१ नवम्बर, २०१२ को मुहम्मद अजमल आमिर कसाब को फाँसी दी गई, जो २००८ के मुम्बई आतंकी हमले में शामिल एकमात्र जीवित आतंकवादी था । उसे पुणे के यरवदा जेल में फाँसी दी गई थी । ९ फरवरी, २०१३ को मुहम्मद अफजल गुरु को फाँसी दी गई, जो २००१ के संसद हमले का दोषी था । उसे दिल्ली के तिहाड जेल में फाँसी दी गई । २००४ से लेकर २०१२ तक हालांकि देश में किसी को भी फाँसी नहीं दी गई । गत १० सालों में ३,७५१ फाँसी की सजा को आजीवन कारावास में बदला गया । याकूब मेमन को उसके ५३ वें वर्ष पूर्ण करने के दिन ३० जुलाई, २०१५ को फांसी दी गई है । सोशल मीडिया पर मौत की सजा पर जारी बहस में कुछ निराधार आंकडे भी दिए जा रहे हैं ।

धीमे जहर की तरह होती है उम्रकैद

जघन्य अपराध में उम्रकैद काट रहे अपराधियों को भी माफी देकर रिहा करने का अधिकार मांग रही तमिलनाडु सरकार से सुप्रीम कोर्ट ने पीडितों के पक्ष पर भी विचार करने की नसीहत दी । राज्य के वकील राकेश द्विवेदी ने कहा कि उम्रकैदियों में रिहाई की कोई उम्मीद नहीं होगी तो उनमें सुधार आने की संभावना नहीं होगी । हो सकता है कि वे जेल में भी अपराध की ओर अग्रसर रहें । राजीव गांधी के हत्यारों की रिहाई का हक माँग रही राज्य सरकार से पीठ ने कहा कि उन्हें पीडितों का पक्ष भी देखना चाहिए । कोर्ट ने कहा कि जीवनपर्यंत कैद का दंड इसलिए दिया जाता है ताकि पता चले कि अपराध कितना गंभीर था । इस पर द्विवेदी ने कहा कि फिर कोई फाँसी ही क्यों नहीं दे देता । इस पर मुख्य न्यायाधीश की टिप्पणी थी कि फाँसी हो जाने से बात खत्म हो जाती है लोग भूल जाते हैं । लेकिन, कोई जीवन भर जेल में रहता है तो उसे अपने अपराध के लिए धीमे जहर के समान है । अगर किसी जघन्य अपराध में कोर्ट जीवनपर्यंत कैद देता है और सरकार उसे माफी देकर रिहा कर देती है तो पीडित पर क्या असर होगा । अगर ऐसी स्थिति में पीडित रिहाई के खिलाफ फिर कोर्ट आ जाए तो क्या होगा ।

50% fast-track courts in state don't function

Over 50% of the fast track courts that were to deliver swift and timely justice in state are not functioning. The information was made available to RTI applicant, Anil Galgali.

The activist had sought to know the total number of fast- track courts and how many of them were functioning. In the reply, Maharashtra stood poorly with over 50% of them not functioning. It is the state with the second highest number of approved fast-track courts after Uttar Pradesh, which has 242 approved courts as per 2000.

Out of the 187 approved fast-tract courts in Maharashstra, as on June 2014, only 92 were functioning. This is just about 49% percent of the approved number of fast-track courts. The figure in India was almost the same. As per the information provided, of the 1,734 courts approved in 2000, only 815 were functioning. It means 53% of these courts were not functioning. Bihar, which has the third highest number of approved courts, fared better than Maharashtra. Of the 183 courts approved for Bihar, 179 were functioning as per information made available till March 2011.

Gujarat too fared badly. Of the 166 approved, only 61, or 37 %, were functioning. Other states where a large number of fast-track courts were

functioning included Madhya Pradesh (84), West Bengal (77) and Andhra Pradesh (72). Delhi, Kerala and Andhra Pradesh were the only states that saw the number of courts increase from the original approved in 2000.

"The information provided shows that the state governments and the judiciary are not taking interest. The PM should call a meeting of chief ministers and chief secretaries on this," said Galgali.

Courtesy: DNA, 16th September 2015

ZONAL CONFERENCES WITH FOCUS ON NYAY YATRA

Forum for Fast Justice is going to take to the streets of country in shape of Nyay Yatra (Journey for Justice) in two motorcades traveling over 14000 KM all over the country. This will be flagged off from Rajghat, New Delhi on 30th January, 2016. The Yatra will converge in to a rally at Jantar Mantar, New Delhi on 4th March, 2015. Followed by Natcon 2016

Forum for Fast Justice has drawn Zonal Conferences with focus on preparations for Nyay Yatra - March for Justice. At these Zonal conferences with Societies for Fast Justice that are already formed in many states of India, their valuable suggestions and inputs received which will be the basis for deciding route chart of the Nyay Yatra, contents of leaflets to be distributed during Yatra, banners, slogans and other requirements in order to prepare a final frame work of the Nyay Yatra.

The consultation program is going to be held in five different dates zone wise, which is scheduled to be held as detailed below. Also given are contact details of the key person in charge in respective zones.

1. **EAST ZONE At Rourkela, Odisha**

   Day and Date: Saturday, 31st October, 2015

   Venue: Pantha-Niwas, Sector-5, Rourkela, Odisha

   Co-host: Sundergarh Society for Fast Justice

   Contact person: Mr. Bidyanath Mishra, President Sundergarh Society for Fast Justice

   Cell: 09437083025

   Email: paschimanchala@rediffmail.com

   Participating states: 1. Odisha. 2. Chhattisgarh 3. Jharkhand 4. W.Bengal 5. Manipur

2. **WEST ZONE At Sevagram, Near Wardha, Maharastra.**

   Day and Date: Saturday, 21st November, 2015

   Venue: Yatri-Niwas, Opp: Ganhiji's Ashram, Sevagarm, Near Wardha, Maharastra.

   Co-host: Society for Fast Justice - Wardha

   Contact persons:

   (1) Mr. Vijay Rathi, President, SFFJ- Wardha;

   Cell: 9604246133 Email:. vijayrathi137@gmail.com

   (2) Mr. Anmol Tembhurne, Coordinator for SFFJ in Maharastra.

   Cell: 094221 03926 Email: nhrrda@rediffmail.com

   Participating states: 1. Maharashtra. 2. Gujarat 3. Madhya Pradesh 4. Goa

3. **SOUTH ZONE Consultation at HYDERABAD, TELENGANA.**

   Day and Date: Saturday, 28th November, 2015

   Venue: Country Club, Begumpet, Hyderabad, Telengana.

   Co-host: Hyderabad Society for Fast Justice

   Contact persons:

   (1) Mr. Mohd. Sadiq Hussain, Coordinator for SFFJ in Telengana

   Cell: 096422 96016 Email ID: sadik.hussain@gmail.com

   (2) Mr. Balu Akkisa Coordinator for SFFJ in Andhra Pradesh.

   Cell: 9491251999 Email ID: baluakkisa@gmail.com

   Participating states: 1. Telengana. 2. Andhra Pradesh. 3. Tamilnadu. 4. Puducherry (UT)5. Kerala. 6. Karnataka.

4. **NORTH ZONE (i) First Consultation at AMRITSAR, PUNJAB.**

   Day and Date: SUNDAY – 6th December, 2015

   Venue: BACHAT BHAVAN, AMRITSAR, PUNJAB.

   Co-host: Amritsar Society for Fast Justice

   Contact person: Mr. Prabodh C. Bali. Co-Ordinator. SFFJ- Amritsar

   Cell: 094170 10035 Email: parbodhcbali@gmail.com

   Participating states: 1. Punjab. 2. Haryana. 3. NCR Delhi. 4. Rajasthan 5. Himahchal Pradesh 6. Chandigarh (UT) 7. Jammu & Kashmir

5. **NORTH ZONE (ii) Second Consultation at Kanpur, Uttar Pradesh.**

   Day and Date: SUNDAY – 13th December, 2015

   Venue: "Directors Conference hall", Kanpur, Uttar Pradesh

   Co-host: Kanpur Society for Fast Justice

   Contact person: Mr. Capt. Suresh C. Tripathi. SFFJ- Kanpur
   Cell No: 093361 71448 / 99193 37337

   Email ID: sc020141@gmail.com

   Participating states: 1. Uttar Pradesh. 2. Uttarakhand 3. Bihar and 4. Adjoining districts of Madhya Pradesh

In case of any difficulty, please contact :

Pravin Patel,

National Convener, Forum for Fast Justice

Cell No. 098271 58588 (Reliance) / 09479229245 (BSNL) / 083490 31300 (Airtel)

Workshop for setting up Societies

Group photo of members of Vijaywada Society for Fast Justice after the seminar that was held on 12 JUL 2015.

Seminar on Judicial Reforms organized by Vijaywada Society for Fast Justice on 12th July, 2015

Flag hosting on 15th August orgainsed by Wardha Society for Fast Justice on their First Establishment day.

First Establishment day celebrated on 15th August, 2015 by Wardha Society for Fast Justice at their office

Workshop at Betul, Madhya Pradesh on 26th August, 2015. In the centre is Prof. Dr. M. P. Agarwal, next to him on right is Sri Inderchand Jain. At extreme left is Sri Anirudha Guru.

Workshop at Gandhidham, East Kutch on 7th September, 2015.

Bhagvanji Raiyani, Forum Chairman - touring USA (09.09.2015 to 08.10.2015) for Promotion of Judicial Reforms in India

Meeting at Houston on 29-09-2015

Houston

Houston

Meeting at Atlanta on 26-09-2015

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