VISUALISATION OF SUBORDINATE COURTS IN 2025*

(Justice R.Banumathi, Judge, High Court, Madras)

"The future is not some place we are going to,
but one we are creating.
The paths are not to be found but made,
and the activity of making them changes
both the maker and the destination".

There are about **30 – 40 millions of cases are pending** in Sub-ordinate Courts and High Courts. **The major challenges facing Indian Judiciary are :-**

- Eliminating arrears;
- Ensuring timely disposal of cases;
- Ensuring availability of adequate capacity and infrastructure;
- Quality and responsiveness of justice;

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*Paper presented by **Justice R.Banumathi, as a Resource Person** in the National Judicial Academy, Bhopal, in the Orientation Programme for the Newly Appointed Additional District Judges (14th to 18th November 2008).

- Safeguarding and enhancing access to justice.

Let me ask a question. **Whether we have developed the capacity for stating a desired vision ?** Are we developing realistic plans to bridge the gap between the present and the preferred future.

To quote ***Prof. N.R.Madhavan Menon*** **"among the three branches of Government, it is only the judiciary which seems to have no set goals or planning to achieve whatever the targets in its assigned functions"**.

Every system has certain limits of performance based on the capacity of its components. **Too many of overload tends to result in mediocre performance, quality deterioration, system break down and ultimate collapse.**

Periodical review and maintenance research and development are seldom employed in the judicial system. Within the Court system hardly there is any mechanism along with data for analysis, debate & action.

Though challenges facing Subordinate Judiciary are very many in the short time given to me, I shall try to highlight

certain aspects to reduce the delay and Court congestion by characterising them in three basic general models of remedies.

There are three basic general models of remedies to reduce the delay and Court congestion:-

- Making use of existing Court resources more efficient.
- Expanding Court resources to accommodate increasing demands for judicial services like increasing the capacity of Courts (Judges, Staff Facilities and Services).
- Reducing the demand for Court services and resources – **ADR Techniques**.

EXPANDING COURT RESOURCES.

JUDICIAL ADMINISTRATION – INFRASTRUCTURE:-

Under Art. 235, High Court has control over the Sub-ordinate Courts. Administration of justice; Constitution and Organisation of all Courts, except the Supreme Court and High Courts was originally included in the State List. By the

Constitution (Forty Second Amendment) Act, 1976, it has been brought to the Concurrent List. Entry 11A of the Concurrent List of 1993-94 reads:

> **"11A. Administration of justice; Constitution and Organisation of all Courts, except the Supreme Court and High Courts".**

The Central Government has included the infrastructure of Courts as **"Planned Item"** to enable them to provide half of the expenditure required for the purpose and the States sharing the other half of the expenditure. Now, the Central Government is required to provide half of the expenditure.

Though, infrastructure of the Court has been made a **"Planned Item"** in the Budget, it has not worked satisfactorily. Excepting few States, sufficient funds are not provided in most of the States (Of course in State of T.N. in the year 2008-09 Government had been very generous, Rs.300 Crores have been allotted for construction of Buildings and Infrastructure of Courts). Excepting few States, the Courts in most of the States

do not have adequate buildings, sufficient chambers, Court-rooms and rooms for registry purpose, waiting space, lawyers chambers etc. Even the existing buildings are not properly maintained. By and large, State Governments are reluctant to part with money for infrastructure of Courts, barring one or two States.

FUTURE IS WHAT WE STRIVE:-

- Over years, the infrastructure of Courts would be improved and Quarters for Judicial Officers would be provided.
- New Court buildings are constructed. Wherever fund is necessary, the State Government and Central Government to provide sufficient funds for construction of buildings and to provide infrastructure.
- As District Judges you have greater responsibility to work in accomplishing sufficient infrastructure of Courts and additional Court buildings.
- Whenever you take charge as a District Judge in a

particular District, study the situation carefully.

- Wherever Courts are functioning in rented buildings in co-ordination with Revenue Department and Bar members, you need to identify the land for construction of Court buildings.

- Wherever there are huge pendencies, particularly in Magistrate Court and District Munsif Court and Sub-ordinate Courts, make proposal for creation of additional Courts.
- Insofar as infrastructure, prepare a consolidated report and always keep the same with you and try to get the work done by one on priority basis.
- Once we start the initiative, you would see favourable circumstances.

NEED FOR INCREASING STRENGTH:-

- There is need for increasing the strength of Judges.

- In proportion to India's population Judges strength at the Subordinate level plus High Court level is absymally low.
- **Judges to population ratio :** 10.5 Judges for every 10 lakh people in India.

COMPUTERISATION OF COURTS:-

With the advent of Information Technology, a new era has started in the lifestyle of mankind.

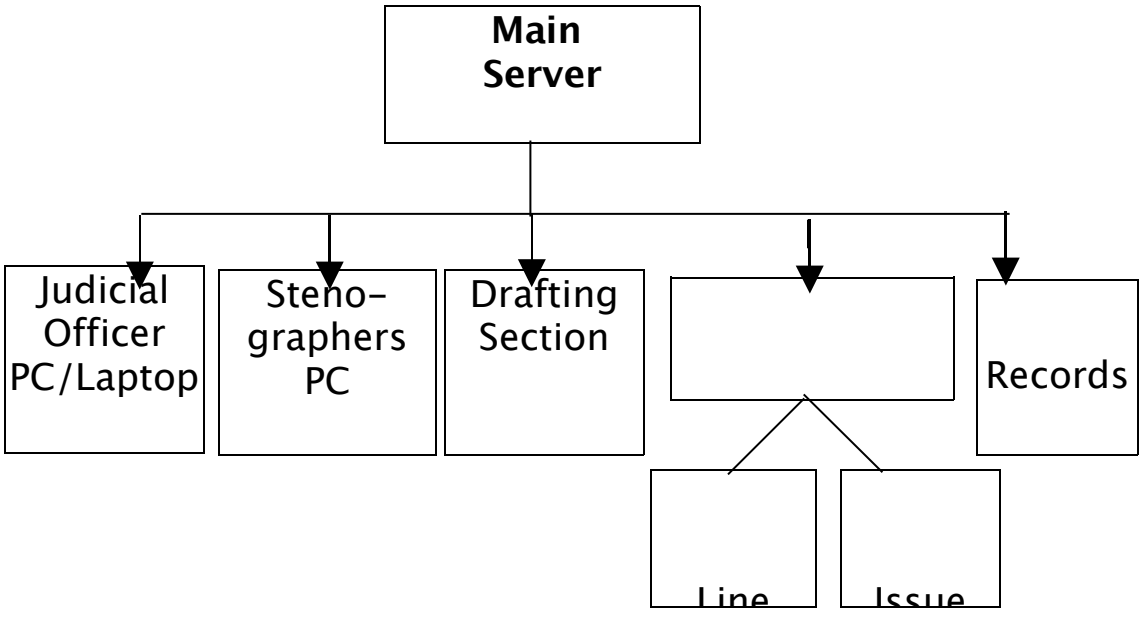
The Information Technology would be of immense help in rejuvenating the Judiciary.

There has already been a fair amount of computerisation in the Supreme Court, High Courts, Metro Courts and the large capital City Courts; but the Courts in the rest of the country are yet to be computerised. Barring few States (like Karnataka, Maharashtra, Delhi Union Territory and Gujarat). Most of the other States Sub-ordinate Judiciary are yet to be computerised. This has certainly been one of the hindrances in ensuring efficient Case Management and Court Management in handling of the large backlog of cases. The core area in the Judiciary is

the Subordinate Courts.I foresee the mission for computerisation of Courts to improve the efficiency in administration of justice and access to information. I foresee computerisation of all Courts in India and creation of a completely automated system of Case and Court Management in every Court complex and create a National Judicial Data Grid that connects all the Courts, right from the Apex Court to the lowest Court in the Country.

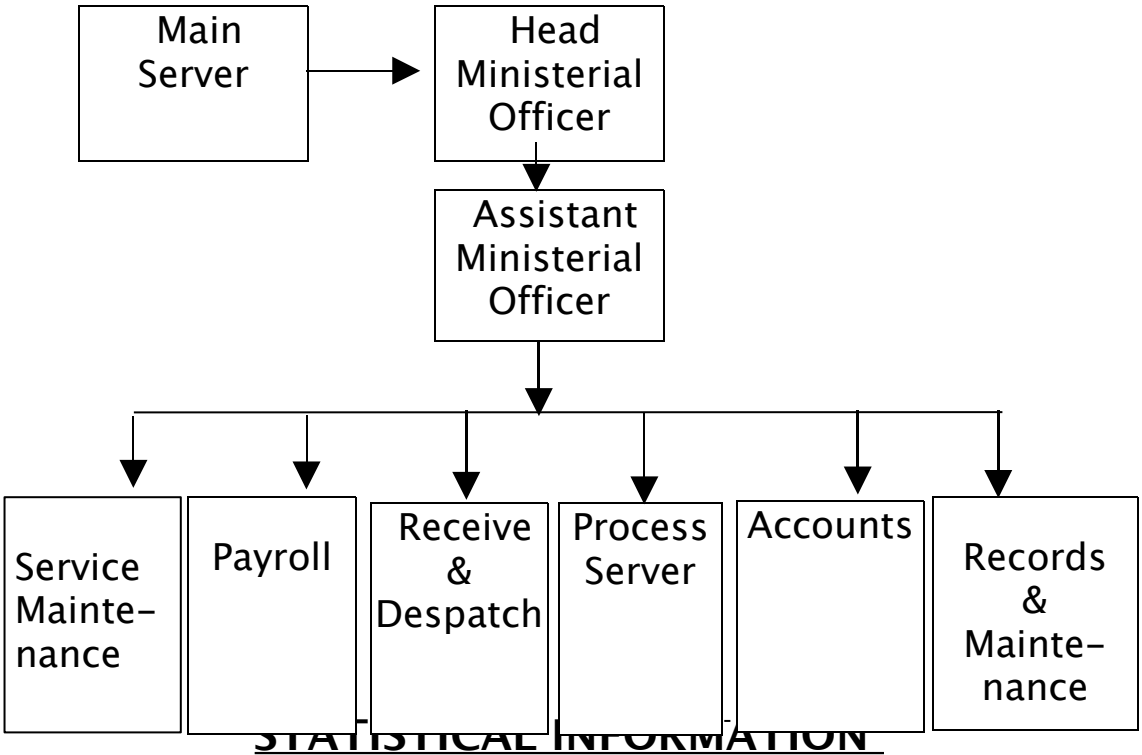
I am sure that you would have already heard a lot about the computerisation of Subordinate Courts. I would briefly indicate the areas where use of computers would be of immense help to improve efficiency in Court administration.

JUDICIAL WORK



COURT MANAGEMENT

Administrative Side



STATISTICAL INFORMATION

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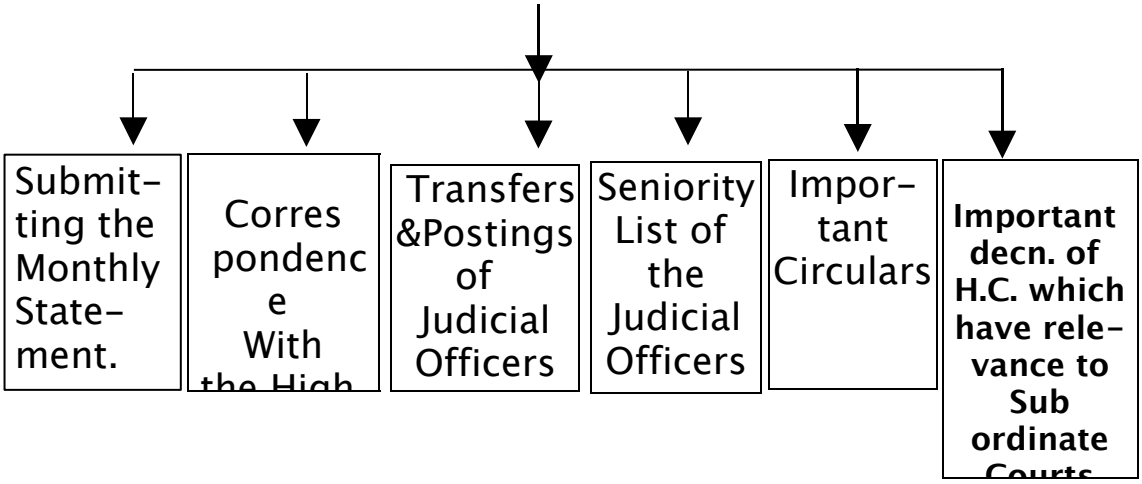
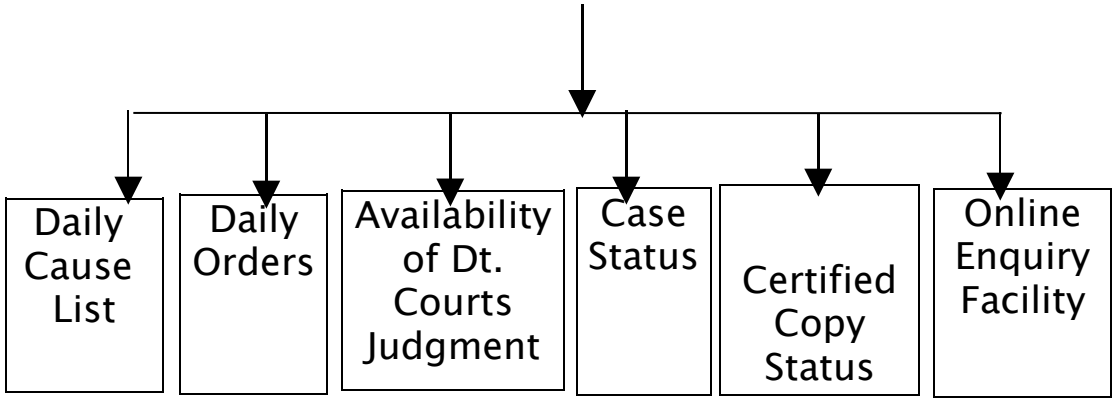
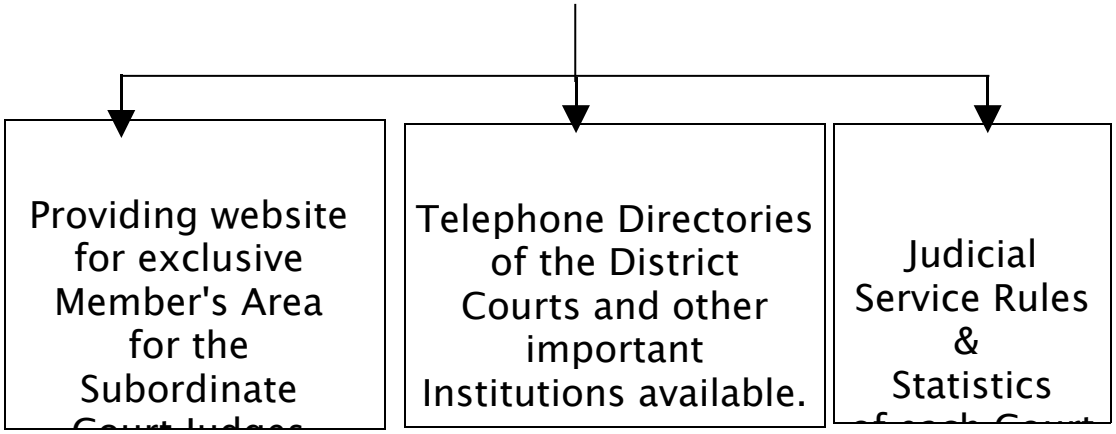
CONNECTIVITY WITH HIGH COURT



DISTRICT COURT WEBSITE



MEMBERS' AREA



VIDEO CONFERENCING:-

In Criminal trial cases, it is our experience that many times the cases get adjourned for non-production of under-trial prisoners especially for want of police escort or there are chances of the under-trial prisoners escaping either during the transport or from the Court premises, at times, they are being

attacked by rival people/gang. By deployment of Video-conferencing facility, one unit at Court and another in jail where the under-trial prisoners are housed would greatly solve the problem. Video-conferencing is also used for remand extension, which at present being done in the State of Tamilnadu. Over the years this can be used during trial for examining the witnesses at a distant place.

e-FILING:

- To allow the lawyers and litigants to file Civil Cases in electronic form, which would save time and paper

INTERACTIVE VOICE RESPONSE SYSTEM:-

- To provide instant information to lawyers and litigants by providing dedicated telephone numbers for enquiry.
- Direct connectivity with Police, Hospitals and Jails.

TECHNOLOGICAL ADVANCES IN THE COURT

ROOM:-

- The entire Court proceedings covered with Audio Recording System.
- Judge dictates the order to the Computer in the Open Court and the order copy being delivered then and there in the Court.

INFORMATION TECHNOLOGY:-

The Information Technology would be of immense help in rejuvenating the judiciary. The use of IT by itself cannot result in infusing life in the justice system because ultimately, it can only supplement the human efforts. There has to be a change of attitude primarily in the Judges to avail the technological benefits and increase the judicial output. I visualise an environment being created to infuse mobility in the mindset of the Presiding Judges and the Staff Members.

NEED FOR TRAINING THE STAFF:-

Staff members do form integral part of Subordinate

Judiciary. There is no systematic training in the Subordinate Judiciary. Andhra Pradesh State Judicial Academy imparts systematic training to the staff members. In the State of Tamil Nadu and some other States sporadic trainings are imparted. For the system to be efficient, systematic training of staff members is very much essential. As District Judges, you yourselves can well organise such trainings within your Districts using the services of Judicial Officers within your District, Head Ministerial Officer, retired staff etc. By imparting inservice training and continuous learning, the staff members are motivated and we take them along in the judicial reform we foresee.

What are all the **characteristics of the Subordinate Courts.** Where does all our time and energy go ?

- Senseless routinisation;
- Wasting precious judicial time in calling cases only to know Batta not paid, Written Statement or Counter not filed or adjourning the cases for framing of Issues etc.;

- Repeated adjournments on silly grounds;
- Extended call hours;
- Total confusion with too many cases;
- Number of interlocutory applications;
- Lack of punctuality and unpreparedness on the part of Lawyers;

For any management to succeed efficient in-house implementation and monitoring are required. But what is the actual state of affairs in the judicial system. Judges spend most of their time in the judicial work. Judicial work itself demands his or her attention. Hardly, there is any time for judicial management. Management of judicial system is in a very bad shape.

There is no internal agency of change within the system, which I think is one of the significant difficulties. In the short time given to me, I would like to highlight certain aspects which in my view would give a future orientation making each one of us to take strategic planning initiatives.

MAKING USE OF EXISTING COURT RESOURCES MORE

EFFICIENT:-

Entrustment to trained Administrators. Courts are very big Administrative Organisations which call for professional management. Therefore, trained and professional Administrators should be used to run the Courts under supervision of Chief Justice/District Judges/Subordinate Judges.

COURTS ADMINISTRATION:-

In the area of **Filing,** what we find is Gross of abuse of Sec.9 C.P.C. Even if the Civil Suits are expressly barred under the Statute like SARFAESI Act and Co-operative Societies Act etc., still civil suits are filed.

- Routine admissions – adds to the arrears.
- No proper management in listing the cases and resultantly Courts are often overloaded or at times no work. The reason being no proper management;
- No preparative work being done before the matters listed before the Court;

- Delay in delivery of copies;
- Maintenance of records and handling of papers in criminal cases.

Once the Court's administration is placed in-charge of trained Administrators, efficiency can be achieved by improving of Court's Administration.

EFFECTIVE USE OF COURTS TIME:-

Most of the Courts time is wasted in calling work. To quote ***Shimon Shetreet,*** Professor of Law Hebrew University – ***"Court should be viewed as a operating room where Surgeon arrives when everything is ready for operation"***. All the preliminary work must be completed before the case goes to trial. Judges should not be engaged in work that can be performed by Court staff or by other Officers such as Masters or Registrars.

In ***Salem Advocate Bar Association, Tamil Nadu -Vs- Union of India ((2003) 1 SCC 49)***, Their Lordships of the Supreme Court, for the purpose of quicker dispensation of justice, constituted a Committee headed by Honourable

Mr.Justice M.Jagannadha Rao, former Judge of the Supreme Court and Chairman, Law Commission of India. Having considered the report submitted by the Committee, the Supreme Court on August 2, 2005 directed the High Courts to finalise the Rules for the purpose of dispensation of meaningful administration of justice to the litigating public. Pursuant to the directions of the Honourable Supreme Court and in the light of the report of the Honourable Committee, the High Court of Madras has framed **The Tamil Nadu (Case Flow Management in Subordinate Courts) Rules, 2007**.

Cases are divided into two categories as **List-I and List-II**. **List-II cases** shall be listed before the Court Officer. In List-II Cases, the Court Officer in the cadre of Sheristadar/Head Ministerial Officer or Retired Judges will do all the initial calling work, service stage cases and cases posted for filing Written Statement and framing of draft Issues etc.

Court Officer shall also record evidence and *ex parte* evidence in appropriate cases and all other preliminary work.

List-I Cases ... Listed before Courts.

List-I Cases - divided into four categories	Type of Cases	Time For Disposal
Track-I	• Maintenance Cases • Child Custody Cases • O.Ps. • Money Suits & such other Cases.	6 Months
Track-II	• Execution Cases • Ejectment Suits • MACT.OPs. • L.A.OPs. & such other Cases	12 Months
Track-III	• Partition Suits • Declaration Suits • Specific Performance Suits • Easementary Suits • Trade Marks & Passing Off Suits & such other Cases.	24 Months
Track-IV	• Other Matters	24 Months

INTERLOCUTORY APPLICATIONS:-

Interlocutory Application under CPC is normally filed at the time of presenting the suit:

Sec.80(2)	Suit against Governments
Order 1, Rule 8	One person may sue on behalf of all in same interest.
Order 32, Rules 1,2,3	Minor to sue by next friend

Order 39, Rules 1,2	Temporary Injunction
Order 38, Rule 5	Attachment before judgment (furnish security for production of property)

Interlocutory Application under CPC is normally filed during pendency of the Suit:

Order 1, Rule 10 (2)	Court may add or strike parties
Order 5, Rule 20	Substituted Service
Order 6, Rule 17	Amendment of pleadings
Order 11, Rule 15	Inspection of documents referred to in pleadings or affidavit
Order 13, Rules 1-10	Production, impounding and return of document
Order 14, Rule 5	Power to amend and strike out issues
Order 16, Rule 1 (a)	Production of witnesses without summons
Order 18, Rule 17	Re-calling of witness
Order 22, Rule 2-4	Substitution of Legal Representatives on death of a party
Order 26, Rule 9	Commission to make local investigation
Order 39, Rule 2A	Disobedience of Temporary Injunction
Order 40, Rule 1	Appointment of Receivers

Number of Cases are pending due to filing of number of Interlocutory Applications. Officers need to be sensitized on these pending Interlocutory Applications. Mandatory Time frame 30 days as in the case of Or.39, R.1 C.P.C. should be fixed for disposal of these Interlocutory Applications.

With the CPC Amendment 2002, the effect of deletion of

Clause 4 of Sec.115 CPC is that revisional jurisdiction in respect of Interlocutory order passed in a trial or other proceeding has been curtailed. Mere filing of revision would not amount to Stay unless ordered by the High Court.

STAY CASES:-

If we look at the pendency of cases, considerable number of cases pending in the Subordinate Courts would be because of the Stay granted by the High Court. I wish and hope that in Revision, High Courts take up the matters without any delay. As a District Judges, I call upon you to collect the particulars of 'Stay cases' in your District and talk to your Administrative Judge in the High Court and thereafter, correspond with the High Court in respect of Stay cases. I do hope that the High Courts also to list these Revisions (Pending Cases) with sense of urgency.

WRITTEN ARGUMENTS:-

Lawyers must curtail repetitive arguments and should supplement it by written notes. In fact, Sec. 314 Cr.P.C. contemplates filing of Written Submissions.

Sec.314 Cr.P.C. : Memo of Arguments can be filed by any party.

Sec.314(3)Cr.P.C. : No adjournment of the Proceedings shall be granted for the purpose of filing Written Arguments.

Sec.314(4)Cr.P.C. : In the opinion of the Court, if the oral arguments are not concise or relevant, Court may regulate such arguments.

The length of oral argument should be curtailed unless the case involves complicated questions of law. In all cases, filing of Written Statement should be made mandatory.

APPRECIATION/ADMISSION OF SCIENTIFIC EVIDENCE:-

- Sec.292 Cr.P.C. provides receipt of reports of Gazetted Officers.
- As per Sec.45 of Indian Evidence Act, opinion of the Experts relevant. By and large, Courts receive opinion evidence of Expert. However, there is reluctance to receive scientific evidence in the area of DNA, Finger Print, Lie Detector Test etc. with the advent of Science and Technology in receiving

the evidence in new areas like surrogacy, Pre-Natal Diagnostics Test, there is need for pragmatism judicial innovation in receiving scientific evidence.

JUDGE PLAYING PRO-ACTIVE ROLE:-

- Sec.165 of Indian Evidence Act is very important Section.
- Sec.165 of Indian Evidence Act intended to arm Judges with a general power to ask any question in any form at any time of any witness or parties about any fact relevant or irrelevant. The position of Judge is not that of a moderator between contestants.
- Counsel seek only for their client's success; but Judge must watch that justice **"Triumphs"**.

AIR 1997 SC 1023 : * Reticence may be good in many circumstances, but a judge remaining mute during trial is not an ideal situation. * But there is nothing wrong in his becoming active or dynamic during trial so that criminal justice being the end could be

achieved.

* It is a useful exercise for trial judge to remain active and alert so that errors can be minimised.

Civil Courts also have equal role to play in ascertaining truth.

CRIMINAL JUSTICE – PLEA BARGAINING:-

Plea bargain is understood to mean "***the process whereby the accused and the prosecutor work out a manually satisfactory disposition of the case subject to court approval" – Black's Law Dictionary***. It usually involves the defendant's pleading guilty to a lesser offence or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that possible for the graver charge.

Plea bargaining is the significant part of Criminal justice system in USA. The concept of plea bargaining, which is common in the US system of law has not been recognised by the Supreme Court of India. In ***AIR 2000 SC 164 [State of Uttar Pradesh v. Chandrika] and AIR 1976 SC 1929***

[Murlidhar Meghraj Loya etc. v. State of Maharashtra etc.], the Supreme Court has observed that plea bargaining should not be encouraged in India. Supreme Court has expressed apprehension that once **"plea bargaining"** is encouraged, it would have effect of polluting pure foundation of justice ***(AIR 2000 SC 164)*** and Judge might tend to convict an innocent person or let off guilty with lesser sentence and thus subverting the process of law and frustrate the social objective and performance of criminal justice system.

We need look at the whole situation more objectively. Prosecution is not able to prove the guilt of the accused beyond reasonable doubt. Conviction rates are very low in India.

Instead of permitting such acquittals, a better alternative would be to permit a pragmatic oriented plea bargaining concept within the system.

Law Commission has also observed that **'plea bargaining'** is viable alternative to be explored to deal with huge arrears of

criminal cases.

The Law Commission has recommended that the concept may be made applicable as an experimental measure, to offences which are liable for punishment with imprisonment of less than seven years and/or fine including the offences covered by Sec. 320 of Cr.P.C. A new Chapter (Chapter XXI-A) on Plea Bargaining has been inserted in the Criminal Procedure Code, 1973. A notification to bring into effect the new provision has been issued and it has come into effect from 5th July, 2006. Plea Bargaining was introduced through the Criminal Law (Amendment) Act, 2005, introducing Sections 265-A to 265-L.

In the present day scenario, **'plea bargaining'** should be accepted as a need to evolve a method of awarding punishment to guilty person by curtailing trials. By adopting objective standards, using the concept of plea bargaining extensively would certainly ensure early disposal of cases. Of course, **'plea bargaining'** cannot be adopted in certain category of offences like Economic offences, Prevention of

Corruption Act, Offences against Women, Offences against State, organised crimes etc. All that we need a pragmatic approach with objective standards and proper guidelines.

GUIDELINES IN SENTENCING:-

Courts are constantly faced with situations where they are required to answer new challenges and mould sentence.

Protection of Society and deterrence of criminals are the avowed object of Criminal justice. Proportion is to be maintained between seriousness of crime where precious scales or evaluating standards are not available. In ***(2008) 7 SCC 550 [State of Punjab v. Premsagar & others]***, the Supreme Court has expressed its concern that Indian Judicial System has not been able to develop any guidelines for imposing punishment upon the offender resultantly wide discretion conferred upon the Court. In each and every case depending upon the circumstances in which crime has been committed and having regard to the criminals mental state and age in each one case, sentence is imposed. Apart from which judicial time being spent in determining the sentence, there is

also great anomaly as regards policy of sentencing. Quantum of punishment for similar offence variance from minimum to maximum. Similar discrepancies have been noticed in regard to imposition of fine.

Sec.307 IPC contemplates imprisonment for 10 years. Sec.397 Robbery contemplates punishment of 10 years and if the offence committed before sun-set and sun-rise, sentence of imprisonment would be 14 years. For imposing sentence, Indian Penal Code does not contemplate any discretion between offender and age etc.

Any guidelines/developing legal principles as regarding sentence would greatly reduce the Court congestion in criminal cases and appeals. Such guidelines having regard to age, circumstances in which offence is committed and whether background of the offender and future prospects, reformation etc. **Any such guidelines issued would help:-**

- Saving judicial time
- Limiting judicial discretion in imposing sentence.
- Objective exercise of judicial discretion

would reduce number of criminal appeals.

- Ensuring consistency.

GUIDELINES FOR COMPENSATION CASES:-

Second Schedule of M.V. Act contains multipliers to be adopted for the age group indicated thereon with income of Rs.40,000/- p.a. Supreme Court has observed that Second Schedule is only guideline. In Workmen Compensation Act also as per the injuries, percentage of disability is fixed and the quantum of compensation to be arrived at taking wages of the workman.

By and large, Orthopaedic Surgeons are having guidelines for assessing the percentage of disability. In personal injury cases, if a generalised guideline is issued for fixing the percentage of disability, quantum of compensation (which would depending on the income of the deceased) it would certainly save much of judicial time.

JUDICIAL EXCELLENCE:-

- Institutional Excellence.
- Personal Excellence.

INSTITUTIONAL EXCELLENCE:-

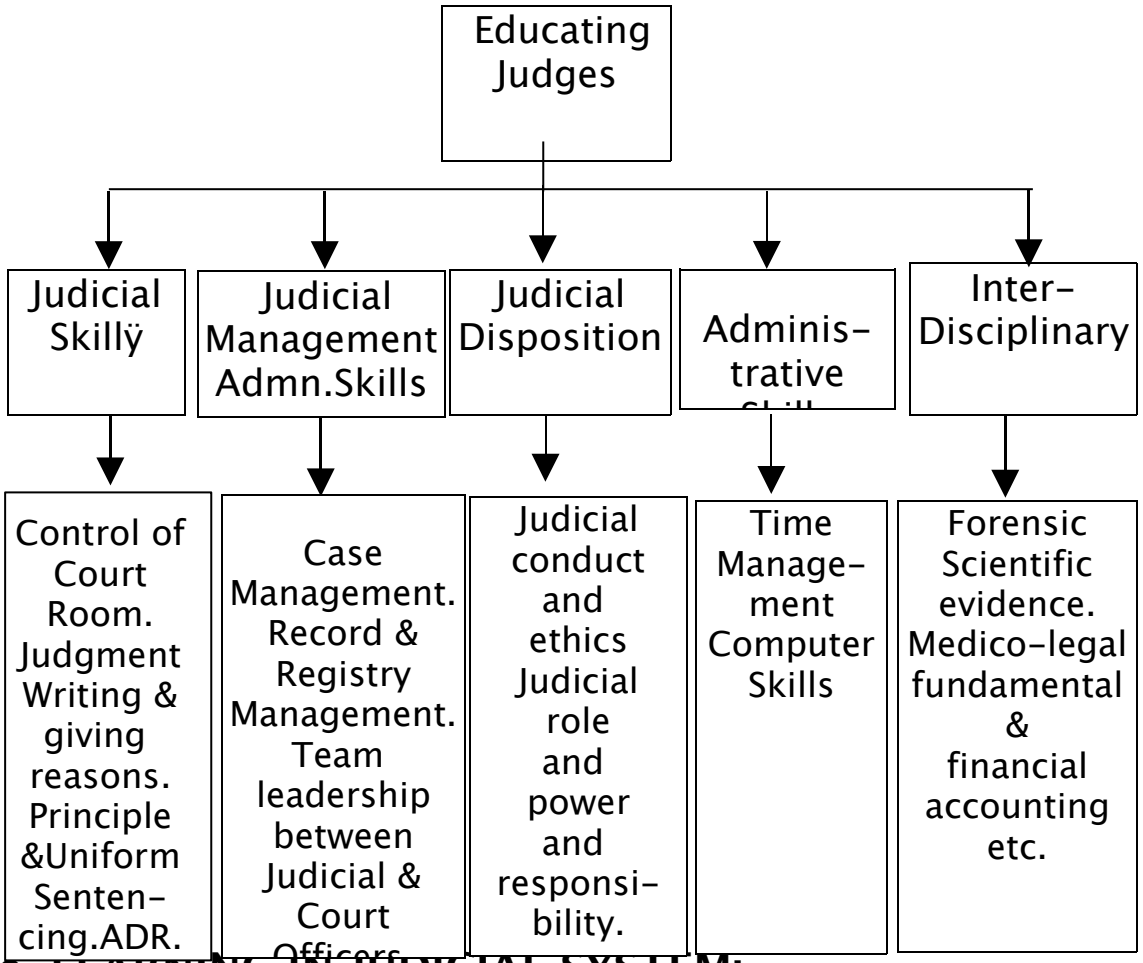
For acquisition of institutional excellence certain individual qualities are fundamentally imperative. A Judge should never compromise on principles or suspend his conscience. Inasmuch as every member of the Society expects of him to show wisdom, intellectual power, sobriety and impartiality, a Judge cannot escape from his responsibility. Excellence cannot be a matter of knowledge and one must achieve it and employ it in the working sphere. It is not expected to be a duty. It has to be imbibed as the form of habit and as a life long attribute.

Judicial Education is a very important part of the judicial system. Presently, though National Judicial Academy, Bhopal, is training Judges starting from District Judges to High Court Judges, the respective State Judicial Academy is responsible for the induction and training of Judicial Officers and undertaking of other refresher training programmes. Over the years, I foresee that educating the Judges must be in a more focused way than now, which would help the Judges to equip

themselves in various fields.

EDUCATING JUDGES:

JUDGES NEED TO BE TRAINED ON SUBSTANTIVE LAW AND COURT PROCEDURE:



e-LEARNING IN JUDICIAL SYSTEM:-

In today's world as Society gets more competitive, the

need for innovation becomes more and more critical. e-Learning would immensely benefit the Judicial System. For more Judges to equip in development of contemporary law and emerging jurisprudence. Judicial Support Services (Registrars,Court Reporters, Arbitrators/Mediators) to develop knowledge on jurisprudence, judicial administration and practises. In my view, e-Learning can improve the learning about development of law among the various stake-holders in the legal system, thereby making its contribution towards legal reforms.

ARTICLE 235 CONSTITUTION OF INDIA - SUPERVISORY POWER OF HIGH COURT:

AIR 1988 SC 1395 : High Court while exercising its power of control over the Subordinate judiciary is under a Constitutional obligation to guide and protecting honest Judicial Officers who are likely to have many advisory in moffusil Courts.

NEED FOR RATIONALISATION OF INSPECTION OF SUBORDINATE COURTS:-

- Satisfactory Judicial system depends largely on the satisfactory functioning of Courts at gross root level. Inspection of Subordinate Courts is not a one day or a few minutes affair.

AIR 1999 SC 1677 : Inspection of Subordinate Courts is one of the most important functions which the High Court performs for exercising control over the Subordinate Courts. Object of such Inspection is for the purpose of assessment of work by the Subordinate Judge, his capability, integrity and competency.

- Proper and uniform Inspection of Subordinate Courts should be devised by each High Court. In fact the whole system of Inspection need rationalisation. Subject is to be considered in the C.Js. conference.

MORE INTERACTION BETWEEN HIGH COURT AND

SUBORDINATE COURTS:-

- Subordinate Courts being edifice of judicial system, a satisfactory function of Subordinate Courts is essential.
- More interaction between High Court and Subordinate Courts would guide the Subordinate judiciary.
- Making available on line correspondence, Circulars, transfers, posting orders, news of High Court and important Judgments which are meant for all the Judicial Officers.
- News letter published by the High Court/Journal published by the concerned National Judicial Academy/State Judicial Academy to keep the Officers abreast of emerging trends.

PERSONAL EXCELLENCE:-

The degree of knowledge is a useful tool to develop the knowledge.

Judges must keep themselves abreast of March of Law, they should keep the ***Silver Lamp of Learning always bright and fresh.***

With **era of globalisation,** new fields like **IPR Rights, Copy Right, Trade Marks, Cyber Law, Arbitration Laws**, which

have nexus with globalisation of economy will have to be dealt with by the Judicial Officers. There is need for learning and gaining knowledge in emerging new fields.

REDUCING THE DEMAND FOR COURT's SERVICE RESOURCES

Demand of Court resources may be reduced by providing efficiency in Court procedure. But a substantial reduction in the procedure could be achieved by procedural measures/bring about resolution of cases without trial or take cases out of Court system. In this context, there is need to supplement the current infrastructure of the Courts with ADR mechanisms.

In many countries as in the USA a lot of cases are disposed of by ADR tools.

MECHANISMS OF ADR:

- Arbitration
- Mediation
- Conciliation/Reconciliation
- Negotiation

- Lok Adalat

ADR MECHANISMS IN INDIAN JUDICIARY:-

Industrial Disputes Act, 1947	Provides the provision both for conciliation and arbitration for the purpose of settlement of disputes.
Hindu Marriage Act, 1955 (Sec.23 (2))	Mandates the duty on the Court .....
Family Court Act, 1984	Enacted to provide for the establishment of Family Courts
Code of Civil Procedure (Or.23, R.3):	Provision for making an decree on any lawful agreement ....
Code of Civil Procedure (Or.27, R.5B):	Confers a duty on Court in suit against Govt. .....
Code of Civil Procedure (Or.32A) :	Lays down the provision relating to suits relating to matters concerning the family .....

SEC.89 C.P.C. :

ADR has undergone sea-change with insertion of Sec.89 C.P.C. by Amendment in 2002. Sec.89 C.P.C. lays down that where it appears to the Court that there exists elements of settlement, which may be acceptable to the parties, the Court shall formulate the terms of the settlement and give them to the parties for their comments. On receiving the response

from the parties, the Court may formulate the possible settlement and refer it to either:- Arbitration; Conciliation; Judicial Settlement including settlement through Lok Adalats; or Mediation. As per sub-section (2) of Section 89, when a dispute is referred to arbitration and conciliation, the provisions of Arbitration and Conciliation Act will apply. When the Court refers the dispute to Lok Adalats for settlement by an institution or person, the Legal Services Authorities Act, 1987 alone shall apply.

Apart from compulsory Arbitration, there are voluntary Arbitrations. ADR mechanism is not gaining momentum:-

- Lack of institutionalization;
- Lack of case management;
- Excessive interlocutory appeals.

TAMIL NADU MEDIATION & CONCILIATION CENTRE:-

In the State of Tamil Nadu, Tamil Nadu Mediation and Conciliation Centre was constituted first of its kind in the Country on 09.04.2005. The Centre trains Lawyers and former

Judges are trained as Mediators and Administers a scheme while dealing with the cases referred by the Courts for mediation. Mediation Centres are also opened in the Districts ..... Workshops were organised in various Districts and intensive training of mediation is given to the selected Advocates sent through the Bar Associations of various Districts.

One of the biggest case handled successfully by the Mediation Centre is that of Standard Motors Limited, a company which was wound up in 1984. Claim of the workmen could not be settled for number of years and workers were suffering. In the said matter, five months agreement was worked out in mediation and the claim was settled. The total amount involved was Rs.70 crores, out of which Rs.40 crores was handed over by the Chief Justice to the workers, their families and secured creditors.

Over the years, we hope that mediation percolate to the entire country from the level of High Court. To create awareness, October 2nd – birth day of Mahatma Gandhi has

been declared as mediation day in Tamil Nadu.

LOK ADALATS:-

Lok Adalat has become well recognised method for simple and quick disposal of cases. With the passing of Legal Services Authority Act, Lok Adalat has gained a momentum all throughout the country. That apart in Madras High Court, specialised Lok Adalats have been organised for Motor Accident cases, Debt Recovery cases, Labour Court Cases, Family Court cases, Pension cases, High Court Land Acquisition Appeals, Electricity Board cases, Metro Water cases and Port Trust Cases, that apart Pension Adalats and Prison Adalats are also conducted periodically.

Since, Lok Adalats have become the area of public confidence and trust, I foresee over the years that Lok Adalats will gain more momentum and play vital role.

PRE-TRIAL SETTLEMENT:-

To save judicial time, Pre-trial Settlement are attempted. This is more prevalent in USA, particularly in commercial disputes. Success of Pre-trial Settlement depends upon the

co-operation of the Legal profession with commitment to the institution.

The area has become significant potential in merely reducing the burden of Courts, but also in qualitative change, reducing demand for judicial services and Court resources.

For implementation of ADR mechanism, three things are required most:

- Mandatory reference to ADRs.
- Case management by Judges.
- Committed teams of Judges and Lawyers.

The strategies are :-

- Develop awareness;
- Advocacy;
- Building capacity;
- Creation of institutional frame;
- Actual implementation;

The success of movement towards ADR will depend in a large measure upon the co-operation of legal profession. Therefore, introduction of ADR Techniques legal education is a need of

the aware. Some of the premier laws, rules in the country have already incorporated ADR Techniques as part of curricular. But this development is isolated and sporadic.

I hope, over the years ADR Techniques take its role at the foundation.

What we need at present is the Legal Research.

LEGAL RESEARCH AT THREE LEVELS:-

- Enhancing efficiency of existing system.
- Expansion of Court Service and Resources.
- ADR Techniques.

Time has now come for Judiciary to focus on implementation and making it work. Excellence lies only in implementation. We spend more time in creating ideas and strategies. Unless the ideas and strategies are implemented, this ideas will not be of any use.

As District Judges, I call upon each and everyone of you to make a beginning by making everyone at all level responsible for implementation. We must remember what Gandhiji said, **"If you want to change anything, you be the change"**.

"The future is a vast, dynamic and unpredictable domain. It is virtually impossible to know all of the emerging issues or concerns that may confront the Courts five, ten or 25 years down the road... planning for the future can and must be an ongoing -- as opposed to one time – activity".

-- Charting the Future of IOWA's Courts. Report of the IOWA Supreme Court Commission on Planning for the 21st Century, June 1996.

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