

SUPREME COURT: CHALLENGES AND ACHIEVEMENTS*

Twenty sixth of November is celebrated as the 'Law Day'. It is a day

of national importance for all Indians as it was on that day, 55 years back, that the nation gave to itself, the Constitution.

The edifice of Indian constitutional democracy stands on three pillars of which the guiding pillar is the judiciary. The law declared and the jurisprudence developed by this Court has earned a glory which is matchless. The Supreme Court is the custodian of the Indian Constitution and exercises the power of judicial review over the acts of the legislature and the executive.

An overview of Supreme Court's performance

In retrospect, it is satisfying to see that its achievements have been significant in all areas of the nation's life. It has not shied away from its responsibility of upholding the goals of the Constitution. One of the most powerful institutions of the world, this Court decides cases, touching all facets of human life and relationships. It is the defender of the Constitution and the values embodied therein, guardian of human rights, and promoter of peace, cordiality, and balance between different organs of the government. It has worked in no spirit of formal or barren legalism and yet within the limits prescribed by the Constitution. The Court, as part of the federal system and as the defender of democracy, has always remained responsive to the changes in Indian society and retained its relevance, for if the society moves but the law remains static, it shall be detrimental for both. It has, without any reservations, intervened to protect democracy, human rights of individuals and to uphold the Rule of Law. The Court has given a liberal interpretation to Article 21 of the Constitution by giving it more content, meaning and purpose. In expanding the ambit of right to life and personal liberty, the Court has evolved compensatory jurisprudence, implemented international conventions and treaties, and issued directions for environmental justice. It has given directions, and also prescribed guidelines for the enforcement and achievement of human rights of various groups such as children, women, disabled, scheduled castes, scheduled tribes, bonded labourers, minorities, and socially and economically backward classes.

The Court has successfully discharged the onerous task of protecting the values of secularism and respecting the sensitivities of all groups of people, without compromising with the need to impart real and even justice, in the given circumstances of any case. It has proved to be a national asset. It has extended its jurisdiction and made prolific use of the power of judicial review, when impelled to do so for protection of fundamental rights or basic human rights, generally and in particular for the disadvantaged and under-privileged sections of the society. Mindful of its special responsibility towards the weaker sections of the society, disabled by poverty, ignorance or illiteracy, it has evolved new strategies, such as, public interest litigation and relaxed the rules of procedure. A broad and liberal interpretation of Articles 14 and 21 of the Constitution, has enabled the Court to exercise

these powers for the common good. The power and jurisdiction of our higher judiciary, in this respect, has won the admiration of other judiciaries of the world. In this respect, it will not be an exaggeration to say, that the achievements of the superior judiciary have even exceeded the expectations of the makers of the Constitution.

In innovating and developing constitutional jurisprudence, the Supreme Court of India has always had an edge over other jurisdictions. In recent years, the decision in *Rupa Ashok Hurra*, (2002) 4 SCC 388, innovating the concept of Curative Petition, has been read over in the world as unique. There was a growing tendency to challenge, under Article 32 of the Constitution of India, final judgments/orders of the Supreme Court after dismissal of review petitions. The reason forcefully advocated in support of such an unhealthy and unconstitutional practice, common to all such petitions, was lack of a forum where the petitioners could seek appropriate relief. The constitution bench of this court struck a balance between certainty/finality of judgments/orders of the Court of the last resort and setting right, miscarriage of justice complained of by holding that a petitioner, in a curative petition, is entitled to relief *ex debito justitiae* if he establishes: (1) violation of the principle of natural justice in that he was not a party to the *lis* but the judgment affected his interests or even when he was a party to the *lis*, the matter proceeded as if he had notice though he was not served with the notice of the proceedings; (2) where in the proceedings, a learned judge failed to disclose his connection with the subject matter or the parties, giving scope for an apprehension of bias and the judgment, has adversely affected the petitioner.

As an independent judiciary, under the scheme of the Constitution, the Court has played its role effectively in acting as a watchdog through judicial review over the acts of the legislature and the executive. The major contribution of the Supreme Court has been to uphold the Constitution by delineating the role of the three organs of the State. When two organs of the State fail to perform their duties, the judiciary cannot remain a mute spectator. While acting within the bounds of law, the Supreme Court has always risen to the occasion as guardian and trustee of the Constitution, criticism of 'judicial activism' notwithstanding.

On our part, we men of law, judges and lawyers, may justly take pride in the fact that the Indian judiciary has been a strong pillar of constitutional democracy. Through all its vicissitudes of 54 years, the Indian judiciary has served the nation well. The memorable speech delivered by the first Chief Justice of India, Sir Harilal J. Kania, at the inauguration of the Supreme Court on January 28, 1950 is often quoted. The lapse of any time does not wither away the efficacy and relevance which timeless speeches carry. He said - "We hope and trust that the Court will maintain the high traditions of the Judiciary and perform its duties without fear and favour. If we succeed in doing so, we shall contribute our share to the progress of our Republic and render service to this country which none else can render." Fifty four years later, I, as the Chief Justice of India, can with all humility say that this Court has not belied those hopes. If testimony to this is required, it has come from our former President, Shri K.R. Narayanan. On the Golden Jubilee of the Supreme Court, in the year 2000, he said, "It is not an exaggeration to say that the degree of respect and public confidence, enjoyed by the Supreme Court is not matched by any other institution in this country."

Of course, in the task of rendering justice to the teeming masses of this country, it is not the Supreme Court, alone, to which credit goes.

Ladies and Gentlemen! I have gone through the record of speeches, delivered on the Law Day by my illustrious predecessors. They are full of philosophical and jurisprudential

thoughts containing powerful message. I would be contended to add a few facts and a few thoughts which I would like to share with you.

The Task before us

Let me give you an idea of what our legal fraternity, or the family consisting of lawyers and judges, is and what gigantic task it is facing:—

Name of the Court	Strength of Judges		Vacancies
	Approved strength	Actual	
Supreme Court of India	26	25	1
High Courts	719	521	198
Subordinate Courts	13,204	11,103	2101

As per the latest statistics, made available by the Bar Council of India, there are 8,58,294 advocates enrolled in the country.

Pendency of cases as on 30-6-2004	
Supreme Court of India	29,315
High Courts	32,24,144
Subordinate Courts	2,53,50,370

Name of the Court	Institution and Disposal per Year (based on figures of preceding 5 years)	
	Average institution (per year)	Average disposal (per year)
Supreme Court of India	42,200	40,400
High Courts	12,41,000	11,23,500
Subordinate Courts	1,42,43,500	13,22,900

Working under considerable handicaps such as inadequate funds, budgetary allocations for law and justice not being part of plan expenditure, lack of resources, shortage of staff and infrastructure, the Indian judiciary can still claim a better standing with the other wings of governance, in performance. When one considers the enormity of our country, the diversity of its conditions, its huge population and the range of cases and volume of litigation in our courts throughout the country, the Indian judiciary has carried a phenomenal burden which perhaps no other judiciary in the world has had to shoulder. In this task, we must acknowledge the exacting burden, the subordinate judiciary – the foot soldiers of our cavalcade – has carried. The subordinate courts have, unobtrusively and with small recognition, rendered justice to the common man in villages and towns. Too often, we tend to forget their invaluable contribution to our judicial system. At times, we have unjustly condemned them, as a whole, for failings of a few of their members; failings which are attributable to a few individuals only, not to the system and certainly not to the members as a class.

In spite of all the feathers in its cap, the Indian judiciary is often criticised for three reasons: (i) the ever mounting backlog of arrears, accusing the judiciary of its inability to clear the same; (ii) occasional reports of such conduct, on the part of the individual judges, which is unbecoming of them; and (iii) some complaints of corruption. I have tried to analyse the grievances raised or the criticism levelled.

Before I do so, let me take you to a quarter of century back when the first Law Day was celebrated. If I do not tell you that what I am going to read are extracts from the two speeches, delivered on 26th November, 1979 (25 years before), they can safely be passed on

to you as a vivid description of what is prevailing today. Justice Y.V. Chandrachud, the then Chief Justice of India had said:

“An effective judicial system requires not only that just results be reached but that they be reached swiftly.”

“I am no pessimist but at times, I see dark clouds gathering over law’s rarefied atmosphere. There is some evidence – feeble I suppose, feeble I hope – of ecological pollution of the Taj Mahal of Justice. Long and interminable arguments, whisperings of heavy professional fees, the unethically excessive impost of court fees by the State which does not plough back its profits from justice back into the cause of justice by undertaking programme like free legal aid, the chronic delays in disposal of cases and, may I say, the not-so-chronic delays in decision-making, are all matters which require of the men of law a careful and urgent attention.....I hope and pray that nothing that we will do shall tarnish the fair name of justice which can only come from a keen social awareness, which involves a nice and judicious balancing of conflicting interests.”

Dr. L.M. Singhvi, Senior Advocate and the then President, Supreme Court Bar Association, had said:

“..... our courts and the legal profession have played an important and creditable part in working out the terms and equations of justice between citizen and citizen and between the citizen and the State. A whole new jurisprudence of constitutional rights and of judicial review of legislation and of administrative action has been fashioned by Indian lawyers and judges..... and that is something to be proud of. We as a nation are prone to berate and belittle our own achievements and to give in to moods of melancholy and despair, but quite frankly I know of no other nation in the world which has battled with greater valour and gallantry on the legal front or which has achieved more in legal culture, under such heavy and insurmountable odds.”

“Increasing institution of cases, mounting arrears, accumulating congestion in courts and inevitable law’s delays have given rise, not to a body of scientific and rational blueprints in terms of institutional organization and procedural methods or in terms of assessments of judicial manpower requirements, but to a spate of alarm signals and dire shibboleths. If there are more and more cases in courts, that is because we have a population explosion, we have a more complex and friction-prone society, our dispute resolution and conciliation system are bereft of efficacy, we have increasingly greater awareness of rights, and perhaps because we have more injustice and more arbitrariness in our midst. The Governments are under an obligation to provide an adequate machinery for justice, to appoint more judges and to give them better emoluments and facilities, to build more court-houses, to enact better laws, to devise better dispute resolution procedures, and to administer more effectively and equitably, rather than to blame lawyers and judges for the increase and proliferation of litigation. Courts in India cannot apply a mechanical-statistical razor-blade or wave a magic wand to wipe out the enormous pendency of arrears. Nor can the courts afford to turn a blind eye or a deaf ear to the rank injustices and incongruities of administration merely because they have already too much on their hands. If the courts begin to do that systematically, they might endanger the confidence and credibility, they have come to enjoy. I might venture the view that we will have a lot more litigation in future when some of the long suffering sections of our people are made more aware of their rights by movements of legal literacy and are enabled and equipped by legal aid and advice

to ask for their day in court. Shall we then tell them that we are too preoccupied to take their briefs or to listen to them and their generation?"

The purpose of quoting the abovesaid two passages is only to demonstrate that the same problems existed 25 years before as they exist today. Time and place may change; problems remain the same. Our country is not the only one which is facing such problems. But the difference is on two counts: first, while other countries are scientifically investigating into the causes for judicial delays and adopting modern methodologies for curing the system, any concrete step in that direction remains yet to be taken in our country; and secondly, reforms and modernisation in judiciary have remained on the back bench for long.

Role of Media

The concept of justice is not the sole proprietorship nor the sacred obligation of the judiciary alone. A competent and willing judiciary would be unable to discharge its obligation if not supported by other organs of democracy. The Press and the Media have been recognized as the greatest influencing factors. They have a mass appeal and a powerful role to play in creating and shaping public opinion. The power with them carries with it an obligation to act with responsibility and creativity. However, I am often pained to see some symptoms of negativity in the media. In the context of judiciary, I have been noticing two things – (i) Positive performance of the judiciary is not highlighted, but failure, howsoever insignificant it may be, is picked up, blown out of proportion and publicised; (ii) Some of the newspapers and especially one leading newspaper of the country has been carrying news on front page or in head-line, having a little truth intertwined with much distortion, or two unconnected events so reported together, as to create false impressions or misgivings about the judiciary. The media has to remember that judiciary is the institution of last resort for the common people and if people lose faith in the judicial system, the entire democratic set-up may crumble down. I distinctly remember, in the joint conference of Chief Justices and Chief Ministers held on 18th September, 2004, the Prime Minister delivered the inaugural address and I, as the Chief Justice of India, delivered the key note address. Only that part of the speech of the Prime Minister which made a mention of certain short-comings in the judicial system and where it needed toning up was reported and my response based on facts and figures showing how the alleged short-comings of judiciary were not of its own, much less its creations and that the causes for malaise (if any) lay elsewhere, did not find a place in the newspapers. I hasten to add that some of the news agencies and newspapers such as PTI , 'The Hindu', 'The Times of India' and 'The Tribune' did make balanced reporting. So far as the judiciary is concerned, my appeal to the media is to play a more positive and constructive role. In the matters pending in courts, the media may report the facts but should not commence a parallel trial before a judicial pronouncement, as it is likely to prejudice the case of either party. Regrettably, I have noticed one or two leading newspapers targeting individual judges and tarnishing their image, while such judges are almost speechless and can do little to restore their prestige and esteem, once it has been lost in public opinion. I appeal to such newspapers, without mentioning their names, to do some introspection. The media would enjoy more credibility and shall be noted for its contribution if it confines itself to reporting correct facts, criticizing but with objectivity and making suggestions with positivity.

Vision 2020

Recently I came across a wonderful official publication of the Planning Commission, Government of India containing a document, running into more than 1000 pages, which is the report of the 'Committee on India Vision 2020' chaired by Shri S.P. Gupta, Member,

Planning Commission. It contains research papers on various subjects such as human development, infrastructure, energy and the environment, globalization, governance, transport, telecom, health, population, finance and so on. I think this is a document which every enlightened citizen of the country must have, and look into. However, I was surprised to note that this document does not contain any paper on law and order, the judiciary or the justice system. It gives an impression as if law and judiciary are subjects which have been left to be taken care of by themselves and for themselves.

What we have achieved

I have an obligation, to share with you, a bird's eye view of what we have achieved – whether big or small.

Ever since June 1, 2004, the SC Collegium has cleared 98 recommendations for appointment of judges of High Courts. 36 recommendations are being processed. By the end of next year, hopefully there will not be any vacancy in any High Court for being filled up. Every recommendation for appointment in the constitutional courts is subjected to rigorous scrutiny and wider consultation. It will not be inappropriate to claim that the performance of the Supreme Court Collegium, during last 6 months and the quality and quantity of recommendations made by it, would certainly prompt a relook on any proposal for establishing National Judicial Commission.

Bar

The Supreme Court Bar Association is a class apart and a role model for the profession in the country. Its standards and work culture need to be emulated. I would like to mention only three points out of many.

On a suggestion made by Mr. Fali S. Nariman, Senior Advocate, and President of Bar Association of India, a system has been introduced whereby all counsel, appearing for one side in batch matters before Constitution Benches sit together, hold a conference and decide amongst themselves which one counsel will address the court on a particular point of law. This avoids repetition of submissions. Synopsis of submissions is filed in advance to enable the Judges to come prepared for the hearing. This simple device has resulted in substantially curtailing the time consumed in hearing the matters before the Constitution Benches. The credit for this goes to the members of the Bar.

Secondly, a series of lectures is being organised under the aegis of the Supreme Court Bar Association which I had the privilege of inaugurating on 20th July, 2004. Every lecture is delivered by a Judge of the Supreme Court and participated by other Judges and members of the Bar. This is a creative activity, giving an opportunity for a free, frank and open exchange of views on topics of contemporaneous significance.

Thirdly, the office bearers of the Bar Association such as SCBA and AOR Association are providing me with several opportunities of interacting with them so as to understand each other better and finding out practical solutions to difficulties experienced in the smooth functioning of the Court.

In the Supreme Court:

1. To enable complete introduction of IT in the Supreme Court, knowledge of computers has been made compulsory for recruitment into executive services. 107 out of existing officials have been given computer training and the process is continuing for more employees. A specialized training to officials and staff in the Registry is being conducted by the Indian Institute of Training and Management. 32 officials have already undergone such training. Rest are on the way.

2. The working of the filing counter has been streamlined and as a result the matters, filed after removal of defects, are now being registered either on the same day or on the following day.
3. Defects in filing of cases found by the Registry in fresh matters are now available on internet, enabling rectification by concerned advocates without awaiting for receipt of communication from the Registry.
4. "Question of law involved" is extracted in every case, filed so as to enable grouping of the cases and consistency in the law, laid down by the Court.
5. Two Tax Benches have been constituted to ensure expeditious disposal of tax matters.
6. Some matters are being heard on priority basis, such as (i) matters of senior citizens, (ii) matrimonial disputes, (iii) matters in which workmen are out of job, (iv) prevention of corruption cases, (v) group matters, (vi) short matters, (vii) election disputes, and (viii) matters awaiting decision, on such points which will affect a large number of cases, pending in the Supreme Court, High Courts or Subordinate Courts.
7. Ever since July, 2004, one C.B. is functioning regularly so as to settle law on constitutional issues which would enable decision in hundreds of cases pending in High Courts, Subordinate Courts or Tribunals.
8. A Conference of Chief Justices was held with the object of streamlining the functioning of the courts and speeding up disposal of cases with the available strength, by finding solutions to the common issues and the problems being faced by the courts in the country.
9. A joint Conference of Chief Justices and Chief Ministers was held on 18.9.2004. Such a conference was previously held in the year 1993. Policy decisions of far-reaching implications, relating to administration of justice and judicial reforms were taken.
10. Assisting staff of the Judges would dispense with the black coat uniform and will soon be seen in a new uniform.
11. A decision to publish the annual report of the Supreme Court has been taken. Annual Report 2003-04 is being released today.

Construction of Lawyers' Chambers

The construction of Lawyers' Chambers building at Dhobi Ghat site, behind Indian Law Institute, started w.e.f. 12th August, 2004 and is expected to be completed by August 2005. The construction is in full swing. Efforts are being made by the Registry to get the construction completed well before the deadline. The said building will have 72 chambers for allotment to advocates, a Conference Hall, a canteen with kitchen, two lifts, and facility of parking 14 cars in the basement and 15 cars in open space in the said complex.

Museum

The Supreme Court Museum used to remain open on all the working days of the Registry *i.e.* from 10.00 A.M. to 5.00 P.M. from Monday to Friday and on Saturday from 10.00 A.M. to 1.00 P.M. In order to enable the general public to visit the Supreme Court Museum on Saturdays and Sundays, it has been decided to keep the Museum open full day on Saturdays and Sundays and to close it on Mondays instead of Sundays.

A short film on the Supreme Court of India is also shown on projector in the Museum.

IT in Judiciary and Administrative Reforms

The creation of a special cell of experts in the fields of judicial administration, information technology, human resources development, management & administration is proposed. The proposal is awaiting clearance from the government which, I am sure, would be received shortly. Such cell would not only formulate a national policy on computerisation and administrative reforms in the Indian Judiciary but also advise on technological communication and management related changes in the Indian judiciary as a whole and the Supreme Court in particular. It would plan, advise and oversee the implementation of several schemes.

The government has collaborated with the Asian Development Bank to make a sectorial diagnostic assessment of case management in Delhi courts. The objective of the project is to assist in the reduction of congestion in Delhi courts and to develop a sustainable delivery system for speedy and quality justice. Prior to assuming the office of the Chief Justice of India, I was the Chairman of the Project Advisory Group, which office is now adorned by Justice Y.K. Sabharwal. The project has been put to test in 30 pilot courts in Delhi and, if found successful, may be adopted in other courts in the country.

The Department of Justice has, in collaboration with United Nations Development Programme, recently launched a project to identify barriers to justice, as perceived by the marginalized sections of the society, and evolve strategies that would make justice pro-poor and gender sensitive. The Project Advisory Group is headed by Justice Y.K. Sabharwal. The National Judicial Academy Bhopal is entrusted with the task of conducting the research presently in seven states of the country which are Kerala, Karnataka, Maharashtra, Madhya Pradesh, West Bengal, Jharkhand and Orissa.

The clientele of the study are the vulnerable social groups of women, children, slum dwellers, tribals, downtrodden, and the physically and mentally challenged. This project has the potential of a much larger coverage in the course of time. Apart from the diagnostic study, the project envisages extensive interaction with major stake-holders and civil society organizations as well as running of innovative pilots.

Needless to say, these two projects are complimentary to each other. While the judicial reforms project at Delhi braces up the supply side of justice by activating measures for management of congestion and enhanced case load in Delhi subordinate judiciary, the access to justice project, launched in the seven states will work towards demand side strategies for removal of barriers.

The common trait of both these projects is that they provide consultation and dialogue between the judiciary and other stake holders of justice, including the civil societies, for consensual reforms. The involvement of the judiciary, right from their inception to their implementation, including pilot testing and designing, has given these projects the benefit of judicial ownership.

Law Commission

Under the Chairmanship of Mr. Justice M. Jagannadha Rao, the Law Commission of India has prepared several reports with far-reaching implications for the justice delivery system of the country.

In the context of globalisation and foreign investment in India, the recommendations made in the High-Tech, Fast-Track Commercial Division of the High Court (180th Report) and the Environmental Courts Report (186th Report) and in the context of opening up the insurance sector, the Report on Insurance Laws (190th Report) are timely and of significance, requiring serious thought.

In the 178th Report, there are a number of simple non-controversial changes, suggested in several civil and criminal laws (called Miscellaneous). These relate to C.P.C., Cr. P.C., T.P. Act, Specific Relief Act, M.V. Act etc. and can bring about significant changes to speed up the justice delivery system of the country.

I would like to specially mention the Law Commission's 185th Report on the Review of the Indian Evidence Act, 1872 which runs into 945 pages, comprehensively dealing with the provisions of the Indian Evidence Act and is a treasure house of legal literature. It suggests amendments of far-reaching implications in the context of the present scenario and on basis of comparative law.

Justice Rao has also authored the Reports relating to: Legal Education and Advocates Act, Court Fees Act, Insurance Act & IRDA Act, 1999, Mode of Execution of Death Sentence, Right to Silence & Art. 20(3) of the Constitution of India, Whistleblowers (Public Interest Disclosure and Protection of Informers), Miscellaneous reforms to C.P.C., Cr. P.C., T.P. Act, Specific Relief Act, M.V. Act, etc. (178th Report), Amendments to Arbitration and Conciliation Act, Amendment to section 106, T.P. Act, Amendment to section 6 Land Acquisition Act and General Clauses Act.

The latest is the Consultation Paper on Witness Identity Protection and Witness Protection Programmes, running into about 300 pages, dealing with comparative law and draft proposals.

My Priority List

Certain priorities have been enlisted, feeling inspired by what Vivekanand has said – "Let us rise and act and keep on marching ahead until the goal has been reached. Future is bright and not bleak for us." Martin Luther King Jr., very aptly said - "I long to accomplish great and noble tasksbut it is my chief duty to accomplish small tasks as if they were great and noble".

Speedy disposal of cases and delivery of quality justice, is an ongoing agenda which has been kept in view by the successive Chief Justices and continues to be mine as well. However, after assuming this office, three things have been on my priority list:—(i) making the National Judicial Academy functional in full swing; (ii) introduction of IT in judiciary; and (iii) development of ADR systems. If I do succeeded, with your cooperation, in completing the agenda, I am confident that the justice delivery system of the country shall be revolutionalised.

National Judicial Academy

National Judicial Academy at Bhopal in a beautiful campus, situated on a hillock, became functional in October 2003 with the assumption of office by the present Director, Dr. Madhava Menon, an academician of achieved excellence. As Chairman of the Governing Council of the Academy, I am pleased to report that the NJA has completed a year full of activities, involving over 500 senior judicial officers from all the States and Union Territories laying the foundations of strong and dynamic judicial education programmes for the future. The activities of NJA may briefly be stated under five heads:—

- (i) Education and Training of higher judicial officers and court administrators.
- (ii) Judicial Research and Judicial Policy Development.
- (iii) Dissemination and management of judicially-relevant information.
- (iv) Capacity building of judicial training institutions for better performance.
- (v) Establishing a center of excellence in judicial education and administration.

The Academy, through a process of consultation with the High Courts and their Training Divisions, has evolved a standard training curriculum based on its survey of needs and resources. A series of training and continuing education, programmes for judges of High Courts and District Courts, on a variety of subjects relevant to administration of justice have been initiated. A training calendar for a full Judicial Year (July to May) has been prepared and nominations from the High Courts are obtained for all the programmes for the year in advance. Till date, over 510 District & Addl. District & Sessions Judges as also 50 High Court Judges have had the benefit of 10 residential programmes, organized by the Academy. Every participant Judge has acquired computer literacy at the Academy's computer laboratory. Each programme conducted by the Academy is associated with lessons in ethics and morality and stress management training through its Yoga programmes.

The Academy has produced over 22 volumes of study materials for trainees. It has generated empirical data both for better judicial training and for improvement in administration of justice. A project on barriers for access to justice on the part of disadvantaged sections of people, supported by the UNDP, is undertaken in seven High Court jurisdictions. This research study will generate useful data to reform court proceedings and make the courts, easily accessible for the disadvantaged and down-trodden.

The publication of quarterly newsletter called 'Judicial Education', a series of occasional papers on topics of judicial interest and an annual journal of professional interest has been undertaken. The Academy has produced a CD-Rom on one of its programmes – Intellectual Property Adjudication and proposes to enlarge its electronic publication facilities.

The NJA has networking with judicial training institutions and State Academies for standardizing judicial training programmes and activities.

Computerisation during 2004

The Registry of the Supreme Court and National Informatics Centre, have in close co-ordination, developed the following programmes:

(i) *Filing Defects on Web*

A list of Filing Defects consisting of 379 items has been standardized and is available on website by reference to each case filed in the Registry.

(ii) *Digitisation of Old Records*

Considering the space problem in the record room of the Supreme Court, NIC suggested to go in for digitization of all records stored in the record room go-downs, so as to make space available for the fresh records. This process enables the Supreme Court in preventing loss of records, saving storage space, to manage records easily, to find document quickly, to make the scanned documents available centrally on intranet and to eliminate the need for file cabinets.

(iii) *Supreme Court's Digital Display Boards on Internet*

Court-wise progress of the cases, as they are being heard, is available on internet for the advantage of lawyers and litigants who need not necessarily reach the Court room for watching the progress of the case.

(iv) *Automatic deletion/shifting of excess matters and proposing next listing date*

This software module has been successfully implemented since July 2004 and excludes the possibility of manual manipulation.

(v) *SUPNET*

Entire information of interest for the employees of the Supreme Court, including telephone directory, is available on internet.

(vi) *E-Kiosks*

Two E-Kiosks are installed, one at the Filing Counter and the other at the Reception with touch screen facility providing information as to pending status of a case, the latest order delivered by the Court, Cause Lists, judgments, SC website, filing defects and so on.

(vii) *Interactive Voice Response System (IVRS)*

Any litigant can access and ascertain the status of his case in the Supreme Court by dialing the telephone number: 24357276.

(viii) *IT Facilities at the Museum*

A brief information about the Supreme court and its IT related information is shown on a large screen with projector attached to a computer system installed at the Museum of Supreme Court.

(ix) *Cause List/daily orders on web*

Cause Lists and daily orders passed by the Supreme Court are available on internet.

The projects which are in pipeline and will be implemented shortly are:

(i) *Attendance Recording System*

A computer based attendance system will be installed to record and monitor the attendance of the employees of the Supreme Court.

(ii) *Bar Coding based file tracing system*

To trace files and assets, a barcode based system will be implemented in all sections and courtrooms.

(iii) *Video Conferencing Facility*

A video conferencing facility will be established in the Conference hall of the Supreme Court to enable the Hon'ble Judges to interact with the Hon'ble Judges of the High Courts, Ministries of Government, if required or any organization based outside India.

(iv) *Electronic self-operating Facilitation Counter*

For providing easy information access to the litigant public, a facility consisting of a few computers, printers and internet will be established at the reception (to be constructed shortly). This will enable the users to access the required information on their own.

(v) *Digitally Signed Certified Copies*

Parallel to the signing of Daily Orders on hard copies, judges would sign digitally on electronic copies using Digital Signatures. The digitally signed orders would be made available on the court website. Litigants can download the electronic copies, with self-contained proof of authenticity of the document. Every judge will be provided with his/her Digital Signature.

When digitally signed orders are available on a server, the certified copy section, simply accepts the application from the litigant, downloads the relevant order from the server, takes a print out, checks the authenticity and integrity of the document and when satisfied simply signs and serves the certified copy to the litigant on the spot. As the digitally signed copies

need not be cross checked with the original file, they can be served to the litigant on the spot without any time delay.

Impact

- A large number of certified copies can be issued in a single day without keeping any application in pendency.
- One person can handle the entire Certified Copy Branch.
- As there will be no delay in issuing the certified copy, the dealing clerk has to provide the copy on the spot.
- No chance for excuse.
- The litigant can even download an electronically certified copy from the net without contacting the court.

ADR Systems

My emphasis is on the introduction of mediation and conciliation as ADR systems. Dr. H.R. Bhardwaj, the Hon'ble Minister for Law and Justice, who is also the Chairperson of the Indian Council for Alternative Dispute Resolution, has embarked upon a very ambitious project for introduction of mediation and conciliation as ADR systems – both court-annexed and court-referred, apart from out of court or pre-litigative mediation and conciliation. On 20th November, 2004, I had the privilege of inaugurating an international conference at Mumbai, co-organized by ICADR and the Bombay High Court. The Conference was followed by a Seminar, organized by the Bombay High Court, in collaboration with the Institute for Study and Development of Legal Systems, USA. The conference and seminar – each has been a grand success and has initiated awareness and a movement in this direction, throughout the country. The conference and seminar were attended by Dr. H.R. Bhardwaj and Shri Venkatapati, the Hon'ble Minister of State for Law & Justice as also by some Judges of the Supreme Court of India, entire judiciary of Mumbai and other legal luminaries from the judiciary and the legal profession.

Corruption in judiciary

I have never subscribed to the view that corruption has eaten into the roots of the Indian judicial system. I stand firm in my view. Casual aberrations or isolated incidents cannot be pressed into service for branding the institution as corrupt. Wherever corruption has shown its face, it is because we have failed in taking timely steps for preventing such incidents. My plan for preventing such incidents is three-fold:— (i) exercising extra care and caution at the entry level itself so that we do not later regret the appointments made; (ii) sending a clear message to the members of judiciary that no incident of corruption shall be tolerated and anyone prone to corruption shall not have any place in the system; and (iii) achieving a high degree of competence and professionalism through continuing education, learning and training, each programme associated with lessons in ethics and morality so as to make it a part of the personality of the occupants of judicial office and at the same time initiating timely, quick and strict action against the corrupt, indolent and deadwood. In the year 2004, 31 members of subordinate judiciary have been denied extension beyond the age of 58 years while 79 judicial officers have been shown the door by dismissal, removal or compulsory retirement. These actions have already sent ripples and the fence-sitters have commenced mending their ways.

**2005: THE YEAR OF EXCELLENCE IN JUDICIARY OF
THE CHIEF JUSTICES AND CHIEF MINISTERS**

It is in this backdrop, that on 18th September, 2004, speaking at the Conference of the Chief Ministers and the Chief Justices of High Courts, held at New Delhi, I volunteered, on behalf of the Indian Judicial fraternity, to declare the year 2005 to be 'The Year of Excellence in Indian Judiciary', dedicated to reduction in arrears, without sacrificing quality and rising to the highest standards of conduct and behaviour. In this scheme of things, there will be no place for the corrupt and the indolent. Cracking the whip on those who, by their conduct or behaviour, do not deserve to be members of an ideal Judiciary has already commenced. I am confident of developing a system in which only *the best of talent and men of character and integrity* alone shall have a place and in this *I mean business*

Excellence herein consists of five I's:

- (i) *Initiative* – We shall not be satisfied with doing just what is our duty. Each one of us shall exert to do better than his contemporaries or predecessors, going beyond the goal of duty and to be better than himself;
- (ii) *Intelligence* – None of us shall feel satisfied by mediocrity, *i.e.* by just being average;
- (iii) *Industry* – Each one of us shall exert to put his competence and capability to its maximum utilization;
- (iv) *Integrity*
- (v) *Inobtrusive personality* – *i.e.*, modesty and humility.

Even when imbibed with initiative, intelligence, industry and integrity what has been achieved is just the basic requirement which makes up the personality of a judge. Such achievements should not be a reason for developing any egoistic attitude.

In short, each one of us individually, and all of us collectively, should be able to say that the year 2005 was our finest year. In the words of Homer – 'Always to be the best and be distinguished above the rest.'

Excellence in appointment

The criteria for appointment to the Bench, whether from the Bar or from the Services, should be character, merit and integrity. It is because of his character that one commands respect in the society. Credibility of the institution is held high if those who compose it are respected in their own right and not because of the institution. A lawyer's merit is to be judged not by the volume of his practice, but by his knowledge of law, the number of cases argued by him which have contributed to the growth of law and his fairness in court. In addition to this, his commitment to the cause of justice has to be seen, by his work as a legal aid advocate or *amicus curiae*. The merit of a judge, from the services, is to be assessed by the quality of his judgments. It is however not legal competence alone which is to be solely seen. The approach of a judge to the problems of women, *dalits* and other marginalized sections, as reflected in his judgments, are to be scrutinised to make sure that they are in tune with the philosophy of the Constitution. The emphasis cannot be on seniority alone, at the cost of everything else.

But, merit without integrity is dangerous for the judiciary. There cannot be the slightest compromise on integrity. Those with questionable or doubtful integrity should not be appointed as judges in the first place, and the procedures for screening judges for appointment must ensure that no wrong person passes through the filter. Let this message go to the circles of law and justice that appointment to the office of judgeship cannot be sick-laid by soliciting and certainly not by lobbying or clamouring for it. We have to achieve a

system where the most deserving and excellent of all available are identified and then requested and persuaded to accept the office of judgeship.

Excellence in a judge

An “excellent” judge is impartial and fearless. He is independent of the executive and the legislature, but equally important, he is independent of his own predilections and prejudices. He is free of “isms.” He is patient and courteous, but realizes that he is a manager of the Court’s time. He pays full attention to the arguments advanced before him, but is duty-bound to curb irrelevant or frivolous arguments. He is learned in the law, but has the humility to learn from the arguments advanced by counsel. He delivers judgments in time.

He realizes that the respect of the community is not to be taken for granted, and is conscious that his conduct inside and outside the Court must be exemplary. He practices restraint in what he speaks in Court or outside but does plain speaking when required. He maintains dignity in his court room and outside. His social relationships and personal lifestyle are correct and appropriate, conscious as he is that respect has to be earned by ‘deserving and then desiring’ and not by forcing or dictating.

Excellence in performance

Excellence in performance is ensured by relentless hard work, constant upgradation of knowledge, punctuality, courtesy and conscientiousness. Proper rest, relaxation and recreation help in judicial performance but a hectic social life and other distractions detract from the discharge of judicial duties. A judge need not be an ascetic or sanyasi but a certain degree of aloofness has to be observed by him to see that impartiality and objectivity are not only maintained but also seemingly observed.

Excellence in Bench and Bar Relationship

Excellence in Bench-Bar relationship requires the constant realisation on both sides that both are institutions essential to the administration of justice. Mutual respect for and recognition of each other’s role is essential for a healthy and harmonious relationship. The Bar must remind itself that its members are officers of the Court, and while vigorously placing their clients’ cases, they must be fair and detached. The Bench, equally, must appreciate that in an adversarial system of justice, advocates are bound to place their respective cases persuasively. And while judges are duty-bound to control the court’s time, it is useful to remember that firmness is not inconsistent with courtesy.

Excellence in relationship with other wings of Governance

The Executive, the Legislature and the Judiciary are the three organs of the State, and have an equally important role to play in our constitutional scheme. The system of checks and balances is applicable to all three and none must over-step its respective limits. The inevitable tension between the organs must be viewed as a creative one, which ultimately results in strengthening the foundations of constitutionalism. They work in co-ordination and not in confrontation. The court is not obstructionist, and it is not an antagonist of the other wings. The judiciary, as a public institution, must however be receptive to, and not be hyper-sensitive about criticism either about its role or its functioning. Ultimately whatever strengthens constitutionalism and the Rule of Law is good for the country, and the judiciary should not be viewed as only wanting to protect its own prestige.

Michelangelo has said – “Trifles make Perfection, but Perfection is no Trifle.” Excellence is achieved only when the performer takes pride in doing his best. Every job is a self portrait of the person who does it, regardless of what the job is, small or big. Autograph your work with Excellence! Be forever in pursuit of Excellence!

A vision of the judiciary in India – The years ahead

There shall be emphasis on filling up all the existing vacancies by appointing judges of the highest caliber, competence and the utmost integrity. The judges in the performance of their duties will be complemented by a competent and ethical Bar who will view their profession as a service oriented one. Access to justice will be denied to none. The process of administration of justice will be speedy and inexpensive without sacrificing quality, keeping in mind that dispensing justice is not just disposal of cases. It will be the endeavour of all of us to see that judicial system will truly deliver and the faith of the people will not only be restored but strengthened.

‘Young Lawyers Year’

I compliment Mr. P.H. Parekh, the President of Supreme Court Bar Association, for earmarking the coming year as ‘Young Lawyers’ Year’. This will meaningfully help me in achieving my motto for the Year 2005 – ‘The Year of Excellence’. The young law graduates, entering the legal profession specially those coming from National Law Schools are a brilliant lot. They are our future. It is by concentrating on the quality of these young professionals and by assigning them a constructive and decisive role, in shaping the future of the profession, that we can be assured of a bright future.

Epilogue

My strength as the Chief Justice of India are (i) my colleagues; (ii) the members of Bar; (iii) the confidence of people in the Court; and (iv) assurance of co-operation by other wings of governance to the judiciary.

Sitting amongst lawyers and judges, I feel completely at home and a little emboldened, and therefore, I have tried to put across my thoughts with frankness and openness. Whatever I have said, it is all with good hopes, good intentions and largely in public interest.

I am very confident of an excellent year ahead and that an excellent future awaits us. We have an excellent atmosphere. Dr. A.P.J. Abdul Kalam, the President of India, was gracious enough to have visited the Supreme Court and spent about an hour amongst the Judges. His message to judiciary has been that every Judge should be a role model to the society to which he belongs. The Hon’ble Prime Minister is alive to the need of uptoning and strengthening the justice delivery system of the country. The Law Minister and the Finance Minister too are responsive to the needs of our justice delivery system. Many a members of the Bar occupy important position in governance, some of whom were honoured by the Supreme Court Bar Association only a few days ago in a function held in the lawns of the Supreme Court of India and they too have assured of their helping hand in doing whatever they can to see that justice delivery in India excels every other country in the world. The justice dispensation system of the country has high hopes from them.

Lawyers and judges are part of one family – one fraternity – united with the sole aim of dispensing justice and serving the society. United we stand in achieving this avowed objective and divided we fall.

The Parachutists have a song:

“It does not mean a thing

.....If you don’t pull a string.”

Many of us are, at times, like the closed parachute – possessed with great abilities but failing to pull the string of realization. Always remember, the word ‘talent’ is hidden in the word ‘latent’ and all that we need is to switch the places of the two letters ‘t’ and ‘l’.

I would quote Lyman Abbott (Light from many Lamps edited by Lillian Eichler Watson, p. 56), as a parting message of this Law Day and then take your leave—

“I neither know nor wish to know what the future life has for us. I would not, if I could, stand at the open window and peer into the unknown beyond. I am sure that He whose mercies are new every morning and fresh every evening, who brings into every epoch of my life a new surprise, and makes in every experience a new disclosure of His love, who sweetens gladness with gratitude, and sorrow with comfort, who gives the lark for the morning and the nightingale for the twilight, who makes every year better than the year preceding, and every new experience, an experience of His marvelous skill in gift-giving, has for all of us some future of glad surprise which I would not forecast if I could.”

* Speech delivered on LAW DAY on 26th November, 2004 at Supreme Court Lawns.