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FROM THE DESK OF CHIEF JUSTICE OF INDIA

This newsletter is proving to be a regular and authentic source of information on functioning of judiciary and its institutions. It is benefitting not only the lawyers, judges and law students but also the common citizens, who, for the first time have access to figures of institution, pendency and disposal of cases at various levels, vacancies in different courts, important judgments of the apex court delivered during the quarter and important activities of various judicial institutions.

Recently, President of India launched e-Courts project at Vigyan Bhawan on 9th July, 2007. The project was simultaneously launched in all the States. To be executed in three phases, spread over five years, the project is likely to substantially enhance the capacity of Judges to deliver speedy and quality justice, besides providing a host of information and facilities through computerisation and process automation. The objective is to curb delays and promote transparency, efficiency and integrity in justice delivery system.

I hope that this issue, like the previous ones, will prove to be quite useful and informative to its readers, thereby serving the desired purpose. Any suggestion, for further improvement of the contents of the newsletter, will be duly welcomed by Supreme Court Registry.

26th July, 2007


(K.G. BALAKRISHNAN)

APPOINTMENT AND RETIREMENT IN SUPREME COURT

RETIREMENT

Name of the Hon'ble Judge	Date of Appointment
Mr. Justice B.P. Singh	09-07-2007

APPOINTMENT IN HIGH COURTS

(From 1st April, 2007 to 30th June, 2007)

S.No.	Name of the High Court	Name of the Hon'ble Judge	Date of Appointment
1	Bombay	Amjad Ahtesham Sayed	04-04-2007
2	Himachal Pradesh	Kuldip Singh	03-04-2007
		Rajeev Sharma	03-04-2007
3	Punjab & Haryana	Laxmi Narain Mittal	02-04-2007
		Nawab Singh	02-04-2007

- Above statement is compiled on the basis of information received from the High Courts

TRANSFER BETWEEN HIGH COURTS

(From 1st April, 2007 to 30th June, 2007)

S.No.	From	To	Name of the Hon'ble Judge	Date of Transfer
1	Allahabad	Chhattisgarh	Jagdish Bhalla	19-05-2007
2	Chhattisgarh	Kerala	H.L. Dattu (As Chief Justice)	18-05-2007
3	Gujarat	Rajasthan	P.B. Majmudar	10-04-2007
4	Jharkhand	Punjab & Haryana	Permod Kohli	10-05-2007
5	Madras	Punjab & Haryana	P. Sathasivam	20-04-2007
6	Patna	Jammu & Kashmir	Aftab Alam	06-06-2007
7	Punjab & Haryana	Jammu & Kashmir	Virender Singh	19-04-2007
8	Punjab & Haryana	Madhya Pradesh	Viney Mittal	11-04-2007
9	Sikkim	Gauhati	A.P. Subba	04-04-2007

- Above statement is compiled on the basis of information received from the High Courts

VACANCIES IN COURTS

A) SUPREME COURT OF INDIA (As on 10th July, 2007)

Sanctioned Strength	Working strength	Vacancies
26	22	4

B) HIGH COURTS (As on 1st July, 2007)

S.No.	Name of the High Court	Sanctioned strength	Working strength	Vacancies
1.	Allahabad	95	77	18
2.	Andhra Pradesh	39	31	08
3.	Bombay	64	53	11
4.	Calcutta	50	43	07
5.	Chhattisgarh	08	06	02
6.	Delhi	36	32	04
7.	Gauhati	26	22	04
8.	Gujarat	42	31	11
9.	Himachal Pradesh	09	09	00
10.	Jammu and Kashmir	14	09	05
11.	Jharkhand	12	09	03
12.	Karnataka	40	31	09
13.	Kerala	29	24	05
14.	Madhya Pradesh	42	41	01
15.	Madras	49	44	05
16.	Orissa	22	14	08
17.	Patna	43	29	14
18.	Punjab & Haryana	53	35	18
19.	Rajasthan	40	32	08
20.	Sikkim	03	02	01
21.	Uttaranchal	09	09	00
	TOTAL	725	583	142

• Above statement is compiled on the basis of figures received from the Department of Justice

C) DISTRICT & SUBORDINATE COURTS (As on 31th March, 2007)

S.No.	Concerned State /Union Territory	Sanctioned Strength	Working Strength	Vacancies
1.	Uttar Pradesh	2172	1688	484
2.	Andhra Pradesh	817	697	120
3.a	Maharashtra	1711	1537	174
3.b	Goa	49	40	9
4.	West Bengal and A&N Islands	706	559	147
5.	Chhattisgarh	241	223	18
6	Delhi	415	315	100
7.	Gujarat	941	809	132
8a.	Assam	289	261	28
8b.	Meghalaya	10	6	4
8c.	Tripura	70	58	12
8d.	Manipur	34	27	7
8e.	Nagaland	26	25	1
8f.	Mizoram #	Nil	Nil	Nil
8g.	Arunachal Pradesh #	Nil	Nil	Nil
9.	Himachal Pradesh	123	114	9
10.	Jammu and Kashmir	14	8	6
11.	Jharkhand	503	444	59
12.	Karnataka	854	657	197
13.	Kerala	426	416	10
14a.	Tamil Nadu	765	687	78
14b.	Puducherry	20	15	5
15.	Madhya Pradesh	936	773	163
16.	Orissa	482	399	83

S.No.	Concerned State /Union Territory	Sanctioned Strength	Working Strength	Vacancies
17.	Bihar	1360	851	509
18a.	Punjab	328	280	48
18b.	Haryana	307	249	58
18c.	Chandigarh	20	20	0
19.	Rajasthan	820	694	126
20.	Sikkim	15	9	6
21.	Uttarakhand	265	90	175
	Total	14719	11951	2768

- Above statement is compiled on the basis of figures received from the High Courts.

Judiciary is not yet separated from the Executive.

INSTITUTION, DISPOSAL AND PENDENCY OF CASES

A) SUPREME COURT OF INDIA (FROM 01-04-2007 TO 30-06-2007)

						Pendency (At the end of 31-03-2007)		
						Admission matters	Regular matters	Total matters
						23,449	18,132	41,581
Institution (01-04-2007 to 30-06-2007)			Disposal (01-04-2007 to 30-06-2007)			Pendency (At the end of 30-06-2007)		
Admission matters	Regular matters	Total matters	Admission matters	Regular matters	Total matters	Admission matters	Regular matters	Total matters
13613	1403	15016	11847	1170	13017	25,215	18,365	43,580

B) HIGH COURTS (FROM 01-01-2007 TO 31-03-2007)

S. No.	Name of High Court	CIVIL CASES				CRIMINAL CASES				Total Pendency of Civil and Criminal Cases at the end of 31-3-07
		Opening Balance as on 1-1-07	Institution from 1-1-07 to 31-3-07	Disposal from 1-1-07 to 31-3-07	Pendency at the end of 31-3-2007	Opening Balance as on 1-1-07	Institution from 1-1-07 to 31-3-07	Disposal from 1-1-07 to 31-3-07	Pendency at the end of 31-3-2007	
1	Allahabad	600272	34106	25150	609228	214898	23631	32155	206374	815602
2	Andhra Pradesh	136896	12257	14457	134696	13367	2968	2519	13816	148512
3	Bombay	326361	28120	25531	328950	36589	5940	4984	37545	366495
4	Calcutta	229522	15124	11013	233633	38836	5288	5114	39010	272643
5	Chhattisgarh	60694 ^a	4808	8939	56563	24933	1957	2599	24291	80854
6	Delhi	66062	6762	9942	62882	16739	3194	2997	16936	79818
7	Gujarat	85585	12537	15103	83019	28926	4811	4711	29026	112045
8	Gauhati	52146	5762	6737	51171	6991	1963	2146	6808	57979
9	Himachal Pradesh	20090	2381	1931	20540	6272	475	368	6379	26919
10	Jammu & Kashmir ^b	41556	4778	2822	43512	1842	455	395	1902	45414
11	Jharkhand ^c	25857	2704	2129	26432	20594	4010	4011	20593	47025
12	Karnataka	78837	13751	10767	81821	14797	2440	2276	14961	96782
13	Kerala	92511	16656	16451	92716	25038	5662	5405	25295	118011
14	Madhya Pradesh	127120	17347	13636	130831	56665	9492	8192	57965	188796
15	Madras	372973	51621	39408	385186	33985	17518	18579	32924	418110
16	Orissa	203112	10995	8937	205170	18940	6409	6137	19212	224382
17	Patna	71217	5732	4934	72015	25007	16793	16461	25339	97354
18	Punjab & Haryana	199295	11873	9133	201207 ^d	42973	9562	8867	43668	244875
19	Rajasthan	157091	9984	8824	158251	51004	6894	7054	50844	209095
20	Sikkim	42	10	11	41	9	2	3	8	49
21	Uttaranchal	21311	1366	2315	20362	6836	631	546	6921	27283
	Total	2968550	268674	238170	2998226	685241	130095	135519	679817	3678043

• Above statement is compiled on the basis of figures received from the High Courts

- 4 Civil revision cases received from the High Court of Madhya Pradesh.
- Figure of pending cases at the end of quarter 1-10-2006 to 31-12-2006 has been revised by the J & K High Court
- Data regarding institution, disposal and pendency of cases for the quarter 1-10-2006 to 31-12-2006 has been revised by the Jharkhand High Court.
- 168 Regular First Appeals transferred to District and Sessions Judges and 660 cases decreased due to physical verification.

C) DISTRICT AND SUBORDINATE COURTS (FROM 01-01-2007 TO 31-03-2007)

S. No.	Concerned State/Union Territory	CIVIL CASES				CRIMINAL CASES				Total Pendency of Civil and Criminal Cases at the end of 31-3-07
		Opening Balance as on 1-1-07	Institution from 1-1-07 to 31-3-07	Disposal from 1-1-07 to 31-3-07	Pendency at the end of 31-3-2007	Opening Balance as on 1-1-07	Institution from 1-1-07 to 31-3-07	Disposal from 1-1-07 to 31-3-07	Pendency at the end of 31-3-2007	
1	Uttar Pradesh	1228536	110501	113392	1225645	3475764	498113	468860	3505017	4730662
2	Andhra Pradesh	484169	78816	85524	477461	462226	76512	76038	462700	940161
3(a)	Maharashtra	979460	85603	93112	971951	3168559	341377	415736	3094200	4066151
3(b)	Goa	19572	1704	1969	19307	14376	2986	2862	14500	33807
4	West Bengal and A & N Islands	490183	36094	40712	485565	1577128	113144	106699	1583573	2069138
5	Chhattisgarh	52435	14192	14950	51677	224673	63035	66621	221087	272764
6	Delhi	141738	18533	21244	139027	534881	81705	42442	574144	713171
7	Gujarat	764169	50338	58338	756169	2124298	226099	369935	1980462	2736631
8(a)	Assam	61940	9309	9229	62020	124040	37358	30726	130672	192692
8(b)	Nagaland	1181	83	116	1148	2568	222	183	2607	3755
8(c)	Meghalaya	4023	378	358	4043	6820	1107	1233	6694	10737
8(d)	Manipur	2984	498	481	3001	3518	1165	1284	3399	6400
8(e)	Tripura	6488	1476	1718	6246	26357	11984	10603	27738	33984
8(f)	Mizoram	1375	89	82	1382	3488	289	176	3601	4983
8(g)	Arunachal Pradesh	432	96	208	320	4938	392	280	5050	5370
9	Himachal Pradesh	64753	9800	10023	64530	88064	23825	28857	83032	147562
10	Jammu & Kashmir	52720	8984	7546	54158	95630	42501	40768	97363	151521
11	Jharkhand	44990	3787	5152	43625	229099	28090	31136	226053	269678
12	Karnataka	564448	79468	83315	560601	511371	117598	112658	516311	1076912
13(a)	Kerala	405288	65607	77427	393468	508028	166451	164697	509782	903250
13(b)	Lakshadweep	80	13	14	79	124	40	82	82	161
14	Madhya Pradesh	196645	43612	40453	199804	788812	179549	170399	797962	997766
15(a)	Tamil Nadu	443656	215012	207896	450772	413153	244805	241979	415979	866751
15(b)	Puducherry	13013	4881	4637	13257	7785	4801	4970	7616	20873
16	Orissa	178430	13234	13341	178323	814007	62663	52572	824098	1002421
17	Bihar	239201	8819	10403	237617	1070487	69346	61643	1078190	1315807
18(a)	Punjab	266976	29659	30913	265722	299488	95131	96188	298431	564153
18(b)	Haryana	208767	34955	29838	213884	316208	77680	81833	312055	525939
18(c)	Chandigarh	21500	2226	2526	21200	71587	10793	10420	71960	93160
19	Rajasthan	289289	39895	49910	279274	786390	159611	159202	786799	1066073
20	Sikkim	189	32	39	182	504	381	337	548	730
21	Uttarakhand	28518	6153	5955	28716	102251	28296	25507	105040	133756
	Total	7257148	973847	1020821	7210174	17856622	2767049	2876926	17746745	24956919

• Above statement is compiled on the basis of figures received from the High Courts

SOME RECENT SUPREME COURT JUDGMENTS OF PUBLIC IMPORTANCE

(Delivered between 1st April, 2007 and 30th June, 2007)

1. On 4th April, 2007, a three Judges Bench in *Greater Bombay Co-op. Bank Ltd vs M/s United Yarn Tex. Pvt. Ltd. & Ors* [Civil Appeal No. 432 of 2004] held that “Co-operative banks” established under the Maharashtra Co-operative Societies Act, 1960; the Andhra Pradesh Co-operative Societies Act, 1964; and the Multi-State Co-operative Societies Act, 2002 transacting the business of banking, do not fall within the meaning of “banking company” as defined in Section 5(c) of the Banking Regulation Act, 1949. Therefore, the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 by invoking the Doctrine of Incorporation are not applicable to the recovery of dues by the co-operatives from their members.”

“The field of co-operative societies cannot be said to have been covered by the Central Legislation by reference to Entry 45, List I of the Seventh Schedule of the Constitution. Co-operative Banks constituted under the Co-operative Societies Acts enacted by the respective States would be covered by co-operative societies by Entry 32 of List II of Seventh Schedule of the Constitution”, the Bench said.

2. On 5th April, 2007, a three Judges Bench in *Manzar Sayeed Khan vs State of Maharashtra & Anr* [Criminal Appeal No.491 of 2007] while directing the Respondents not to proceed against Professor James W. Laine, the author of the book titled “Shivaji: Hindu King in Islamic India”, for offences under Sections 153, 153A and 34, IPC held that “the intention to cause disorder or incite the people to violence is the *sine qua non* of the offence under Section 153A, IPC and the prosecution has to prove *prima facie* the existence of *mens rea* on the part of the accused.”

“The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. The matter complained of within the ambit of Section 153A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning”, the Bench said.

3. On 8th May, 2007, a three Judges Bench in *Kishore Lal vs Chairman, Employees State Insurance Corporation* [Civil Appeal No.4965 of 2000] held that “the service rendered by the medical practitioners of hospitals/nursing homes run by the ESI Corporation cannot be regarded as a service rendered free of charge.” The Bench held that “the service provided by the ESI hospital/dispensary falls within the ambit of ‘service’ as defined in Section 2(1)(o) of the Consumer Protection Act. ESI scheme is an insurance scheme and it contributes for the service rendered by the ESI hospitals/dispensaries, of medical care in its hospitals/dispensaries, and such service given in the ESI hospitals/dispensaries to a member of the Scheme or his family cannot be treated as gratuitous.”

4. On 16th May, 2007, a two Judges Bench in *G.L. Sultania and another vs The Securities and Exchange Board of India and others* [Civil Appeal No.1672 of 2006] held that “when a public offer made under the Securities & Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 1997 is challenged on the ground that the shares had not been properly valued and the price offered in the public offer document does not represent the fair price of the share in question, the Court must examine whether the provisions of the Regulations have been scrupulously observed, and whether the Securities & Exchange Board as the regulatory authority has exercised its authority and discretion in a proper manner so as to ensure fairness to the shareholders.”

The Bench held that the “Board as the regulator is not bound to accept the offer price which is required to be incorporated in the public offer, if it suspects that the offer price does not truly represent the fair value of the shares determined in accordance with Regulation 20(5)” and “if considered necessary the Board may require valuation of such shares by an independent merchant banker.”

“The purpose is only to ensure that the valuation arrived at is a fair valuation after taking into consideration all the enumerated factors in Regulation 20(5). In doing so the Board has to act prudently and within the limits of its jurisdiction. It cannot object to the price offered by the acquirer unless it has reasons to suspect that the price offered has not been determined fairly taking into account the enumerated factors”, the Bench said.

The Bench held that “the scheme of the Regulations is to permit an intending acquirer to make his offer to the shareholders whose shares are sought to be acquired. Despite the regulatory powers of the Board, the offer still remains that of the acquirer and not the Board. The Board has only to be satisfied that the offer made is reasonable and fair and in the interest of the shareholders. In case of doubt it may seek the opinion of another expert valuer which impliedly supports the contention that it is not expected to act as an expert valuer. If there is material on record to show that the Board applied its mind to the offer made and considered it in the light of the relevant provisions of the Regulations and all factors enumerated therein, its decision to approve the offer price to be incorporated in the letter of offer cannot be faulted on the ground that it has not passed a reasoned order.”

5. On 16th May, 2007, a two Judges Bench in *Institute of Chartered Financial Analysts of India & Ors vs Council of the Institute of Chartered Accountants of India & Ors* [Civil Appeal No.6835 of 2000] vide two separate but concurring judgments set aside the notification dated 3rd August, 1989 issued by Respondent No.1 which prescribed that if any member of the Respondent-Institute i.e. any Chartered Accountant, who obtained the qualification of the Chartered Financial Analyst (CFA) on or after 1st January, 1990; or having obtained the said qualification earlier did not surrender the same before the said date, would be held to be guilty of professional misconduct in terms of the provisions of the Chartered Accountants Act, 1949. The notification was held to be violative of Articles 14 and 19(1)(g) of the Constitution and was thereby quashed.
6. On 16th May, 2007, a two Judges Bench in *Ram Kripal Singh vs State of U.P. & Ors* [Civil

Appeal No.2675 of 2007] held that the “right of State Financial Corporation (SFC) unilaterally exercisable under Section 29 of the State Financial Corporation Act, 1951 is available against a debtor, if a company, only so long as there is no order of winding up. SFCs cannot unilaterally act to realize the mortgaged properties without the consent of the official liquidator. If the official liquidator does not consent, SFCs have to move the Company Court for appropriate directions to the official liquidator.”

7. On 18th May, 2007, a two Judges Bench in *Aashirwad Films vs Union of India & Ors* [Writ Petition (Civil) No.709 of 2004] held that the impugned levy of higher rate of entertainment tax by the State of Andhra Pradesh on non-Telugu feature films compared with films produced/ screened in Telugu could not be sustained being discriminatory in nature.

“It is difficult to laud the objective of the taxation statute in the instant matter which differentiates on the basis of language alone. This is definitely derisive of social attributes of the polity and Article 14 [of the Constitution] in its basic form i.e. equality before law”, the Bench said.

8. On 18th May, 2007, a three Judges Bench in *C.C. Alavi Haji vs Palapetty Muhammed & Anr.* [Criminal Appeal No.767 of 2007] held that “it is not necessary to aver in the complaint under Section 138 of the Negotiable Instruments Act that service of notice was evaded by the accused or that the accused had a role to play in the return of the notice unserved.”

The Bench held “when the notice is sent by registered post by correctly addressing the drawer of the cheque, the mandatory requirement of issue of notice in terms of Clause (b) of proviso to Section 138 of the Act stands complied with.” It further held that it is “for the drawer to rebut the presumption about the service of notice and show that he had no knowledge that the notice was brought to his address or that the address mentioned on the cover was incorrect or that the letter was never tendered or that the report of the postman was incorrect.”

9. On 4th June, 2007, a two Judges Bench in *Bapu @ Gajraj Singh vs State of Rajasthan* [Criminal Appeal No.1313 of 2006] held that “every person, who is mentally diseased, is not ipso facto exempted from criminal responsibility.” “In dealing with cases involving a defence of insanity, distinction must be made between cases, in which insanity is more or less proved and the question is only as to the degree of irresponsibility, and cases, in which insanity is sought to be proved in respect of a person, who for all intents and purposes, appears sane.”

The Bench held that “under Section 84 IPC, a person is exonerated from liability for doing an act on the ground of unsoundness of mind if he, at the time of doing the act, is either incapable of knowing (a) the nature of the act, or (b) that he is doing what is either wrong or contrary to law. The accused is protected not only when, on account of insanity, he was incapable of knowing the nature of the act, but also when he did not know either that the act was wrong or that it was contrary to law, although he might know the nature of the act itself. He is, however, not protected if he knew that what he was doing was wrong, even if he did not know that it was contrary to law, and also if he knew that what he was doing was contrary to law even though he did not know that it was wrong. The onus of proving unsoundness of mind is on the accused.

But where during the investigation previous history of insanity is revealed, it is the duty of an honest investigator to subject the accused to a medical examination and place that evidence before the Court and if this is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused. The onus, however, has to be discharged by producing evidence as to the conduct of the accused shortly prior to the offence and his conduct at the time or immediately afterwards, also by evidence of his mental condition and other relevant factors.”

“Section 84 embodies the fundamental maxim of criminal law, i.e., *actus non reum facit nisi mens sit rea*” (an act does not constitute guilt unless done with a guilty intention). In order to constitute an offence, the intent and act must concur; but in the case of insane persons, no culpability is fastened on them as they have no free will (*furios is nulla voluntas est*), said the Bench. However, the Bench held that “the mere fact that an accused is conceited, odd irascible and his brain is not quite all right, or that the physical and mental ailments from which he suffered had rendered his intellect weak and had affected his emotions and will, or that he had committed certain unusual acts, in the past or that he was liable to recurring fits of insanity at short intervals, or that he was subject to getting epileptic fits but there was nothing abnormal in his behaviour, or that his behaviour was queer, cannot be sufficient to attract the application of this section.”

10. On 6th June, 2007, a two Judges Bench in *Ajay Singh vs State of Maharashtra* [Criminal Appeal No.829 of 2007] held that “while dealing with a stand of extra judicial confession, Court has to satisfy that the same was voluntary and without any coercion and undue influence. Extra judicial confession can form the basis of conviction if persons before whom it is stated to be made appear to be unbiased and not even remotely inimical to the accused. Where there is material to show animosity, Court has to proceed cautiously.”

“Human mind is not a tape recorder which records what has been spoken word by word. The witness should be able to say as nearly as possible actual words spoken by the accused. That would rule out possibility of erroneous interpretation of any ambiguous statement. If word by word repetition of statement of the case is insisted upon, more often than not evidentiary value of extra judicial confession has to be thrown out as unreliable and not useful. That cannot be a requirement in law”, the Bench said.

The Bench further held that “it is for the Court to judge credibility of the witness’s capacity and thereafter to decide whether his or her evidence has to be accepted or not. If Court believes witnesses before whom confession is made and is satisfied confession was voluntary basing on such evidence, conviction can be founded. Such confession should be clear, specific and unambiguous.”

MAJOR EVENTS AND INITIATIVES

I. CHIEF JUSTICES' CONFERENCE – 2007:

Conference of Chief Justices of the High Courts presided over by Hon'ble the Chief Justice of India was held in the Supreme Court premises on 6th and 7th April, 2007. In the Conference, the following resolutions were passed:

1. a) High Court will make all endeavours at their end to ensure implementation of the resolutions passed in Chief Justices' Conference, 2006 and b) wherever co-operation or finances from the State Government are required for implementation of the resolutions, the matter will forthwith be taken up by the Chief Justices at the highest level, so as to get the needful done at an early date.
2. The fund requirements sent by the High Court to the State Government should be supported by project reports and firm plans.
3. (a) As far as the issue of appointment of ad-hoc judges in the High Courts is concerned, the stand of the Central Government that unless the full strength of the High Court Judges stands appointed, no ad-hoc judges be appointed was discussed. The conference was of the uniform view that if the vacancies of regular judges in the High Courts are not more than 25%, in such High Courts ad-hoc judges should be appointed. The recommendations already made by the Chief Justices of various High Courts be processed accordingly; (b) As far as the issue of increase in the judge strength in the High Courts is concerned, the existing norms should be revised because the increase in judge strength, linked with disposal of cases, does not bring about the desired effect. The increase in the judge strength in the High Court should be dependent only upon the pendency of cases as well as the trend of institution of fresh cases in the High Court ; (c) Cases involving petty offences, including traffic and municipal challans, be transferred to the Courts of Special Metropolitan Magistrates/Special Judicial Magistrates; (d) Additional Magisterial Courts be set-up to deal with complaints under Section 138 of the Negotiable Instruments Act; e) the time schedule stipulated by the Hon'ble Supreme Court in *Malik Mazhar Sultan & Another Vs. Uttar Pradesh Public Service Commission and Others [JT 2007 (3) 352]* for appointment of subordinate judges, be adhered to; (f) While issuing summons to an accused, he may be informed of the provisions of plea bargaining contained in Chapter-XXI A of the Code of Criminal Procedure; g) The matter of placing police personnel at the disposal of courts, for service of summons and execution of warrants, be taken up at the Joint Conference of Chief Ministers of States and Chief Justices of the High Courts. However, the Chief Justices were of the view that with every Court special police officials be attached for ensuring speedy and effective service of summons.
4. Evening/morning Courts, to be presided over either by serving or retired Judicial Officers, assisted either by serving or retired court staff, be set-up, wherever found feasible and various earmarked cases including those involving petty offences also be transferred to such courts.

5. (a) Consistent with the rules framed by the High Court, and with such modifications as may be deemed appropriate by it, National Plan for Mediation, prepared by the National Judicial Academy, be adopted by each High Court and (b) If otherwise feasible, engagement of serving Judicial Officers as mediators or conciliators, be avoided.
6. (a) National Judicial Education Strategy, prepared by the National Judicial Academy, be adopted by the High Courts with such modifications as may be found necessary in view of the local requirements and (b) National Judicial Academy be requested to consider audio/video recording the lectures/presentations given to the participants attending various courses organized by it and send these to the State Judicial Academies, for the benefit of Judicial Officers of the State.
7. (a) The National Judicial Infrastructure Plan prepared by the National Judicial Academy be approved and adopted as far as it is applicable to local conditions and with such modifications as may be found necessary; (b) If there are more than 2000 cases in a subordinate court, additional court(s) be set-up to deal with the excess cases and (c) Courts of civil Judges (Junior Division) and Judicial Magistrate be set-up at Taluka level as also for a block of 3-4 villages, provided that enough litigation is generated at that level.
8. The process of modernisation and computerisation of justice delivery system at all levels of Indian Judiciary and establishment of E-courts as well as provision of video conferencing facilities be expedited and steps be taken to examine the existing infrastructure facilities relating thereto so as to obtain the maximum and optimum levels. Digitisation/scanning of record be taken-up, subject to rules of the High Court and that as far as E-filing is concerned, the individual High Courts may examine the feasibility of introducing this at the High Court and local levels.
9. In view of the huge pendency of civil and criminal cases at the level of trial courts [lowest level in the hierarchy of Judicial Courts] a) more Courts of Civil Judges (Junior Division) and Judicial Magistrates in sufficient number be created keeping in view the recommendation by the Law Commission; b) for the present the aforesaid increase be atleast to the extent of 25% of the existing strength and also that c) keeping in view the fact that judicial officers at various levels are sent on deputation, at least 15% of the cadre strength of judicial officers in each State be increased in the cadre to cater to such requirement.
10. The earlier resolutions on the subject which relate to the grant of complete financial autonomy to the High Courts were reiterated.
11. (a) The Vigilance Cells constituted in every High Court should be headed by a Senior District Judge of impeccable integrity and should be under the direct control of the Chief Justice of the High Court and (b) to monitor and watch the members of the Ministerial staff of subordinate courts in the States, the High Courts will set-up the separate Vigilance Cells in High Court. It should be manned by an officer of the rank of Senior District Judge and should have enough subordinate staff to assist him in the discharge of his duties, especially looking into the fact that the ambit of its application shall cover all the subordinate courts in the State.

12. The resolution adopted in the Joint Conference of Chief Ministers and Chief Justices held at New Delhi on March 11, 2006 was reiterated and the issue of constitution of committees at appropriate level left to the individual Chief Justice of the respective High Courts.
13. The following resolutions adopted in the Joint Conference of Chief Ministers of States and Chief Justices of High Courts held on March 11, 2006 was reiterated : “In States of Himachal Pradesh, West Bengal, Punjab and Kerala, setting up of question papers and evaluation of answer sheets be entrusted to the High Court. In other States, where selection of subordinate Judicial Officers is not being made by the High Court, such selection be entrusted to the High Court, by amending the relevant rules.”
14. (a) The time frame relating to filing of written statements under Order VIII Rule 1 of CPC should be strictly adhered to and only in exceptional cases the Courts should permit filing of written statements beyond the upper time limit of 90 days; (b) The cost has to be actual reasonable cost including the cost of time spent by successful party, cost of transportation and lodging, if any, and other incidental cost besides court fee, lawyer’s fee, typing charges, etc. The High Courts should immediately make rules so as to provide appropriate guidelines for subordinate courts in this regard, as mandated by the Supreme Court in *Salem Bar Association Case*, wherever it has already not been done; (c) The provisions relating to (i) examination of parties (Order X Rule 2 of CPC) (ii) discovery and inspection (Order XI of CPC) (iii) issues (Order XIV Rule 2 of CPC) and (iv) ex-parte injunctions (Order XXXIX Rule 3 and 3 A) should be strictly implemented; (d) It has been experienced that the entire pleadings of the parties are almost reproduced in the affidavits of witnesses instead of confining them to the facts required to be proved by the witnesses. The Court should carefully scrutinize the affidavits before serving copy on the opposite parties and wherever it is found that the scope of the affidavits have been unnecessarily enlarged, such affidavits should be rejected with heavy costs; (e) As far as service of summons is concerned the Court should resort to the amended provisions of CPC providing service of summons through courier, fax, e-mail, etc. and (f) Frequent adjournments be avoided.
- High Court to accordingly issue suitable instruction to all the Civil Courts.
15. The following steps may be taken in right earnest for substantially strengthening the legal aid movement in the country: (a) spread of legal literacy at all levels; (b) appointment of legal aid counsel to provide free legal aid to the needy persons; (c) for setting up legal aid clinics/ camps, services of NGOs and law students may be utilised and (d) to take steps to strengthen the legal aid services offered in the prisons to the under-trials as well as convicted prisoners.
16. (a) High Courts will explore the possibility of sitting High Court Judges working on voluntary basis and subordinate judges working on incentive basis, during vacation and (b) The issue of reduction in vacation periods and holidays be left for appropriate decision at the level of the respective High Courts.

II. CONFERENCE OF THE CHIEF MINISTERS OF STATES AND THE CHIEF JUSTICES OF THE HIGH COURTS on ADMINISTRATION OF JUSTICE ON FAST TRACK

Joint Conference of the Chief Ministers of the States and the Chief Justices of the High Courts was held on 8th April, 2007 at Vigyan Bhawan, New Delhi. In the said conference the following decisions were taken:

- 1(a)** Consistent with the resources available to them, the States will provide adequate funds, as required by the High Court, for upgrading and augmenting the infrastructure of subordinate courts by replacing the dilapidated buildings with new buildings, upgrading the existing court complexes and constructing new court complexes and residential quarters for judicial officers.
- 1(b)** Adequate steps be taken for modernization & computerisation of courts and enhancing the use of various I.T. tools including video conferencing, internet usage, E-mail based communication, electronic dissemination of information and use of digital signatures, particularly at the level of subordinate courts.
- 2.** Immediate steps be taken to reduce the arrears of cases and to provide a speedy and efficient justice delivery system to the people by taking adequate measures, including suitably increasing the strength of Judges in High Courts and subordinate courts, filling-up of existing vacancies at all levels on an urgent basis and by timely filling-up of the vacancies in future.
- 3.** Evening/morning courts to be set-up, wherever found feasible, and appropriate cases including those involving petty offences be transferred to such courts. Either retired Judicial Officers be re-employed or serving Judicial Officers be given suitable incentive, to preside over these Courts.
- 4.** Alternative Dispute Redressal systems such as mediation, negotiation, conciliation and lok adalats be adequately strengthened so as to bring about a peaceful settlement to the disputes and as far as possible members of the bar alone be engaged as mediators and conciliators.
- 5.** The States in which recruitment of judicial officers is still being made by the Public Service Commission will take appropriate steps in terms of the decision taken in the last Joint Conference of Chief Ministers of States and Chief Justices of the High Courts held on 11th March, 2006 and will, in the meanwhile, ensure that there was no delay on the part of their respective Public Service Commission in filling-up the vacancies of judicial officers.
- 6.** The following resolution passed at the last Joint Conference of Chief Ministers of States and Chief Justices of High Courts held on 11th March, 2006 was reiterated: “ (i) Chief Justice of the High Court be delegated full power to appropriate and reappropriate the funds within the budget allocated by the State Government for the judiciary in the State; (ii) Consistent with their financial resources, State Governments shall provide adequate budgetary allocation for judiciary.”
- 7.** The following resolution adopted in the last Joint Conference of Chief Ministers of States and Chief Justices of High Courts held on 11th March, 2006 was reiterated: “(i) A Committee consisting

of Hon'ble the Chief Justice of India, Union Minister for Finance and Union Minister for Law & Justice be set-up at national level for ensuring timely implementation of the decisions taken at Chief Justices' Conference and Joint Conference of Chief Ministers and Chief Justices. Wherever deemed appropriate, Hon'ble Prime Minister of India be invited to the meeting of the Committee. and (ii) Monitoring Committees at two levels be set-up in each State for timely implementation of the decisions taken at Chief Justices' Conference and Joint Conference of Chief Ministers and Chief Justices. The first level Committee should consist of Chief Secretary, Registrar General of the High Court and Law Secretary of the State, whereas the second level Committee should consist of Chief Minister, Chief Justice and Law Minister of the State."

III. NATIONAL LAUNCHING OF E-COURTS PROJECT

Dr. A. P. J. Abdul Kalam, Hon'ble President of India launched the National e-Courts Project for extensive computerisation of Courts on 9th July, 2007 at Vigyan Bhawan, New Delhi in the august presence of Hon'ble Shri K. G. Balakrishnan, Chief Justice of India, Dr. H. R. Bhardwaj, Hon'ble Union Minister for Law & Justice, Mr. A. Raja, Hon'ble Union Minister for Communication & Information Technology, Judges of the Supreme Court and High Courts and other senior judicial and legal functionaries. The function was organized by the Supreme Court of India.

The Project of Computerisation of Courts is to be implemented in three phases over a period of five years.

Phase I extends over a period of two years. The following ICT components would be introduced in the judiciary during this period:-

- (i) Creation of computer rooms and Judicial Service Centers in all the 2,500 Court complexes;
- (ii) Establishment of digital inter-connectivity between all the Courts from the taluka level to the Apex Court;
- (iii) State-of-the-art video-conferencing facilities at Supreme Court, High Courts and all the District Court;
- (iv) Wi-fi facilities in Supreme Court and High Courts;
- (v) Providing laptops to around 15,000 Judicial Officers;
- (vi) Extensive ICT training to Judicial Officers and Court staff;
- (vii) Arranging of awareness programs and training modules for lawyers;
- (viii) Creation of well structured database of all the stakeholder Courts, cases with user-friendly retrievable facilities;
- (ix) Digital archiving of Supreme Court and High Courts;
- (x) Creation of e-filing facility in Supreme Court and High Courts;
- (xi) Upgradation of ICT infrastructure of Supreme Court and High Courts;
- (xii) Extensive process re-engineering and change management exercises and;

(xiii) Development of comprehensive and integrated customized software application for the entire judicial system with regional language support.

At the end of this Phase, the following goals are sought to be achieved:

- (i)** Capacity building of the Judges – primarily, the subordinate court Judges – for delivery of speedy and quality justice;
- (ii)** Creation of National Judicial Data Center to provide litigational trends in the country for all levels and geographical locations supporting better management and policy decisions;
- (iii)** Availability of ICT modules for assessing work performance;
- (iv)** Instant availability of status of cases, judgments and orders of all Courts through Internet, kiosks and Judicial Service Centers;
- (v)** Facilitation of case flow management, online accessibility of orders, judgments and case related data by ICT;
- (vi)** Wireless connectivity to lawyers in and around Court complexes for accessibility of case statute, cause lists, judgments and orders;
- (vii)** Digital production of under-trial prisoners and distant examination of witnesses through video-conferencing and
- (viii)** Facilities for e-filing in the Supreme Court and High Courts.

In Phase II which will also extend for two years, ICT coverage of judicial processes would be provided from filing to execution and all administrative activities. The steps intended to be adopted in this Phase are:

- (i)** Complete Automation of Registry level processes;
- (ii)** Digitilization of Law Libraries and Court Archives;
- (iii)** Digital availability of case laws, statute laws and law literature through the website of Indian Judiciary;
- (iv)** Availability of video conferencing facilities at all Court complexes and
- (v)** Facilities for e-filing facilities at District and subordinate Courts.

All this would help to realize the following targets:

- (i)** Automate registry level (ministerial) processes eradicating delays, harassment and corruption at this level;
- (ii)** Online availability of legal resources to the Judges, lawyers and public at large and;
- (iii)** Availability of e-filing facilities at District and subordinate Courts.

Phase III would be of one year. It would lead to the creation of Information Gateways between Courts and Public Agencies and Departments and use of advanced ICT and scientific tools. The specific programs sought to be implemented would be:

- (i) Establishment of Information Gateways between Courts and police stations, prisons, land record and registration offices as also other governmental agencies and
- (ii) Use of bio-metrics and other high-end scientific tools.

The implementation of this Phase would lead to:

- (i) Availability of online information between the Courts, prosecuting and investigating agencies, prisons, land records and registration offices thereby accelerating disposal of civil and criminal cases and
- (ii) Bio-metrics and scientific tools would help in identifying habitual criminals, professional witnesses and litigants and in resolution of complex factual disputes.

The use of technology would rejuvenate the Indian Judicial system and accelerate case progression to reach its logical end within a set time frame. It will lead to complete demystification of the adjudicatory process thereby ensuring transparency, accountability and cost-effectiveness.

IV. UPDATION OF THE SUPREME COURT REPORTS (SCR)

The official journal containing Supreme Court judgments viz., the Supreme Court Reports has been updated. The Headnotes of all the judgments are approved by the Hon'ble Judge (s) who write the judgment. All the 10 Supplementaries of 2006 have been published. For the year 2007, first 4 Volumes (each volume containing 4 parts) have been published covering judgments delivered upto 10th April, 2007. Next 3 volumes, covering judgments delivered till 30th June, 2007, are in print and are expected by the end of July 2007. The annual subscription for the year 2007 is Rs.3300/- for 12 Volumes and Index. Individual part/volume are not available for sale. To subscribe to SCR, please contact the Assistant Controller of Publications, Government of India, Civil Lines, Delhi-54; Tel. (011) 23817823, 23813761-62, 64, 65; Fax: 011-23817846; or Reception Counter, Supreme Court of India, Tilak Marg, New Delhi-110001 Tel: (011) 23387462, Fax: 011-23384336.

V. DISPOSAL OF OLD AND URGENT CASES

With a view to expedite disposal, particularly of old cases, Hon'ble Shri K.G. Balakrishnan, Chief Justice of India constituted Benches of Supreme Court for hearing urgent matters as well as old regular matters during summer vacation from 21st May, 2007 to 8th July, 2007. 468 urgent matters were heard by the Hon'ble Vacation Courts, out of which 238 matters were disposed of and the verdict was reserved in 10 matters. 241 old regular matters were listed before the Hon'ble Courts. 67 such matters were disposed of and judgment was reserved in 69 such matters.

VI. MAJOR ACTIVITIES OF NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

1. *A National Dialogue on Comprehensive Health Portfolio Development Programme for Prisoners for Improved Access to Essential Medicines, Treatment and Protection of Health Rights of the*

Disadvantaged in West Bengal was organized by the Department of Correctional Homes, Prisons Directorate, Govt. of West Bengal and Matrisangha Janakalyan Ashram, under the guidance of NALSA, at Kolkata on 6th April, 2007.

2. *A National Meet of NGOs of Rural India for Equity and Social Justice* at the Convention Hall, Hotel Ashok, New Delhi on 24th-26th April, 2007 was organized with support of NALSA. The Meet was inaugurated by Hon'ble Mr. Justice K. G. Balakrishnan, the Chief Justice of India in the august presence of Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA.
3. *A National Cooperation Dialogue on Labour Welfare* was held at Conference Hall, NASC Complex, Pusa on 1st May, 2007. It was a stakeholders meeting and dialogue regarding the implementation of labour legislations in the country and to draw a consensus for the welfare of the labouring communities.
4. *A Legal Awareness Campaign laying special focus on the Rights of Women and Children* was launched by Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA on 23rd May, 2007 at Sri Venkateswara University, Tirupathi.
5. *A Legal Awareness Campaign* was launched at Srinagar, under the aegis of NALSA, by J & K State Legal Services Authority on 18th June, 2007. Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India inaugurated the Campaign in the august presence of the Governor and the Chief Minister of J & K, Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India and Executive Chairman, NALSA and other dignitaries. A *Mediation Centre* was set up at Jammu & Kashmir Court Complex at Srinagar. The Centre was inaugurated on 19th June, 2007 by Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India in the august presence of Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA.

VII. MAJOR ACTIVITIES OF NATIONAL JUDICIAL ACADEMY (NJA)

1. *A Refresher course on "Judicial Administration"* was organized from 13th April to 15th April, 2007. The course was attended by 39 District Judges and Registrar Generals of all the High Courts.
2. *A Programme on Judicial Method: The Science, Art and Craft of Judging* was organized from 13th April to 15th April, 2007 with the objective of enhancing quality and responsiveness of justice. 33 judges participated in the programme. There was exercise in simulated judgment writing.
3. *A Programme on Juvenile Justice* was organized from 20th April to 22nd April, 2007. About 40 judicial officers participated in this three day Program to discuss the various issues on children and problems they face in getting justice from the legal and judicial system. The programme in its content highlighted various changes made to Juvenile Justice Act from 1986 to 2006.
4. *A Programme on Environment Law* was organized from 20th April to 22nd April, 2007. 34 judicial officers participated in this three day Program to discuss the environmental issues that come

before the District judiciary. The programme exposed participants to the conflicting themes of environment and development and to the different legal strategies that they could adopt while adjudicating upon environmental issues. A set of guidelines seeking to facilitate effective implementation of environmental statutes formed the major outcome of the programme.

5. *A National Colloquium on Emerging Issues in Public Law* was organized from 27th April, 2007 to 29th April, 2007 at Bhopal. About 35 Justices of High Courts from across the country participated in this three day National Colloquium. It was presided over by the most distinguished panel of resource persons which included – Hon’ble Mr Justice S.B. Sinha and Hon’ble Mr Justice Dalveer Bhandari. The colloquium focused on public law doctrines and their impact on the course of economic, social and political development.

IMPORTANT VISITS AND CONFERENCES

OVERSEAS

1. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India alongwith Hon'ble Mr. Justice Ashok Bhan and Hon'ble Dr. Justice Arijit Pasayat participated in the 7th Worldwide Common Law Judiciary Conference held in London, United Kingdom from 29th April to 3rd May, 2007. During course of the conference, Hon'ble the Chief Justice of India presented a paper on "Domestic application of International Human Rights Law: a view from India". Hon'ble Mr. Justice Ashok Bhan presented a paper on "Challenges for Judiciary in the 21st Century" while Hon'ble Dr. Justice Arijit Pasayat presented a paper each on "Judicial Independence" and "Alternative Dispute Resolution".
2. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India participated in the 12th Conference of Chief Justices of Asia and the Pacific in conjunction with the 20th Biennial Conference of LAWASIA held in Hong Kong from 4th to 8th June, 2007. His Lordship delivered a speech on "Overcoming delays in the Indian Judicial System"
3. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India delivered a lecture on "The Independence of the Judiciary" at the Lincoln's Inn on the occasion of a Symposium held in London on 25th June, 2007 and had interaction with Hon'ble the Lord Chief Justice Phillips and other members of House of Lords to discuss various administrative matters. His Lordship had discussion with the Chairman and Members of the Bar Council of England and Wales about the working of the British law firms vis-a-vis settling their legal problems. He also visited the Cambridge University to see the working of the Law College affiliated to the University to understand the system of legal education in England.
4. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India delivered a lecture on "Ensuring Governance: a view from India" at the Faculty of Law, Economics and Finance of the University of Luxembourg on 27th June, 2007.
5. Hon'ble Mr. Justice H.K.Sema participated in the Two-week Core Programme as a part of the Fourteenth Annual Intensive Study Programme for Judicial Educators organised by the Commonwealth Judicial Education Institute (CJEI) held at Halifax, Nova Scotia from 3rd to 15th June, 2007.
6. Hon'ble Mr. Justice P.K. Balasubramanian attended the Round Table Meeting of the Asia Pacific Judicial Reform Forum held at Putra Jaya, Malaysia from 27th to 30th May, 2007. On 28th May, 2007, His Lordship spoke on "Case Management Reforms: Experience of the Supreme Court of India and lessons learnt from this experience."

INLAND

1. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India laid the Foundation Stone of the new Building of the Rajasthan High Court on 20th April, 2007 in the august presence of Hon'ble Mr. Justice A. K. Mathur and Hon'ble Mr. Justice Dalveer Bhandari.
2. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India inaugurated the 5th Annual Conference of Retired Supreme Court/High Court Judges, as Chief Guest, at AMM Sabha Grah, Indore on 21st April, 2007.
3. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India laid the foundation stone of the New High Court Complex at Kohima, Nagaland on 21st May, 2007 in the august presence of Hon'ble Mr. Justice H.K. Sema.
4. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India inaugurated the seminar on "Contribution of Justice KT Thomas to Indian Jurisprudence" at Hosanna Mount Hall near Bharananganam, Kochi on 26th May, 2007.
5. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India, in the august presence of Hon'ble Mr. Justice Ashok Bhan, inaugurated a Legal Awareness Campaign at SKICC, Srinagar on 18th June, 2007 and a Mediation Centre in the High Court Complex, Srinagar on 19th June, 2007.
6. Hon'ble Mr. Justice Ashok Bhan presided over a Seminar on "Arbitration - Alternative Disputes Resolution" organized by Punjab & Haryana High Court Bar Association on 21st April, 2007.
7. Hon'ble Mr. Justice Dalveer Bhandari delivered a lecture on "Public Interest Litigation- Access to Justice" on 28th April, 2007 at the High Court Justices' "National Colloquium on Emerging Issues in Public Law" organized by the National Judicial Academy at Bhopal.
8. Hon'ble Mr. Justice V. S. Sirpurkar inaugurated the First Mediation Centre in the State of Jharkhand at Ranchi on 20th May, 2007.
9. A Chinese delegation led by Hon'ble Mr. Xiao Yang, Chief Justice of China visited Supreme Court of India on 2nd April, 2007 and interacted with Hon'ble the Chief Justice of India, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice Ashok Bhan.
10. A delegation of 36 lawyers and jurists of Fellows of American Bar Foundation headed by Mr. Richard Pena visited Supreme Court of India on 18th April, 2007 and had interaction with Hon'ble the Chief Justice of India, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice Ashok Bhan.

11. Mr. Anthony Gates, Acting Chief Justice of Fiji had interaction with Hon'ble the Chief Justice of India on 24th May, 2007.

12. A South African delegation headed by Her Excellency Ms. Brigitte Sylvia Mabandla, Minister of Justice & Constitutional Development visited Supreme Court of India on 2nd April, 2007 and had interaction with the Secretary General and senior officers of the Registry.