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KARNATAKA STATE LAW UNIVERSITY, HUBLI-DHARWAD

ANNUAL REPORT 2007-08

Background

Establishment of the Karnataka State Law University is one of the important ongoing projects of the Government of Karnataka. The main objective of the establishment of Law University is to transform Karnataka into a legally conscious society by providing quality legal education in formal, informal and distance education mode. This is clearly spelt out in the Policy and Action Plan of the Department of Law, Justice and Human Rights, Government of Karnataka issued in the year 2005.

The Government of Karnataka appointed Dr. J. S. Patil, Professor and Dean, Department of Studies in Law, Gulbarga University, Gulbarga, as the Special Officer to study and submit a comprehensive report regarding the ways and means of establishment of Law University in the State including the aspects of strengthening the legal education and the legal profession, requirement of land, buildings, infrastructure, etc., for setting up of the Law University, sharing of resources from the existing Universities, and strength and composition of various categories of posts for the proposed Law University. The Special Officer submitted a comprehensive Report on the Establishment of Law University in the State on May 10, 2006 and the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore accepted the report and various Departments in the Government were moved to take action in accordance with recommendations made in the Report of the Special Officer. In a meeting on 18th

September 2006 it was decided to continue the services of the Special Officer for establishment of Law University on full time basis by creating a scale-less post in the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore. Accordingly, services of Prof. J. S. Patil were continued on full time basis. The Special Officer started functioning on full time basis from 1st December 2006. His appointment, which was initially for a period of one year, is renewed for one more year until end of November, 2008. A report of the progress made in the matter relating to the establishment of a separate Law University in the State of Karnataka for the year 2006-07 is submitted to the Department of Law, Justice and Human Rights, Government of Karnataka at the end of the financial year and the same is enclosed herewith as *Annexure I*. Following is the Annual Report of the progress made in the matter of establishment of Karnataka State Law University for the Year 2007-08. The Report is divided into six parts:

1. Work at the Government Level
2. Infrastructure: Land and Buildings
3. Infrastructure: Furniture and Equipments
4. Consultation and Interaction with Eminent Persons
5. Academic Activities
6. Other Activities

1. Work at the Government Level

The Special Officer visited Various Government Offices at Bangalore and Hubli-Dharwad in connection with the procurement of land required for the establishment of

Law University. The Special Officer visited Bangalore for attending official work from 9-4-2007 to 10-4-2007, from 2-5-2007 to 8-5-2007, from 18-7-2007 to 30-7-2007, from 4-9-2007 to 5-9-2007, from 29-10-2007 to 31-10-2007, from 15-11-2007 to 17-11-2007, from 2-12-2007 to 4-12-2007, from 10-12-2007 to 12-12-2007, from 25-12-2007 to 27-12-2007, from 27-1-2007 to 29-1-2007, from 30-1-2007 to 1-2-2007, from 26-2-2007 to 29-2-2007, from 9-3-2007 to 16-3-2007 and from 17-3-2007 to 20-3-2007.

With the active co-operation of the Officers of all the concerned Departments in the Government, the land required for the establishment of Law University is provided by the Government. The Special Officer has also worked in close association with the Department of Law, Justice and Human Rights and the Department of Parliamentary Affairs, Government of Karnataka with regard to the passing of the *Karnataka State Law University Bill, 2007* and made several visits to Bangalore in this connection. However, in spite of the sincere efforts made by all concerned, the Bill could not be passed in the Houses of Karnataka Legislature though the Bill is listed for business in two consecutive sessions of the Karnataka Legislature meetings. Efforts were also made to get the *Karnataka State Law University Ordinance, 2007* issued and the Government in the Department of Law, Justice and Human Rights moved the file accordingly. Unfortunately, when the file reached the Office of the Governor, the popular Government fell and the President Rule was imposed. As a consequence of imposition of the President's Rule the file moved for the issue of Ordinance became *functus officio* and returned to the Department of Law, Justice and Human Rights. Serious thought was given regarding moving the Union Government for issue of *Karnataka State Law University*

Ordinance. In the meanwhile a circular from the Home Ministry that only the most urgent matters should be sent to the Union Government was issued resulting in the fiasco.

Some of the details of the visits of the Special Officer to Bangalore in connection with the matters relating to the establishment of Law University are given here under. The Special Officer attended MMR Meetings called by the Secretary, Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore on 18-9-2007, 28-9-2007, 29-10-2007, 23-11-2007, 23-12-2007, 26-12-2007, 28-1-2008, 28-2-2008 and apprised the Department of the monthly expenditure of the Office of the Special Officer to Establish Law University functioning from PWD Circuit House, Navanagar, Hubli.

A visit was made on 9th April to Bangalore and an informal meeting was held with the Additional Law Secretary. A report on the expenditure made in the year 2006-07 out of the grant of Rs. 25.00 lakhs made for the establishment of Law University is also submitted to the Department during this visit. A detailed proposal of budgetary requirement for the year 2007-08 is prepared and submitted to the Department of Law, Justice and Human Rights and the same is enclosed herewith as *Annexure 2*. An amount of Rs. 1.50 crores (Rupees One Crore Fifty Lakhs only) is allocated for the establishment of Law University.

A visit to the Office of the Department of Law, Justice and Human Rights, Government of Karnataka at Bangalore was made on 23rd and 24th of June 2007 to follow up pending files with regard to certain bills pending. On 18th July 2007 a visit to Bangalore is made to attend the meeting convened by the Department of Law, Justice and Human Rights, Government of Karnataka at Bangalore to discuss and finalise the matter

relating to handing over of the Land and building belonging to Public Works Department, Government of Karnataka. Again a meeting was held on 30th July 2007 at Vikasa Soudha, Bangalore regarding the PWD land and building.

An official visit to the Office of the Department of Law, Justice and Human Rights, Government of Karnataka at Bangalore was made on 4th and 5th September 2007 in connection with the matters relating to the follow up action as to certain bills pending and other matters such as taking up of the Karnataka State Law University Bill to the Legislature for approval. A visit is made to the Office of the Department of Law, Justice and Human Rights, Government of Karnataka at Bangalore on 16th and 17th of November 2007 regarding the follow up activities of getting the bills cleared as also to process the matter relating to law to in place for establishing the Law University.

The Special Officer attended the meeting convened by the Finance Department, Government of Karnataka, Bangalore on 3rd December 2007 to review the progress of expenditure in respect of Plan and Non-plan provisions in the budget for the year 2007-08 and briefed the Principal Secretary and other Officers in Finance Department, Government of Karnataka, Bangalore regarding the Plan expenditure incurred in respect of the establishment of Law University. A meeting was convened under the chairmanship of the Chief Secretary to Government on 11th December, 2007 regarding the allocation of land to Law University. The meeting was attended by the Principal Secretary to Government, Public works, Ports and Inland Water Transport; the Principal Secretary to Government, Revenue Department; the Secretary to Government, Law, Justice and Human Rights Department; the Secretary to Government, Urban

Development Department; Additional Secretary to Government (ISWD), Department of Law, Justice and Human Rights; the Special Officer for establishment of Law University; Superintending Engineer, PWD Circle, Dharwad and Sheristedar, Assistant Commissioner's Office, Dharwad. After the detailed discussion on the matter of allocation of land to the Law University the Chief Secretary to Government suggested to work on the following probabilities:

- i. The Principal Secretary to Government, Revenue Department, may kindly verify from the Deputy Commissioner, Dharwad about the availability of additional lands belonging to Government from being transferred to the Law University; this may be achieved by acquiring a portion of adjoining lands or by relocation of existing grantees; the Urban Development Department may also examine the feasibility of granting certain extent of land in Block No. 89, Amargol village, Hubli Taluk, which is adjoining to Rayapur PWD Circuit House, so that a continuous area of about 50 acres is made available to the Law University;
- ii. To inquire and ascertain the possibilities of securing the required land for the Law University from KIADB; the Principal Secretary to Government, Revenue Department may use his good offices in this regard and co-ordinate with the Executive Director, KIADB and the Deputy Commissioner, Dharwad, so as to identify whether any lands belonging to the KIADB in HDMC limits is available for establishing Law University; and

- iii. To identify the availability of a large chunk of vacant land, measuring 50 acres and more which is belonging to Government in the Hubli-Dharwad Municipal limits, for transferring it to the Karnataka State Law University.

A visit to Bangalore is made from 28th January, 2008 to attend series of meetings and to make a follow up activities of the establishment of Law University. MMR meeting convened at the Office of the Department of Law, Justice and Human Rights, Government of Karnataka at Bangalore was attended on 28th January, 2007. Interaction with Prof. E. Vijaykumar, Registrar, National Law School of India University, Bangalore as to the understanding that can be entered into between the two institutions is made on 29th January, 2008. A meeting of the Principal and faculty of the Vivekananda Law College to get a feedback on the ways and means of establishing Law University was conducted in the premises of Vivekananda Law College, Bangalore on 30th January, 2007.

A meeting convened by the Hon'ble Advisor to His Excellency the Governor of Karnataka on 31st January, 2008 regarding the allocation of budget to the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore at the Meeting Hall, Vidhana Soudha, Bangalore between 11.30 am and 12.45 pm was attended a submission regarding the budget requirement for the establishment of Karnataka State Law University is made by the Special Officer in the meeting. A meeting was held with the Principal Secretary to Government, Department of Public Works, Government of Karnataka was held at 10.30 am on 31st January, 2008 to discuss about the modalities of transfer of PWD Circuit House along with the land measuring 6.2 acres situated at

Rayapur village to the Karnataka State Law University. This was followed by a meeting with Sri Krishna Kumar, Hon'ble Advisor to His Excellency, the Governor of Karnataka along with the Principal Secretary to Government in Public Works Department regarding the transfer of the said land and building and also giving a good frontage to the Law University in the Revenue land allocated to the Law University in Bloc No. 83 in Amargol village by shifting the Shivanand Math and Modi Trust to other suitable places and decided to send a note to Sri Tarakan, Hon'ble Advisor to His Excellency, the Governor of Karnataka to convene a meeting for the purpose of giving final touch to the entire matter of transfer of land and building to Law University.

A meeting was held with the Commissioner, Hubli Dharwad Municipal Corporation on 2nd February, 2008 at 4.00 pm to discuss about the transfer of vacant land belonging to HDMC adjacent to PWD property measuring 22.2 acres. A follow up meeting with the Commissioner is held at 8.30 pm in the premises of the Office of the Special Officer to take stock of the situation and also to take follow up action in the matter.

A meeting was held by Sri Tarakan, Hon'ble Advisor to His Excellency, the Governor of Karnataka at the Meeting Hall, Vidhana Soudha, Bangalore on 27th February, 2008 to discuss and decide about the finalization of the land allocation to the Law University. In addition to the 24 acres of revenue land already allotted to the Law University, it was decided to transfer 22.2 acres of land belonging to HDMC and 6.2 acres of land and Circuit House belonging to PWD. Following instructions were issued by the Hon'ble Advisor to His Excellency the Governor of Karnataka:

- i. The administrative Department shall, in conjunction with the Urban Development Department initiate suitable action to transfer 22.12 acres of land in possession of Hubli-Dharwad Municipal Corporation.
- ii. PWD Department shall expressly examine the proposal for transferring the PWD Circuit House along with the 6.20 acres of adjoining land to Karnataka State Law University.
- iii. To consult the Department of Home regarding transfer of KSRP Building and adjoining area of 2 Acres.

MMR Meeting convened by the Secretary to Government, Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore at Bangalore on 28th February, 2008 was attended by the Special Officer and the Secretary o Government, Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore was appraise of the necessity of re-appropriation of funds to pay the land value to HDMC in consideration of the land that is agreed to be transferred to the Law University.

A visit to Bangalore is made from 10th March, 2008 in connection with processing the file for re-appropriation of funds to make payment to HDMC in consideration of transfer of 22 acres of land to the Law University. A visit to the Office of the Secretary to Government, Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore was made on 10th January, 2008 at 10.30 am and apprised the Secretary of the urgency of the matter. The Secretary to Government, Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore was kind enough to convene a meeting of the officers and the officials concerned and appraise them of the urgency of

the matter and instructed them to take up the matter of re-appropriation of funds to the extent of Rs. 1.50 crores (Rupees one crore fifty lakhs only) from Lok Adalat to Law University. A file for re-appropriation of 1.50 crores (Rupees one crore fifty lakhs only) was moved on 11th February, 2208 from the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore to the Finance Department, Government of Karnataka, Bangalore. The Special Officer had a meeting with the Joint Secretary to Government, Department of Finance, Government of Karnataka, Bangalore, where the file was pending and apprised him of the urgency of the matter and requested him to clear the file. The Special Officer met the Principal Secretary, Department of Finance, Government of Karnataka, Bangalore, on 13th March, 2008 and apprise him of the matter and requested him to clear the file. The file was ultimately cleared on 15th March, 2008 and an order of re-appropriation of 1.50 cores is issued by the Department of Finance, Department of Finance, Government of Karnataka, Bangalore, and also a consequent order was issued by the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore. A bill was prepared and taken to Bangalore on 17th March, 2007 to get it countersigned and also to upload the grant in the State Treasury. A visit to the State Treasury Office at Khaniz Bhavan is made by the Special Officer at 11.00 am. But it was revealed by the Treasury Officer that the balance amount available in the concerned head of account is Rs. 50.00 lakhs (Rupees fifty lakhs only). Immediately, the Special Officer rushed back to the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore to appraise the matter with the Law Secretary and a fresh file has to be moved for re-appropriation of Rs 50.00 lakhs (Rupees fifty lakhs only). The file was prepares accordingly and moved to the Finance Department, Government of Karnataka,

Bangalore on 18th March, 2008. the same is cleared by the Finance Department, Government of Karnataka, Bangalore on 19th March, 2008 and order amending the original order of re-appropriation was issued by the both the Departments. The Special Officer moved to Hubli and submitted the bill for Rs. 50.00 lakhs (Rupees fifty lakhs only) to DTO, Hubli along with order copies at 11.00 am. The DTO, Hubli is kind enough to issue the cheque at 4.30 pm and the same is submitted to the Commissioner HDMC, at 9.00 pm and a receipt is obtained.

2. Infrastructure: Land and Buildings

The Special Officer in his Report on the Establishment of a separate Law University in the State of Karnataka has recommended that Law University being a single faculty university the requirement of land and buildings will be moderate. A detailed survey of the land surrounding Hubli city is conducted and 56 acres of land situated in Bloc No. 89 of Amargol village of Hubli Taluk including the KSRP building and PWD Circuit House at Rayapur village was recommended as the most suitable place for the establishment of Law University.

With the involvement of various Departments of the Government of Karnataka, the land required for the establishment of Karnataka State Law University, Hubli-Dharwad is acquired. After a series of meetings at various levels in the Government, the Deputy Commissioner, Dharwad District issued Order No.LND/CR/2006-07 dated 30-09-2007 transferring 24.29 acres of revenue land in Bloc No.30 of Rayapur village in Dharwad taluk for the establishment of Karnataka State Law University. A possession receipt is issued by the Special Officer after the survey of the land is conducted and

possession is handed over to the Law University on 30-9-2007. An agreement is signed by the Special Officer on behalf of the Karnataka State Law University to use the land for the purpose of establishment of Karnataka State Law University on 18-10-2007.

As the land provided by the Deputy Commissioner, Dharwad District is only 24.29 acres, it is not sufficient for the establishment of Law University which has to affiliate about 85 Law Colleges coming under the jurisdiction of various Universities. The University Grants Commission guidelines stipulate a minimum of 50 acres of land for establishing a university. In view of this the Special Officer made a request to the Secretary, Department of Law,, Justice and Human Rights, Government of Karnataka, Bangalore to take steps to provide additional land appurtenant to the land allotted for establishment of Law University.

The Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore initiated the process of acquiring additional land in Bloc No. 89 and 99-101 in Amargol village of Hubli taluk owned by the Hubli-Dharwad Municipal Corporation and PWD Circuit House along with 6.20 acres of land. The Urban Development Department, Government of Karnataka, Bangalore are pleased to approve the proposal made by the Commissioner HDMC, Dharwad on the request of the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore to transfer 22.12 acres of land in Bloc No. 89 and 99-101 in Amargol village of Hubli taluk owned by the Hubli-Dharwad Municipal Corporation in consideration of the market value fixed at Rs. 10.00 per acre for the establishment of Law University. A sum of Rs. 50.00 lakhs (Rupees fifty lakhs only) is paid vide Cheque No. 498628 dated 20-3-2008 to the Commissioner, HDMC as

part payment towards the said land. Transfer Deed is to be executed by the Commissioner, HDMC after receipt of a formal order from the Urban Development Department, Government of Karnataka, Bangalore.

The Public Works Department, Government of Karnataka, Bangalore are also pleased to issue an order No. LE 75 BJP 2007 dated 24-3-2008 effecting transfer of 6.20 acres of land including PWD Circuit House situated at Rayapur village of Hubli Taluk to the Karnataka State Law University on a 30 year lease. As per the UGC requirement a minimum of 50.00 acres of land is necessary for a university to be eligible to receive grants from the University Grants Commission. This requirement is met by the Law University in view of liberal allocation of the land made by the Government of Karnataka.

The details of the land and buildings made available for the establishment of Karnataka State Law University are as follows:

LAND

Sl. No.	Particulars of Land	Area
01	Bloc No.30 of Rayapur village Dharwad taluk	24.29 acres of revenue land
02	Bloc No. 89 and 99-101 in Amargol village of Hubli taluk owned by the Hubli-Dharwad Municipal Corporation	22.12 acres of land
03	Bloc No. 89 in Amargol village of Hubli taluk owned by PWD Department	06.20 acres of land
	TOTAL	53.21 acres of land

BUILDING

Sl. No.	Particulars of Building	Area
01	PWD Circuit House in Bloc No. 89 in Amargol village of Hubli taluk owned by PWD Department	1060.20 sq. mts + about 1000.00 sq. mts (newly constructed 1 st floor)

3. Infrastructure: Furniture and Equipments

In view of delay in the issue of Karnataka State Law University Act, which is necessary to start the functioning of the University, only minimum of furniture and other equipments necessary to run the Office of the Special Officer are purchased in the budget allocation made. In the budget allocation made for the year 2007-09 only one computer is purchased. A conference table with 24 DL chairs and two chairman's chairs and two officer's chairs is also purchased to facilitate series of meetings to be held in the near future to frame rules and regulations and academic programmes of the University. An air conditioner is purchased and installed in the Office of the Special Officer. Anti virus soft ware are purchased and installed in the computers purchased earlier year to ensure safety of the data. Five tables and four revolving chairs are also purchased for the secretarial staff. Thirty six peacock chairs are purchased to equip conference hall. Toners, stationery and other material absolutely necessary to run the office are also purchased. Details of the expenditure incurred during the year 2007-08 are provided in the Annual Account 2007-08 and the same is enclosed as *Annexure 3* for ready reference. The details of the furniture and equipments purchased during the year are as follows:

Furniture and Equipments Purchased in 2007-08

Sl.No	Particulars of Items Purchased	Quantity	Amount (in rupees)
01	Collapsible Gates to the Conference Hall	02	16295.00
02	LCD Projector and Screen with Stand	01	70885.00
03	Computer	01	37200.00
04	Peacock Chairs	36	67947.00
05	Tables	05	41970.00
06	Conference Table	01	46350.00
07	Conference Chairs (DL)	24	108000.00
08	Air Conditioner (2 tonnes)	01	31250.00
09	Executive Chairperson's Chairs	02	29300.00
10	Executive Officer's Chairs	02	11998.00
11	Ordinary Revolving Chairs	04	9864.00
12	File Cabinets (2 door)	02	16794.00
13	Antivirus Software	04	8324.00

A proposal to develop the land by fencing and preparing the master plan was sent to the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore. The matter is pending in the Government. A concept paper on the buildings to be constructed on the campus of the Karnataka State Law University is also prepared and submitted to the Department of Law, Justice and Human Rights, Government of Karnataka, Bangalore and the same is enclosed as *Annexure 4* for ready reference. The matter is still under consideration of the Administrative Department.

4. Consultation and Interaction with Eminent Persons

Informal consultation is held with many jurists, judges, lawyers, law teachers, principals of law colleges and law students during the year at various places in Karnataka and valuable inputs regarding the establishment of a separate law university in the State were gathered by the Special Officer.

The Special Officer met Justice Dr. V. S. Malimath, Former Chief Justice of Karnataka and Kerala High Courts and Former Member of National Human Rights Commission and submitted the Report on Establishment of Law University in the State and requested him to give his valuable suggestions. Justice Dr. Malimath was kind enough to send his detailed suggestions on 9th June 2007 to Sri M. P. Prakash, Hon'ble Minister for Law, Justice and Human Rights, Government of Karnataka, Bangalore. Some of the suggestions made by Justice Dr. Malimath were incorporated into the draft Karnataka State Law University, Bill 2007.

An informal interaction was held with the Principal, the Faculty and the students of K. L. E.'s Law College, Bangalore was held on 7th April 2007 regarding establishment of a separate Law University in the State. The response of the teachers and the students was overwhelming. Some teachers expressed their apprehension about the working hours being more than in other universities for which convincing answer was given by the Special Officer. Students were appreciative of the new scheme of using information technology in legal education.

A meeting was convened at M. E. S.'s Law College, Sirsi on 24th April 2007 in which the main concept of the Law University to be established in the State of Karnataka is shared with the students and the teachers. Again on 25th April 2007 students and teachers of Hurakaddli Ajja Law College, Dharwad were addressed by the Special Officer in their Annual Social Gathering to the standing ovation of the audience on the new concept of a separate Law University in Karnataka. On 27th April 2007 students and teachers of the Kittutu Rani Chennamma Education Society's Law College, Bylahongal were addressed by the Special Officer in their Annual Social Gathering. The response of the teachers, students, lawyers and general public for the establishment of a separate Law University is tremendous.

A discussion with the students of distance education programme along with the Coordinator of LL.M. distance education programme of Kuvempu University was held on 10th May 2007 at the National Law College, Shimoga and useful inputs were taken regarding the distance education activities to be launched in the Karnataka State Law University. Consultation is held with the alumni of the University College of Law, Dharwad on the occasion of the Workshop on Annual Legal Developments 2006-07 held on 20th May 2007. Some very useful suggestions were given by the old students of the University College of Law regarding the ways and means of the establishment of a separate Law University in Karnataka.

An informal consultation with the Vice Chancellor and the Registrar of the Karnataka University, Dharwad was held on 1st June 2007 regarding the establishment of a separate Law University in the State and the possible transfer of the existing P. G.

Department of Studies in Law and constituent law college to the Law University. An informal consultation with the Vice Chancellor, the Registrar and the Dean of Law Faculty of the University of Mysore was held on 30th June 2007 regarding the establishment of a separate Law University in the State and the possible transfer of the existing Law Departments in various Universities to the Law University. The Vice Chancellor expressed his reservations about the very concept of single faculty universities. After a detailed discussion of the necessity of a separate Law University in view of transforming Karnataka into a legally conscious society and the need to make legal profession in Karnataka internationally relevant, he was convinced about the need for a separate Law University in the State.

A meeting was organized by the First Director of the Karnataka Institute for Law and Parliamentary Reform, Bangalore (KILPAR) on 26th and 27th July 2007 to discuss about the programmes of the KILPAR and the way in which Law University can render its assistance in successfully carrying out the work of the KILPAR. Some very useful understandings have been developed between the two institutions and the Special Officer to Establish Law University in Karnataka agreed to take his part of the responsibility in organizing the academic programmes in various Law Colleges by persuading the Principals to take up seminars and workshops on important law matters. The Special Officer has promised to participate in the programmes personally. Further, discussion was also held on how these two organizations can work together in the future in fulfilling their respective goals and decided to work with an open mind to chalk out the partnership between the two organizations once the Law University is formally established in the State.

A discussion was organized at the request of the President and members of the Dharwad Law Academy on 2nd August 2007 at KPES Law College, Dharwad wherein the Special Officer explained the blue print of the Karnataka State Law University to the members of the Law Academy. A meaningful discussion was followed and the members of the Academy suggested inclusion of more new subjects such as IPR, IT, Human Rights, Cyber Law, etc. in the curriculum. They also suggested improvement in the practical papers of the LL.B. Degree course. They stressed the need for uniformity in the syllabi. The meeting provided valuable inputs for evolving common syllabi and practical components of the LL. B. Degree course.

An informal interaction with Mr. Justice S. R. Bannurmath, Hon'ble Judge, High Court of Karnataka and Mrs. Pramila Nesargi, Chairperson, Karnataka State Women's Commission was held on 3rd August 2007 at Karnataka University Guest House, Dharwad. Mr. Justice S. R. Bannurmath, Hon'ble Judge, High Court of Karnataka, appreciated the initiative of the Special officer in having informal consultation with important persons and stressed the need to adopt the information technology in the University. He apprised the Special Officer of the initiative taken by a committee (of which he is a member) in computerization of High Court and other courts in the State. He suggested that the Law University should also have similar facilities. Mrs. Pramila Nesargi, Chairperson, Karnataka State Women's Commission, suggested that Women's Rights should be an independent paper in LL. B. Degree course and suggested to introduce specialized diploma and certificate courses on gender related issues.

On 2nd September 2007, the Special Officer addressed a galaxy of intellectuals at Ujwal Academy, Dharwad about the concept of Law University to be established in the twin cities. The dignitaries included among others, Dr. S. P. Hiremath, former Vice Chancellor, Kuvempu University, Shimoga Dr. Chennaveera Kanavi, noted poet, Dr. M. M. Kalburgi, former Vice Chancellor, Kannada University, Hampi, Prof. S. R. Gunjal, former Librarian, Gulbarga University and a number of former and present professors of Karnataka University, Dharwad. Very useful suggestions came from the senior and experienced intellectuals. This placed the Special Officer in a better stead in his endeavour to establish the Law University.

On 8th September 2007 at 10.00 am, the Special Officer addressed the students and teachers of G.K. Law College, Hubli and shared his thoughts with them regarding the new Law University to be established in Hubli-Dharwad. The students of the college were overwhelmed by the new ideas with which Law University is conceived. On the same day at 7.00 pm an informal discussion was held with Mr. M. Veerappa Moily, Chairman, Administrative Reforms Commission, Government of India, New Delhi at KPES Law College, Dharwad. He expressed his support and help in the mission of establishing a separate Law University in Karnataka.

On 3rd November 2007 a discussion on the establishment of Law University in Karnataka was organized in the Department of Studies in Law, Gulbarga University, Gulbarga. The members of the teaching fraternity from the Department, SSL Law College, Gulbarga, Sidhartha Law College, Gulbarga, SCAB Law College, Raichur, VS

Law College, Bellary, Law College, Sedam, Anjuman Law College, Bijapur participated in the discussion in addition to the students of the Department.

The Special Officer addressed the members of the Sagar Bar Association on 1st December 2007 in which the judges of the Sagar Courts also participated. The Special Officer made a specific and detailed reference to the emerging Law University in Karnataka and the advantages of having a separate Law University in the State. The proposal of establishing a separate Law University is welcomed by the members gathered in the meeting.

A solo workshop on IPR was conducted by the Special Officer at Vivekananda Law College, Bangalore on 29th January 2008, in which a brief presentation on the establishment of a separate Law University in Karnataka was made. The response of the students of the College was very good. Further, an informal interaction with Prof. E. Vijaykumar, Professor and Registrar, National Law School of India University, Bangalore was also made on this occasion.

Interaction with Mr. Justice Raikote, Former Judge, High Court of Karnataka and Mr. Justice Arali Nagaraj, Judge, High Court of Karnataka was held at SCAB Law College, Raichur on 9th February 2008 on the side wings of the National Seminar on Extension of Special Status and Recognition of Hyderabad Karnataka Region under Article 371 of the Constitution of India. A brief mention of the establishment of Law University is made in the Seminar. A brief mention about the Law University is also made in the Raichur Bar Association in the evening followed by an informal discussion at the dinner hosted by the Raichur Bar Association.

Smt. Umashri, member of Legislative Council and noted cine artist visited the Office of the Special Officer to Establish Law University at Hubli on 12th February 2008. A two hour discussion was held with her on various aspects of Law University.

Interaction with Mr. Justice N.K. Patil, Judge, High Court of Karnataka was held on 17th February 2008 at Iwan-E-Shahi Guest House, Gulbarga, where Hon'ble Mr. Justice N. K. Patil shared his anguish over the delay in establishing the University and advised the Special Officer to speed up the matter with the Government of Karnataka. He offered his help in whatever respect that is possible from his side in the matter relating to the establishment Law University.

Students of KPES Law College were addressed by the Special Officer on 7th March 2008 and briefed them about the modalities of the new Law University that is being established in Karnataka. Dr. G. M. Patil, President of KPES and noted lawyer presided. He praised whole heartedly the efforts made by the Special Officer in realizing the dream of legal fraternity to have a separate law University to bring quality in legal education.

Informal discussion was held with Hon'ble Justice Dr. Shivaraj V. Patil, Former Judge, Supreme Court of India and Former Member of the National Human Rights Commission on 15th March 2008 in Rani Chennamma Express and briefed him of the developments relating to the establishment of Law University. Discussion was also held on the steps to be taken regarding the issuance of Karnataka State Law University Ordinance by the President of India on the advise of the Union Cabinet in view of the President's Rule in the State.

Interaction with Dr. G. B. Reddy, Head, Department of Law, Usmania University, Hyderabad, Dr. Venkat Rao, Professor, Andhra University, Waltair, Dr. Sheshaiah, Professor, Sri Krishnadeveraya University, Ananthapur, Dr. Vidya, Professor, Usmania University, Hyderabad was held at the Usmania University Guest House, Hyderabad on 24th March 2008 regarding the establishment of Law University in Karnataka.

A discussion was held with Hon'ble Justice Dr. V. S. Malimath, Former Chief Justice of Karnataka and Kerala High Courts and Former Member of the National Human Rights Commission and briefed him about the developments till date regarding establishment of Law University. He was very particular about the Law University not to follow the footprints of National Law Schools and strive for improvement of legal profession at all levels by bringing transformation in legal education. A meaningful discussion was held with Dr. Raghunathareddy, Professor and Registrar, Dr. B. R. Ambedker Tamil Nadu State Law University, Chennai. He invited the Special Officer to visit their University and share the mutual experiences in matters relating to the establishment of Law Universities in their respective States. A dinner meeting was held with Mr. Sharma, a civil pilot, Dr. K. R. Aithal, Professor of Law, Karnataka University, Dharwad, Dr. G. B. Patil, Principal, KLE Law College, Hubli, Dr. Mohanram, Coordinator, LL.M. Distance Education Programme, Kuvempu University, Shimoga, Sri Jagdish, Lecturer, National Law College, Shimoga, Sri Vishwanath, Lecturer, University College of Law, Dharwad regarding the developments relating to the establishment of Law University in the State. On 29th March 2008 a brief discussion was held with Prof. Indira, Professor of Sociology, Mysore University regarding the gender related courses to be introduced in Law University.

5. Academic Activities

In addition to the routine work of matters relating to the establishment of a separate Law University in Karnataka, the Special Officer has involved himself in various academic and research activities. Some important research papers and material prepared by the Special Officer are enclosed as *Annexure 5*. Important academic activities undertaken by the Special Officer during the year are as under:

1. Delivered special lectures on Research Methodology to LL.M. distance education students of Kuvempu University at C.B.R. National College of Law, Shimoga on 10th May 2007.
2. Made a presentation on “Human Rights of Disadvantaged Groups: Problems and Issues in the Protection and Enforcement” at the Workshop on Curriculum Making for Diploma and Certificate Courses on Human Rights organized by the Directorate of Distance Education, Kuvempu University, Shimoga on 2nd and 3rd June 2007.
3. Delivered Special Lecture on Intellectual Property Rights to MBA students of Adept Institute of Management Studies, Dharwad on 4th June 2007.
4. Conducted Two Day Workshop on Information Technology and Intellectual Property Rights at KLE Law College, Bangalore on 23rd and 24th June 2007.
5. Made a presentation on “Law and Technology” in the National Seminar on Cyber Crimes and Women at the Seminar Hall, Karnataka University, Dharwad on 3rd August 2007.

6. Delivered a Special Lecture on “Information Technology and Law” organized by Dharwad Law Academy at KPES Law College, Dharwad on 10th August 2007.
7. Delivered a Special Lecture on Law in Vachana Literature at Ishwara Temple, Jayanagar, Dharwad on 18th August 2007.
8. Presided over Two Special Lectures on “Gandhiji and Nehru: Their Relevance to Present Time” delivered by Prof. K. Raghavendra Rao, Professor of Political Science (Retd.), Karnataka University, Dharwad at Ujwal Career Academy, Dharwad on 1st and 2nd September 2007.
9. Delivered Key Note Address in the National Seminar on Patent Rights organized by S. C. Nandimath Law College, Bagalkot on 16th October 2007.
10. Presented a paper on “The Law in the Making: the Role of Law Gurus” at the National Seminar on Democratisation of Law Making Process organized by the University Law College, Bangalore on 31st October 2007.
11. “The Role of Media in Protection of Human Rights”, a Key Note Address delivered at the National Seminar on Human Rights and Media organized by UNI Employees Union and Department of Journalism, Veerendra Patil College, Bangalore on November 16, 2007 at Gandhi Bhavan, Bangalore.
12. Delivered a Special Lecture on “Use of Science and Technology in Legal Profession” at Sagar Bar Association, Sagar on 1st December 2007.
13. Delivered a Special Lecture on “the Concept of Rights” at the University College of Law, Dharwad on 4th January 2008.
14. Conducted Two Day Workshop on Intellectual Property Rights at Vivekananda Law College, Bangalore on 29th and 30th January 2008.

15. Delivered the Valedictory Address at the National Seminar on Extension of the Special Status and Recognition of Hyderabad Karnataka Region under Article 371 of the Constitution of India at SCAB Law College, Raichur on 9th February 2008.
16. Delivered the Valedictory Address at One Day National Seminar on Alternative Dispute Resolution System at Siddhartha Law College, Gulbarga on 17th February 2008.
17. Presented a paper on “Social Justice: a Primary Charge on Civilised Society” at the National Seminar on Social Justice organized by Hindi Prachar Sabha’s Law College, Koppal and KILPAR, Bangalore on 1st March 2008.
18. Presented a paper on “Jurisprudential Perspectives of the Rights of Persons with Disability, Old Age and Ill-health organized by the Department of Law, University of Mysore, Mysore on 29th March 2008.

6. Other Activities

The Special Officer has involved himself in the following other activities relating to extra curricular matters in various educational institutions:

1. Participated as the Chief Guest in the Annual Day programme of KLE Law College, Bangalore on 8th April 2007.
2. Participated as the Chief Guest in the Annual Social Gathering of MES Law College, Sirsi on 24th April 2007.
3. Participated as the Chief Guest in the Annual Social Gathering of Hurakadli Ajja Law College, Dharwad on 25th April 2007.

4. Participated as the Chief Guest in the Annual Social Gathering of KRCEs Law College, Bailhongal on 27th April 2007.
5. Attended Ph.D. Registration Committee in Law Meeting of Bangalore University, Bangalore on 11th May 2007.
6. Attended BOA in Law Meeting for selection of Professors and Readers at Karnataka University Dharwad on 1st June 2007.
7. Attended BOA in Law Meeting to select Professors and Readers in Law at University of Mysore, Mysore on 30th June 2007.
8. Participated as the Guest of Honour in Foundation Stone Laying Ceremony of Dakshina Bharat Hindi Prachar Sabha's Law College, Koppal on 29th July 2007.
9. Participated as the Chief Guest in the Inaugural Function of the Union and Gymkhana Activities of the University College of Law, Dharwad on 13th August 2007.
10. Participated as the Chief Guest in the Inaugural Function of the Union and Gymkhana Activities of the G. K. Law College, Hubli on 8th September 2007.
11. Participated as the Guest of Honour in the Felicitation Programme of Sri M. Veerappa Moily for writing Ramayana Mahakavya at KPES Law College, Dharwad on 8th September 2007.
12. Inaugurated Two Student Organisations "Manthan" and "Sampark" of the Department of Studies in Law, Gulbarga University, Gulbarga on 24th September 2007.
13. Attended Ph.D. in Law Vive Voce of Sri H. Raghavendrachar at Gulbarga University, Gulbarga on 3rd November 2007.

14. Participated as the Chief Guest in the Annual Day Programme of Vivekananda P. U. College, Hulkoti on 5th January 2008.
15. Attended Ph.D. Registration Committee in Law Meeting of Bangalore University, Bangalore on 10th January 2008.
16. Participated as the Chief Guest in the Flag Hoisting Ceremony of Sana Educational Institutions, Hubli on 26th January 2008.
17. Participated as the Chief Guest in the Annual Social Gathering at VES's National Public School, Ranebennur on 1st March 2008.
18. Attended B.O.A. Meeting to select Professors, Readers and Lecturers in Law at Shivaji Univeristy, Kolhapur on 4th March 2008.
19. Participated as the Chief Guest in the Inauguration of Cultural Activities of the Students Union of KPES Law College, Dharwad on 7th March 2008.
20. Attended B.O.A. Meeting to select Professors and Assistant Professors at Telengana University, Nizamabad on 24th March 2008 at the University Guest House, Osmania University, Hyderabad.
21. Participated as the Chief Guest in the Valedictory Function of C.S.I. Commerce College, Dharwad on 26th March 2008.

Annexure 1

REPORT ON THE WORK DONE FROM DECEMBER 2006 TO APRIL 2007

INTRODUCTION

In pursuance of the Policy and Action Plan, Department of Law, Justice and Human Rights in consultation with the Department of Parliamentary affairs and Legislation prepared a draft “*Karnataka Kanoonu Vishvavidyalaya Vidheyaka, 2005*”, which provides for the establishment of a Law University in Karnataka with headquarters at Hubli, affiliating all law colleges in Karnataka to it.

The Finance Department while conveying its in-principle approval for the establishment of a Law University in Karnataka, suggested that before the establishment of any new University, a Special Officer is normally appointed who would go into all questions relating to the availability of Government land, buildings, sharing of resources of existing Universities, etc. The Finance Department also suggested first obtaining a report from the Special Officer; firm up proposals and getting back for its concurrence.

The Government of Karnataka appointed Dr. J. S. Patil, Professor and Dean, Department of Studies in Law, Gulbarga University, Gulbarga, as Special Officer vide Notification No. LAW 77 LAG 2005 dated 24th March 2006, for the establishment of Law University and he has been asked to submit a comprehensive report covering all aspects of terms of reference specified in the notification. The terms of reference to the Special Officer to study and to report are as follows: (1) Strengthening the legal education and the legal profession, keeping in view the objectives of the University, as proposed in *the Karnataka State Law University Bill, 2006*; (2) requirement of land,

buildings, infrastructure, etc., for setting up of the Law University; (3) sharing of resources from the existing Universities in the backdrop of the Higher Education Department seeking funds for maintenance and up-gradation of existing infrastructure facilities; and (d) strength and composition of various categories of posts for the proposed Law University. The Special Officer submitted a comprehensive *Report on the Establishment of Law University in the State* on May 10, 2006 covering all aspects of the terms of reference. The Department of Law, Justice and Human Rights, Government of Karnataka accepted the report and various Departments in the Government were moved to take action in accordance with recommendations made in the Report of the Special Officer.

A meeting was held in the Chairmanship of Hon'ble Minister for Home, Law, Justice, Human Rights, Parliamentary Affairs and Legislation on the 18th September 2006 in the Committee Room, Room No. 313, 3rd Floor, Vidhana Soudha. It was decided in the meeting to take necessary steps to take possession of the lands as identified by the Special Officer. It was also decided to continue the services of the Special Officer for establishment of Law University on full time basis by creating a scale-less post in the Government in the Department of Law, Justice and Human Rights.

The Government of Karnataka vide Notification No. LAW 110 HRC 2006 dated 21st November 2006 are pleased to create a Scale-less post of Special Officer for the establishment of Law University in Karnataka with Headquarters at Hubli for a period of one year or till the appointment of the first Vice Chancellor, whichever is earlier. Further, the Government of Karnataka vide Notification No. LAW 110 HRC 2006 dated 24th

November 2006 appointed Dr. J. S. Patil, Professor and Dean, Department of Studies in Law, Gulbarga University, Gulbarga as the Special Officer for the establishment of Law University in Karnataka with Headquarters at Hubli with immediate effect and until further orders. Dr. J. S. Patil reported for the duty as the Special Officer on the forenoon of 1st December 2006 in Bangalore. Following is the detailed report of the work done by the Special Officer after reporting for the duty.

REPORT OF THE WORK DONE

Immediately after assuming the Office, a letter is addressed to the Hon'ble Minister for Law, Justice and Human Rights, Government of Karnataka on 2nd December 2006 suggesting change in the nomenclature of the University from "Karnataka Law University" to that of "Karnataka State Law University." The change suggested is kindly approved by the Hon'ble Minister and the same is incorporated in the draft Bill as it is pending before the Legislature at present. A letter is also addressed to the Hon'ble Minister for Law, Justice and Human Rights, Government of Karnataka on 5th December 2006 requesting him to provide certain basic facilities such as establishment of the Office of the Special Officer at PWD Circuit House at Rayapur, Hubli; handing over of KSRP building belonging to HDMC; seed money of Rupees Ten Crores; providing skeletal staff; and providing a vehicle. The Hon'ble Minister was kind enough to assure providing required facilities to the Special Officer. Another letter is written to the Additional Law Secretary requesting to arrange for the printing of letter pads and visiting cards. The Additional Law Secretary was kind enough to arrange for the printing of the required items in the Government Press. The Special Officer got himself acquainted with the

Office of the Department of Law, Justice and Human Rights and other concerned Offices in the Secretariat by staying in Bangalore till 5th December 2006. During this visit discussion was held with the Law Secretary and Additional Law Secretary about the further activities that are to be undertaken with regard to the establishment of Law University.

During the stay in Bangalore, the Secretary to Government, Department of Law, Justice and Human Rights, Government of Karnataka handed over a letter dated December 1, 2006 requesting the Special Officer to furnish the detailed comments on the points made out by the Finance Department on the Report on Establishment of Law University submitted to the Government on 10th May 2006. A comprehensive report involving explanation to the observations made by the Finance Department is prepared and submitted in person to the Department of Law, Justice and Human Rights, Government of Karnataka on 15th December 2006.

On 5th December 2006 the Special Officer proceeded to Hubli-Dharwad to start the preliminary work in relation to the establishment of Law University. The Principal of the University College of Law, Dharwad is requested to provide a room in the College premises temporarily to facilitate the Special Officer to carry out the preliminary work and until the alternative arrangements for the Office of the Special Officer is established. The Principal of the University College of Law is kind enough to provide a room and computer facility to the Special Officer.

A letter was addressed on 10th December 2006 to all the Principals of the Law Colleges in Karnataka underlining the Government's intention to establishment a separate

Law University in the State with a request to give their valuable advise and suggestions in establishing a vibrant Law University in the State. Many Principals responded to the letter and the suggestions rendered by quite a few of them were really invaluable. Responses received from the Principals of S. C. Nandimath Law College, Bagalkot; Raja Lakhamgouda Law College, Belgaum; M. K. Sreenivasa Shetty Law College, Chikmagalur; S. A. Manvi Law College, Gadag; P. E. S. Law College, Mandya; J. S. S. Law College, Mysore; Saraswathi Law College, Chitradurga; Teacher's Law College, Bangalore; Kempegouda Law College, Chikkaballapur are noteworthy in terms of the suggestions rendered in establishing the Law University. A similar letter was also addressed to all the Deans of Law Faculties, Chairpersons of the Post Graduate Departments of Studies in Law and senior Professors of various Universities in Karnataka eliciting their advice and suggestions in the matter of establishment of a separate Law University in Karnataka.

On 8th December 2006 inspection of the sites proposed by the Revenue Department was conducted in association with the Additional Law Secretary after holding a preliminary meeting with the Deputy Commissioner, Dharwad. The Deputy Commissioner was kind enough to depute the Tahasildar, Mr. Joshi with the inspection team to assist in identifying the suitable land for the establishment of Law University. On 11th December 2006, a letter was addressed to Mr. M. S. Srikar, Deputy Commissioner of Dharwad District requesting him to provide the details of the Government land to the extent of 32 acres in Rayapur village which could be granted to the Law University. The Deputy Commissioner was kind enough to provide the details of the land and the same is

transmitted to the Law Department with a request to move the Government in various Departments to acquire the land required for the University.

A meeting of the faculty members of the Department of Law and University College of Law, Karnataka University, Dharwad was conducted on 13th December 2006 to take stock of the situation regarding the establishment of the Law University. The Faculty is briefed about the developments regarding the establishment of a separate Law University in the State and the desire of State Government to make it functional from the academic year 2007-08 and the exercise that is to be undertaken by various faculty members as a team to develop the required academic and infrastructural input to make the Law University functional from the year 2007-08 itself. Many suggestions were given by learned faculty members and a positive assurance was given of all the assistance required in the matter.

On December 13, 2006 a letter was addressed to the Deputy Commissioner, Dharwad to make arrangements for the establishment of the Office of the Special Officer in the vicinity of the government land that can be handed over to the Law University, namely, at the PWD Circuit House, Rayapur, Hubli. On December 15, 2006 a detailed report was submitted to the Hon'ble Minister for Home, Law, Justice, Human Rights and Parliamentary Affairs regarding the availability of government land in Hubli Taluk for establishment of Law University. On December 19, 2006 a letter was addressed to the Secretary to Government, Department of Law, Justice and Human Rights, Government of Karnataka requesting him to provide certain basic facilities to the Special Officer.

Another letter was addressed to him requesting early fixing of terms and conditions of the Special Officer.

An official visit was made to Bangalore from 25th December 2006 to 30th December 2006 in connection with the identification of land, establishment of the Office of the Special Officer and pursuing the Finance Department regarding allocation of seed money to the Law University. Regarding the establishment of the Office of the Special Officer, I approached Mr. Prahlad B. Mahishi to provide the vacant hall on the first floor of the PWD Circuit House at Rayapur, Hubli. He was kind enough to write a DO Letter to Mr. Prabhaker Chini, Chief Engineer (North), Public Works Department, Dharwad to take steps to hand over the vacant hall on rental basis. The letter is personally collected by me and handed over to the Chief Engineer along with my requisition letter dated January 2, 2007 after effecting certain changes as telephonically instructed by the Hon'ble Law Minister. A letter is also addressed to the Executive Engineer, PWD Dharwad to the same effect. In view of the delay in processing the handing over of the premises another letter was addressed to the Chief Engineer to clear the confusion as to whether the part of the hall measuring 200 sq. ft. is to be handed over or the entire hall is to be handed over and the impracticality in effecting such alteration. The Chief Engineer is requested to hand over the entire hall measuring about 800 sq. ft. the PWD Department was kind enough to allocate the entire vacant hall in the first floor and a room in the ground floor as an additional facility.

On 28-12- 2006 I met the Hon'ble Law Minister and briefed about the developments till that date and handed over a letter requesting him to provide certain

basic facilities to the Special Officer to establish the Office along with the detailed report on the observations made by the Finance Department.

During the visit to Bangalore from 27-2-2007 to 2-3-2007, continued efforts to get the sanction of budget from the Finance Department, creation of separate head of account for Law University in the FD, declaration of the Special Officer as the drawal and disbursement officer, authorization from the Accountant General, Karnataka, Bangalore, etc. have been successfully carried out. A whirlwind trip is made to Hubli to get DDo Code from the DTO, Hubli District, which is necessary to upload the sanctioned budget in the State Treasury Office to be transmitted to DTO, Hubli. A letter is personally handed over to the DTO on 3-3-2007 with a request to provide the DDO Code immediately. The DTO was kind enough to allot the Code on that very day itself. With the DTO Code allotment again a trip is made to Bangalore from 25-3-2007 to 9-3-2007 to follow up the remaining work. A letter is submitted to the Accountant General Karnataka, Bangalore on 6-3-2007 to give further authorization for the 23 lakhs in addition to the 2 lakhs sanctioned by the Finance Department to Law University. A letter was also addressed to the Law Secretary to accord administrative approval to purchase furniture, equipments, car and other items necessary for the Office of the Special Officer. After obtaining approval for the purchase of items and uploading of the Budget in the State Treasury, steps for purchase of the items is initiated. Orders have been given to various firms to supply the approved items as per Government rules.

A few equipments like fax, Xerox, colour printer and Black and white printer were also installed in the Law Department to help the Special Officer in executing the

project in time bound manner. Remaining items have been installed in the Office of the Special Officer at PWD Circuit House at Rayapur, Hubli.

Although budget was sanctioned and permission was given to buy car, computers, Xerox, fax, furniture and other items for the Office approval was not given for the skeletal staff asked for. A letter was addressed to the Law Secretary on March 21, 2007 to provide the skeletal staff to make the Office of the Special Officer functional.

A detailed report on the expenditure incurred out of the grant of 25 lakhs is submitted on April 4, 2006. a detailed budget estimate for the year 2007-08 has also been submitted in the month of February in view of the budgetary preparations at the government level.

A letter was also addressed to the Law Secretary to sanction a budget of 10 lakhs on 13-4-2007. All the queries of obtaining quotations, preparing the job chart and monthly expenditure for the supporting staff has been answered vide letter dated 17-4-2007. A letter was also addressed to the Law Secretary on 18-4-2007 to accord administrative approval to meet out the expenditure of running the Office of the Special Officer for the months of March to May. Another letter is addressed to the Law Secretary to take necessary steps to the effect of issue of Karnataka State Law University Ordinance in view of not passing of the Bill in the recently concluded session of the Karnataka Legislature. Another letter is handed over to the Law Secretary during his visit to the Office of the Special Officer on 29-4-2007 regarding the erection of the collapsible gates to the Office in view of the insecurity.

The Law Secretary along with Principal Secretary in the Revenue Department and Parliamentary Secretary are guided through the Office establishment in terms of automation by putting up of LAN and connecting the three computers, Laptop, Xerox machine and printers, installation of telephone and fax. Name Boards of the Law University are erected at three strategic points to guide the people visiting the Law University Office. Name plates have been put in front of the Office and the chamber of the Special Officer. Wiring, cabling, earthing, lighting, curtains and all other accessories have been put up in the Office. Number plates for the car, seat covers and other accessories have also been put up.

CONSULTATIONS

Informal consultations were held with the Vice Chancellors of University of Mysore, Gulbarga University, Bangalore University, Karnataka University, Dharwad, Vishweshwaraiah Technical University, Belgaum, Agriculture University, Dharwad, Women's University, Bijapur, Director, National Law School of India University, Bangalore, Director, NALSAR Law University, Hyderabad, for gaining the information and knowledge to launch the project of establishing Law University in an effective manner. Consultations were also held with a number of judges in the High Court of Karnataka, Supreme Court of India, lower judiciary, Principals of Law Colleges law teachers and law students in various parts of the State. Interaction with various secretaries in the Government is held.

DIFFICULTIES

In executing all these works the Special Officer has encountered many difficulties as he is not supported by any staff and has move alone to every other place to get all these works done. Money to the tune of Rupees Eighty thousand has to be spent by the Special Officer and the sanction for the same is yet to be given by the Law Department. Salary of the Special Officer for the months of March and April has not been paid. An early action on the letters of the Special Officer regarding sanction of budget approval for expenditure, sanction of skeletal staff, etc will ease the pressure of work on the Special Officer and facilitate for the better functioning.

ACTION TO BE TAKEN BY LAW DEPARTMENT

1. Sanction required budget
2. Sanction skeletal staff
3. Accord administrative approval sought for carrying out the routine work
4. Make payment of salary of the Special Officer due
5. Reimburse the expenditure incurred by the Special Officer for running the Office
6. Initiate process for issue of Ordinance
7. Initiate process of appointment of Vice Chancellor
8. Issue Government Orders transferring the University Law Colleges and P. G. Departments to Law University
9. Allocate 42.00 crores of rupees budget under Plan and 6.00 crores of rupees budget under Non-plan as per Financial Memorandum

Annexure 2

BUDGET ESTIMATE FOR THE YEAR 2007-08

I. INTRODUCTION

In pursuance of the Policy and Action Plan, Department of Law, Justice and Human Rights in consultation with the Department of Parliamentary affairs and Legislation prepared a draft “*Karnataka Kanoonu Vishvavidyalaya Vidheyaka, 2005*”, which provides for the establishment of a Law University in Karnataka with headquarters at Hubli, affiliating all law colleges in Karnataka to it.

The Finance Department while conveying its in-principle approval for the establishment of a Law University in Karnataka, suggested that before the establishment of any new University, a Special Officer is normally appointed who would go into all questions relating to the availability of Government land, buildings, sharing of resources of existing Universities, etc. The Finance Department also suggested first obtaining a report from the Special Officer; firm up proposals and getting back for its concurrence.

The Government of Karnataka appointed Dr. J. S. Patil, Professor and Dean, Department of Studies in Law, Gulbarga University, Gulbarga, as Special Officer vide Notification No. LAW 77 LAG 2005 dated 24th March 2006, for the establishment of Law University and he has been asked to submit a comprehensive report covering all aspects of terms of reference specified in the notification. The terms of reference to the Special Officer to study and to report are as follows: (1) Strengthening the legal education and the legal profession, keeping in view the objectives of the University, as

proposed in the Karnataka State Law University Bill, 2006; (2) requirement of land, buildings, infrastructure, etc., for setting up of the Law University; (3) sharing of resources from the existing Universities in the backdrop of the Higher Education Department seeking funds for maintenance and up-gradation of existing infrastructure facilities; and (d) strength and composition of various categories of posts for the proposed Law University. The Special Officer submitted a comprehensive Report on the Establishment of Law University in the State on May 10, 2006 covering all aspects of the terms of reference. The Department of Law, Justice and Human Rights, Government of Karnataka accepted the report and various Departments in the Government were moved to take action in accordance with recommendations made in the Report of the Special Officer.

A meeting was held in the Chairmanship of Hon'ble Minister for Home, Law, Justice, Human Rights, Parliamentary Affairs and Legislation on the 18th September 2006 in the Committee Room, Room No. 313, 3rd Floor, Vidhana Soudha. It was decided in the meeting to take necessary steps to take possession of the lands as identified by the Special Officer. It was also decided to continue the services of the Special Officer for establishment of Law University on full time basis by creating a scale-less post in the Government in the Department of Law, Justice and Human Rights.

The Government in the Finance Department was moved for its concurrence to create a scale-less post to continue the services of the Special Officer. In the meanwhile the Scrutinising Committee of the Department of Parliamentary Affairs and Legislation has approved the draft *Karnataka State Law University Bill, 2006* and it was placed

before the Cabinet for approval. The Cabinet at its meeting held on the 10th November, 2006 has approved the Bill and steps are being taken to place the Bill in the ensuing session of the Karnataka Legislature to be held from January 25, 2007.

On the proposal for the creation of scale-less post of Special Officer and allocating a sum of Rs. 10.00 crores as seed money for the proposed Law University, the Finance Department, while conveying its approval for the creation of the post has made following observations:

1. Finance requirements both recurring and non-recurring have been indicated as lump sum and detailed estimates may be given;
2. Non-recurring requirements in terms of infrastructure needs to be compared with other similarly established university and BCI (Bar Council of India) norms if any;
3. Recurring expenses would not only involve diversion of resources from other Universities, it should also be compared with other similarly placed Universities (particularly in terms of number of posts required);
4. Grants from UGC or Bar Council of India or any other Central Agency has not been factored into revenue receipts;
5. Revenue to be realized from affiliating colleges has not been taken into revenue receipts;
6. Fees to be charged from students studying on campus has not been taken into revenue receipts;
7. This project is fit to be posed before Planning Commission for one-time grant.

The Secretary, Department of Law, Justice and Human Rights has requested the Special Officer in his letter dated 1st December, 2006 to furnish his detailed comments on every point made out by the Finance Department. The Special Officer submitted a detailed report providing explanation to every point made out by the Finance Department on 15th December 2006.

The Additional secretary, Department of Law, Justice and Human Rights and the Special Officer made a survey of the land available at Hubli for establishment of Law University and submitted their report. The process of transferring the land identified by the Special Officer and the Additional Law Secretary is initiated. Steps have also been taken to establish the Office of the Special Officer at P. W. D. Circuit House at Rayapur the Special Officer has requested to allocate seed money to equip the Office of the Special Officer and steps have also been initiated to provide the seed money to the Special Officer to equip his Office at P. W. D. Circuit House, Rayapur.

The Additional Secretary, Department of Law, Justice and Human Rights has telephonically informed the Special Officer that the process of Budget preparation for the financial year 2007-08 is initiated in the Government and requested the Special Officer to prepare the Budget estimates for the Year 2007-08 for the Law University and submit it to the Department of Law, Justice and Human Rights immediately. In response to the request of the Additional Secretary, Department of Law, Justice and Human Rights, the budget estimates for the year 2007-08 is hereby prepared and submitted for further necessary action in the matter.

II. BUDGET ESTIMATES 2007-08

The Karnataka State Law University bill, 2006 is likely to be passed in the Legislature meeting to be held from January 25, 2007. In the meanwhile steps are already taken by the Government to proceed with the establishment of Law University by appointing the Special Officer. Since Law University is a new University, initial investment from the State Government is required to be substantial for the purpose of creating basic infrastructure that is necessary for the University. The Budget Estimates for the year 2007-08 are made keeping in view all these developments and on the basis of the Report on the Establishment of the Law University submitted by the Special Officer to the Government. The land acquisition process is on and once the land is acquired, it has to be fenced, master plan of the area has to be prepared and architectural and engineering designs for the buildings are to done and construction of the buildings on the basis of prioritization has to be undertaken. Road are to be laid and gardening also has to be undertaken to make the campus beautiful. In addition, basic infrastructure facilities that are necessary to make the University functioning have to be established. Budget Estimates for the Year 2007-08 is prepared by dividing it into two parts as follows:

- I. General Fund (Non-Plan) Budget Estimates
 1. Grants expected from State Government
 2. University's Internal Income and Expenditure
 3. Examination Section Income and Expenditure

II. Development Works (Plan) Budget Estimates

1. Buildings required to be constructed
2. Other infrastructure facilities

TABLE I: BIRDS EYE VIEW OF BUDGET ESTIMATES (2007-08)

No	Particulars	Income (in Lakhs)	Expenditure (in Lakhs)	Balance
PART-I GENERAL FUNDS (NON-PLAN)				
01	Grant expected from the State Government	653.58	653.58	
02	Internal Income (Tuition fee, affiliation fee, etc)	31.02	31.02	
	Total	684.60	684.60	Nil
PART II DEVELOPMENT WORKS (PLAN)				
04	Development Works (Plan)	2000.00	2000.00	Nil

PART I: GENERAL FUNDS (NON-PLAN)

In Part I of the Budget Estimate projection is made for the general funds to be received from the State Government to meet the expenditure of payment of salary of the teaching and non-teaching staff that will be recruited, salary of the teaching and non-teaching staff transferred from other Universities and other recurring expenditure and miscellaneous expenditure. The figures indicated are estimates made on the basis of the present rates and may be subject to variation, which will be determined at the time of preparing the revised budget estimates for the financial year. Following provision is made for the expenditure of salary, allowance, purchase of books and journals, maintenance of buildings, office expenditure and other necessary expenditure for the year 2007-08 out of grants expected from the State Government.

TABLE II: ABSTRACT OF NON-PLAN EXPENDITURE

No	Particulars	Expenditure (in Lakhs)
01	Salary of the teaching staff	75.32
02	Salary of non-teaching staff	66.26
03	Salary of the staff transferred from other Universities	158.00
04	Other recurring expenditure	354.00
05	Miscellaneous	31.02
	Total	684.60

TABLE III: DETAILS OF NON-PLAN EXPENDITURE

SALARY OF TEACHING STAFF

No	Posts	Pay Scale	2007-08
01	Professor	Rs.16400-450-20900-500-22400	14.40
02	Reader	Rs.12000-420-18300	19.20
03	Lecturer	Rs.8000-275-13500	27.36
04	Librarian	Rs.16400-450-20900-500-22400	2.60
05	Dep. Librarian	Rs.12000-420-18300	2.64
06	Asst. Librarian	Rs.8000-275-13500	1.92
07	Dep. Registrar	Rs.12000-420-18300	2.64
08	Asst. Registrar	Rs.8000-275-13500	1.92
09	Director of Physical Edn.	Rs.16400-450-20900-500-22400	2.60
	Total		75.32

TABLE IV: DETAILS OF NON-PLAN EXPENDITURE

SALARY OF NON-TEACHING STAFF

No	Posts	Pay Scale	2007-08
01	Superintendents	Rs.7400-13120	3.36
02	AOS	Rs. 5200-9580	4.80
03	Stenographer	Rs.4575-8400	1.92
04	Computer Asst	Rs.3000-5450	1.44
05	FDA	Rs.4150-7800	7.68

06	SDA	Rs.3000-5450	8.64
07	Peon	Rs.2500-3850	8.64
08	Sweeper	Rs.2500-3850	2.16
09	Garden Sup.	Rs.3300-6300	0.72
10	Malies	Rs.2500-3850	1.80
11	Binder	Rs.3000-5450	0.72
12	Electrician	Rs.3850-7050	0.90
13	Medical Officer	Rs.9580-14200	2.16
14	Lady M.O.	Rs.7400-13120	01.68
15	Nurse	Rs.4575-8400	01.02
16	Compounder	Rs.3850-7050	00.78
17	Library Asst.	Rs.4150-7800	00.96
18	Res. Engineer	Rs.7400-13120	03.36
19	Assistant Executive Engineer	Rs.7400-13120	03.36
20	Jun. Engineer	Rs.4575-8400	02.04
21	Electric Supervisor	Rs.4575-8400	01.02
22	Linemen	Rs.3000-5450	01.34
23	Volveman	Rs.2600-4350	00.60
24	Driver	Rs.3000-5450	02.68
25	Sr. Driver	Rs.3000-5450	00.66
26	System Analyst	Rs.10620-14960	02.40
27	Programmer	Rs.8000-13440	01.86
28	Maint. Engr.	Rs.5575-10620	01.26
29	Data Entry Opt	Rs.3000-5450	00.66
30	Draftsman	Rs.3300-6300	00.72
31	Garden Worker	Rs.2500-3850	01.08
32	Carpenter	Rs.3000-5450	00.66
	Total		66.26

TABLE V: DETAILS OF NON-PLAN EXPENDITURE

SALARY OF THE STAFF TRANSFERRED FROM OTHER UNIVERSITIES AND
OTHER RECURRING EXPENDITURE

I	Gulbarga University	No. of Posts	Amount
1	Professor	01	04.50
2	Readers	02	08.00
3	Lecturer	02	02.00
4	Library Grants		05.00
5	Contingency		02.00

	Total		21.50
II	Mysore University		
1	Professor	01	04.50
2	Reader	01	04.00
3	Lecturers	02	04.50
4	Library Grants		02.00
5	Contingency		02.00
	Total		17.00
III	Bangalore University		
1	Professors	02	09.00
2	Readers	02	08.00
3	Lecturers	04	08.00
4	Lecturers (Temp)	10	12.00
5	Librarian	01	04.50
6	OS	01	01.50
7	FDA	02	02.50
8	SDA	06	06.00
9	Peons	06	03.00
10	Library Grants		06.00
11	Contingency		03.00
12	Building Maintenance		02.00
	Total		65.50
IV	Karnataka University		
1	Professors	02	09.00
2	Readers	02	08.00
3	Lecturers	02	04.50
4	Lecturers (Col)	04	08.00
5	Librarian	01	04.50
6	OS	01	01.50
7	FDA	02	02.50
8	SDA	06	06.00
9	Peons	06	03.00
10	Library Grants		06.00
11	Contingency		03.00
12	Building Maintenance		02.00
	Total		58.00
	Grand Total		158.00

TABLE VI: DETAILS OF NON-PLAN EXPENDITURE

OTHER RECURRING EXPENDITURE

No	Particulars	2007-08
01	Contingency	02.00
02	Stationary	03,00
03	Electricity	10.00
04	Telephone	05.00
05	Advertisements	02.00
06	Water Charges	02.00
07	Municipal Charges	02.00
08	Watch & Ward	05.00
09	Medical Reimbursements	02.00
10	Audit Fees	05.00
11	General Office Printing	02.00
12	Prospectus, etc. Printing	02.00
13	T.A. & D.A.	04.00
14	Meeting Expenditure	01.00
15	Seminars, Workshops, etc.	05.00
16	Fuel charges	04.00
17	Campus Network	10.00
18	Pension Contribution	30.00
19	Software/Hardware Purchase	05.00
20	Sanitary Expenses	02.00
21	Publications	25.00
22	Purchase of Books	25.00
23	Purchase of Journals	25.00
24	E-Library Purchases	10.00
25	Sports Equipments	10.00
26	Sports Activities	05.00
27	Student Welfare Activities	03.00
28	CS/ST Cell	07.00
29	Gardening	05.00
30	Health Center Expenditure	10.00
31	Computer Center Expenses	05.00
32	LL.B. Course Expenses	02.00
33	LL.M. Course Expenses	02.00
34	Diploma Courses Expenses	02.00
35	Certificate Course Expenses	02.00
36	Training Program Expenses	02.00
37	Hostel Expenses	01.00
38	Constituent Law Colleges	10.00
39	Remuneration to Examiners	25.00
40	Examination expenses	20.00
41	Q.P & Answer Book Printing	20.00

42	T.A./D.A. for Exam Work	15.00
43	Examination Contingency	10.00
	Total	354.00

PART II: DEVELOPMENT WORKS (PLAN)

Since Karnataka State Law University is a new University a cluster of buildings with the state of the art facilities in an ambient atmosphere is required. A total of Rs. 3450.00 lakhs is estimated for the buildings Rs. 393.00 lakhs for other infrastructure facilities and Rs.300.00 lakhs for books and back volumes of journals and Rs.2.00 lakhs for other miscellaneous expenditure including interiors. Out of this total estimate of one time allocation the projection for the year 2007-08 is made for the modest 2000,00 lakhs based upon the prioritization of the buildings and other infrastructure facilities. Four buildings out of 14, which are absolutely necessary to start the Law University have been selected for construction in the first year of the commencement of the University. These buildings are administrative building, law school building, library building and residential quarters. The details of the budget estimate are as follows.

TABLE VII: ABSTRACT OF THE DEVELOPMENT (PLAN) GRANTS

No	Particulars	Amount (in Lakhs)
01	New Buildings to be constructed	1650.00
02	Other Infrastructure Facilities	350.00
	Total	2000.00

TABLE VIII: BUILDINGS REQUIRED TO BE CONSTRUCTED & OTHER INFRASTRUCTURE REQUIRED

No	Particulars	Size	Amount (in Lakhs)
I.	BUILDINGS TO BE CONSTRUCTED		

01. Administrative Building			
	Vice Chancellor's Chamber	20` x 30`	
	V.C.'s Secretariat	30` x 40`	
	Registrar's Chamber	20` x 30`	
	Registrar's Secretariat	30` x 40`	
	Finance Officer's Chamber	20` x 30`	
	F.O.'s Secretariat	30` x 40`	
	Small Chambers for ARs & DRs 6 Nos	15` x 20`	
	Academic Section	40` x 60`	
	Administrative Section	40` x 60`	
	Finance Section	40` x 60`	
	Engineering Section (40` x 60`)	40` x 80`	
	Syndicate & Academic Council Meeting Hall	10` x 40`	
	Toilets		
			250.00
02 Law School Building			
	Class Rooms (big) 06 Nos	40` x 60`	
	Class Rooms (small) 16 Nos	20` x 30`	
	Seminar Hall	40` x 60`	
	Moot Court Hall	40` x 80`	
	Toilets	10` x 40`	
			250.00
03 Library Building			
	Text Book Section	40` x 80`	
	Reference Book Section	40` x 80`	

	Journal Section	40` x 80`	
	E-Library Section	40` x 60`	
	Chamber for Librarian (one)	20` x 30`	
	Deputy Librarians 02Nos	15` x 20`	
	Asst. Librarians 06Nos	10` x 15`	
	Reading Hall (200) capacity	40` x 80`	
	Toilets	10` x 40`	
			250.00
04 Residential Quarters			
	Vice Chancellor	2500 sq. ft	
	Registrar	2000 sq. ft.	
	Registrar (Evaluation)	1800 sq. ft.	
	Finance Officer	1800 sq. ft.	
	Lecturers Apartment 30 Houses	1200 sq. ft.	
	Readers Apartment 20 Houses	1400 sq. ft.	
	Professors Apartment 10 Houses	1600 sq. ft.	
	Non-Teaching Apartment 30 Houses	1000 sq. ft.	
	Class IV Apartment 20 Houses	0800 sq. ft.	
			900.00
TOTAL			1650.00
II Other Infrastructure Facilities			
i.	Cars	004	30.00
ii.	Jeep	001	07.00
iii.	Omni Bus	001	10.00
iv.	Executive Chairs	100	05.00

v.	Executive Tables	100	10.00
vi.	Small tables (officials)	300	15.00
vii.	Chairs (officials)	500	10.00
viii.	Student Tables	500	15.00
ix.	Student Chairs	500	10.00
x.	Plastic Chairs	500	01.00
xi.	Cots	300	15.00
xii.	Sofa Sets	010	10.00
xiii.	Library Tables	050	10.00
xiv.	Library chairs	200	05.00
xv.	Racks	100	20.00
xvi.	Godrej Store wells	100	10.00
xvii.	Computers	100	35.00
xviii.	Xerograph	002	15.00
xix.	Photocopiers	005	25.00
xx.	Printers	020	02.00
xxi.	Scanners, FAX	020	02.00
xxii.	TV	010	03.00
xxiii.	OHP	020	03.00
xxiv.	LCD Projectors	010	10.00
xxv.	Bore wells	010	05.00
xxvi.	Generators	002	07.00

xvii.	Air Conditioners	050	10.00
xviii.	Gardening & Landscaping		50.00
Total			350.00
Grand Total			2000.00

III. CONCLUSION

A total amount of **Rs.2650.00 lakhs** (Rupees Two Thousand Six Hundred and Fifty Lakhs only), out of which **Rs. 2000.00 Lakhs** (Rupees Two Thousand Lakhs only) for Development works (Plan) and **Rs.650.00 Lakhs** (Rupees Six Hundred and Fifty Lakh only) for general Funds (Non-Plan) is estimated as the budget requirement of the Karnataka State Law University for the year 2007-08. Since it is a new University coming into existence to realize the dream of the people of Karnataka to have a separate Law University, the Department of Law, Justice and Human Rights, Government of Karnataka as underlined in its Policy Paper and Action Plan, has initiated the process of establishing the University and it is hoped that the Budget Estimate made for the Karnataka State Law University, Hubli will be liberally and generously included in the Annexure-E of the Karnataka State Budget Estimate for the year 2007-08.

Annexure 3

Annual Account 2007-08

KARNATAKA STATE LAW UNIVERSITY, HUBLI
STATEMENT OF EXPENDITURE FOR THE YEAR 2007-08

Following is the expenditure incurred during the financial year 2007-08 for the activities connected with the establishment of Karnataka State Law University, Hubli

Sl.No.	Particulars	Amount (in Rupees)
01	Salary of the Special Officer	6,10,985.00
02	TA/DA of Special Officer	36,729.00
03	Salary of Staff	1,39,100.00
04	TA/DA to Staff	816.00
05	Fuel to University vehicle	82,910.00
06	Purchase of Stationery, Toner, Antivirus Software and Telephone bills etc.	1,46,661.00
07	Purchase of Stationery to Bangalore Office	38,998.00
08	Purchase of Computer	37,200.00
09	Purchase of LCD Projector and Screen	70,885.00
10	Purchase of Gates	16,295.00
11	Purchase of Furniture	3,26,073.00
12	Renewal of Car Insurance	15,366.00
13	Purchase of Air Conditioner	31,250.00
14	Partial Payment of Land cost to HDMC	50,00,000.00
Total Rs.		65,53,268.00

STATEMENT OF MONTHLY EXPENDITURE FOR THE YEAR 2007-08

ABSTRACT OF EXPENDITURE FROM APRIL TO MARCH, 2008

Sl. No.	Month	Amount Sanctioned	Amount spent	Balance
01	April	7,00,000.00 *	Nil	7,00,000.00
02	May		2,33,344.00	4,66,656.00
03	June		Nil	4,66,656.00
04	July		56,718.00	4,09,938.00
06	August		60,401.00	3,49,537.00
07	September		56,114.00	2,93,423.00
08	October		1,07,538.00	1,85,885.00
09	November	7,00,000.00+ <u>5,00,000.00*</u> 12,00,000.00	78,493.00	1,07,392.00+ <u>5,00,000.00*</u> 6,07,392.00
10	December		1,07,776.00	4,99,616.00
11	January	12,00,000.00+ <u>5,00,000.00*</u> 17,00,000.00	1,81,227.00	3,18,389.00+ <u>5,00,000.00*</u> 8,18,389.00
12	February		2,32,131.00	5,86,258.00
13	March	17,00,000.00+ <u>50,00,000.00*</u> 67,00,000.00	54,39,526.00	5,86,258.00+ <u>5,00,000.00*</u> 55,86,258.00
Last balance to be returned to the Government Rs. 1,46,732.00				

*Government of Karnataka have sanctioned Rs. 7, 00 lakhs Under G.O No: LAW 30 HRC 2007, BANGALORE, Dated: 15-06-2007.

*Government of Karnataka have sanctioned Rs. 5,00 lakhs for procurement of furniture, computers and L C D projector, etc. Under G.O No: LAW 04 KLM 2007, BANGALORE, Dated: 15-10-2007.

*Government of Karnataka have sanctioned Rs. 5,00 lakhs for meeting expenses to be incurred from December 2007 to March 2008. Under G.O No. Law 04 KLM 2007 (P) BANGALORE, Dated: 27-11-2007.

*Government of Karnataka have sanctioned Rs. 50.00 lakhs towards partial payment of Land cost to HDMC Under G.O No. Law 116 HRC 2007 (P) BANGALORE, Dated: 15-3-2008

DETAILED STATEMENT OF EXPENDITURE
FROM APRIL, 2007 TO MARCH, 2008
(Out of the grant sanctioned during the year 2008)

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	1/ 9-5-07	Fuel Expenses	475849	18-5-07	15,901.00	
02	2/ 9-5-07	TA/DA to S.O	475850	18-5-07	8,665.00	
03	3/ 9-5-07	Salary of S.O (March/April)	475851	18-5-07	86,501.00	
04	4/ 9-5-07	Purchase of items	475852	18-5-07	53,870.00	
05	5/10-5-07	Gates	475853	18-5-07	16,295.00	
06	6/10-5-07	Stationery for Bangalore Office	475854	18-5-07	9,328.00	
07	7/26-5-07	Salary of S.O (May)	477140	5-5-07	42,784.00	
08	8/15-6-07	Fuel Expenses	478268	2-7-07	10,721.00	
09	9/15-6-07	Phone Bills & Stationery	478269	2-7-07	3,213.00	
10	10/20-6-07	Salary of S.O (June)	479087	2-7-07	42,784.00	
11	11/17-7-07	Car decor & Stationery	481537	10-8-07	10,979.00	
12	12/17-7-07	Salary of S.O (July)	481545	10-8-07	42,784.00	
13	13/1-8-07	Toner for Xerox Bangalore Office	481546	10-8-07	6,638.00	
14	14/20-8-07	Telephone bills	483243	10-9-07	4,668.00	
15	15/20-8-07	Fuel Expenses	483244	10-9-07	8,662.00	
16	16/20-8-07	Salary of S.O (August)	483245	10-9-07	42,784.00	
17	17/23-8-07	Stationery	484928	8-10-07	14,814.00	
18	18/10-9-07	TA/DA to S.O	484930	8-10-07	6,102.00	
19	19/11-9-07	Driver Salary (June-August)	484931	8-10-07	9,000.00	4,36,493.00

20	20/26-9-07	TA/DA	484929	8-10-07	3,151.00	
21	21/26-9-07	Salary of Staff (September)	485261	15-10-07	15,600.00	
22	22/27-9-07	Salary of S.O (September)	485262	15-10-07	42,784.00	
23	23/8-10-07	Fuel	486498	26-10-07	7,759.00	
24	24/9-10-07	Postal charges etc	486499	26-10-07	4,044.00	
25	25/9-10-07	Stationery	486500	26-10-07	4,284.00	
26	26/24-10-07	Refreshment, Courier, Board	486964	5-11-07	4,279.00	
27	27/24-10-07	Salary of S.O (October)	486963	5-11-07	42,784.00	
28	28/25-10-07	Salary of Staff (October)	487898	7-11-07	17,500.00	
29	29/2-11-07	Fuel	487542	14-11-07	7,614.00	
30	30/12-11-07	TA/DA	487977	22-11-07	1,881.00	
31	31/12-11-07	Stationery	487976	22-11-07	4,435.00	
32	32/20-11-07	Salary of Staff (November)	488911	5-12-07	19,400.00	
33	33/28-11-07	Stationery	488912	5-12-07	2,514.00	
34	34/28-11-07	Salary of S.O (November)	488913	5-12-07	47,586.00	
35	35/28-11-07	Fuel	488914	5-12-07	8,701.00	
36	36/28-11-07	Supplementary Salary bill of S.O	488915	5-12-07	27,716.00	
37	37/4-12-07	DA to S.O	489824	24-12-07	1,109.00	
38	38/5-12-07	DA to S.O & batta to driver	489825	24-12-07	750.00	
39	39/14-12-07	TA/DA	490358	5-1-08	3,151.00	
40	40/14-12-07	LCD Projector	490705	9-1-08	56,035.00	
41	41/20-12-07	Salary of S.O (December)	490706	9-1-08	47,586.00	8,97,156.00

42	42/20-12-07	Salary of Staff (December)	490789	11-1-08	19,400.00	
43	43/20-12-07	HP Toner	490790	11-1-08	3,350.00	
44	44/20-12-07	Purchase of Computer	490791	11-1-08	37,200.00	
45	45/24-12-07	Purchase of Stationery	490792	11-1-08	3,136.00	
46	46/27-12-07	TA/DA to S.O	490793	11-1-08	2,923.00	
47	47/29-12-07	Fuel Expenses	490794	11-1-08	8,446.00	
48	48/9-1-08	Stationery for Bangalore Office	492610	5-2-08	5,054.00	
49	49/9-1-08	Purchase of Furniture	492611	5-2-08	22,649.00	
50	50/21-1-08	Purchase of Stationery	492612	5-2-08	3,259.00	
51	51/21-1-08	Salary of S.O (January)	492613	5-2-08	47,586.00	
52	52/21-1-08	Salary of Staff (January)	492614	5-2-08	19,400.00	
53	53/29-1-08	Purchase of Furniture	493844	20-2-08	42,566.00	
54	54/29-1-08	TA/DA to Staff	493845	20-2-08	816.00	
55	55/2-2-08	TA/DA to S.O	493846	20-2-08	2,923.00	
56	56/2-2-08	TA/DA to S.O	493847	20-2-08	2,923.00	
57	57/5-2-08	Purchase of Furniture	494011	22-2-08	38,147.00	
58	58/5-2-08	Purchase of Furniture	494012	22-2-08	40,368.00	
60	60/6-2-08	Fuel Expenses	494013	22-2-08	6,440.00	
61	61/12-2-08	Stationery for Bangalore Office	494693	3-3-08	4,703.00	
62	62/12-2-08	Purchase of Tosiba E Toner	494694	3-3-08	13,275.00	
63	63/19-2-08	Purchase of Stationery	495883	6-3-08	3,368.00	11,31,720.00

64	64/19-2-08	Salary of S.O (February)	495882	6-3-08	47,586.00	
65	65/19-2-08	Salary of Staff (February)	496165	6-3-08	19,400.00	
66	66/19-2-08	Purchase of Furniture	495885	6-3-08	46,350.00	
67	67/19-2-08	Purchase of Furniture	495884	6-3-08	27,993.00	
68	68/19-2-08	Purchase of Furniture	495881	6-3-08	5,000.00	
69	69/19-2-08	Purchase of Furniture	496167	7-3-08	63,000.00	
70	70/22-2-08	Purchase of Stationery	497757	20-3-08	9,163.00	
71	71/22-2-08	Car insurance	497758	20-3-08	15,366.00	
72	72/25-2-08	Purchase of Antivirus Software	497759	20-3-08	8,324.00	
73	73/29-2-08	TA/DA to S.O	497760	20-3-08	3,151.00	
74	74/29-2-08	Supplementary Salary bill of S.O	497761	20-3-08	1,067.00	
75	75/29-2-08	Purchase of LCD Screen	497762	20-3-08	14,850.00	
76	76/1-3-08	Purchase of HP Toner	497763	20-3-08	7,080.00	
77	77/6-3-08	Salary of S.O	497764	20-3-08	48,653.00	
78	78/6-3-08	Salary of Staff	497765	20-3-08	19,400.00	
79	79/6-3-08	Fuel Expenses	497766	20-3-08	8,666.00	
80	80/6-3-08	Purchase of Stationery	497767	20-3-08	1,881.00	
81	81/20-3-08	Pastial Payment HDMC towards Land	498628	20-3-08	50,00,000.00	
59	59/6-2-08	Purchase of Air-conditioner	497768	20-3-08	31,250.00	65,53,268.00

DETAILED MONTHWISE STATEMENTS OF EXPENDITURE

DETAILED STATEMENT FOR THE MONTH OF APRIL, 2007

Sl. No.	Bill No	Particulars	Amount	Cheque No	Date of Cheque	Total
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DETAILED STATEMENT FOR THE MONTH OF MAY, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	1/ 9-5-07	Fuel Expenses	475849	18-5-07	15,901.00	
02	2/ 9-5-07	TA/DA of SO	475850	18-5-07	8,665.00	
03	3/ 9-5-07	Salary of SO (March/April)	475851	18-5-07	86,501.00	
04	4/ 9-5-07	Purchase of items	475852	18-5-07	53,870.00	
05	5/10-5-07	Gates	475853	18-5-07	16,295.00	
06	6/10-5-07	Stationery for B'lore Office	475854	18-5-07	9,328.00	
07	7/26-5-07	Salary of SO (May)	477140	5-5-07	42,784.00	2,33,344.00

DETAILED STATEMENT FOR THE MONTH OF JUNE, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
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DETAILED STATEMENT FOR THE MONTH OF JULY, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	8/15-6-07	Fuel Expenses	478268	2-7-07	10,721.00	
02	9/15-6-07	Phone Bill & Stationery	478269	2-7-07	3,213.00	
03	10/20-6-07	Salary of S.O (June)	479087	2-7-07	42,784.00	56,718.00

DETAILED STATEMENT FOR THE MONTH OF AUGUST, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	11/17-7-07	Car décor & Stationery	481537	10-8-07	10,979.00	
02	12/17-7-07	Salary of S.O (July)	481545	10-8-07	42,784.00	
03	13/1-8-07	Toner for Xerox Bangalore Office	481546	10-8-07	6,638.00	60,401.00

DETAILED STATEMENT FOR THE MONTH OF SEPTEMBER, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	14/20-8-07	Telephone Bills	483243	10-9-07	4,668.00	
02	15/20-8-07	Fuel Expenses	483244	10-9-07	8,662.00	
03	13/20-8-07	Salary of S.O (August)	483245	10-9-07	42,784.00	56,114.00

DETAILED STATEMENT FOR THE MONTH OF OCTOBER, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	17/23-8-07	Stationery	484928	8-10-07	14,814.00	
02	18/10-9-07	TA/DA of S.O	484930	8-10-07	6,102.00	
03	19/11-9-07	Driver Salary (June-August)	484931	8-10-07	9,000.00	
04	20/26-9-07	TA/DA of S.O	484929	8-10-07	3,151.00	
05	21/26-9-07	Salary of Staff	485261	15-10-07	15,600.00	
06	22/27-9-07	Salary of S.O	485262	15-10-07	42,784.00	
07	23/8-10-07	Fuel	486498	26-10-07	7,759.00	
08	24/8-10-07	Telephone bills, Stationery etc.	486499	26-10-07	4,044.00	
09	25/9-10-07	Vehicle Service, Stones etc.	486500	26-10-07	4,284.00	1,07,538.00

DETAILED STATEMENT FOR THE MONTH OF NOVEMBER, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	26/24-10-07	Stationery	486964	5-11-07	4,279.00	
02	27/24-10-07	Salary of S.O (October)	486963	5-11-07	42,784.00	
03	28/25-10-07	Salary of Staff (October)	487898	7-11-07	17,500.00	
04	29/2-11-07	Fuel	487542	14-11-07	7,614.00	
05	30/12-11-07	TA/DA	487977	22-11-07	1,881.00	
06	31/12-11-07	Stationery	487976	22-11-07	4,435.00	78,493.00

DETAILED STATEMENT FOR THE MONTH OF DECEMBER, 2007

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	32/20-11-07	Salary of Staff (November)	488911	5-12-07	19,400.00	
02	33/28-11-07	Stationery	488912	5-12-07	2,514.00	
03	34/28-11-07	Salary of S.O (November)	488913	5-12-07	47,586.00	
04	35/28-11-07	Fuel	488914	5-12-07	8,701.00	
05	36/28-11-07	Supplementary Salary bill of S.O	488915	5-12-07	27,716.00	
06	37/4-12-07	DA to S.O	489824	24-12-07	1,109.00	
07	38/5-12-07	DA to S.O and batta to driver	489825	24-12-07	750.00	1,07,776.00

DETAILED STATEMENT FOR THE MONTH OF JANUARY, 2008

Sl. No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	39/14-12-07	TA/DA	490358	5-1-08	3,151.00	
02	40/14-12-07	LCD Projector	490705	9-1-08	56,035.00	
03	41/20-12-07	Salary of S.O (December)	490706	9-1-08	47,586.00	
04	42/20-12-07	Salary of Staff (December)	490789	11-1-08	19,400.00	
05	43/20-12-07	HP Toner	490790	11-1-08	3,350.00	
06	44/20-12-07	Purchase of Computer	490791	11-1-08	37,200.00	
07	45/24-12-07	Purchase of Stationery	490792	11-1-08	3,136.00	
08	46/27-12-07	TA/DA to S.O	490793	11-1-08	2,923.00	
09	47/29-12-07	Fuel	490794	11-1-08	8,446.00	1,81,227.00

DETAILED STATEMENT FOR THE MONTH OF FEBRUARY, 2008

Sl.No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	48/9-1-08	Purchase of Stationery (for Bangalore office)	492610	5-2-08	5,054.00	
02	49/9-1-08	Purchase of Furniture(chairs)	492611	5-2-08	22,649.00	
03	50/21-1-08	Purchase of Stationery	492612	5-2-08	3,259.00	
04	51/21-1-08	Salary of S.O	492613	5-2-08	47,586.00	
05	52/21-1-08	Salary of Staff	492614	5-2-08	19,400.00	
06	53/29-1-08	Purchase of Furniture (Tables)	493844	20-2-08	42,566.00	
07	54/29-1-08	TA/DA to Staff	493845	20-2-08	816.00	
08	55/2-2-08	TA/DA of S.O	493846	20-2-08	2923.00	
09	56/2-2-08	TA/DA of S.O	493847	20-2-08	2923.00	
10	57/5-2-08	Purchase of Furniture	494011	22-2-08	38,147.00	
11	58/5-2-08	Purchase of Furniture	494012	22-2-08	40,368.00	
12	60/6-2-08	Fuel	494013	22-2-08	6,440.00	2,32,131.00

DETAILED STATEMENT FOR THE MONTH OF MARCH, 2008

Sl.No.	Bill No	Particulars	Cheque No	Date of Cheque	Amount	Total
01	61/12-2-08	Purchase of Bangalore Stationery	494693	3-3-08	4,703.00	
02	62/12-2-08	Purchase of Tosiba E Toner	494694	3-3-08	13,275.00	
03	63/19-2-08	Purchase of Stationery	495883	6-3-08	3,368.00	

04	64/19-2-08	Salary of S.O	495882	6-3-08	47,586.00	
05	65/19-2-08	Salary of Staff	496165	6-3-08	19,400.00	
06	66/19-2-08	Purchase of Furniture	495885	6-3-08	46,350.00	
07	67/19-2-08	Purchase of Furniture	495884	6-3-08	27,993.00	
08	68/19-2-08	Purchase of Furniture	495881	6-3-08	45,000.00	
09	69/19-2-08	Purchase of Furniture	496167	7-3-08	63,000.00	
10	70/22-2-08	Purchase of Stationery	497757	20-3-08	9,163.00	
11	71/22-2-08	Car insurance	497758	20-3-08	15,366.00	
12	72/25-2-08	Purchase of Anti-virus Software	497759	20-3-08	8,324.00	
13	73/29-2-08	TA/DA to S.O	497760	20-3-08	3,151.00	
14	74/29-2-08	Supplementary Salary bill of S.O	497761	20-3-08	1,067.00	
15	75/29-2-08	Purchase of LCD Screen	497762	20-3-08	14,850.00	
16	76/1-3-08	Purchase of HP Toner	497763	20-3-08	7,080.00	
17	77/6-3-08	Salary of S.O	497764	20-3-08	48,653.00	
18	78/6-3-08	Salary of Staff	497765	20-3-08	19,400.00	
19	79/6-3-08	Fuel	497766	20-3-08	8,666.00	
20	80/6-3-08	Purchase of Stationery	497767	20-3-08	1,881.00	
21	81/20-3-08	Partial Payment to HDMC towards Land	498628	20-3-08	50,00,000.00	
22	59/6-2-08	Purchase of Air Conditioner	497768	20-3-08	31,250.00	54,39,526.00

Annexure 4

KARNATAKA STATE LAW UNIVERSITY, HUBLI

CONCEPT PAPER ON BUILDINGS REQUIRED

INTRODUCTION

Karnataka State Law University is being established by the government of Karnataka with the vision of transforming Karnataka into legally conscious society by providing quality legal education which is professionally competent and socially relevant so as to transform the constitutional primordial goal of social, economic and political justice and secure human right to every one and also to provide informal legal education to the men in governance , NGOs and common man as the knowledge of law is necessary for every citizen of the country.

Karnataka State Law University provided with 24.29 acres of land vide Government letter No. RD 89 LGD 06 dated 27.07.2007 written by the Under Secretary, Department of Revenue, Government of Karnataka, to the Deputy Commissioner, Dharwad District, Dharwad. A joint inspection of the land is conducted by the Special Officer and the Assistant Commissioner, the Tahasildar, the Assistant Executive Engineer of PWD on 31st August 2007 and proceedings were drawn on 1st September 2007 and submitted to the Deputy Commissioner, Dharwad for further action. The land is likely to be handed over along with the documents in about a week's time.

Immediately after taking the possession of the land, it has to be fenced so as to avoid trespass and encroachment upon the University land territory. It can be a steel wire fencing or alternatively to go for a regular compound. It is advisable to construction of the compound at a later stage can be avoided.

A master plan has to be prepared locating the places where various buildings are to be constructed, roads to be laid, garden to be put up, drainage system, water facility, parking facility, main entrance gates, street lights, etc. Care should be taken to house the buildings at proper distance so as to have provision for sufficient light and ventilation. But the buildings should be located in proximate vicinity to have connectivity for effective e-governance. The plan has to be formulated keeping in view the requirements of the University as also the ambience, Architectural design of each building should be unique keeping in view the main purpose for which the building is to be constructed. The administration, e-library; class rooms equipped with modern computer aided teaching tools such as LCD projector, digital board and plug-in facility for students' lap top, etc. Every building should reflect a unique architecture and appeal to the eye.

BUILDINGS REQUIRED

1. Administrative Building

The main administrative building should have a unique architecture and should be the symbol of Karnataka's history culture and tradition. It is advisable to have the construction with white dressed stone s. It may be preferably in a quadrangular structure, accommodating the offices of the Vice Chancellor, Registrar, Finance Officer, Resident Engineer and meeting halls of the Syndicate and the Academic Council, Reception Lounge and the other facilities. The building should have provision for LAN and other hi-fi facilities to facilitate e-administration. The space for various offices in the main building may be approximately as under:

- a) Vice-Chancellor's Chamber(20x30)

- b) V.C's. Secretariat (30x40)
- c) Registrar's Chamber (20x30)
- d) Registrar's Secretariat (30x40)
- e) Finance Officer's Chamber (20x30)
- f) F.O's Secretariat (30x40)
- g) Small chamber for Deputy Registrar and Assistant Registrars
6 nos. (15x20)
- h) Academic Section 40x60)
- I Administrative Section (40x60)
- J Finance Section (40x60)
- k) Engineering Section (40x60)
- l) Syndicate and Academic Council meeting hall (40x80)
- m) Toilets

2. Pareeksha Bhavan

The examination building should be a compact building with only two entries to ensure full control and effective monitoring of the conditional activities . The building should be structured in such a way as to have provision for computerized question paper setting , computerized answer sheets and response sheets, scanning of the written answer sheets, printing of the marks cards and degree certificates, a strong room to store the confidential material should be provided .

- a) Registrar (Evaluation) Chamber (20x30)
- b) Registrar (Evaluation) Secretariat (30x40)
- c) Deputy Registrar and Assistant Registrars' Chambers 3 nos.15x20)

- d) UG & PG and PhD Sections (halls) 3 nos. (40x60)
- e) Central Valuation Halls (5 nos) (40x80)
- f) Toilets

3. Law School Building

Every class room should be built with the state of the art facility such as LCD, white board, plug in facility of every student for lap top. The building should be designed in such a manner as not to echo when lectures are delivered and no disturbance is caused to the neighboring class. It is advisable to have class rooms with the same length and width so that the students can have clear visibility of the white board and the material displayed on it. Provision should be made for built in speakers and concealed cabling for LAN and other hi-tech facilities. The following is the requirement of the accommodation in this building;

- a) Class ooms (big) 06 Nos. (40x60)
- b) Class rooms (small) 16 Nos. (20x30)
- c) Seminar Hall (40x60)
- d) Moot Court Hall (40x80)
- e) Toilets

4. ILTCS Building (Chambers)

Institute for Legal Training, Consultancy and Services is to house all the faculty members of the University. Every chamber of a teacher is to house in it a center to provide consultancy to the clients and training to the students. Accordingly rooms in this building are to be constructed with a provision for housing the material of the Center, inbuilt exhibition board, inbuilt show case, etc. There should be a beautiful lounge at the

entrance of the building with a Reception Counter to guide the visitors. The building may consist of the following:

- a) Rooms (12x 15 size) 30 Nos
- b) Law Workshop Hall (40x100)
- c) Lounge
- d) Reception
- e) Toilets

5. Library Building

Library should be a place with peace and tranquility, Care should be taken to design the building in such a manner as to ensure no disturbance to the readers from the library staff doing their routine jobs in the library as also the visitors looking into the stacks of the book. There should be a reception counter with computed catalogue facility. There should be lounge where the catalogue. New arrivals and news papers can be put. In addition the following facilities should be provided.

- a) Textbook section (40x80)
- b) Reference Book Section (40x80)
- c) Journal Section (40x80)
- d) E- Library Section (40x60)
- e) Chambers for Librarian (one) (20x30)
- f) Dy. Librarian(02) (15x20)
- g) Asst. Librarians (06) (10x15)
- h) Reading Hall(200) capacity
- i) Toilets

The entire library is to be networked on LAN with provision for the establishment of INFLIBNET and such other network facilities

6. Boys Hostel:

Every room in the hostel should contain inbuilt in store-well and book-self with a provision for a table, cot and couple of chairs. It should have an attached bath room with commode and shower. Enough lung space in the corridor should be provided. The building may be consisting of the following:

- a) Rooms 100 (12x15)
- b) Mess Hall (30x870)
- c) Reading Room (20x30)
- d) Office (15x20)

7. Ladies Hostel:

Every room in the hostel should be contain a built in store-well and book self with a provision for a table, cot and couple of chairs. It should have an attached bath room with commode and shower. Enough lung space in the corridor should be provided. The building may consist of the following

- a) Rooms 100 (12x15)
- b) Mess Hall (30x870)
- c) Reading Room (20x30)
- d) Office (15x20)
- e) Common bath room and toilet

8 Catering:

There should be a catering building to house the kitchen and community dining hall to make it convenient for all the members of the University to participate in the communicate breakfast, lunch and dinner. Community Hall should have a stage to conduct events with sufficient number of counters to serve food with a provision to house sufficient number of dining table and chairs. The facility should be made for about 500 members.

- a) Kitchen (20x30)
- b) Store room (20x30)
- c) Community Hall (40x870)
- d) Reception
- e) Bath room and toilet

9. Residential Quarters:

All the residential quarters and apartments should be constructed in one area with the sufficient space in between for good air light to pass in the houses. Connecting roads, garden, street lights and other civic amenities should be ensured. Following types of quarters and apartments are to be constructed.

- a) V.C. (2500 sq.ft.)
- b) Registrar (2000 sq.ft.)
- c) Registrar (Evaluation) (1800 sq.ft.)
- d) Finance Officer (1800 sq.ft.)
- e) Lecturers' Apartment 30 houses (1200 sq.ft. each)
- f) Readers' Apartment 20 houses(1400 sq.ft. each)
- g) Professors' Apartments 10 houses (1600 sq.ft. each)

- h) Non-teaching Apartment 30 houses (1000 sq. ft. each)
- i) Class IV Apartment 20 houses (800 sq. ft.)

10. Guest house:

The University should have a most beautiful guest house with good surrounding and an appealing architecture. It should be built in one of the elevated places of the campus. It shall contain the following facilities:

11, Auditorium (500 capacity)

An auditorium with most modern facilities such as a stage with built-in screen, acoustics, speakers, built-in chairs, good ventilation should be constructed on the campus to conduct all major events such as annual day, convocation, law festival and other cultural activities. Provision for dressing room, office room, lounge, reception, sanitary facility should be made in the auditorium.

12. Sports Building

Sports building should accommodate some of the indoor activities such as tennis, badminton, chess, carom, multi-gym, recreation hall, club, snacks stall, etc. major components of this facility are as under:

- a) Indoor Stadium
- b) Outdoor Stadium
- c) Multi Gym. Center
- d) Recreation Center

13. Car & Two Wheeler Parking Sheds

Sheds for 10-15 cars and shed for about 100 two wheelers should be built at the appropriate place, preferably after the entrance itself so as to avoid the noise of the traffic inside the campus. A provision for a walk is expected to enhance the health of the members of the University.

14. Accessories Building

A small shed structure to house the following facilities should also be built at suitable place as per the requirements of the University:

- a) Generator Room (12x15)
- b) Power House 12x15)
- c) Pump House 12x15)
- d) Go-down (20x4)
- e) Horticulture Department Hall
- f) Security House

CONCLUSION

A master plan incorporating all the requirements outlined above has to be prepared by the architects in consultation with the University based on the road map laid down in this concept paper by putting their heart and soul so that it will lead to the establishment of a University with the hi-tech facilities with the traditional outlook reflecting the culture of our society to make the University conducive for providing the quality legal education to the people of Karnataka. The external look and internal facilities in the buildings and the total ambience of the campus should be commensurate with the vision, mission, objectives and the entire academic ambitions of the Law University in the making.

Annexure 5

Selected Research Papers

LAW IN THE MAKING: THE ROLE OF LAW GURUS*

Dr. J. S. Patil♦

Introduction

Human society has evolved itself into what it is today due to the role of the concept of *rule of law* in establishing civilized societies. Law has become an inseparable part of human life. Given the nature of man, law and legal institutions have become the hallmark of human civilization. There are a number of sources of law. Important of sources of law are custom, precedent, equity and legislation.¹ Although law making was a simpler and much easier activity in the formative period of civilizations, it has become more complicated and difficult activity in the wake of societies becoming highly materialistic and demanding. The role of law in the earlier societies was only regulatory and policing. The law has assumed much important role of construction and development in societies wedded to welfare concept. There was minimum law and legal interference in the earlier societies. As societies developed the need for greater role for law was felt and a move towards establishment of legalitarian societies started. Today there is hardly any area of human activities that is left out of the purview of legal interference.

Very many agencies are involved in the law making process. People themselves have been the main source of law in the earlier societies. They created law through custom. This process was controlled by the oligarchy at a later stage. When societies became complex specialized agencies for law making was felt. Consequently various types of legislatures were evolved for the sole purpose of law making. When these institutions were also not in position to perfectify the art of law making and respond

* Paper presented at the National Seminar on Strengthening Democratisation of Law Making Process organized by the KILPAR, Bangalore and University Law College, Bangalore on 31st October, 2007 at Senate Hall, Central College Campus, Bangalore University, Bangalore.

♦ Professor of Law and Special Officer, Karnataka State Law University, Hubli.

¹ Detailed analysis of various sources of law can be found in C. K. Allen, *Law n the Making*.

completely to the societal demands, judiciary assumed the additional responsibility of adding to the existing law new elements.² Equity has always been playing the subordinate role in the evolution of law.

Contribution of cross section of the people in every civilized society in the law making process is significant. Kings and rulers contributed greatly to the law making process in the formative period of our civilizations. Legislators, judges and the men in executive organ of the state have been playing pivotal role in the law making activities in the later societies. The role of other specialized agencies such as Law Commissions, Constituent Assemblies, etc has also been significant. Of late experts in various fields are participating eminently in the law making process. The role of Law Gurus (law teachers) has also been substantial in directly and indirectly affecting the law making process.

Law Making as Pure Science Activity

Jurisprudence is the soul of law. Greater contribution to jurisprudence has come from law teachers. Various theories of law contributing to the carving out of the concept of law are essentially the contributions of Law Gurus. The teachings and writings of Socrates, Plato and Aristotle during the Greek Period, Cecero in the Roman Period, Hobbes, Lockh, Grotius and Rousseau in the period from renaissance and Finnis, Stammler, Fuller and Rawls in the modern times can be cited only as examples of eminently contributing to the one of the most important and oldest school of thought in jurisprudence, namely, the natural law.³

Bentham, Austin and Hart are the distinguished teachers evolving the analytical school of thought in British jurisprudence.⁴ Von Savigny established the new school of historical jurisprudence.⁵ Sir Henry Maine contributed to the anthropological

² Evolution of law is through personal command, control by aristocratic minority, custom and codification; it evolves further in progressive societies through fiction, equity and legislation. See Sir Henry Maine, *Ancient Law*

³ for details see, Julius Stone, *Human Law and Human Justice* and other standard books on Jurisprudence and Legal Theory.

⁴ Jeremy Bentham, *Limits of Jurisprudence Defined*; John Austin, *The Province of Jurisprudence Determined*; HLA Hart, *The Concept of Law*.

⁵ *On the Vocation of Our Age for Jurisprudence*

jurisprudence.⁶ Hans Kelson formulated the normative jurisprudence.⁷ Dean Roscoe Pound made a significant contribution to sociological jurisprudence through his theory of social engineering.⁸

The contribution made by Professor Hohfield to the evolution of the concept of rights in its various manifestations is unparalleled in the history of global jurisprudence.⁹ Various other teachers have also eminently contributed for the evolution of various other legal concepts.

Law Making as an Applied Science Activity

In the making of the positive law, the role played by the Law Gurus is direct in certain cases and indirect in many cases. Vedas, Puranas, Upanishads, Manu's Code, Vijnanaeshwara's Mitakshara are essentially the product of Law Gurus.

The law teachers are not only teaching in the class rooms but also conduct research and contribute to the cutting edge knowledge in the field of law paving way for the new legislation in various fields of human activities. There is a substantial development in the field of legal research in the recent part across the globe and India is not lagging behind in this process. Many Universities in the country have started specialized M. Phil, Ph. D. and LL. D. programmes aimed at conducting research in the cutting edge knowledge fields of law. There is substantial new legal material produced by the law teachers and research students working under them, which needs to be effectively harvested by the State.

Law teachers are appointed as members of Law Commissions and their contribution for the legislative drafting is significant. In the recent past effort is made in Karnataka to involve law teachers for drafting of new legislative bills.¹⁰ The Policy Paper and Action Plan contemplated for the establishment of Center for Law Reforms to

⁶ *Ancient Law*

⁷ *The Pure Theory of Law*

⁸ Roscoe Pound, *The Philosophy of Law*

⁹ Hohfield, *The Fundamental Legal Concepts*

¹⁰ A total number of ten bills were drafted by the law teachers. See *Policy & Action Plan*, Department of Law, Government of Karnataka, item No. 12, p.15

undertake periodic review of the existing laws and suggest suitable amendments wherever necessary; to draft laws to be adopted to regulate the activities that are hitherto not regulated; organize seminars, workshops, symposia, etc., to gather diverse view points, to undertake drafting exercises directed by the government; and to undertake research projects in association with the specialized individuals/institutions.¹¹ The Karnataka Institute for Law and Parliamentary Reform is established by the Government of Karnataka to realize the dream of systematic law making in the State. Law teachers are eminently involved in the activities of this institution.

Conclusion

Law Gurus have been playing a great role in the law making process. They are the sole architects of pure legal science activities. Their contribution in making of the positive law is also significant. Karnataka has come of age in utilizing the services of eminent Law Gurus in the law making process worth emulation in other parts of the country. Law Gurus must rise to the occasion and play the pivotal role entrusted to them and transform our society into a ligitatian egalitarian society.

¹¹ Ibid, p. 16

THE ROLE OF MEDIA IN THE PROTECTION OF HUMAN RIGHTS*

Dr. J. S. Patil**

Sri N. Dharam Singh, Hon'ble Leader of Opposition, legislative Assembly & Former Chief Minister of Karnataka, Sri H. K. Patil, Hon'ble Leader of Opposition, Legislative Council, Mr. Justice S. R. Naik, Chairman, Karnataka State Human Rights Commission, Dr. Mahesh Joshi, Director, Doordarshan Kendra, Bangalore, Sri H.V. Basave Gouda, Sri M. Venkatesh, Prof. S. M. Sangameshwar, Dr. K. G. Halaswamy, media friends, invitees, ladies and gentlemen.

It is a matter of pride and privilege for me to deliver Key Note Address in this very important national seminar before this distinguished gathering. I would like to begin my presentation with two statements, one by Thomas Sawell and another by Laura Alber. Thomas Sawell says, "When your case is weak, take it to the media, instead of to the Courts." Laura Alber says, "If O. J. Simpson was guilty, the media was responsible for his acquittal."¹² Both these statements could be true. Media, therefore, is required to be not only responsive but also responsible.

The Role of Media

The role of media in protecting the human rights is neither to be exaggerated nor to be undermined. Founding fathers of our Constitution attached great importance to freedom of speech and expression and freedom of the press. They believed that central to the concept of a free press is freedom of political opinion and at the core of that freedom lies in the right to criticize the government, because it is only through free debate and free exchange of ideas that government remains responsive to the will of the people and

* Key Note Address delivered at the National Seminar on Human Rights and Media organized by UNI Employees Union and Department of Journalism, Veerendra Patil College, Bangalore on November 16, 2007 at Gandhi Bhavan, Bangalore.

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¹² As quoted by M. Jagannadha Rao in "Fair Trial or Free Press?; Law's Response to Trial by Media", in Moolchand Sharma & Raju Ramachandran (ed), Constitutionalism Human Rights & the Rule of Law, Universal Law Publishing Co., New Delhi, 2005, p.84.

orderly change is effected.¹³ Our Constitution is a very well balanced document imbibing the true spirit of human rights as developed by civilized societies over the ages.¹⁴ The point of argument is the extent of realization of the constitutional goals. In a truly democratic society, the people have the right to know and to be informed freely and fully of current and contemporaneous events.¹⁵ It is accepted as the underlying premise of democratic constitutionalism that the constitution, as enacted by the constituent power of the sovereign people, is binding on both power holders and power addressees until changed through the constitutionally provided procedure. But there are cases on record in which the power holders, indifferent to constitutional injunctions, are openly delinquent in their constitutional duties.¹⁶ Violation of human rights from the organs of the state has to be checked. Media is an important player in this pursuit.

What are Human Rights?

Human Rights is an area that needs greater attention in the contemporary times due to the gross violation of these basic rights without which the life of human beings becomes miserable. Violation of human rights is taking alarming proportions in the recent past due to the activities such as organized crimes, terrorism, state activities, science and technology developments, etc. There has been a growing awareness among the civilized nations regarding the protection and promotion of human rights in the modern times, although seeds of human rights are sown with the inception of human civilization itself. The two world wars and the untold misery that was brought about by these wars, led to the establishment of the U.N.O. The Universal Declaration of Human Rights, 1948 was the natural sequel to the establishment of the U.N.O. This was followed by the formulation of two Covenants, viz. the Covenant on Civil and Political Rights and the Covenant on Social, Economic and Cultural Rights of 1966 which came into force in 1976. There are two Optional Protocols to these Covenants. At the regional level also efforts are made to protect and promote human rights.

¹³ Soli Sorabjee, Law of Press Censorship in India, N. M. Tripathi, Bombay, 1976, p.5

¹⁴ Part III & IV of the Constitution in terms of fundamental rights and directive principles of state policy are essentially the embodiment of human rights.

¹⁵ A. N. Grover, Press and the Law, Vikas Publishing House Pvt. Ltd., Bombay, 1990, p.123

¹⁶ Karl Loewenstein, Political Power and the Governemntal Process, 2nd ed., The University oof Chicago Press, Chicago, 1964, p.154

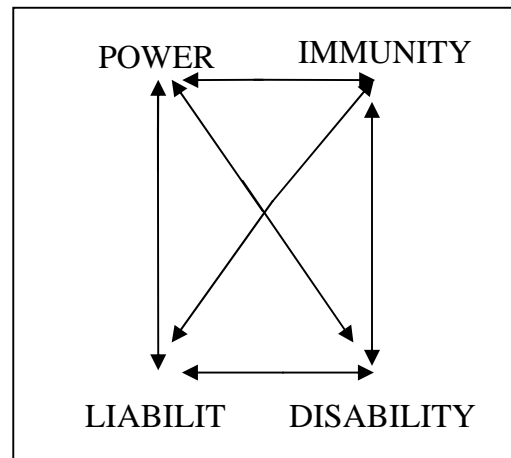
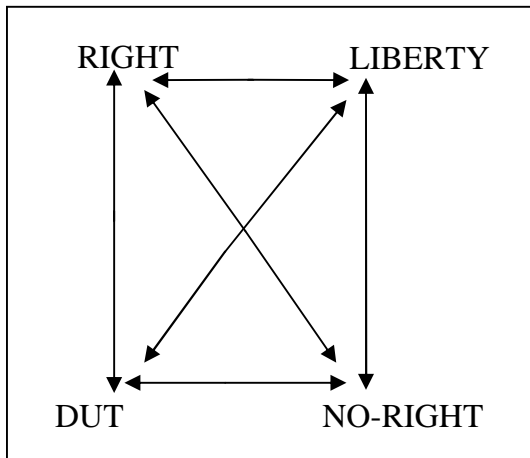
India has a rich tradition of protecting and promoting the basic rights of human beings. Being a great civilisation having a great history and culture of its own, India is very well known for the protection and promotion of human rights. Starting from the inception of *Sanatanadharma* in ancient times down up to the establishment of the Constitution in the middle of twentieth century, one can trace the golden line of human rights jurisprudence occupying the prime position in the Indian Jurisprudence and the legal system. In view of the growing importance of the human rights jurisprudence in the twentieth century in the wake of fragrant violation of human rights, there has been a new shift in the global thinking as to human rights. In keeping with the global developments, India passed the Protection of Human Rights Act, 1993 establishing the National Human Rights Commission to ensure the proper protection and promotion of human rights.

Let us first know what human rights are. Human rights are commonly understood as those rights, which are inherent to the human beings. Every human being is entitled to enjoy his or her human rights without distinction of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Important features of these rights are: Rights that inhere in a person are human rights. These are basic for his existence. These are created with his birth and destroyed only with his death. These are natural rights and described as fundamental rights in Constitutions. Human rights are legally guaranteed under various human rights laws. This protects individuals and groups against actions, which interfere with fundamental freedoms and human dignity. Human rights law places an obligation on States to act in a particular way and prohibits States from engaging in specified activities. They are defined in S. 2 of the Protection of Human Rights Act, 1993 as, “the rights relating to life, liberty, equality and dignity of the individual guaranteed under the Constitution or embodied in the International Covenants and enforceable by courts in India.”

The concept of rights is explained by Professor Hohfeld as an ensemble of four advantages and four disadvantages in a diagram having jural relationships.¹⁷ They cannot

¹⁷ Fundamental legal Concepts is a classic work of Professor Hohfeld in which he gives the full account of the concept of rights.

be isolated from these jural relations. Right and duty are jural correlatives. In this way he builds the concept of right in the wider sense of the term as under:



Human Rights in India

The Preamble of the Indian Constitution reflects the fundamental philosophy of human rights. It states, “We, the people of India, have solemnly resolved to constitute into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens: Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the nation; ...”

Part III of the Constitution, which confers series of fundamental rights to the people in India are nothing but human rights. Some of these are civil and political rights and some others are social, economic and cultural rights. Equality before law: “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.” (Art.14). Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth with regard to access to public places (Art.15). Equality of opportunity in matters of public employment (Art.16) and reservation for SC/ST & OBCs is also provided. “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall

be an Offence punishable in accordance with law.¹⁸ Other human rights include: Right to Freedom of Speech and Expression [Art.19 (1) (a)]; Right to assemble peaceably and without arms [Art.19 (1)(b)]; Right to form Associations or Unions [Art.19 (1)(c)]; Right to move freely throughout the territory of India [Art.19 (1)(d)]; Right to reside & settle in any part of the territory of India [Art.19 (1)(e)]; Right to practice any profession, or to carry on any occupation, trade or business [Art.19 (1)(g)]; Protection of life & personal liberty (Art.21): “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Right to Education [Art.21A]: “The State shall provide free and compulsory education to all children of the age of six to fourteen years in a manner as the State may, by law, determine.” Prohibition of traffic in human beings and forced labour [Art.23]: 1.Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.2.Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them. Prohibition of employment of children in factories, etc. [Art.24] “No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.” Right to freedom of religion [Art.25]: Freedom of conscience and free profession, practice and propagation of religion. Freedom to Manage Religious Affairs [Art.26]: Subject to public order, morality and health, every religious denomination or any section thereof shall have the right – a) To establish & maintain institutions for religious & charitable purposes; b) To manage its own affairs in matters of religion; c) To own and acquire movable and immovable property; and d) To administer such property in accordance with law. Protection of interests of minorities [Art.29]: 1.Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. 2.No citizen shall be denied admission into any educational institution maintained by the State of receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. Rights of minorities to establish and administer educational institutions [ART.30] Remedies are available in the

¹⁸ Article 17 of the Indian Constitution

form of writs of *habeas corpus*, *mandamus*, *certiorari*, *prohibition* and *quo warranto* for violation of human rights.

We can find many human rights in the form of directives issued to the State to be attained as early as possible. These human rights are part of the International Covenant on Social, Economic and Cultural Rights, 1976. The State shall ensure that the citizen, men and women equally, have the right to an adequate means of livelihood [Art. 39(a)]. Equal pay for equal work be given for both men and women [Art.39 (d)]. Health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength [Art.39 (e)]. Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment [Art.39 (f)]. Equal justice & free legal aid Art.39A The State shall ensure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Right to work, to education & to public assistance in certain cases The State shall, within the limits of its economic capacity & development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want [Art.41]. Just & humane conditions of work & maternity relief The State shall make provision for securing just and human conditions of work and for maternity relief [Art.42]. Living wages, etc. for workers The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life & full enjoyment of leisure and social & cultural opportunities & in particular, cottage industries [Art.43]. Early childhood care & education The State shall endeavour to provide, early childhood care and education for all children until the age of six years. [Art.45] Nutrition & health The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as

primary duties [Art.47]. Agriculture & Animal Husbandry The State shall endeavour to organise agriculture & animal husbandry on modern & scientific lines & shall take steps to preserve breeds. Forest & wildlife The State shall endeavour to protect & improve the environment & to safeguard the forests & wild life of the country [Art.48A].

Part IVA is added to the Constitution by 42nd Amendment, which imposes certain fundamental duties on the citizens of India. It contains only one Article, i.e. 51A. As rights and duties are jural correlatives, these fundamental duties are as important as fundamental rights. But, these duties cannot be enforced by writs. The Supreme Court has extended these duties to the State as well. Article 51A reads as follows: “It shall be the duty of every citizen of India, to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem; to cherish and follow the noble ideals which inspired our national struggle for freedom; to uphold and protect the sovereignty, unity and integrity of India; to defend the country and render national service when called upon to do so; to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women; to value and preserve the rich heritage of our composite culture; to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures; to develop the scientific temper, humanism and the spirit of inquiry and reform; to safeguard public property and to abjure violence; to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement.

National Human Rights Commission

It is established under the Protection of Human Rights Act, 1993. It consists of four persons. Chairperson is former Chief Justice of India. Other members include two persons from higher judiciary: One person who is or has been a Supreme Court Judge; One person who is or has been a Chief Justice of a High Court; Two Members having knowledge or practical experience in human rights matters; Ex-officio Members: Chairpersons of National Commission for Minorities, National Commission for SC/ST,

and National Commission for Women. Secretary General: CEO Investigation Division:
DGP Law Division: Registrar (Law)

Its main function is to inquire into violation of human rights or abatement or negligence in prevention of such violation by public servant. Intervene in any proceeding pending before court on human rights with its approval. Visit any jail or institution to look into conditions of inmates. Review the safeguards provided by Constitution & other laws for protection of human rights & recommend measures. Review the factors that inhibit enjoyment of human rights & recommend measures. Study treaties & other international instruments on human rights & make recommendations for their effective implementation. Undertake & promote research in the field of human rights. Spread human rights literacy. Encourage the efforts of NGOs & institutions working in the field of human rights. Such other functions as it may consider necessary for the promotion of human rights.

True Stories of Media Role

Media has played very important role in our country in ensuring human rights. Some true examples can be quoted here.

Emergency in 1975: Dare-devil journalists like Arun Shorie mounted scathing attack on the scuttling of human rights by imposition of emergency in 1975. People waited with anxiety to buy the Indian Express to read the write ups opposing the emergency. The movement against emergency gained momentum and resulted in the restoration of human rights.

Anti-Defamation Bill, 1980: An attempt was made by the legislature to suppress arbitrarily an important facet of liberty, namely freedom of speech and expression (including the freedom of press). The Anti Defamation Bill was cast in the guise of an attempt to protect the reputation of public figures by preventing the abuse of freedom of speech by their critiques. In reality those bold press persons were doing a commendable job by conveying embarrassing truth to people about the men in public life. It is to be

proudly remembered that, on this rare occasion the media powerfully articulated latent public outrage. The public pressure forced the withdrawal of the Bill.¹⁹

The Indian Post Office Amendment Bill, 1986: The Bill was aimed at conferring vast powers on the government to intercept citizen's mail and thereby authorize the systematic invasion of right to privacy. There was considerable public criticism against the Bill through media.

Public Interest Litigation (Regulation) Bill, 1996: The Bill attempted to provide for the deposit of an exorbitant amount at the time of filing of the PIL which shall be forfeited in case the petition is dismissed and the petitioner be put behind bars and pay damages if the PIL is filed with *mala fide* intention. The Bill was withdrawn owing to severe criticism in the press and media.²⁰

Amendment to Right to Information Act, 2005: The Prime Minister instructed the Department of Personnel and Training to exempt file notings on identifiable individuals, groups of individuals, organizations, appointments, matters relating to inquiries and departmental proceedings from the purview of the Act.²¹ There was nationwide debate on this issue and the debate was ably guided and steered by the media by translating the public opinion resulting in dropping the move.

Nandigram Incident: Media is in the center stage in moulding the public opinion against the human rights violations in Nandigram by organized terrorism unleashed on the innocent people of the area. This has resulted in the delayed visits of the political leaders to take stock of the situation.

These are only some examples of the success story of the media in the saga of human rights protection in our country. But there are many more mile stones to be achieved by the media by taking up the human rights issues of the common man on the street, the

¹⁹ "God's country and curse", http://www.thehindubusinessline.com/businessline2000/09/04_stories/040420mn.htm visited on 26-10-2007.

²⁰ Geetanjali Jha, "Problems facing Public Interest Litigation in India", http://www.legalservicesindia.com/articles/pil_ind.htm

²¹ Dr.Jyotirmati Samantaray, "The Right to Information Act, 2005", http://orissagov.nic.in/e-magazine/Orissareview/feb-march2006/engpdf/right_to_information_act_2005pdf.

depressed, oppressed, marginalized, displaced, disorganized, exploited, sick, out-castes, women, children, challenged, etc. and play a positive role by construing a new agenda of human rights to be fulfilled by all players in the construction of India as a developed nation.

Conclusion

Alexander Solzhenitsyn says, “We have to condemn the very idea that some people have the right to repress others”. To attack a journalist is to target the pursuit of truth and freedom.²² Media has time and again proved to be an effective instrument in prosecuting the human rights. It has to be promoted in the right direction. The media also has to play its role more responsibly to realize the goal of establishing a human rights savvy society. I would like to conclude by quoting John Milton,

“Give me the liberty to know,
to utter, and to argue freely
according to conscience,
above all liberties.”

I wish that this Seminar will yield the fruits of carving out a new jurisprudence of human rights in which the media is at the center stage.

²² Koichuro Matsuura, Director General, UNESCO

USE OF TECHNOLOGY IN LEGAL PROFESSION*

Dr. J. S. Patil**

Sri K. S. Sreepada Rao, President, Bar Association, Sagar, Sri M. Ganapathi, Vice President, Sri K. L. Bhojaraj, Secretary, Sri H. B. Ramesh, Joint Secretary, learned members of Sagar Bar, distinguished invitees, ladies and gentlemen. It gives me an immense pleasure to deliver this special lecture on a very important topic of “Use of Technology in Legal Profession” at your distinguished Bar as a part of series of lectures that are being organized by you. I complement the organisers for having undertaken this activity, which I am sure, is benefiting the lawyers in refreshing their legal knowledge.

Friends, India is an emerging Information Technology (IT) super power. According to the statistics of the Government of India for the year 2006-07, India is 12th richest country of the world. This is possible due to the developments that have taken place in the areas of services and production. Economic position of the country has reached a mammoth Rs.45 lakh crores. Increase in national production is by 9.4%. However, it is unfortunate to note that in spite of such a promising economic development per capita income has remained only Rs.2500/-. This should be increased by proper utilisation of IT in services and production.

If we look at the technological progress in our country, it is gratifying to note that one third of all NASA Scientists are Indians; 34% of Microsoft’s creative team is India born; over 5,000 Indian professors are working in US Universities and Colleges; over 30,000 Indian doctors are rendering their service in the US; General Electricals has the second largest R & D Centre in India with 1000 PhD’s; 50% of 500 Fortune Companies outsource work to India; India is one among three nations who have built Supercomputers; India is one among six nations who have built satellites and launch vehicles; over 35% startups in Silicon Valley is by Indians; we have largest English

* Special Lecture delivered at the Bar Association, Sagar on December 1, 2007

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speaking technical manpower; Indian software professionals work in all developed countries; India is emerging as a high quality manufacturing destination; five Indian Companies won Deming prize for quality in 2004; Indian companies are becoming global; Indian brands are becoming respectable; India is becoming a preferred destination for high quality health service, R & D and manufacturing. India has the potential of becoming knowledge super power because of its strengths as narrated earlier. APJ Abdul Kalam says, "India is in the threshold of becoming knowledge super power." According to P. Chdambaram, India will become third economically developed country of the world in 15 years. He further says, "A world class legal system is absolutely essential to support an economy that aims to be world class." What is a world class legal system? A world class legal system is the one which has adopted modern technological developments in the legal profession in all its dimensions. Lord Denning said, "Language is the lawyer's sole tool, but in the present day context to keep pace with the growing needs of profession the information technology has become the inevitable tool of the legal research. Along with the print material the literature on the CD ROMs and on the internet is extensively and efficiently used in the legal profession." Hence, use of IT in legal profession is inevitable and highly desirable.

It is to be noted that the technology is essential but not panacea for knowledge management. Legal profession is basically knowledge management profession. Use of technology enhances our ability to serve the client, saves time and money. Unfortunately, technology is miserably absent from training the lawyer at all levels in our country. It is time that we train the lawyer for hi-tech lawyering.

Legal profession in the present scenario of our country is practice of law in the narrow sense of litigation and non-litigation. Litigation takes the lawyer through filing of a case, preparing memorials, arguments and managing execution of the court orders. Non-litigation lawyering is limited to things like documentation, contract management, project management, etc. The practice is either solo or corporate. Much of it is solo with juniors working under the seniors.

Mukesh Ambani, noted business tycoon of our country, said that there is a need for second generation legal reforms vital in view of huge opportunities for India in legal process outsourcing (LPO). Legal firms would need to grow faster by hiring thousands of young lawyers with multidisciplinary legal expertise to work as a team, paving way for legal-economic system.²³ If such a thing happens, it is going to change the entire legal profession and the profile of the lawyers.

There is a no doubt that the lawyer has to use the modern technology in his profession, especially in the activities relating to LPO. Four important layers of technology that are to be used by the lawyer are as follows: 1. LAN – to connect everything, retrieve information from one point; 2. Case management software; 3. Communication tools – internet, e-mail and the web; and 4. Mobile technology - mobile computing, PDAs, etc.

Modern lawyer's hi-tech options include: print material, books, e-library, digital library, CD-ROMs, websites, Internet, e-mail, video conferencing and Mobile MS Office (Windows Mobile 5.0 platform). New opportunities (employment and professional) would be a shift from solo to firm practice; junior is either employee or partner and challenges and opportunities of foreign firm entry. New opportunities under the knowledge process outsourcing (KPO) of which LPO is a part are as follows: legal transcription, secretarial support, voice messaging, word processing, domain specific paralegal work, contract review and management, patent writing, litigation support, conveyance, general research and review, law office management, portfolio management, etc.

BPO requirements are much simpler and include check voice, accent, data entry and attitudinal skills. The process of recruitment for BPO is relatively simpler. KPO requirements are much tougher and include evaluation of domain knowledge, intelligence, analytical and data mining skills, decision making abilities, conceptualizing skills, verbal and written communication skills, attitude, ability to work under teams and under pressure, etc. "India maintains the competitive advantage for providing the

²³ Conference on Partnership between Business & Law, *The Hindu*, August 22, 2006 P.16

combination of the most cost-effective and high quality man-power. This is India's strength in the off-shoring business."²⁴ In KPO industry following are the major players: engineer, doctor, CA, lawyer, architect, biotechnologist, statistician, MBA, economist, etc. In the Indian context, KPO salaries can be 25-50% higher than those offered to the same domain experts in a conventional job.

LPO in India is becoming a promising activity in the wake of quite a bit of LPO market opening up for Indian young advocates. There is a whopping \$163 billion LPO in 2006 in the world. There is a \$3-4 billion LPO coming from U S alone to India. About 80,000 advocates are benefiting from this. There is a likelihood of LPO from UK, Australia, Singapore, etc. Lawyers get US \$ 65-95 per hour of work in LPO. 500 top Fortune Offices of the world have come forward to give jobs to Indian LPOs. Law helpline call centers are established by LPOs in India. There is a considerable demand for experts in patents, IP, Company Law, Cyber Crimes, etc.

Possible application of technology in the trial of a case could be in terms of online FIR filing; online deposition, video conferencing; evidential value of e-documents; false detection tests, brain mapping, Norco-analysis; finger print technology, genetic technology; SMS texting investigation tools; discovery from the case management system; trial preparation - digitized information of the trial; and trial laptop computers.

Let us now look into certain important developments and incidents in the field of technology that have bearing upon legal profession. In the year 2002 a murder took place in the United States. The murderer sent crucial messages from the cell-phone of the victim. Text analysis of the SMS revealed that text was not written by the victim, but have been faked to deflect suspicion from the killer. There were a number of differences in the texting styles between the victim and the killer.

Psychologists of University of Leicester are investigating texting language of SMS to provide new tools to detect the actual person giving the message. The research is being conducted by Dr. Tim Grant, forensic linguist and Kim Drake, a researcher at the

²⁴ Achal Khanna, Kelly Services India, *The Hindu*, August 14, 2006

School of Psychology. Many potential forensic applications of text message identification are being worked out. First they are examining the influence of peer groups upon writing style and texting language. Forensic authorship analysis is also used in cases involving disputed confession, sending of abusive or threatening e-mails and cases of copyright infringement.²⁵

Cyber crimes are on the increase due to the inefficacy of the law to monitor and control these crimes. I T Act, 2000 is being amended to provide a legal framework for certain types of cyber crimes such as data theft, transmission of images, video voyeurism, etc. The major cyber crimes reported in India are denial of services, defacement of websites, spam, computer virus, and worms, pornography, cyber squatting, cyber stalking and phishing. Amended Act seeks to appoint examiner to examine the digital evidence and render all necessary assistance to the police authorities, as well as to the courts.²⁶ There is also a claim made for the establishment of special courts for cyber crimes. NASSCOM advocated for setting up of fast track and special courts for dealing with cyber crimes since conviction is more important than the severity of the punishment.²⁷

In an internationally shocking case known as *Internet Sasser worm Case* Sven Jaschan, a German teenager had struck on May 1, 2004 with Sasser worm and in less than a week hit thousands of companies and as many as 18 million computers worldwide, forcing some businesses to shut temporarily in order to debug their systems. He was just 17 years old when he launched the worm! Posts affected were as far flung as the European Commission in Brussels, Taiwan's postal service and Australian rail traffic controllers. US airline Delta was forced to cancel several flights and Finland's third-largest bank shut its 130 branch offices in a preventive move to keep the worm from infecting its computers. Jaschan is facing trial for sabotage and data manipulation and disruption of public administration.

In an Indian case a six minute pornographic MMS of Mallika Sherawat with a white man was circulated on mobile phones by a young lad and Baazi.com was sued and

²⁵ The New Indian Express, August 21, 2006

²⁶ *Lawyers Update* Vol XII, Part 08, August 2006, P. 19

²⁷ *Lawyers Update* Vol XII, Part 08, August 2006, P. 18

the advocate of Ms Sheravat, Mr. Vaibhav Krishna, was asked to take police help to trace those behind circulation of a pirated six-minute pornographic MMS. Vaibhav has sought probe under S.67 of Information Technology Act as to the whole incident.

International Credit Card racket was recently busted in Bangalore by Bangalore Cyber Police Station. A fake credit card racket, involving data thieves, electronic professionals, NRIs and waiters and cashiers at hotels and malls unearthed by Bangalore police. When consumers swiped their credit cards at malls or restaurants, some waiters or cashiers recruited by the racketeers copied the credit card data details from the magnetic strip using a hand-held device, called a skimmer. The stolen data is transferred to white plastic cards with magnetic strips sent by accomplices in US using state-of-the-art magnetic card reader and writing equipment. These cards were used without tampering original credit card number and name embossed on it. When the fake card was swiped, the charge slip generated had the number and name of the holder of the discarded credit card, but the amount debited to the account of the person whose card details were reproduced in the fake card.²⁸

There is a rising threat to Internet security in terms of what is known as *Fraud Food Chain* consisting of phishing, spamming and control of 'bots'. About 277 computers infected by 'bots' every day during July-December, 2006, with Mumbai leading with 38%, Delhi 25%, Bangalore 15% and Chennai 10%.

Ethical hacking holds the answer to ensuring computer security and curbing the global menace of terrorism. Ankith Fadia, Intelligence Consultant in US Government agency, started the new concept of ethical hacking. He started hacking e-mails and started gathering information about terrorist activities worldwide. He reported loopholes of the website of the company after hacking it ethically and recommend solutions. However, ethics of the ethical hacking needs to be strengthened. Is there a possibility of legal regulation of ethical hacking? This question needs to be answered by the global IT law.

²⁸ *The Hindu*, June 23, 2007 P.1

Google's web-based offerings offline has created difficulty in protecting IP regime of soft packages. Millions of people use free web-based software programs that deliver e-mails, news and other services. These will be made available offline. Web applications like G-mail and documents and spread-sheets of Google also will be available offline. It has released a set of tools to software programmers called *Google Gears* for free use. This has thrown a big challenge to Microsoft, seriously damaging their IP regime in software. From search engine Google has transformed itself into a company of new way of computing in which software is delivered over the web, often free.

Tomorrow's mobile technology is fascinating. It includes screens with 'touch', instant business card readers coming soon. A hungry foreigner, in a fix about what to order in a Beijing restaurant, can point his mobile phone at the menu, printed in Chinese and the built-in-camera grabs snap of the text, processes it in seconds and displays it on the phone screen after translation in English. Nokia has launched N 800 "Internet Tablet". TV studio can be a two-man show indicative of seamless broadcasting.²⁹ All such technological developments are required to be addressed in terms of legal regulation and solutions are required to be provided for the disputes arising out of these activities.

Independent body at the international level to regulate internet activities is advocated by some people. Derek Wyatt (British MP) scoffs at the UN's attempted "hijacking of internet regulation". He proposed a new body of academics, students, net users, politicians and other stake holders to take on the net regulation job. The consumers should also be the players. The countries could have their chapters. He advocated forcing ISPs through licensing to ensure that Spam was blocked before it reached the e-mail inboxes. It would help curb child abuse also. His model is "Internet Watch Foundation".³⁰

Thus, lawyer has a tough time to cope up with the challenges he is facing from the large scale techno-based activities. He has to use a number of law office software for conducting research such as Manupatra (online and offline), Westlaw, SCC online, AIR

²⁹The Hindu June 24, 2007

³⁰The Hindu, June 2, 2007; one can log on to www.internetwatchfoundation.org for further details.

CDs, Lexisnexis, websites and other search engines like Google, Yahoo etc. There is Law Office Software (Office Management), which can also be used. One can use Office Management Software; Summarized, imputed and archived computer calls, use of server space than file space; case management software; law office technology for research – Pro-law, Amicus Attorney and Time Matters – giving information regarding the case and the client; office accounting tools; telephone calls tracking; time and billing software; customer relationship management; PDAs – allowing wireless access to key information; reminders for filing response, appearance, etc; client conflict management programmes; document management software – for storage and retrieval of the documents within seconds; etc.

Use of technology vis-à-vis security and privacy aspects is a very important aspect that needs to be looked into from the point of view of legal profession. The lawyers should use log-in IDs and digital signature technology ensuring authenticity, non-repudiation, data integrity and confidentiality. Advantages of using this technology are many. There are dangers too like any other technology. Technology itself is the answer again in encountering these dangers. Let us understand, in the first instance, what is and is not a digital signature. It is very important to understand what is *not* a digital signature? It is not like a physical signature. It is a unique signature. It is document specific not individual specific. It changes even if a dot is changed in the document. It is technology generated and not individually applied. Digitized physical signature is not a digital signature. What *is* a digital signature? A digital signature is an electronic means of authenticating an online identity. A digital signature can authenticate the identity of the sender of a message or signer of a document. It is used to ensure that the original content of the message is unchanged. It is automatically time-stamped. Basic features of digital signature consist of *private key* which the sender uses to sign the document; *public key* which the recipient uses to verify the authenticity of the document; *message hash algorithm* which performs a mathematical calculation on the document and generates a hash value unique to the message; and *encryption of algorithm* which is an application of the private key to encrypt the hash value to generate a digital signature.

If the lawyer is able to use the technology required, he will be able to effectively answer many legal problems. He will be able to serve his clients satisfactorily. This will add quality to the legal profession and will also help to a considerable extent to realize the dream of transforming India into a developed nation. Goldman Sachs has said that by 2050, conditioned on policies supportive of growth of economy, economic and financial powers of the globe will be in this order: 1. China, 2. USA, 3. India. This projection should become a reality. This is possible only by concerted efforts by all of us. “Let us be in the race no matter, whether in the front or in the next, definitely not out of the race.”

I thank the organisers for giving me this great opportunity of sharing a few of my thoughts with the members of the Sagar Bar.

JAI HIND!

THE LEGAL REGIME OF INTELLECTUAL PROPERTY RIGHTS

WITH REFERENCE TO MEDICINAL PLANTS*

Dr. J. S. Patil**

INTRODUCTION

Knowledge in traditional India with regard to medicinal plants is tremendous. During ancient times, Vedic seers were well aware of the motion of the moon, the path of the sun, and occurrence of eclipses. In 7th Century BC, Takshashila University was established where 60 subjects were taught and 10,500 students - Indian & Foreign – studied. In 6th Century BC, Sushruta used to perform surgery who knew Anesthesia. 125 types of surgical instruments were used. In 5th Century BC, Charaka made *Ayurveda* a well organized science. Medicine is regarded as the oldest of Indian sciences and has been proved to be the science in which Indians specialized first.³¹ In earlier centuries, foreign invaders conquered India. In this century, Indian ancient thoughts and wisdom will conquer the world.³² Scientific activities receded during the British rule only to restart with more vigour in independent India. India has rich traditional knowledge of *Ayurveda*, *Sidha*, and *Yunani* medicines. India has over 400 formulations of herbal medicines. In the Environment World Conference, a tribal from Kerala and a scientist were together honoured. The Tribal had knowledge about the medicinal value of a medicinal plant. The scientist, taking the help of the tribal, prepared a medicine from the plant.³³ There are many people in our villages who know innumerable medicinal plants and medicinal preparations. This knowledge needs to be digitized and used appropriately. Indian Government has released TKDL (Traditional knowledge Digital Library) in five international languages and the process of collecting the information is going on.

* Lead Lecture delivered at the National Conference on Medicinal and Aromatic Plants (NCMAP-2007) at the Department of Botany, Gulbarga University, Gulbarga on December 11, 2007

** Professor of Law & Special Officer, Karnataka State Law University, Hubli

³¹ Julius July (1951)

³² Arnold Toynbee, in 1947 lecture “The unification of the world”.

³³ It was held in Johannesburg, South Africa in 2002

Intellectual Property Rights (IPR) is playing a prominent role in placing the knowledge into the domain of business, trade and commerce. Various types of IPR include patents, protection of plant varieties, copyrights, trademarks, industrial designs, geographical indications, integrated circuit layout designs and confidential information. Much of the Indian traditional knowledge regarding medicinal plants and preparations has become the subject matter of patent and other forms of IPR. Patents and protection of plant varieties play important role in securing medicinal plants as IPR. Hence the remaining part of this lecture is devoted to these twin IPRs.

PATENTS

What is a Patent? It is a monopoly right for invention of a new and useful article or an improvement of an existing article or a new process of making an article. It consists of an exclusive right to manufacture the new article invented or manufacture an article according to the invented process for a limited period. Anybody can use the invention after expiry of the patent term.

There are certain types of inventions that are non-patentable. They are: frivolous inventions; inventions contrary to law, morality, or injurious to public health; mere scientific principle or abstract theory; new property or new use of known substance; admixed substance; arrangement or rearrangement or duplication of features of known Method of agriculture or horticulture; process of treatment of human beings or animals; inventions relating to atomic energy; plant or animal as a whole or in part (other than micro-organisms) including seeds, varieties and species and their production or propagation; India's traditional knowledge (ITK); computer program or algorithms; discovery of any living thing or non-living thing substance occurring in nature; a literary, dramatic, musical or artistic creation whatsoever including cinematographic works and television production; presentation of information; and topography of integrated circuits.³⁴

³⁴ Sections 3-5 of the Indian Patents Act, 1970

Term of Patent is originally fourteen years for general type of patents. For food, medicine and drug patents, it was five years from the date of sealing or seven years from the date of the patent. Now, it is twenty years for all types of patents after the Second Amendment to the Indian Patents Act.

Patent rights cannot be acquired unless the invention is registered in the Patents Office. The 12-Point Scale of patenting is as under: Identification of patent opportunity during project progress; prior art search; filing of patent application in India with provisional specification before any public disclosure of the invention; PCT filing date if processed by Indian Patent Office as Designated Office or Elected Office; consideration of matter for international filing; generating further examples to support the invention; filing of complete specification within 12 months of submission of application with provisional specification; technical examination by Patents Office; acceptance of patent and publication in the Gazette; opposition by the competitor, if any; grant of patent; post-grant opposition for a period of one year; maintenance of patent by payment of renewal fee; and enforcement, revocation and post-grant opposition and possible litigation, if any.³⁵

After publication of application and before grant of patent any person may represent by way of opposition to the Controller on the following grounds: obtaining wrongfully; prior publication in any Indian specification or in any other document in India or elsewhere; prior claim in a concurrent application; prior use or public knowledge in India; obviousness or lack of inventive step; the subject is not an invention and not patentable under the Act; insufficient description of the invention; failure to disclose the information relating to foreign application; in the case of convention application, not made within 12 months time; non-disclosure or wrong mentioning of the source of geographical origin of biological material used for invention; and anticipated having regard to the knowledge of local or indigenous community in India or elsewhere. On the

³⁵ Information on patents: National Informatics Center, Patent & Information Division, A Block, CGO Complex, Lodhi Road, New Delhi 110 003; Patent Management Division (CSIR), 14 Sansad Vihar Marg, Special Institutional Area, New Delhi 110 067; National Chemical Laboratory, NICHEM/NCL, Pune 411 008; National Research & Development Council (NRDC), 20-22, Zamroodpur, Kailash Colony, New Delhi 110 048; and Patent Information System (PIS), CGO Complex, C Block, Seminary Hills, Nagpur, 440 006

same grounds any interested person may give notice of opposition to the Controller within one year from the date of publication of grant of patent. The representation must include a statement and evidence to support the opposition.³⁶

Patent registered will not accord vested right in the owner. It may be revoked at any time during the term of the patent. Revocation of patent can be made in the public interest by the Central Government. Revocation of patents relating to atomic energy is made by the Controller. Revocation can be made for non-working of the patent. Revocation is made by the High Court on petition for failure to comply with the requirements of the Central Government to use the invention. Revocation can also be made by the High Court on petition by a person interested on various specified grounds. The last one is the most common form of revocation. Three classes of grounds for revocation of a patent are grounds relating to rights of the patentee and his conduct; grounds relating to the invention and its quality; and grounds relating to the description of the invention. Grounds relating to rights of the patentee and his conduct include patentee being not entitled to the patent; patent wrongfully obtained as against the person entitled; patent obtained by false suggestion or representation; failure to disclose information regarding foreign application; non-compliance with directions for secrecy; and amendment of specification obtained by fraud. Grounds relating to the invention and its quality include subject of a claim is not an invention; subject of a claim is not a patentable invention; invention claimed was secretly used before the priority date; invention claimed is already the subject of a prior grant; invention claimed lacks novelty having regard to prior knowledge or prior use; invention is obvious or does not involve inventive step having regard to prior knowledge or prior use; invention is not useful; and the claim was anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in any country. Grounds relating to the description of the invention are that the invention not sufficiently described, and the best method of performing it is not disclosed; claims are not clearly defined or not fairly based; and the complete specification does not disclose or wrongly mentions the source or geographical origin of biological material used for the invention.

³⁶ Sections 25 and 26 of the Indian Patents Act, 1970 as amended by the Third Amendment

Buckling into the pressure of the global players in IPR and the establishment of TRIPS/WTO regime, amendment is made to the Indian Patents Act, 1970 and exclusive marketing rights (EMRs) are provided on applications for product patents till December 2004 if they are patentable as per Sections 3-4 of the Act. Conditions to be fulfilled are: 1. He must have filed an application for the same invention in a convention country on or after 1st January 1995 and obtained the approval to sell or distribute the article in that country by appropriate authority; or 2. He must have already filed after 1st January 1995 a claim for the process of manufacturing an identical article and a patent granted there for in India and after making a claim for the patent for the same article has obtained the approval to sell or distribute the product in India till the date of grant of patent or the date of rejection of the application whichever is earlier. EMR is granted to Novartis AG for its drug Gleevec. If this is enforced, it is priced at Rs. 1, 20,000 as against generic drug costing Rs. 9,000 to Rs. 12,000 per month for treating Chronic Myeloid Leukemia. Just four years ago AIDS drug ranged between US\$ 10,000 to 12,000 per person per annum. Prices began falling when Indian manufacturers introduced generic versions and costs came down to US\$140. If product patent is granted to drugs price escalation of drugs may lead to many problems.³⁷ India has received 1312 applications for drug patents in 2005, second highest after US (2111 applications).³⁸

Drugs, foods & chemicals were brought into product patent regime by another amendment to the Patents Act. EMRs were replaced by product patent. Permission is given to stockpile products to enable early introduction of the generic product. Liberal compulsory licensing norms replaced the earlier stringent provisions. Imports are not considered equivalent to working of the patent.³⁹

Let us now consider some of the important patents relating to medicinal plants.

Turmeric Patent: The turmeric patent granted to the University of Mississippi in 1995 has been successfully challenged by CSIR in 1997 as prior art. It provided 32 references from ancient texts to show prior knowledge on the use of turmeric as powder. Even its

³⁷ Ammu Joseph, Patently unfair, *The Hindu*, December 12, 2004

³⁸ Vijay Times, August 17, 2005, P.9

³⁹ S.5 of the 1970 Act dealing with process patent is deleted by Third Amendment.

continuation in respect of surgical wounds as antiseptic is rejected as prior art after knowing of its use on umbilical cord and recording of the same by a Hakim in Akbar's period. However, more than 300 patents have been granted on turmeric after cancellation of the infamous patent. All have remained unchallenged and are probably unchallengeable. This is because you can take somebody else's traditional knowledge, bring it to your sophisticated lab, identify the active ingredient and patent it.

Neem Patents: There are more than 40 patents, mainly for Neem pesticides, held by laboratories in U.S.A. & U.K. A U.S. company, W.R. Grace, was granted a patent for Neem as a pesticide. India could not challenge it because the patent was for a formulation which increased the shelf life of the Neem extract. India has granted more than 80 patents on Neem. W.R.Grace's patent was revoked as piracy, as the oil from neem has been used traditionally by farmers to prevent fungus.

Basmati: In September 1997, Ricetec obtained a patent for aromatic rice grown outside India as Basmati and selling it under any brand name. Ricetec has already been selling brands like Kasmati & Texmati claimed to be Basmati type rice. With the patent it will be able to label its exports of rice also as Basmati. It claimed that Basmati is a generic term and that it had invented certain novel basmati lines and grains which make possible production of high quality, high yielding basmati rice worldwide. It claimed to have isolated specific scientific parameters like length-width ratio, starch index, percentage increase on being cooked, etc.

Diabetes Patent: Cromak Research Inc. was granted patent on Jamun, Karela, Gurmar and Brinjal for curing diabetes in the U.S.⁴⁰

Methi: Kripal S. Dahliwal was granted patent on Methi in March 1999.⁴¹

Ngali Nut Patent: Australian entrepreneur, Queeslander Peter Hill is awarded a patent for using ngali nut oil for treating arthritis.⁴² Ngali nut trees are grown in on the Salomon

⁴⁰ Patent No.5900240 of 1999 of USPTO

⁴¹ Patent No. 5886029 of USPTO

⁴² Patent No.6395313 of USPTO

Islands, Vanuatu, Papua New Guinea and the Philippines. One of its varieties is grown in South India.

Patent on Chapati-making Wheat & flour: European patent is recently granted to Monsanto for a new wheat variety called Nap Hal, a strain of wheat whose gene sequence make it suited to producing crisp breads. It is a cross breed of an Indian variety. It is being challenged by RFSTE. Monsanto gets a European patent over the use of Nap Hal wheat to make chapatis (crisp bread), which consist of flour, water and salt. Nap Hal's qualities are the result of generations of farmers in India who spent years crossbreeding crops and collective, not corporate, efforts should be recognised. Recently, it has been revoked in a case filed by Greene Peace.

Cow Urine Patent: Patent was granted on pharmaceutical compositions containing cow urine distillate and an antibiotic as a bio-enhancer was granted to the CSIR.⁴³

Archar extracts: The USPTO has granted three patents to the \$ 109-million bio-pharmaceutical company Insmed Inc, based in Richmond in Virginia. The patents are for its novel invention of pigeon pea extracts. Following deceases can be treated from the pigeon pea extracts: Diabetes; Hypoglycemia; Obesity; and Arthero-sclerotic cardiovascular disease (clogged arteries).⁴⁴

Ashwagandha: “A method of treating degenerative musculoskeletal diseases such as rheumatoid arthritis & osteoarthritis in an animal, typically a human, comprises administering to the animal, typically enterally, in a convenient dosage form, a therapeutically effective amount of the beneficiated extracts of the plants Ashwagandha, Sallai Gulful, Turmeric, and Ginger in a predetermined proportion relative to each other with or without other biologically active inorganic ingredients, such as zinc sulphate.”

Phyllanthus Amarus: Baruch S Blumberg, a US virologist, obtained a patent for a formulation of phyllanthus amarus, a plant used for centuries in South India for the treatment of jaundice. On the face of it, this does not satisfy the criterion of novelty, but

⁴³ U.S. Patent No. 6410059

⁴⁴ Nos 6,410,596, 6, 541,522 and 6,542,511

Blumberg obtained the patent for viral hepatitis, not mentioned in earlier tests. Thus his invention satisfied the criterion of novelty.

National Institute of Science Communication & Information Resource (NISCAIR), CSIR, is authorised to sign non-disclosure agreement with International Patent Offices for making TKDL accessible to patent examiners. TKDL will prevent misappropriation of TK information particularly with respect to *Ayurveda*, *Unani*, *Siddha* and *Yoga* at International Patent Offices. Conditions for access are to make use only for examination and patent search and not to disclose to third party.⁴⁵

PROTECTION OF PLANT VARIETIES

India is one among 12 mega biodiversity sites in the world. India is one among the 18 hotspots of biodiversity. India has over 47,000 plant and 75,000 animal species. India has over 2,000 species with medicinal and economic value. Indian botanical products are well-known: vegetables for their taste; fruits for their sweetness; flowers for their fragrance. Due to deforestation 15,000 to 50,000 species are getting destroyed every year. 1/5th of biodiversity will be lost in the coming 20 years. Out of 4,000 flower plants in South India 2,000 are used for preparing medicines. Many of these plants are endangered. Out of 34,000 endangered species of the world 8,000 are Indian medicinal plants.

Protection of Plant Varieties and Farmers Rights Act, 2001 is passed to provide an alternative protection to plant varieties as provided in Article 27(3) of TRIPS. Objectives of this Act are establishing an effective system of protection of plant varieties; protection of farmers' rights; and protection of plant breeders' rights. The Act establishes the Authority, which has the functions of promoting and encouraging development of new varieties of plants and protecting the rights of farmers and breeders. Following are the registerable varieties: a new variety, an extant variety and essentially derived variety. Definition of Extant Variety under Section 2(j) includes varieties notified under Section 5 of Seeds Act 1966, farmers' variety, variety of common knowledge and variety in public

⁴⁵ *Lawyers Update* Vol XII, Part 08, August 2006, Pp16-17

domain.⁴⁶ Duration of registration for trees and vines is 18 years, renewable after the first 9 years. For extant varieties, it is 15 years, renewable after every six years and for other varieties, it is 15 years, renewable after every six years.

Rights conferred on breeders include exclusive right to produce, sell, market, distribute, import or export the variety; and to authorise any person to produce, sell, market, or otherwise deal with the variety. Further non-transferable; Terms may be varied by Registrar; Terms may be cancelled by the Registrar. Farmers are also given certain rights under this Act. They include farmers' right to register a new variety; recognition and reward for conservation of genetic resources; entitlement to save, use, sow, resow, exchange, share or sell his produce including seed of protected variety (not if branded); right to receive compensation if propagating material supplied fails to provide required performance; innocent infringement is protected; exemption from fee; share in the Gene Fund; and consent of farmer in the case of EDV from his Farmer's Variety. Rights of the Communities that are responsible for maintaining varieties include the claim filing by any person, group, government organisation or NGO on behalf of community for contribution. Compensation will be awarded after due hearing.

Compulsory License will be issued by the Authority after three years if reasonable requirements of the public are not satisfied and if the seeds or varieties are not available to the public at reasonable price. Consultation has to be made with the Central Government before issuing the compulsory license. Terms and conditions and duration of license will be determined by Authority. Authority can modify or revoke license.

Appellate Tribunal is established under the Act, which hears appeals from the following orders: registration of a variety; registration of an agent or licensee; claim of benefit sharing; revocation or modification of compulsory license; and payment of compensation.

⁴⁶ Section 15 of the Protection of Plant Varieties and Farmers Rights Act, 2001

CONCLUSION

The law relating to the patenting and protection of plant varieties has many advantages for those who make the new inventions. It adds to the existing knowledge and is useful to the community at large. But at the same time, these regimes prevent the farmers and the common man from manufacturing or using the patented things without paying the royalty. This law is stated to be favouring the multinationals and not the common man. There is global movement against these regimes by the progressive groups. Some balance needs to be struck between the interests of the multinationals and the poor and needy.

SPECIAL STATUS FOR HYDERABAD KARNATAKA REGION:

A NEED OF THE HOUR

Valedictory Address

By

Dr. J. S. Patil
Professor of Law & Special Officer
Karnataka State Law University, Hubli-Dharwad

At

*One Day National Seminar on Constitutional Approach to Regional Imbalance with
Reference to Hyderabad Karnataka Region*

Organized by

Karnataka Institute for Law and Parliamentary Reform, Bangalore

And

Seth Chunilal Amarchand Bohra Law College, Raichur

On

February 9, 2008

SPECIAL STATUS FOR HYDERABAD KARNATAKA REGION:
A NEED OF THE HOUR

President of the Valedictory Function Sri G. Dakshina Moorthy, first Director of KILPAR, Guest of Honour Dr. M. Nagappa, Senior Advocate and General Secretary, Taranath Shikshana Samsthe, Raichur, another Guest of Honour Sri B. Basavaraj, Senior Advocate and Joint Secretary, Taranath Shikshana Samsthe, Raichur, Sri K. Nagabasayya, Principal, SCAB Law College, Raichur, learned resource persons, distinguished delegates, invitees, members of the press and media, ladies and gentlemen.

It is my proud privilege to deliver the valedictory address at this National Seminar which is very important and apt for the people of this part of our society. Jawaharlal Nehru made the following statement in the Constituent Assembly just before the midnight of 14th August 1947, “Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially.” The dream of establishing a Rama Rajya as envisioned by Mahatma Gandhi was to be realized in a society ridden with various problems. It was never an easy task. India’s founding fathers evolved a Constitution in which the ideals of national unity and integrity and a democratic and equitable society are intertwined. The new society was to be achieved through a socio-economic revolution pursued with a democratic spirit using constitutional, democratic institutions. It was very difficult for the framers of the Constitution to visualize and foresee all sorts of problems to be addressed in the basic document. They left it to the government and the bureaucracy to work out the details in the process of realization of constitutional goals. Adam Smith has once stated, “Great nations are never impoverished by private, though they sometimes are by public prodigality and misconduct.” If there are some regions in our country that are still languishing with backwardness it is because of the negligence of the governance in this country.

Ancient India was a great civilization on this earth. It lost its superiority over a period of time due to reasons that are quite well known. It is due to a number of foreign invasions and internal conflicts germane to our complex society. When India gained

independence, a new ray of hope of good and qualitative life is lit into the heart of millions of toiling people.

India is a largest democracy of the world having wide disparities in terms of social, economic, educational and cultural status of the people belonging to various regions who are brought together under one umbrella after independence. Some regions were identified as backward and a special transitory provision was made under Article 371 of the Constitution for Maharashtra and Gujrat States to ensure that the most backward regions of these states are given a fillip so as to cope up with other parts of the country. It is to be noted that this is only a transitory provision. But while making such a provision only some regions were taken into account, though there were many such backward regions in many other States. Framers of the constitution believed that our Constitution should be a living constitution always responding to the social needs without, of course, compromising with the basic constitutional values. Consequently, Indian Constitution has been amended several times for providing special status to Nagaland (Article 371 A), Assam (Article 371 B), Manipur (Article 371 C), Andhra Pradesh (Article 371 D) and 371 E), Sikkim (Article 371 F), Mizoram (Article 371 G), Arunachal Pradesh (Article 371 H), and Goa (Article 31 I) to accelerate the development in the backward areas of these states.. However, backward regions in Karnataka were not accorded such special treatment as the voice the people of this region was feeble.

After reorganization of the States on linguistic basis, present districts of Bidar, Gulbarga, Raichur and Koppal, which were in the erstwhile Hyderabad State, were brought under the Karnataka State. With the reorganization of States, hopes of the people of Hyderabad Karnataka region were rekindled. This region was once known for its great cultural heritage and socio-economic prosperity, especially during the 11th and 12th centuries. But it lost its glory under the ruler-ship of Hyderabad Nizams. The people of this region were hopeful of getting a better deal in the new system. But the hopes of the people of this region remained only a distant dream due to the callous attitude of administration in the last 60 years. Cries of the people of this most backward region did not reach the rulers of the state sitting in a far off place in Bangalore. A committee was ultimately constituted under the chairmanship of Dr. D. M. Nanjundappa to study the

problem of regional imbalance in the State and submit a comprehensive Report to the government. The Committee submitted its report to the government in 2002 making certain valuable recommendations to address the problem of regional imbalance, including reservation of certain categories of posts to local people, establishment of industries, educational institutions, etc. Every government talks in terms of implementing the Nanjundappa Committee Report, but no systematic road map is evolved for the implementation of the Report. This has led to wide spread discontent among the people of this region leading to agitation by some for a separate State “Kalyana Karnataka”.

Claims of the people of Hyderabad Karnataka for a special status under the Constitution are not without proper reasons. It may be argued that the transitory provision of Article 371 cannot be made a permanent feature of the Constitution. But when the Constitution is amended several times to provide special status to so many backward regions of a number of States, this argument cannot stand when it comes to the issue of giving a similar status to Hyderabad Karnataka region.

New States, Uttaranchal, Chattisghad and Jarkhand, were created in the recent past keeping in view the backwardness as also the unique features of these areas. It cannot be dubbed as an irrational argument that Hyderabad Karnataka region has such backwardness and unique features deserving a special status. Small states are better governed. Perhaps a fresh look at the reorganization of states for better administration may go a long way in alleviating the problems of regional imbalances writ large across the nation. People of Hyderabad Karnataka can find a better deal in such small and compact state rather than being lost in a larger state.

Some of the important but long neglected requirements of the region which need to be dispassionately viewed and given a proper deal are:

1. A Central University to promote higher education in the region. It can be situated either in Raichur or in Koppal district as Gulbarga University is situated in Gulbarga District and Animal Husbandry University at Bidar.

2. Establishment of International Research Centers in Dasa Literature, Vachana Literature and Vijnaneshwara's Mitakshara Law.
3. Establishment International Center for promotion of native art and culture including Lambani dresses, Bayalata, Doddata, Street Plays, and other Folk Literature and Folklore.
4. Establishment of more number of primary and secondary schools to provide basic education to children.
5. Realisation of total literacy in all the four districts of the region.
6. Tur Dal farming is to be transformed into an agricultural industry so as to match the global demand for the superior quality tur dal grown in this region.
7. Farming policy for the region especially for the cash crops such as sugar cane, groundnut, cotton and paddy, which are regular crops in the region to transform it into a sustainable agriculture.
8. Global promotion of Bidari and Chidari art works of Bidar district.
9. Promotion of Shahabad Stone industry at global level.
10. Rejuvenation of Hatti gold mines.
11. Establishment of industries suitable to the region so as to generate employment and economic growth.
12. Development of basic infrastructure facilities to attract investment in various fields as outlined above.

If an amendment in the existing provision of Article 371 is brought about to provide special status to Hyderabad Karnataka region to transform it into an equitable place as contemplated in the fundamental principles of the Indian Constitution, it would be a dream come true for the people of this region. I hope that this seminar will send proper signal to the people at the helm of affairs to take a decision sooner than later to provide the kinds of facilities the people of this area legitimately entitled under the constitutional philosophy. I thank the organizers of the seminar for providing me this rare privilege of delivering the valedictory address. Thank you all.

JAI HIND

ADR: A RESOLUTE SYSTEM OF RENDERING JUSTICE

Valedictory Address

Delivered by

Dr. J. S. Patil
Professor of Law & Special Officer
Karnataka State Law University, Hubli-Dharwad

At

One Day National Seminar on Alternative Dispute Resolution System

Organised by

Karnataka Institute for Legal and Parliamentary Reform, Bangalore

And

Siddhartha Law College, Gulbarga

On

February 17, 2008

At

Siddhartha Law College, Gulbarga

ADR: A RESOLUTE SYSTEM OF RENDERING JUSTICE

President of the Valedictory Session, Sri G. Dakshina Moorthy, First Director of Karnataka Institute for Law and Parliamentary Reform, Bangalore, Guest of Honour, Sri Maruti Rao D. Maley, Ex-MLC and Secretary, Karnataka People's Education Society, Gulbarga, Prof' V. C. Mathpati, Principal of Siddhartha Law College, Gulbarga, learned resource-persons, distinguished delegates, invitees, students, ladies and gentlemen.

It gives me an immense pleasure to deliver the Valedictory Address in this National Seminar on Alternative Dispute Resolution System organized by the Karnataka Institute for Law and Parliamentary Reform, Bangalore, and Siddhartha Law College, Gulbarga today. I had the opportunity of sitting through the Inaugural Session and the Technical Sessions of the Seminar. The proceedings were very meaningful and are able to highlight the importance of the ADR in settling various types of disputes and also make critical analysis of various dimensions of different modes of ADR. I am sure that the delegates of the Seminar will go back with enriched knowledge in the area of ADR. In this Valedictory Address, I will be making certain general observations on the ADR instead of making detailed observations on the subtle aspects of the system.

Friends, we are all aware that the man is a social animal and he does not lead an isolated life. In the primitive period, it was not an ordered life and no values regulated his life. As civilizations grown, human beings started living in societies according to the values that are pursued by the society concerned as also the individual concerned. Some times man's values conflicted with the values of fellow beings and at other times with the social values. This led to conflict situations that need to be resolved. Conflict situations in societies are of various types requiring various methods of resolution. Methods of settling disputes are broadly classified as formal (adjudication) and informal (ADR). ADR is said to be consisting of negotiation, mediation, conciliation, arbitration, and such other forms of settlement of disputes outside regular courts involving Lok Adalats, etc. A fine blend of these two systems is necessary to make administration of justice effective and people oriented. Constitution of India has defined and declared the common goal for all of us "to

secure to all the citizens of India, Justice social, economic and political; Liberty; Equality and Fraternity". ADR is a vehicle to achieve these principles and objectives.

As Bernard S. Cohn said, "The way people settle disputes is part of its social structure and value system." Further, L. J. Earl Warren said, "It is the spirit and not the form of law that keeps the justice alive." Principles of social justice are ingrained in our culture for centuries. India is a country known for tolerance and perseverance since ancient times. The people of our country are keenly sensitive to the values of social justice. Indian history is full of notable instances of using informal methods of resolving disputes. The system of *Nyaya Panchayats* was a well blossomed philosophy of settling disputes in our country. *Panchas* were described as *Panch Parameshwar* elevating them to the divine position. This is primarily because *Shanti* (peace) is the hallmark of Indian civilization from ancient times to the modern times. From the Vedic period to the Gandhian era we can trace the golden line of Ahimsa and *Shanti* as the cornerstones of Indian civilization. Because of inheritance of these principles in our legal and political system, there was no much scope for adversarial system of settling disputes. However, due to series of invasions and political subjugation to foreign rulers, there have been changes in the institutions in our country including institutions of settling disputes. When India was brought under the British rule, formal method of resolving disputes is introduced in our system. To start with this system was introduced in urban areas where the interests of the rulers were involved and the informal system prevailing in the rural areas was not interfered with. Later on formal judicial system was extended to the rural places also. With the independence of our country and adoption of the written constitution, formal judicial system is institutionalized in our country.

The institutionalized system of settlement of disputes did not reflect the values of the people who had tremendous faith in systems like *Nyaya Panchayats*, though a provision is made under the directive principles for the establishment of Panchayat System. There are many good aspects of the formal dispute resolution system, which cannot be undermined. But, there are difficulties in putting the whole gamut of disputes on this process for resolution. N. R. Madhav Menon makes the following observation on the formal system of administration of Justice,

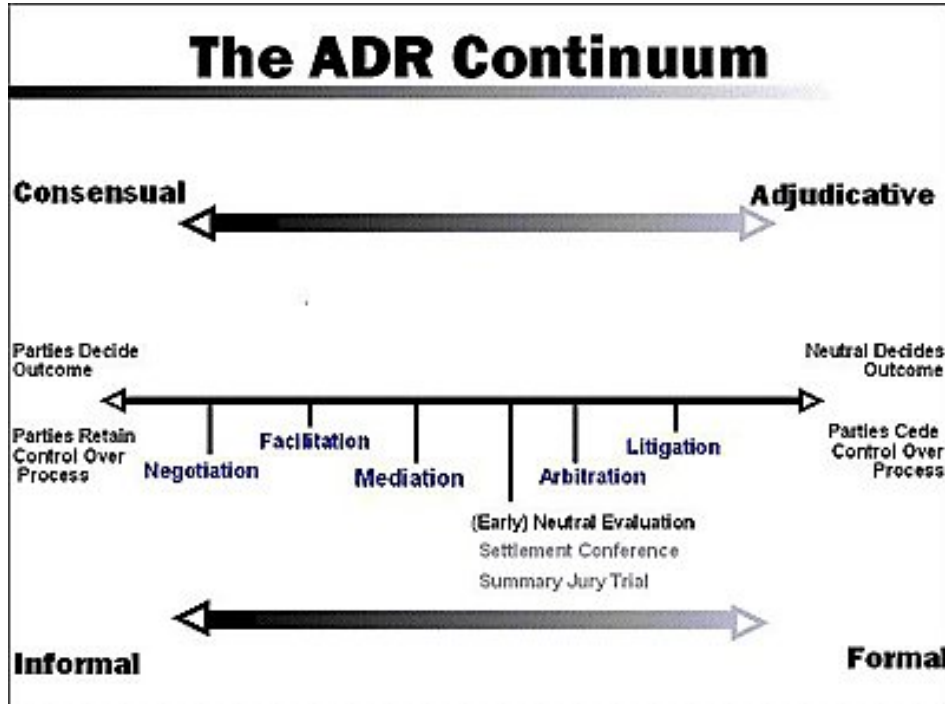
The problems of the State-sponsored system of administration of justice are many and varied. The inordinate delay and the escalating costs of litigation are alienating the people from the system. Added to it, the reports of mounting arrears, pervasive corruption and inequities in the system, have created a situation in which common people are avoiding adjudication even when legitimate claims are involved. Knowledgeable people in the judiciary itself have warned time and again that the system is about to collapse under its own weight.

In a large democratic society like India consisting of rural and poor people, hardly having the knowledge of complex formal judicial system, the case for informal dispute settlement mechanism is quite strong. It is not necessarily because of the limitations of the formal dispute settlement mechanism to render justice to the people, but because of the inherent qualities of the informal process in rendering justice. The informal system should not be viewed as a substitute to the formal judicial system. Both the systems have their own merits and limitations. Invocation of a particular type of dispute resolution system depends upon the type of dispute to be resolved.

What is Alternative Dispute Resolution? ADR represents a variety of processes through which potential litigants may resolve disputes. The traditional view is that processes ranging from face-to-face negotiations to formal, binding arbitrations are used as an alternative to litigation. Today, however, ADR practitioners, and increasingly the public, recognize that litigation need not be the standard against which all other processes are deemed "alternative." Instead, the process of litigation occupies a place within a spectrum of "appropriate dispute resolution."

Following are the key areas of ADR. *Negotiation* is a non-binding procedure in which discussions between the parties are initiated without the intervention of any third party with the object of arriving at a negotiated settlement of the dispute. *Conciliation /Mediation* is a non-binding procedure in which an impartial third party, the conciliator/mediator, assists the parties to a dispute in reaching a mutually satisfactory and agreed settlement of the dispute. *Med-Arb* is a procedure which combines

sequentially conciliation/mediation and where the dispute is not settled through conciliation/mediation within a period of time agreed in advance by the parties, arbitration. *MEDOLA* is a procedure in which if the parties fail to reach an agreement through mediation, a neutral person, who may be the original mediator or an arbitrator, will select between the final negotiated offers of parties such selection being binding on the parties. *Mini-Trial* is a non binding procedure in which the disputing parties are presented with summaries of their cases to enable them to assess the strengths, weaknesses, and prospects of their case and then an opportunity to negotiate a settlement with the assistance of a neutral adviser. *Arbitration* is a procedure in which the dispute is submitted to an arbitral tribunal which makes a decision (an 'award') on the dispute that is binding on the parties. *Fast Track Arbitration* is a form of arbitration in which the arbitration procedure is rendered in a particularly short time and at reduced cost. *Neutral Listener Agreement* is the system in which parties to a dispute discuss their respective best settlement offer in confidence with a neutral third party who, after his own evaluation, suggests settlements to assist the parties to attempt a negotiated settlement. *Rent a judge* is a system in which disputing parties mutually approach a referee, usually a retired judge, before whom they present their case in informal proceedings. The referee judge gives his decision which is enforceable in a court of law. The fee of the referee is paid by the parties. *Final offer arbitration* is the one in which each party submits its monetary claim before a panel that renders its decision by awarding one and rejecting the other claim. The ADR spectrum in continuum can be described by the following diagram:



ADR system design helps to match the appropriate dispute resolution process with the type of dispute and the culture of an organization. The analysis produces a dispute resolution structure that is both appropriate for the organization and cost effective. Because there is no cookie-cutter solution for disputes, the organization must assess its needs to determine which processes are appropriate in particular circumstances and how they can best be incorporated into the organization's culture. Goals of Alternative Dispute Resolution System Design are as follows:

1. Minimizing the number and frequency of disputes;
2. Saving costs on handling disputes (including sometimes legal costs);
3. Resolving disputes faster;
4. Providing an outlet for disputants to discuss frustrations;
5. Achieving results that are stable and enforceable;
6. Maintaining good relationships with stakeholders;
7. Avoiding protracted disputes by providing a framework to deal with future disputes as they arise;
8. Developing processes that are flexible enough to handle a range of dispute types in an appropriate manner.

System Design Methods of ADR are as follows:

1. Diagnosing of root causes and issues through a combination of methods, including focus groups, surveys, meetings, consultation with all stakeholders, and interviews;
2. Analyzing organizational needs;
3. Designing appropriate Dispute Resolution methods such as prevention, negotiation, mediation, arbitration, and peer review;
4. Considering a range of creative interest-based to rights-based methods including loop-backs, exits, and re-entries;
5. Establishing pilot projects and related training and education where appropriate;
6. Evaluating the System to enhance and improve its implementation.

A brief comparison of underlying ideas of informal dispute resolution system (ADR) and the formal dispute resolution system (adjudication) is beneficial in appreciating the unique features of these two systems. The distinguishing features of these two systems are as under:

1. ADR is accommodative of needs and interests of the litigants, whereas adjudication enforces rights and duties.
2. ADR is collaborative form of resolving disputes, whereas adjudication is adversarial form of resolving disputes.
3. ADR focuses on solving the problem, whereas adjudication is firmly position-based.
4. ADR is non-judgmental, whereas adjudication is judgmental.
5. ADR is a voluntary method of resolving disputes, whereas adjudication is a coercive method of resolving disputes.
6. ADR is a private and confidential process of solving disputes, whereas adjudication is public and accountable process of solving disputes.
7. ADR is future focused, whereas adjudication is past focused.
8. ADR is informal and flexible process, whereas adjudication is formal and regulated process.

9. ADR is highly participatory, whereas adjudication involves restricted participation.
10. ADR is situational based, whereas adjudication is authority and precedent based.
11. ADR is aimed at final resolution or reconciliation, whereas adjudication is aimed at a final decision.

This comparison between ADR and adjudication is indicative of the unique features each one of these mechanisms have. One cannot be a substitute for another. Both the systems are to be used effectively in administering justice by invoking a particular system suitable for the dispute.

As we noted earlier, India is known for using informal dispute resolution mechanisms from ancient times in resolving the disputes among the people. It is very unfortunate that these well tested informal dispute resolution mechanisms have been discarded and the formal judicial process is substituted for resolving all kinds of disputes. However, there were few laws in which ADR is envisaged. These include the Industrial Disputes Act, 1947, the Arbitration and Conciliation Act, 1996, the Family Courts Act, 1984, the Legal Services Authorities Act, 1987, consent decree under CPC and compounding of offences under CrPC. The Law Commission made an attempt to revive *nyaya panchayats* in 1988 as people's court. But it was not given proper attention at that time.

In 1999 the CPC is amended to include ADR as a legitimate system of settlement of disputes outside the court under Section 89. As per this provision a matter can be referred for arbitration, conciliation, judicial settlement including settlement through Lok Adalat or mediation if it is found that the issues involved are of the type that there is a possibility of mutual settlement. Part X of CPC (Sections 121-131) contained provisions for making Rules by the High Courts in giving effect to ADR. This is a major step forward in the direction of bringing about a comprehensive system of administration of justice by blending the formal and informal systems of settling disputes. This has also led for widespread dissension among the lawyers across the country under the fear of losing dockets.

In *Salem Bar Association v. Union of India* (2005 (3) KCCR SN 186: ILR 2005 Kar 4555), having regard to the constitutional obligation to provide fair, quick and speedy justice, the Supreme Court directed the Central Government to examine the suggestions of the Report on ADR and submit a report on this to the Court within four months. The Court also made an observation on model Alternative Dispute Resolution and Mediation Rules and said that it is for the respective High Courts to take appropriate steps for making rules in exercise of rules making power subject to modification if any.

Accordingly, new Rules were framed by the High Court of Karnataka known as the Civil Procedure (Alternative Dispute Resolution) (Karnataka) Rules, 2005, the Karnataka Civil Procedure (Mediation) Rules, 2005, the Karnataka (Case Flow Management in Sub-ordinate Courts) Rules, 2005, and the Code of Civil Procedure (Amendment) Karnataka Rules, 2005. These Rules are formulated by the High Court of Karnataka with a view to bring effective and positive change in the process of dispensation of justice.

In view of these changes in the process of administration of justice in the State, lawyers need to relocate their professional activities. They have to work as arbitrators, mediators, negotiators and conciliators. Specialized training programmes are to be launched to train the lawyers in special skills required for handling disputes in these new fora. An element of sacrifice is also required on the part of the lawyers in this exercise. They are required to appreciate the specific advantages of ADR in administration of justice. It is a system which puts the poor people on par with the others on the negotiating table. It facilitates for the poor also to give and take in settling disputes, not to lose their face and values to choose. Many disputes are prestige oriented and can be easily sorted out once the ego is neutralized. This is possible only in outside the court situation. All these and other aspects of ADR discussed above are to be appreciated by the legal profession as a whole and reframe its activities accordingly.

It is to be noted that mega disputes by giant companies involving huge fortunes are settled outside the court. We hardly find big companies like Wipro, Infosys, Microsoft, Reliance, etc. going to the courts to settle their disputes. What this underlies is

that people want speedy and effective solution to their disputes without loss of time. Furthermore, settlement outside the court is with a total involvement of the parties. This provides not only finality to the solution of the problem but also full satisfaction to the parties. It is a win-win situation for both the parties, whereas in court one party is the victor and the other is the vanquished. All these advantages of ADR are to be provided to the poor disputants by working the law that is in place. This does not mean that the adjudication of disputes has to be totally abandoned. It has to continue as the major portfolio in settling the disputes. The ADR should also be used as another major portfolio of settling the disputes in deserving cases. A comprehensive system of administration of justice can be achieved by the use of these two processes of resolving disputes appropriately.

The justice dispensing system in India has come under great stress for several reasons, chief of them being the huge pendency of cases in courts underlining the need for Alternative Dispute Resolution (ADR) methods. The Government of India thought it necessary to provide a new forum and procedure for resolving international and domestic disputes quickly. The ICADR is an autonomous organization working under the aegis of the Ministry of Law & Justice, Government of India with its headquarters at New Delhi and Regional Centers at Hyderabad and Bangalore. The Regional Centers of ICADR are fully funded and supported by the respective State Governments. The Chief Justice of India is the Patron of ICADR. At the regional level, the Chief Justice of the concerned High Court is the Patron of the Regional Centre of ICADR. Dr. H. R. Bhardwaj, Union Minister for Law & Justice, Government of India is the Chairman of ICADR. The Governing Council of ICADR comprises of several eminent personalities drawn from various fields.

I would like to conclude my address with the following statement of a well known protagonist of ADR, Sri D. K. Sampat,

“In India, the individual’s values have survived a way through nourishment by religious and cultural values; but the collective thinking has gone wrong as it is expressed by institutions alien to our culture. This

dichotomy has led many a critic to charge us with hypocrisy. It is not true. The critic should not miss the struggle between the healthy societal values still lingering in the individual, struggling for survival and the institutional values, loudly proclaimed by established and organized forms seeking to drown them in blind imitation of the west. Those who work in such institutions find no meaning for their activity. There is no strong culture functioning as a support system for the personality of the employee. Frustration is inevitable. Man's need for meaning creates institutional purpose. Without it, it is a failure."

I once again thank the organizers of the Seminar for giving me this great opportunity to deliver the valedictory address. Thank you.

Jai Hind!

SOCIAL JUSTICE: A PRIMARY CHARGE ON CIVILISED SOCIETY*

Dr. J. S. Patil**

The Complexity of the Concept of Justice

The quest for justice has been as challenging as the quest for the Holy Grail and as elusive⁴⁷. 'Justice' is a very complex and abstract concept. It is viewed as an essential and fundamental concept to be kept as a basic value in every civilized society. Several jurists have described the concept of justice differently. While describing the concept of justice the mastermind of Aristotle distinguished between distributive and corrective justice. Distributive justice is based on the principle that there has to be equal distribution among equals⁴⁸. The distribution is of honours or money or other things that fall to be divided among those who have a share in the constitution⁴⁹. Corrective justice seeks to restore equality when this has been disturbed, eg by wrongdoing, which assumes that the situation that has been upset was distributively just. Difficulty is to identify who are equals and who are un-equals. According to Kant, justice originates in pure practical reason⁵⁰. Hume says that justice is not inherent in nature. It has to be worked out by reason⁵¹. Clarence Morris says that justice can be realised only through good law. His theory is concerned with the method of realizing justice. Doing justice through law means that law-makers serve the public by advancing its genuine aspirations which are deep-seated, reasonable and non-exploitative⁵². These jurists go beyond of honours, money or other things, but satisfying the aspirations of people. Jeremy Bentham considers justice as utilitarian and it is aimed at realising the greatest happiness of the greatest number⁵³. For Karl Marx and Frederic Engels justice can be attained not through the instrumentalities of

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⁴⁷ Dias RWM, *Jurisprudence*, 5th ed, 1994, Butterworths, London, p.65

⁴⁸ *Nicomachean Ethics*, V (trans Rackham), 3.

⁴⁹ *Nicomachean Ethics*, V, 2.

⁵⁰ Kant, *Philosophy of Law* (trans Hastie), pp.34.

⁵¹ Dias RWM, Op. Cit., p.476.

⁵² Morrence, *The Justifications of Law*, p. 21-23.

⁵³ Bentham, *An Introduction to the Principles of Morals and Legislation*, paras 3-4.

State and Law, which will wither away after attainment of classless society by communist revolution, but by bringing about economic equality⁵⁴.

Some modern writers approach justice differently. Prof. Honore suggests that it would at least be ‘refreshing to look at justice, not so much from the Aristotalian point of view of the just man, but from that of the citizen to whom just treatment is due’⁵⁵. From a somewhat similar point of view Cahn speaks of the ‘sense of justice’⁵⁶. Finnis describes justice as other oriented, ie it concerns relations with others, it is owed as a duty to another, and it involves equality in the sense of proportionality⁵⁷. All these aspects are directed towards the common good, which reflects basic values and the requirements of practical reasonableness; and distributive and commutative justice are examined in this light. His interpretation shows that the distinction between them is not as sharp as in Aristotle’s presentation and is no more than an analytical convenience, an aid to orderly consideration of problems⁵⁸.

John Rawls is a pioneer of modern times to formulate a general theory of justice. He also makes specific reference to social justice. According to him principles of social justice are necessary for making a rational choice between various available systems⁵⁹. Principles of justice, as dictated by prudence, are those which hypothetical rational persons would choose in a hypothetical ‘original position’ of equality. The Basic Principles of Justice are generalized means of securing certain generalized wants, ‘primary social goods’, comprising what is styled the ‘thin theory of the good’, ie maximization of the minimum (as opposed to a ‘full theory’)⁶⁰. These primary social goods include basic liberties, opportunity, power and a minimum of wealth. The First Principle of Justice is: ‘Each person is to have an equal right to the most extensive total system of basic equal liberties compatible with a similar system of liberty for all. The Second Principle of Justice is: ‘Social and economic inequalities are to be arranged so

⁵⁴ See *Das Capital*, vol. I.

⁵⁵ Honore AM, ‘Social Justice’, in *Essays in Legal Philosophy* (ed Summers RS) p.62.

⁵⁶ Cahn, *The Sense of Justice* (1949).

⁵⁷ Finnis, *Natural Law and Natural Rights*, pp. 161-162.

⁵⁸ *Ibid*, p. 179.

⁵⁹ Rawls, *A theory of Justice*, p. 4.

⁶⁰ *Ibid*, p.396.

that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principles, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity’⁶¹ Justice is quite often described as social, economic and political.

In India justice is viewed as something which one has to conform to as his *Dharma*. Speaking truth and practicing non-violence are the twin principles of justice that can be traced from the Vedic time to the Gandhian era. Justice in our country is duty-oriented rather than right-oriented. Justice Krishna Iyer identified 'justice' with 'truth'.⁶² So, in his understanding, the quest for justice is the quest for truth, and by analogy, justice is denied when truth is checked by a Judge's "pet social philosophy" that blocks his mentation. The dispensation of justice must not be construed to mean merely the finding of the truth in a given matter, nay, it is much more. The dispensation of justice entails giving one his due. This in turn means that the courts must in every way provide relief and find legal technique to provide relief to one who has been deprived of what was due to him. Such a situation arises because the law as it is may fail short of the law as it ought to be. It is therefore well said that justice is the ultimate objective of law, and, where necessary, the law must also bend before the cause of justice. It is true that persons with grievances are those who raise the questions of justice. It is not enough to work out a just scheme of distribution, from whatever point of view, but there is the further problem of getting it accepted and keeping it acceptable; which requires constant re-distribution according to changing circumstances.

The Concept of Social Justice under Indian Constitution

It is interesting to note that the expression “Justice” has been used in our Constitution only in the Preamble and in Article 142. No where else in the Constitution has the term been defined. But the idea of justice is reflected in many provisions of the Constitution. We need to look into the framing of the Constitution to appreciate this. The concept of social justice was put at the top of the national agenda by the Constituent

⁶¹ Ibid, p. 302.

⁶² This was stated in an address to the 18th Annual Conference of the American Judges Association

Assembly when it adopted the Objectives Resolution, which called for social, economic and political justice and equality of status, opportunity and before the law for all people. The Constituent Assembly laboured arduously for the social justice when drafting the Fundamental Rights, Directive Principles of State Policy and the provisions for the uplift of disadvantaged citizens. The rights expressed not only prohibitions- what government must not do- but also conditions, such as equality before the law, which the government should strive to bring about.⁶³

The code of equality under the Constitution of India is to be found in Arts.14, 15, 16, 17, 18 and 29(2). Art.15 provides for a specific application of the general principle of equality embodied in Art.14. It obliges the state not to discriminate against a citizen on grounds only of religion, race, caste, sex, or place of birth or any of them. Art.16 guarantees equality of opportunity in matters of employment. It states that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State prior to such employment or appointment. Nothing in this article shall prevent the State from making any provision for reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination. Clause (4) of this Article expressly provides for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the state is not adequately represented in the services under the

⁶³ Granville Austin, *Working of a Democratic Constitution*, (New Delhi: Oxford University Press, 2003), pp.73-74.

state. Reservation can be provided only in favour of backward class and whether a class is a backward or not is to be determined objectively according acceptable criteria.

While Art.16 (4) empowers state to make reservations, the constitution makers laced a limiting provision within the Constitution under Art.335 which says that the claims of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State. This article assumes that the Scheduled Castes and Scheduled Tribes have some claims to reservation and these claims have to be taken into consideration in the making of appointments to services and posts. The words ‘consistently with the maintenance of efficiency of administration’ have generally been read as words of limitation to restrict the claims of the Scheduled Castes and Scheduled Tribes.⁶⁴ Although this article does not apply to other backward classes, reliance has been placed on these words even to restrict reservations for them, particularly to deny reservation in promotions⁶⁵. Justice is not mere distribution of things but also realization of efficiency.

The concept of social justice in terms of entitlements as backwards for equitable allocation has been a matter of judicial interpretation in many cases. In *Balaji's Case*⁶⁶ the Supreme Court held that the ‘caste, cannot be the sole test to ascertain whether a class is backward or not. Poverty, occupation, place of habitation may all be relevant factors to be taken into consideration. The state should review the status and if a class reaches the state of progress where reservation is not necessary, it should delete the class from the list of backward classes. Art.16 (4) is to be interpreted in the light of Art.335 and the quantum of reservation should not be unreasonable. In *Devadasan v. Union of India*⁶⁷ the constitutional validity of the “carry forward rule” came for scrutiny. The Supreme Court by a majority of 4-1 struck down the “carry forward rule” and held that the reservation ought to be less than 50 percent, but how much less than half would depend upon

⁶⁴ M.P.Sing ed. *V.N.Shukla's Constitution of India*, 10th ed. (Luknow: Eastern Book Co. 2006 re.pt.) p.819.

⁶⁵ *Indra Sawny v. Union of India*, AIR 1993 SC 477; *Indra Sawny(II) v. Union of India*, (200)1 SCC168.

⁶⁶ AIR 1963 SC 649.

⁶⁷ AIR 1964 SC 179.

prevailing circumstances in each case. In *State of Kerala v. N.M.Thomas*⁶⁸ the question involved was whether preferential treatment can be given under 16(1). The Court by majority held that reservation may be made even outside the scope of clause (4). In *ABSK Sangh (Rly) v. Union of India*⁶⁹ the court upheld the validity of ‘carry forward rule’ under which reservation has reached 64.4%. The Court observed that this was not excessive as mathematical precision could not be applied in dealing with human problems. As a result of the decisions in *N.M.Thomas* and *ABSK Sangh* cases *Balaji* and *Devadasan* are impliedly overruled.

The scope of Art 16(4) was considered in greater detail in *Indra Sawney v. Union of India*⁷⁰, which is also known as *Mandal Commission Decision*. Clarifications were issued on points involving difference of opinion due to varying decisions: Identification of backward classes can certainly be done with reference to caste along with other criteria as the test of backwardness. It should not be exclusively based on economic criteria. Art.16 (4) is not an exception to Art.16 (1) but is an independent clause. Reservation can be made under clause (1) on the basis of reasonable classification. Creamy layer must be excluded from backward classes for the benefit of reservation. Reservation shall not exceed 50%. However, in extra-ordinary situations it may be relaxed in favour of people living in far-flung and remote areas of the country who because of their peculiar conditions and characteristics need a different treatment. There shall be no reservation in promotions.

Various amendments were brought to the Constitution after the *Mandal* decision. The Constitution 77th Amendment Act, 1995 added a new clause 4-A to Art.16. It reads as follows: “Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services of the State in favour of the Scheduled Castes and Scheduled Tribes which in the opinion of the State, are not adequately represented in the services under the State”. The Constitution 81st Amendment Act, 2000 inserted Art 16(4-B), which says: “Nothing in this Article

⁶⁸ AIR 1976 SC 490.

⁶⁹ AIR 1981 SC 298.

⁷⁰ AIR 1993SC477

shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) of clause (4-A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year.” The 82nd Amendment Act, 200 added following proviso to Art.335: “Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State”. The 85th Amendment Act, 2001 substituted in clause (4-A) of Article 16 the words “in matters of promotion, with consequential seniority, to any class” to the words “in matters of promotion to any class”. This amendment was necessitated by the judgments of the Supreme Court in *Union of India v. Virpal Singh Chauhan*⁷¹ and *Ajit Singh Janua v. State of Punjab*⁷² wherein the court had ruled to the effect that seniority between reserved category candidates and general candidates shall continue to be governed by their panel position prepared at the time of selection.

All the above mentioned Amendments came to be challenged in the case of *M.Nagaraj v. Union of India*. The constitutional validity of all these amendments was upheld by the Supreme Court subject to some conditions. Imposing of these conditions in the judgment is a caution to the legislature and the executive that in appropriate cases, the court will not hesitate to interfere and strike down the provisions providing for excessive reservations and undue concessions. The following observations of the Court make this manifest.

“The object in enacting the enabling provisions like Articles **16(4)**, (4-A) and (4-B) is that the State is empowered to identify and recognize the compelling interests. If the State has quantifiable data to show

⁷¹ (1995) 6 SCC 684

⁷² (1996) 2 SCC 715.

backwardness and inadequacy then the State can make reservations in promotions keeping in mind maintenance of efficiency which is held to be a constitutional limitation on the discretion of the State in making reservation as indicated in Art.335....

....As long as the boundaries mentioned in Art16 (4), namely, backwardness, inadequacy and efficiency of administration are retained in Arts.16 (4A) and 16 (4B) as controlling factors, we cannot attribute constitutional invalidity to these enabling provisions. However, when the State fails to identify and implement the controlling factors then excessiveness comes in, which is to be decided on the facts of each case. In a given case, where excessiveness results in reverse discrimination, this Court has to examine individual cases and decide the matter in accordance with law. This is the theory of 'guided power'.

Answering the question of relaxation of qualifying marks or standards for reservation in matters of promotion the court observed: "In our view, even after insertion of this proviso, the limitation of overall efficiency in Article 335 is not obliterated.... Therefore, where the state finds compelling interests of backwardness and inadequacy, it may relax the qualifying marks for SCs/STs. These compelling interests however have to be identified by weighty and comparable data".

About the extent of reservation the Court reiterated the 50% ceiling limit. In the opinion of court, if the extent of reservation is excessive then it makes an inroad into the principle of equality in Article 16(1). Backwardness and inadequacy of representation are compelling reasons for the State Governments to provide representation in public employment. Therefore, if in a given case the court finds excessive reservation under the state enactment then such enactment would be liable to be struck down. The Court further observed, "It is made clear that even if the State has compelling reasons, ...the State will have to see that its reservation provision does not lead to excessiveness so as to breach

the ceiling limit of 50% or obliterate the creamy layer or extend the reservation indefinitely”.⁷³

The normative image of the Constitution of India is partly eclipsed by the protective umbrella of Ninth Schedule appended to Art.31-B because of the ‘Schedule system’ of drafting, the Ninth Schedule is ‘open ended’ in time continuum in order to receive new legislations into its protective fold through constitutional amendments, and immunize them against the Part-III challenges⁷⁴. Originally it had 13 entries. As of now there are 284 entries.

The Ninth Schedule, which was born with the purpose of providing super protection to agrarian and economic reform legislation, has been largely used to protect such legislations. But, during internal emergency, it was used to protect repressive legislation dealing with personal liberty, press freedom and political rights, which were deleted from Ninth Schedule. The strange addition to the Ninth Schedule is the Tamil Nadu Reservation statute of 1994, which clearly purports to surpass the well-thought judgment rendered by the special bench of Supreme Court in *Indra Sawhney v. Union of India*⁷⁵. The State of Karnataka also attempted to include its reservation law with 73% reservation in the Ninth Schedule.

⁷³ It is to be noted that in *Ashok Kumar Thakur v. State of Bihar*, (1995) 5 SCC 403, the Supreme Court has quashed the economic criteria laid down by the Bihar and Uttar Pradesh governments for identifying the creamy layer of the backward classes and exclude them for the purpose of job reservation, and held that the criteria for identification of “creamy layer” is violative of Art.16(4) and Art.14 and against the law laid down by the Supreme Court in *Mandal* case, wherein a person belonging to a backward who becomes a member of the IAS, IPS or any other All India Service could not seek benefits of reservation for his children. The criteria for exclusion laid down by government of India in this regard excludes sons or daughters of such officers who have been directly recruited in Class-I services of the Central Government or a State government or an undertaking or an institution fully or partially finance by them. The Bihar and Uttar Pradesh governments had added additional criteria to the following effect that i. the income of the parents should be more than Rs.10,000/- or more per month, ii. Either of the spouse should be at least a graduate, iii. Either of the spouse should own a house in urban area and iv. Either of the parents of such spouse should have been directly recruited to Class-I services. This was struck down by the Supreme Court as unconstitutional as they had no nexus with the object sought to be achieved.

Similarly, the Kerala State Backward Classes (Reservation of Appointments or Posts in Services) Act, 1995 which declared that having regard to “known facts” in existence in the State there are no socially advance categories in any backward classes and they would continue to be entitled to reservation under Clause (4) of Art.16, was held to be discriminatory and violative of Arts.14, 16(1) and 16(4) in the case of *Indra Sawhney-II v. Union of India*, AIR 2000 SC 498.

⁷⁴ P.Ishwar Bhat, “Limits of the Ninth Schedule’s Openness”, 1995 *CULR* p.232.

⁷⁵ *Ibid.*

Recently in a high mark judgment delivered by a nine judges bench in the case of *I.R.Coelho (Dead) by LRs. V. State of Tamil Nadu and ors.*⁷⁶ the court elaborately considered the reviewability of the enactments included in the Ninth Schedule and held that any law that abrogates or abridges rights guaranteed by Part III of the Constitution may violate the basic structure doctrine of the Constitution as reflected in Article [21](#) read with Article [14](#), Article [19](#), and the principles underlying them.

All these judicial pronouncements have dealt with the concept of social justice not in isolation, but in the light of total scheme of the Constitution, which seeks to secure social, economic and political justice to all.

The Contours of 'Access to Justice'

There is another dimension of social justice ie access to justice. Only when there is equal access to justice for all, we can say that the real social justice is provided. Any discourse on access to justice must inevitably touch upon the hurdles of differing nature that present themselves in the path of the wronged seeking justice - this includes the litigant who has had access to the court but has not obtained quick relief; those who have not even had the chance to knock at the doors of the court because of ignorance of their legal rights or poverty; those who are aware of their rights but are unable to approach the courts; and even those who have had access to the courts but require justice to be done after their case is heard such as prisoners in need of post facts remedy for prison excesses committed during their incarceration.⁷⁷ It is well understood that access to justice is not merely justice in its ordinary sense; rather, access to justice must include access to social, economic, and political justice, as encapsulated in Part IV of our Constitution. It would not come as a surprise that many of the hurdles are those that have often been of the simplest and most obvious nature but have had devastating results, for example, it has been found that the court fees payable by the litigants may at times be an impediment in achieving access to justice for indigent litigants, if it is prohibitively high⁷⁸ or that the principle of *locus standi* may many a time, wrongfully prevent officious outsiders from

⁷⁶ Decided on 11-1-2007.

⁷⁷ See *Sunil Batra (II) v. Delhi Administration* (1980) 3 SCC 488

⁷⁸ *M/s Central Coal Fields Ltd. v. M/s Jaiswal Coal Co.* 1980 (Supp.) SCC 471

approaching the courts, even when such outsiders do so solely for the cause of justice.⁷⁹ Most, if not all, are in the realm of procedures that, in the words of Klaus-Friedrich Koch, "enable a party who has been wronged, or alleges that he has been wronged, to obtain redress in a culturally approved fashion." Economic and geographical barriers, such as the exorbitant costs of employing lawyers or the distances from courts, may also play a part in keeping the disputant from entering the justice dispensation machinery.

To tackle such problems and more, courts in India continuously adopt strategies that challenge the bounds of judicial creativity. Such ameliorating judicial inventions as public interest litigation owe their existence to the liberal construction which our courts have given to the phrase 'access to Justice.' While, as Earl Johnson, Jr. finds, American courts consider indigents to have "access to the courts" on the count that they could come to the courtroom without cost, even though they could not engage a lawyer, courts in India have sought a holistic understanding of the concept of accessibility. For the latter, access is not merely superficial attendance in the court it connotes 'access' both in letter and spirit. At the forefront in facilitating access to justice has been the Supreme Court of India which has not hesitated to "innovate new methods and devise new strategies for the purpose of providing access to justice to large masses of people who are denied their basic human rights and to whom freedom and liberty have no meaning."⁸⁰ Thus, in *Fertiliser Corporation Kamgar Union (Regd.), Sindri v. Union of India*,⁸¹ the Apex Court acknowledged that the goal of 'access to justice' would stand defeated if public-minded citizens or organizations with serious concern for conservation of public resources and the directions and correction of public power so as to promote justice in its true facets were forced to choose the streets rather than the courts to dispense justice simply because they could not cross the technical hurdle of *locus standi*. Class-action suits, representative suits, and public interest litigation are some of the techniques which have been evolved to overcome the problems of accessibility. At the same time, the superior courts in India have also ventured to create new rights for the citizens through progressive interpretations of the constitutional provisions. For example, most recently, in *Union of*

⁷⁹ P.S.R. Scidhananthim v. Arunachalam (1980) 3 SCC 141

⁸⁰ S.P. Gupta v. Union of India 1981 (Supp.) SCC 87

⁸¹ (1981) 1 SCC 568, 584-85

India v. Naveen Jindal,⁸² the Supreme Court created a new right by holding that every citizen of the country has the fundamental right to fly the national flag with dignity under Article 19 (1) of the Constitution. Besides this, the other rights created are, for example, the right to travel,⁸³ right to privacy,⁸⁴ prisoners' right to interview,⁸⁵ right to a fair trial,⁸⁶ right against torture and custodial violence,⁸⁷ right to free legal aid,⁸⁸ right to health care,⁸⁹ right to safe drinking water,⁹⁰ women's right against sexual harassment,⁹¹ right to quality life,⁹² right to family pension,⁹³ right to work (though not fundamental),⁹⁴ and right to environmental protection.⁹⁵

In spite of all these efforts by courts in tackling the problems of access to justice, the juristic opinion about it is not encouraging. Krishna Iyer, J. in his inimitable style observed, "The current situation is grim." Chief Justice Chandrachud lamented about the fall in the quality of justice administered by the courts; Chief Justice Bhagwati called it a 'crying shame,' while Nani Palkhivala remarked that our 'courts are not cathedrals but casinos.' He went further and opined that while justice is blind generally, in India 'it is also lame and hobbles on crutches.' But the question is: who provides the crutches and runs the casinos? It must be realized that the pathology of the judiciary affords a unique opportunity for radical change.

The Indian judiciary is at the cross-roads today. When India attained independence more than fifty-eight years ago, it inherited British Judiciary. By and large, the system has worked well but several maladies have gripped this system. Recently, bizarre incidents of communal disturbances, and barbaric killings of young men and

⁸² (2004) 2 SCC 510

⁸³ *Maneka Gandhi v. Union of India* AIR 1978 SC 597

⁸⁴ *Kharak Singh v. State of V.P* AIR 1963 SC 1295

⁸⁵ *Prabha Dutt v. Union of India* AIR 1982 SC 6

⁸⁶ *Police Commissioner, Delhi v. Registrar, Delhi High Court* AIR 1997 SC 95

⁸⁷ *O.K. Basu v. State of West Bengal* AIR 1997 SC 610

⁸⁸ *State of Maharashtra v. M.P. Vashi* AIR 1996 SC 1

⁸⁹ *CERC v. Union of India* AIR 1995 SC 922

⁹⁰ *APPCB v. M. v. hayudu* AIR 1999 SC 822

⁹¹ *Vishakha v. State of Rajasthan* AIR 1997 SC 3011

⁹² *Hinch Lal Tiwari v. Kamala Devi* (2001) 6 SCC 496

⁹³ *S.L. Mastan Bee v. General Manager. South Central Railway* (2003) 1 SCC 184

⁹⁴ *Air India Statutory Corporation v. United Labour Union.* AIR 1997 SC 645

⁹⁵ *A.F.C. Mehiu v. Union of India* AIR 1997 SC 734

women arising out of inter-caste marriages, the burying alive of infirm as a religious ritual, sale of kidneys to earn a livelihood and eating of rats by members of the Scheduled Tribes in Tamil Nadu clearly demonstrate that justice whether social, economic or political is a far cry. If access to justice is to be given to the citizens of India truly and effectively, justice must be given a new meaning and must be demonstrated with a different objective. Socio-economic right of the citizens should be at the forefront for giving access to justice to the needy, poor and deprived people.

A potent judicial technique for dispensing justice is to provide succour to those who have a right to relief. In other words, no one must be denied a remedy if he or she has a right.⁹⁶ It is said that the maxim is of such consequence that it led to the invention in England of the form of action called an 'action on the case' where no precedent of a writ could be produced, the Clerks in Chancery agreed to form a new one. So much so, that in *Dhannalal v. Kalawatibai*,⁹⁷ the Supreme Court observed that: If a man has a right, he must, have a means to vindicate and maintain it, and a remedy if he is injured in the exercise and enjoyment of it, and, indeed, it is vain thing to imagine a right without a remedy, for want of right and want of remedy are reciprocal.

The Supreme Court of India has gone further by stating that access to justice requires more than "mere declaration of invalidity of an action or finding of custodial violence or death in lock-up. . ."⁹⁸ Rather, the principle of *ubi jus ibi remedium* mandates that those who approach the courts for justice should be provided a "meaningful" remedy. Thus, for instance, access to justice may require the court not only to prosecute the offender, but also where necessary to provide monetary compensation to the victim of the crime. *Olga Tellis*⁹⁹ and *Bandhua Mukti Morcha*¹⁰⁰ are but a few of the instances out of countless many where the Apex Court of this land has provided not merely relief, but relief with compassion and foresight that would merit being called "meaningful."

⁹⁶ *ubi jus ibi remedium*

⁹⁷ (2002) 6 SCC 16,29-30

⁹⁸ *DK Biif-v. State of West Bengal* (1997) 1 SCC 416, 437-38

⁹⁹ *Olga Tellis v. Bombay Municipal Corporation* (1985) J SCC 545

¹⁰⁰ *Bandhua Mukti Morcha v. Union of India* AIR 1984 SC 802

While the courts have never shun away from its duty of providing access to justice for the teeming millions of this country, it would not be incorrect to state that the objective would be impossible to achieve unless justice dispensation mechanism is reformed. There are two ways in which such reform can be achieved - through changes at the structural level, and through changes at the operational level. Changes at the structural level challenge the very framework itself and require an examination of the viability of the alternative frameworks for dispensing justice. It might require an amendment to the Constitution itself or to various statutes. On the other hand, changes at the operational level require one to work within the framework trying to identify various ways of improving the effectiveness of the legal system. It must nevertheless be borne in mind that the effectiveness of the justice dispensation machinery ultimately depends upon the way in which we conceptualise justice. As a World Bank Report titled Comprehensive Legal and Judicial Development asserted: "The elements of a well functioning justice system ultimately depends on the cultural context in which it operates - justice is defined by the society which it serves."

Indian courts are attuned to resolving conflicts between the parties based on the pleadings presented by them. The higher judiciary, particularly the Supreme Court, while exercising its jurisdiction has devised several instruments for dispensing justice. Several innovative legal approaches have been used which can serve as a catalyst for legal reform.. This is evident in the creation and development of the PIL jurisdiction. Similarly, attempts are to be made to decentralise judicial activism right down to the lowest court in the country, as well as to effect a paradigm shift in favour of justice dispensation. In this regard, the concept of Lok Adalats - or, people's courts - is particularly relevant. Prior to the introduction of the Legal Services Authorities Act, 1987, legal services by the State were provided under various government orders issued in 1976 which also organised Lok Adalats. The present form of Lok Adalats introduced under the Legal Services Authorities Act, 1987 has since then gained considerable popularity in providing cheap and speedy justice in an atmosphere of friendly spirit hardly resembling a conventional court of law. It is the Lok Adalats which go to the people to deliver justice at their doorstep both, by settling disputes which are pending in

courts, and also by resolving disputes which have not yet reached the stage of litigation in court. The basis for the dispute settlement in the Lok Adalat system is the principle of mutual consent and voluntary acceptance of the solution with the help of conciliators.

Any discussion on justice for a billion people necessarily requires reference to socio-economic rights. Unlike western societies, socio-economic rights are important for an ordinary Indian for exercising his rights. Although the Indian Constitution does endorse these rights in the form of Directive Principles of State Policy in Part IV of the Constitution, it does not provide any mechanism for their enforcement. Therefore, the Indian Supreme Court has made them partly enforceable by extending the language of Article 21 of the Constitution. To paraphrase Justice Albert Sachs of the South African Constitutional Court, "the Supreme Court of India smuggled the rights from Part IV to Part III of the Constitution." This innovation of the Indian judiciary to enforce socio-economic rights has seen parallels in courts of other jurisdictions as well.¹⁰¹ However, the question still remains: Should India adopt a new model where the judiciary has a more active role in the enforcement of these rights? This question has provoked a profound debate in which both sides have exchanged persuasive arguments. Any strategy to resolve this dilemma must take into account the fact that the civil and political rights without socio-economic rights are inadequate for the poor and the deprived. At the same time, due respect must be paid to democratic deliberation and resource intensive nature of these rights. A distinction must be made between the core socio-economic rights and those that lie outside the periphery of the former. The core rights represent the basic entitlements of every citizen which cannot be left to the ordinary political processes. In respect of the other socio-economic rights, they are dependant on the democratic prerogatives and

¹⁰¹ For instance, the South African Constitutional Court in *Minister of Health and others v. Treatment Action Campaign and others* ruled that the State must "act reasonably to provide access to the socio-economic rights identified in Sections 26 and 27 [of the South African Constitution] on a progressive basis" and that the, "state is obliged to take reasonable measures progressively to eliminate or reduce the large areas of severe deprivation that afflict our society... [by ensuring that] legislative and other measures taken by the state are reasonable." Again, in *Government of the Republic of South Africa v. Grootboom and Ors.*, the South African Constitutional Court ruled that: Economic rights cannot be said to exist on paper only. The Constitution requires the State to respect, protect, provide and fulfill these rights and the courts are constitutionally bound to ensure that they are protected ... The obligation is to provide access to housing, health-care, sufficient food and water, and social security to those unable to support themselves and their dependents. The State must also foster conditions to enable citizens to gain access to land on an equitable basis. Those in need have a corresponding right to demand that this be done.

therefore the traditional scheme of judicial review has to be modified. This strategy will ensure that socio-economic rights are not mere "constitutional ropes of sand," but are concrete constitutional commitments. If our Constitution is skillfully implemented by the judiciary, it may transform the society which would go a long way to ensure socio-economic rights and justice to the citizens of India.

Concluding Remarks

The concept of justice is not simple, but it is necessary for the good governance of a civilized society. In a society divided on the basis of a number of classifications, the concept of social justice assumes greater significance in rendering justice to the deprived sections of the society independent India has attempted to provide an effective social justice mechanism under the Constitution. This has been further reinforced by series of decisions by the higher judiciary and fine-tuned by Mandal decision. Several amendments were effected to the Constitution to ensure social justice to the poor and needy. It is not enough to have mere laws. An easy access to justice for all is as important as providing certain benefits. Access to justice by improving the court house ways and bringing in ADRs will go a long way in providing justice to all and needy. A beginning in the right earnest has already been made in our country. It may take a few more years to realize fully blossomed social justice.

JURISPRUDENTIAL PERSPECTIVES OF THE RIGHTS OF PERSONS WITH DISABILITIES, OLD AGE AND ILL HEALTH *

Prof. J. S. Patil**

Introduction

Talking of the requirements of continued existence of law, Lord Justice Scarman said, “I shall endeavour to show that there are in the contemporary world challenges, social, political, and economic, which, if the system cannot meet them, will destroy it. These challenges are not created by lawyers; they certainly cannot be suppressed by lawyers: they have to be met either by discarding or by adjusting the legal system.”¹⁰² One such challenge faced is the position of the people with disabilities, old age and ill health. There are hardly any rights provided to these persons in many legal systems although there is a loud voice of equality. These are the persons who need special care in view of their disadvantageous position socially and economically. Any human rights system cannot ignore this very important class of people.

Human rights are commonly understood as those rights, which are inherent in the human beings. Every human being is entitled to enjoy his or her human rights without distinction of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Rights that inhere in a person are human rights. These rights are basic for his existence and are created with his birth and destroyed only with his death. These rights are also described as natural rights and fundamental rights. Human rights are legally guaranteed under human rights laws various countries in accordance with their obligations under various international human rights conventions and covenants and other agreements. These laws protect individuals and groups against actions, which interfere with fundamental freedoms and human dignity. Human rights

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¹⁰² Scarman, *English Law – the new Dimension*, p.1.

law places obligations on the States to act in such a way as to fulfill its commitment of respecting the basic rights of every individual human being living in their territory.

Human rights under the Indian law are defined as “the rights relating to life, liberty, equality and dignity of the individual guaranteed under the Constitution or embodied in the International Covenants and enforceable by courts in India.”¹⁰³ Important characteristics of human rights that can be deduced from the above definition are: that there shall be respect for the dignity and worth of each person; that the human rights are applied equally and without discrimination to anyone; and these rights are indivisible and inalienable. Rights of the persons with disabilities, old age and ill health assume importance in this framework of human rights philosophy due to their special status as disadvantaged group. This is because of the reason that very scant positive law is developed to fulfill the jurisprudential mandate of providing protection to this group.

The rights that are guaranteed under the Indian Constitution relating to life, liberty, equality and dignity of the individual are not only human rights but also the rights aimed at providing the facilities to all categories of disadvantaged groups of people. Right to live with human dignity is a very important human right. It is very unfortunate to note that this right is denied to the marginalized people even after series of landmark judgments by the Supreme Court¹⁰⁴. Right to food has been considered as another important aspect of right to dignified life.¹⁰⁵ Right to good health is considered as part of

¹⁰³ S. 2 of the Protection of Human Rights Act, 1993

¹⁰⁴ In *Maneka Gandhi v. Union of India* 1981 SC 746 the court gave a new dimension to Article 21 and held that the right to ‘live’ is not merely confined to physical existence, but includes within its ambit the right to live with human dignity. In *Francis Coralie v. Union Territory of Delhi* AIR 1978 SC 597 the court held that the right to live is not restricted to mere animal existence, it is something more than just physical survival. In *People’s Union for Democratic Rights v. Union of India* AIR 1982 SC 1473 it was held that non-payment of minimum wages to the workers employed in various Asiad projects in Delhi was a denial to them of their right to live with basic human dignity and violative of Article 21 of the Constitution. The decision has heralded a new judicial evolution and it has clothed millions of workers in factories, fields, mines, and project sites with human dignity. In *Chandra Rajkumari v. Police Commissioner, Hyderabad* AIR 1998 A P 302 the A P High Court held that the right to live includes right to live with human dignity or decency and , therefore, holding of beauty contest is repugnant to dignity or decency of women and offends Article 21 of the Constitution.

¹⁰⁵ People’s Union for Civil Liberties (2000(8) SCALE 30). Bodies like Indian Council For Legal Aid and Advice have moved NHRC for food related measures in drought hit Orissa in 1997 (Human Rights Newsletter, March 1998). In *Olga Tellis v Bombay Municipal Corporation* (AIR 1986 SC 180) the Supreme Court held that “the right to life which is guaranteed by Article 21 includes the right to livelihood

right to life.¹⁰⁶ All these rights are provided under the Indian Constitution to ensure that every individual lives the full life of a human being irrespective of the natural limitations of old age, sickness and physical and mental shortcomings.

Jurisprudential Perspectives

Equality, dignity and worth of every individual person is respected and provided with the legal and moral baseness under the jurisprudence. There has been a constant shift in the understanding of the concept of justice, equality and human rights. Justice is often described as essentially just allocation of advantages and disadvantages.¹⁰⁷ Scheme of allocation of advantages and disadvantages would be different in different societies. A welfare state attempts to satisfy basic needs. It is not enough to work out a just scheme of distribution but it should be acceptable by the people of that society, which requires constant redistribution according to changing circumstances. Advantages which are generally desired to be equally distributed are things such as life, health, food, shelter clothing, places to move in, opportunities for acquiring knowledge and skill, for sharing in the process of making decisions, for recreation, travel, etc. The scheme of distribution of advantages and disadvantages among the people is viewed differently by jurists.

¹⁰⁶ The Courts in India always showed keen interest for protection of health indifferently to all who are the subjects of India. The executive and Judiciary recognize it as an obligation on the part of the Government to provide medical facilities equally for the protection of health of the people of the nation. The false notion that 'the doctors would not start medical treatment in medico legal cases unless the police come and complete the formalities' was removed once for all by the supreme Court of India through its verdict handed down in *Paramanad Katara v. Union of India* (AIR 1989 SC 2039) The Supreme Court held that it is the professional obligation of all the doctors whether Government or private, to extend medical aid to the injured immediately to preserve life without waiting for legal formalities to be complied with by the police under Criminal Procedure Code. The Supreme Court directed that, in order to make every one aware of this position the decision of the court must be published in all journals reporting decisions of this court and adequate publicity highlighting these aspects should be given by the national media. The Apex Court also directed the Medical Council of India to send copies of this landmark judgment to all medical colleges affiliated thereto. In *Paschim Bang Khet Mazdoor Samithi v. State of West Bengal* (1996) 4 SCC 37 the Supreme Court has held that denial of medical aid by Government hospitals to an injured person on the ground of non-availability of beds amounted to violation of right to life under Article 21 of the Constitution. In *Consumer Education and Research Center of India v. Union of India* (1995) 3 SCC 42 the Supreme Court held that the right to health and medical care is the fundamental right under Article 21 of the Constitution as it is essential for making the life of the workmen meaningful and purposeful with dignity of person. Right to health to a worker, according to the court was an integral facet of meaningful right to life. The health of the worker enables him to enjoy the fruit of his labour. Medical facilities to protect the health of workers are, therefore are the fundamental human rights to make the life of workmen meaningful and purposeful with dignity of person.

¹⁰⁷ Hohfeldian scheme of distribution may be of great help, see his *Fundamental Legal Conceptions*.

Human rights in Jewish Period were based on the theocratic doctrine of 'direct rule of God' and insistence was made on the independence of man. Hypothetical covenant was visualized with the God for securing freedom and equality to man. Liberty is considered as the residue after prescription of duty. Thus, seeds for freedom, independence, equality and duty as concepts of human rights were sown during this period.¹⁰⁸ Disabled, sick and old aged persons were to be treated as equals with others and provided with the opportunities to develop themselves as dignified persons by using their worth as human beings.

Process of balancing the freedom of man with the authority of the king is continued during Greek Period. Socrates faced death due to this. Plato said that each one to be assigned the role for which he is best fitted and the ruler-ship should be in the hands of a philosopher king. This philosophy is based on the understanding that every individual is endowed with certain faculties and is a useful member of the society. He should be allowed to use his faculty to the best of his advantage as well as the advantage of the society. There is room for all including the persons with disabilities, old age and ill health to contribute their might to the construction of the society by rendering the job for which they are best fitted. There cannot be any better idea that can be contemplated in any civilized society for the well being of these neglected lots. Perhaps ideas of Plato are more relevant in contemporary times for the purpose of rendering justice to the neglected people with disabilities, old age and ill health. Aristotle distinguished between distributive and corrective justice. Distributive justice is based on the principle that there has to be equal distribution among equals¹⁰⁹. The distribution is of honours or money or other things that fall to be divided among those who have a share in the constitution¹¹⁰. Corrective justice seeks to restore equality when this has been disturbed, e.g., by wrongdoing, which assumes that the situation that has been upset was distributively just. Persons with disabilities, old age and ill health are less equals and are to be given favourable treatment to render justice to them.

¹⁰⁸ Dias RWM, *Jurisprudence*, 5th ed., 1994, Butterworth, p.72.

¹⁰⁹ *Nicomachean Ethics*, V (Trans Rackham), 3.

¹¹⁰ *Nicomachean Ethics*, V, 2.

During the Roman Period, Cicero¹¹¹ advocated for equality of men under universal law. He argued that man stood highest in creation by virtue of his faculty of reasoning, and his welfare is thus the supreme purpose of creation. Since human welfare is the purpose of creation, men should spare no effort to help others. Any shortcomings in the laws made can be remedied by resort to the rational, social and moral norms of universal law. In his scheme one can find opportunity to everyone including the marginalized people to live with human dignity under his philosophy.

St. Augustine said that the Church is the exponent of Divine Law and is entitled to interfere with institutions of positive law if they are unjust. The Church is the central place regulating the activities of the society in which old age persons, sick and handicapped persons work and rise in their self and attains salvation along with others. Interference with human institutions by the Church is justified to the extent of their unjustness. Whenever these people are not treated properly the Church can interfere and ensure that every one lives with human dignity. Human rights are sought to be protected through the Church adding the divine dimension¹¹² to the jurisprudence of human rights.

St. Thomas Aquinas¹¹³ preached for equality within the framework of a stable society. Church is the repository of natural law. A scheme of eternal law, divine law, natural law and human law is developed to provide every one his legitimate due. Human law is to be followed if it is in conformity with natural law. This is how rational explanation is given to the divine approach to the human rights philosophy.

Social Contract Theorists evolved the theory of individual's inalienable rights which are human rights in the modern parlance. Hobbes¹¹⁴ advocated a theory of social contract whereby each surrendered his rights to a sovereign ruler in return of guaranteed peace and greater security in the wake of danger from fellow beings. His postulates are very much relevant in the case of rights of persons with disabilities, old age and ill health

¹¹¹ *De Republica*

¹¹² Dias RWM, p. 77.

¹¹³ *Summa Theologica*

¹¹⁴ *Leviathan*

as their rights are at risk. Locke¹¹⁵ formulates a different version of social contract for securing the property which includes life, liberty and estate. Purpose of the government is to protect rights regarding life, liberty and estate that are enjoyed by every individual. Individuals retain these inalienable human rights within a system of social contract.¹¹⁶ This is the era of emergence of full-fledged Human Rights philosophy. Life is viewed as the most precious thing and has to be protected. No one should be allowed to lose his life due to ill health or carelessness in their old age or because they are suffering with disabilities.

Sociological Theories have evolved their formulations on the basis of the idea that every individual has certain interests which need to be protected by law. Interests of persons with disabilities, persons of old age and sick may be different from other human beings. At times interests of these persons may conflict with the interests of other persons. Ihering said that “law is the sum of the conditions of social life in the widest sense of the term, as secured by the power of the State through the means of external compulsion.”¹¹⁷ Bentham said rights are to be evaluated with reference to the utility principle based on pleasure and pain.¹¹⁸ Pound formulated the theory of balancing of individual, public and social interests in social engineering and protects the interests in such a way that the system yields maximum benefit to the maximum number of people with minimum of friction and waste.¹¹⁹ Duguit emphasized the interdependence of men as an outstanding fact of society. All organizations should be directed towards smoother and fuller co-operation between people to attain social solidarity.¹²⁰

John Rawls¹²¹, who is a pioneer of modern times to formulate a general theory of justice, advocates for the most extensive liberty to a person with similar liberty to all. Arrangement of social and economic inequalities for the greatest benefit of the least advantaged indicating the importance of rendering justice to the least advantaged persons.

¹¹⁵ *Second Treatise on Civil Government*.

¹¹⁶ Dias RWM, pp. 79-84.

¹¹⁷ *Law as a Means to an End*, p. 380.

¹¹⁸ *Introduction to Principles of Morals and Legislation*.

¹¹⁹ *Interpretations of Legal History*, p. 156.

¹²⁰ Dias RWM, p. 437.

¹²¹ *A Theory of Justice*.

According to him principles of social justice are necessary for making a rational choice between various available systems¹²². Principles of justice, as dictated by prudence, are those which hypothetical rational persons would choose in a hypothetical ‘original position’ of equality. The Basic Principles of Justice are generalized means of securing certain generalized wants, ‘primary social goods’, comprising what is styled the ‘thin theory of the good’, i.e. maximization of the minimum (as opposed to a ‘full theory’)¹²³. These primary social goods include basic liberties, opportunity, power and a minimum of wealth. The First Principle of Justice is: ‘Each person is to have an equal right to the most extensive total system of basic equal liberties compatible with a similar system of liberty for all. The Second Principle of Justice is: ‘Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principles, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity’¹²⁴

John Finnis in his *Natural Law & Natural Rights Theory* talks in terms of basic values consisting of knowledge, life, play, aesthetic experience, sociability, practical reasonableness and religion. These basic values and the requirements of practical reasonableness should be the basis for the legal system in which the natural rights of individuals are best protected. Finnis describes justice as other oriented, i.e. it concerns relations with others, it is owed as a duty to another, and it involves equality in the sense of proportionality¹²⁵. All these aspects are directed towards the common good, which reflects that every one in the society is entitled for his legitimate share in the benefits that accrue in that society, whether he is suffering with disabilities, old age and ill health or not.

Ronald Dworkin says that rights have a dimension of weight. One cannot talk of rights coming and going with fluctuating calculus of utility. Individual rights cannot be overridden every time; they should be immune from general welfare. Central concept is

¹²² *Ibid*, p. 4.

¹²³ *Ibid*, p.396.

¹²⁴ *Ibid*, p. 302.

¹²⁵ Finnis, *Natural Law and Natural Rights*, pp. 161-162.

equality, which means right to equal concern and respect.¹²⁶ This theory paved way for the creation of right-oriented jurisprudence. Fundamental rights represent the promise by the majority to minorities that their views will be respected. The views and interests of persons with disabilities, old age and ill health need to be given their place in the formulation of laws for the overall good of the society. Otherwise law and legal institutions will be condemned as instruments of exploitation in the hands of the strong to exploit the weak.¹²⁷

Social Security Institutions in Earlier Times

Hindu Undivided Family in India and *Paeter Familias* in Rome were the two great social institutions of ancient times, which were the places of security for all dependents such as persons of old age, ill health and disabilities.¹²⁸ Persons of old age were automatically taken care of in joint families and they had their own role to play as care takers of the children and the house-hold. Persons with disabilities are provided with the same facilities as those of other members in the family. They also would get married and lead a decent family life. Their requirements were taken care of by other members of the joint family. Persons suffering with ill health of whatever type were never a burden in those families. Their health problems were taken care of by others in the joint family. Along with the advantages, there were few disadvantages in these traditional institutions. People with disabilities, old age and ill health did not enjoy equal social status with other members of the family. There was no economic independence for them. They have to depend upon others for every thing.

In the modern context, the problems of persons with disabilities, old age and ill health became worst confounded due to transformation of families into nuclear families. Persons with disabilities, old age and ill health became virtually destitute as there were none to take care of them. In view of this precarious situation state has to provide security to these people. Old age and destitute homes are built by NGOs and state machinery. What was family responsibility in earlier times has become the social and state

¹²⁶ *Taking Rights seriously*, p. xii.

¹²⁷ Law is described as instrument of exploitation by Karl Marx and Engels in *Das Capital*.

¹²⁸ Maine, *Ancient Law*, (Pollock's ed).

responsibility over the period of time. There are distinct advantages in the new system. These persons will be treated with dignity and will be getting the facilities as a matter of right against the state. Though it is a grey area at present, time is not far of when these persons will be getting enforceable rights for dignified treatment and required opportunities to lead a decent life of economic independence and dignified social status.

Conclusion

The establishment and maintenance of a just order requires just allocation of benefits and burdens. Legal machinery is partly the product of human calculations and also the product of ideological and social forces over which human control is limited, since human beings as members of society are themselves in the grip of these forces. Care has to be taken by the framers of laws and those who administer these laws that no one particular section of the society is left out in the allocation of the benefits. A society that cares more for the people who are disabled, old and suffering is more civilized than others and would be more stable a civilization than others.