Law must serve changing needs of community, says President

Special Correspondent

BANGALORE: President Pratibha Patil on Friday said the law has to serve the changing needs of the community and adapt itself to the changed requirements.

"Law cannot be a static body of rules but must adapt itself to change and changed requirements so as to serve its purpose in a better way," she said.

Ms. Patil, who was chief guest at the first anniversary celebrations of the Bangalore Mediation Centre (BMC) here, said a balanced relationship has to be maintained between the legal system, justice delivery and social needs. A "friendly legal system" would offer simplified options to litigants so that "justice is neither delayed nor denied" to them. Currently, a combination of factors have resulted in making judicial remedy time-consuming and it is said that people are leaving behind for their children a "legacy of litigation."

In a four-page address to the gathering comprising judges, advocates and top government officials, the President said "with a backlog of over 30 million cases, it takes years for a case to be heard and resolved." In 1999, Parliament amended Section 89 of the Civil Procedure Code to redress this situation and introduced Alternative Dispute Resolution Mechanisms.

Ms. Patil said the modern-day mediation process is similar to the punctual system of olden days. Mediation allowed voluntary participation of the disputing parties, where they play an important role in formulating the terms of settlement.

They also have the option to revert back to the normal judicial forum if there is no success in mediation, she said.

Stating that mediation offered an opportunity of resolution, establishing communication between disputing parties, helping them understand each other's issues, she said the system avoids hostility between parties and reduces the possibility of corruption.

Noting that mediation had a positive impact on the judicial system, she said it lifted some burden from the courts. Suggesting lawyers to follow the footsteps of the Father of the Nation, she said the true function of the lawyer was to "unite the parties."

In his address, Governor Rameshwar Thakur said access to justice was a fundamental right of every citizen. The rulings of Indian courts, including that of the Karnataka High Court, were used as precedents in other parts of the world.

Chief Justice of the Karnataka High Court Cyriac Joseph said 1.20 lakh of cases were pending before the High Court and 1.95 lakh cases were pending before subordinate courts.
A perspective on law reform

A pragmatic exercise of legal engineering is needed to validate the substantive constitutional propositions beyond vain verbosity. The recently formed Law Reforms Commission in Kerala is geared to this goal.

V.B. Krishna Iyer

Wandering between two worlds, one dead.
The other powerless to be born, WTO waits forever yet to rest on any head. Like these, on earth I wait forborn.

— Matthew Arnold

 Colonial India has been formally dead for six decades, but many of free India's have-nots still have nowhere to rest their heads. Foreign and native tycoons are freeloading our surplus resources, while countless indigents are traumatically left in the lurch. Revolutionary India, which has had its trial with destiny, has been striving to be born as a hailed Republic, but it has yet to incarnate as socialist, secular, democratic liberar except in asalem constitutional virage.

India that is Bharat has a variegated history and has seen several shifts in political power and state structure. The feudal-colonial culture under plural princely fiefdoms, followed by a satellite social order shaped by imperial Britain, has formally pediarch but actually survives after death. That is why the country is still toady an alien consumerist style of life with contempt for native austerity and sanity, and blink, devoid of its nationalism, at the millions who are below the poverty line and lost in slum destination.

Are we a truly, zany or flankey of global big business bullies, while our legacy makes us the pinnacle of ancient cultural heritage? If our government gives in to exotic dependence syn-drome, social, economic and political, our politicians are betrayers of people-oriented development. We are non-violent battle-woin sovereign nation, with a Constitution that is sublime and supreme. Its Preamble, with a dynamic paramountcy, declares that India is a socialist, secular, democratic republic but this glorious status, currently in the grip of the greedy dollar and creamy native 'monopoly', is gradually unfolding as a cultural Kowser, federal wonder and egoistic power. Our countrymen are not well informed that 'We, the People of India' in their billions, not the grabbed bunch of billionaires and big business magnates, native and foreign, are the master of Bharat. The hungry millions are never too marginal to matter.

Situation of contradictions

Recently we are in this situation of grave contradictions, with a Constitution rich in its patriotic commitments but its reverse in its trinity of instrumentalities. Our idea of laws and law-focused operators have a foreign flavor and developmental cosmetics. That is India's crisis today. The laws that keep us colonial or suffer satellite status, defining us as our crimson future, ought to be transformed. This should become a mission and a passion.

The conception and recent formation of a Law Reforms Commission in Kerala has an ideological, purpose-focused commitment, a democratic, legislative methodology and a nationally unitive, time-bound destination. It is a luminous step towards fulfilling our task to use law, not mere execitative action, to achieve this challenge of change.

This fundamental fallitude is the sine qua non of our Constitution-ndependent Republic. Such a process will find its finest hour if it has a blend of integrative integrity only if a militant humanitarian transformation in the laws of India, beyond illusive placebo, is achieved. This articulation should be the thrust of any authentic law reform commission.

The Commission that has been appointed in Kerala is geared to these great goals as a pioneer in the field of socio-economic and related law reform experiments. The Commission's task is provincial but its vision is national. Such locational motivation and a poetic exercise ought to be the locomotive of any progressive commission of its kind.

Society without legality is barbarity. Rule law, be it substantive or preventive. Prevailing state of order, productive of chaos and productive of peace, must fill the bill of the preemptive prescriptions, without which legal India may degenerate into a functioning anarchy. Fostering as hasty fumes the developmental justice desideratum of the weaker sections of humanity.

Nehru's historic words are apt here:

"Long years ago we made a trust with destiny and now the time comes when we shall redeem our pledge not wholly or in full measure but very substantially. The service of India means the service of the millions who suffer, it means the ending of poverty and ignorance and dease and Inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us but as long as there are tears and suffering, so long our work will not be over."

Believer in kings or princes or in the one who produces the modern range of industry, who have greater power over the lives and fortunes of men than even the kings of old, and whose sciences are more predatory than those of the old feudal arbitrariness. But we must realise that the philosophy of socialism has gradually permeated the entire structure of society the world over and almost the only points in dispute are the pace and the methods of advance to its full realisation.

India will have to go that way too, if she seeks to end her poverty and inequality, though she may evolve her own methods and may adapt the ideal to the genius of her race."

I sheed the Prime Minister, and the president of the ruling Congress, not to jettison the legacy of Jawaharlal Nehru and Indira Gandhi. The imperative perspective of the Preamble obligates pragmatic legal engineering to validate the substantive constitutional propositions beyond vain verbosity. The Planning Commission was constituted precisely to evolve practical plans, policies and processes to liberate the country from propertarian administration, impoverished villages of agrarian neglect and grimy slums sans human rights. We need an egalitarian haven of good life.

Values undermined

Indira Gandhi as Prime Minister nationalised certain industries and introduced several pro-left policies and institutions. There has been no maternal change in the fundamental law to sustain a reversal of ideology, policy, or praxis since the Nehru-Indira era. The Eleventh Planning Commission has shocked many informed jurists, sensitive statement and media nationalists by its pro-imperialist and anti-swamy declaration of policy, bluntly relativistic of the Gandhi-Nehru essentials. Since 1947, these basic values were, by covert and cowardly shifts, undermined. Even the Supreme Court behaurs with shabby constitutional imbrigo. Its oath-bound source of power is the dictum of paramount law. Every Law Reforms Commission in India must obey the socialist, social and humanitarian philosophy. This is the alpha and omega of the Commission formed in Kerala, of which I am the Chairman.
Hold more Lok Adalats, CJI tells High Courts

First Lok Adalat of Supreme Court settles 25 cases in one day

FOR THE PEOPLE: The first Supreme Court Lok Adalat in progress at the complex in New Delhi on Saturday. — Photo: Shanker Chakravarty

J. Venkatesan

NEW DELHI: The Supreme Court, in its first Lok Adalat on Saturday, settled 25 cases arising out of appeals relating to motor accident compensation claims and matrimonial and labour matters pending for years.

For the first time, cameras were allowed inside the court hall for the media to take pictures of the proceedings.

Inaugurating, Chief Justice K.G. Balakrishnan said courts should settle disputes through Lok Adalats at regular intervals to meet the biggest challenge to the judiciary—pendency.

"We want the High Courts to organise Lok Adalats on a larger scale," Justice Balakrishnan sought the cooperation of litigants in making adjudication through this medium a success.

"Lok Adalat comes as a relief to a large number of litigants and as salvation for the courts burdened with a large pendency of cases. Maybe, a few drops of water in the ocean, as some cases could be settled with the consent of both parties. Lok Adalat would help in the settlement of cheque dishonour cases, motor accident claims cases and other criminal cases which are compoundable."

On Saturday, 45 cases were listed for hearing; 32 accident compensation claims before a Bench headed by the Chief Justice and 13 matrimonial and labour disputes before Justices Ashok Bhan and Afzal Alam.

Initially, the Chief Justice along with Justices Arijit Pasayat and F. Sathasivam settled in a few minutes two cases of accident compensation claims with the consent of the parties and representatives of insurance companies. Thereafter Justices Passayat and Sathasivam settled 21 accident compensation cases. Seeing the plight of the victims, insurance companies readily agreed for a settlement to the satisfaction of the claimants.

While one matter was not taken up, 10 cases were adjourned. Of the 18 cases before the other Bench, four were settled and nine got adjourned.
Judicial infrastructure plan to figure at meet

Mannohman to inauguraye conference of CMs, CJs today

J. Venkatesan

NEW DELHI: Prime Minister Manmohan Singh will inaugurate here on Saturday a conference of Chief Ministers of the States and Chief Justices of High Courts on judicial reforms.

The plan proposes new initiatives such as fast track courts, second shift in existing courts, and uniform practices and procedures, aimed at reducing delays and overcrowding.

A note prepared for the meet points to the measure amount of Rs. 3,996 crore allocated for the judiciary in the Ninth Plan (1997-2002), which amounts to 0.071 per cent of the total expenditure of Rs. 641,207 crore. During the Tenth Plan (2002-2007), the allocation was Rs. 970 crore, 0.078 per cent of the total plan outlay of Rs. 8,93,183 crores.

Such measures are grossly inadequate to meet the requirements of the judiciary, the note says. It points out that unlike in other departments of the Government, more than half of the amount spent on the judiciary is raised from the judiciary itself through collection of court fees, stamp duty and miscellaneous matters.

The governments should provide adequate funds at the disposal of the High Courts for augmenting infrastructure, it says. On video conferencing in criminal cases, the note says, it is not uncommon for the criminal cases getting adjourned on account of inability of the police or jail authorities to produce the accused in court. Sometimes the witnesses are residing at far-off places or even abroad. It is not convenient for them to attend the court. Video conferencing is a convenient, secure and less expensive option, for not only extending the remand of the accused but also for recording evidence, it points out.

Expressing concern over the delay in disposal of cases, it says “the delay in the disposal of cases has affected not only the ordinary type of cases but also those which by their very nature, call for early relief. The problem of delay and huge arrears start at us and unless we can do something about it, the whole system would get crushed under its weight.”

“We must guard against the system getting discredited and people losing faith in it and taking recourse to extra-legal remedies with all the sinister potentials. The Governments should not allow their financial constraints to come in the way of increase in the strength of judges,” the note says.

Training programme for lawyers

Staff Reporter

CHENNAI: The British Council, under its Governance and Social Justice Programme in India, is facilitating a Civil and Commercial Mediator Foundation Training Programme for Indian lawyers in partnership with the ADR Group, Bristol, UK, and the Indian Centre for Mediation and Dispute Resolution, Chennai.

The four-day intensive programme will be jointly conducted by two UK trainers and an Indian, to 20 select lawyers from across India to acquire core mediator skills and become accredited mediators. Mediation is a widely-used method to help parties resolve disputes.

It will be launched by managing director of The Hindu, N. Murthi at the British Council on June 28 at 10 a.m.

Judicial officers keep off conciliatory meeting

Special Correspondent

CHENNAI: Taking exception to the “threat and humiliation” caused by some advocates to a lady Magistrate here, the Tamil Nadu Judicial Officers Association stayed away from a conciliatory meeting called by the Madras High Court Advocates Association here on Saturday.

The meeting was to discuss an incident involving the alleged assault of Munuganandham, V. Metropolitan Magistrate at Egmore, by advocates a few weeks ago. Following the incident, the First Bench of the Madras High Court had initiated suo moto contempt proceedings against some advocates and criminal cases too were registered.

However, hearing an anticipatory bail plea of an accused advocate, the Supreme Court suggested that the judicial officers and the advocates resolve the issue amicably through dialogue. It was in this context that the MHAAC called the meeting on Saturday.

However, noting that a similar incident of threat and harassment was caused to a lady judicial officer on January 28, the Judicial Officers Association decided against participating in the meeting.
CJI refutes charge of corruption in judiciary

Immediate action is being taken even if one or two cases come before us, says Justice Balakrishnan

Prime Minister Manmohan Singh with Chief Justice of India K.G. Balakrishnan at the conference of Chief Ministers and Chief Justices of High Courts in New Delhi on Saturday. (Right) Chief Ministers Prem Kumar Dharma (Himachal Pradesh), Ghulam Nabi Azad, (Gandhi and Kashmir) Narendra Modi (Gujarat) and Bhupinder Singh Hooda (Haryana) at the meet. - PHOTOS: SANDEEP SAXENA

Legal Correspondent

NEW DELHI: Chief Justice of India K.G. Balakrishnan on Saturday refused to join issue with Prime Minister Manmohan Singh on corruption in the judiciary. He also made it clear that the office of CJI would not be covered under the Right to Information Act.

In the morning while inaugurating the conference of Chief Ministers and Chief Justices, Dr. Singh had said: “Apart from pendency and delayed justice, corruption is another challenge we face both in government and the judiciary.”

Addressing a press conference in the evening, the Chief Justice denied that Dr. Singh referred to corruption in judiciary. He said what the Prime Minister meant was that special courts must be created to deal with corruption cases. He refuted the charge of corruption in the judiciary and said “immediate action is being taken even if one or two cases come before us.”

He said there were about 6,000 cases investigated by the CBI, most of them related to corruption and what was suggested was more CBI or special courts to deal with such cases.

Asked whether the CJI would come within the ambit of the RTI, he said: “The CJI is not a public servant in the strict sense. He is a constitutional functionary and constitutional authorities are not covered under the RTI.”

To a question whether Supreme Court judges declared their assets, Mr. Justice Balakrishnan said: “At the time of their appointment, every Supreme Court judge has to declare his assets. Thereafter, if any property is purchased, he has to give the information to me in a sealed cover. This must be the case with High Court judges (who would furnish the information to the Chief Justice of the High Court concerned).”

On the introduction of a law in Parliament on judicial accountability, the CJI said it was well within the domain of Parliament to enact a law. On the need for a change in the system of appointment of judges by the National Judicial Commission, he said: “We can’t say anything about this. We are bound by the Supreme Court judgment (in judges appointment).”

On the setting up of regional Supreme Court Benches, the CJI said: “Only the Full Court of the Supreme Court has to take a decision in this regard.”

Judges salary

Asked whether the conference of CJIs passed any resolution seeking hike in the salary of judges, the CJI said: “Though it was on the agenda, we never discussed it. Anyway if there is an increase in salary of other constitutional authorities, our salary will also be increased. Why should we go and bargain for this?”

Law Minister H.R. Bhardwaj intervened and said: “Judges never demand pay hike. It is only the government which raises their salary periodically taking into account various factors.”

He said: “Apart from setting up evening courts, we have requested the High Courts to increase the working hours by 30 minutes or to reduce the number of holidays and it is up to the respective Chief Justices to take action in this regard.” He, however, ruled out increasing the working hours in Supreme Court. On raising the retirement age of judges, he said: “We have reiterated last year’s resolution that the age of High Court Judges be raised from 62 to 65.”

Courts for petty cases

In his keynote address in the morning, the CJI pleaded for the setting up of new courts to deal exclusively with petty cases. He said some special magistrates could be appointed and “if States are prepared to give some budgetary allocation for starting new courts, all these cases which have been pending for long could be disposed of.”

He wanted higher budgetary allocation for judiciary saying the present allocation was “grossly inadequate.” He said “We have got an independent judiciary. We receive rebuke from the public for many things for which we are not responsible,” he said.
Global justice, yes, but superpowers exempt

By Aryeh Neier

Fifteen years ago, on May 25, 1993, the United Nations Security Council unanimously adopted a plan to establish an International Criminal Tribunal for the former Yugoslavia to try those accused of committing war crimes, crimes against humanity and genocide. Subsequently, the UN established several additional tribunals to deal with atrocities by governments and guerrilla groups in other parts of the world. In 2002, separate from the UN, a permanent International Criminal Court was established to deal with such crimes worldwide in countries that accepted its jurisdiction, or by their forces, in situations referred to the ICC by the Security Council.

In just 15 years, international justice has advanced faster and further than at any time, except possibly the period of the Nuremberg and Tokyo trials and the adoption of the Genocide Convention of 1948 and the Geneva Conventions of 1949 that followed the unparalleled crimes of World War II. The anniversary seems a good time to take stock of what has been accomplished.

The tribunals have indicted more than 250 people from 10 countries in Africa, Asia and Europe. Although the tribunals lack their own capacity to make arrests, and few of the governments that created them have supported them in this crucial matter, they have succeeded in apprehending most of those indicted.

Among them were two sitting heads of state, Slobodan Milosevic of Yugoslavia, who died in prison while on trial, and Charles Taylor of Liberia, who is now in prison while he is being tried. The Prime Minister of Rwanda at the time of the genocide of 1994, Jean Kambanda, is serving a life sentence. Khieu Samphan, chief of state when the Khmer Rouge murdered about a million and a half Cambodians, is in prison. Two former members of the Bosnian Serb presidency are in prison while another, Radovan Karadzic, remains a fugitive.

When the ICTY was created, it was not possible for good faith prosecutions for war crimes to take place in the three countries that were then at war in the former Yugoslavia. Today, with the cooperation of the ICTY, such prosecutions are under way in Bosnia, Croatia and Serbia.

In addition, the example of the international tribunals has had a profound impact on national justice systems elsewhere. The effect has been most visible in Latin America where military officials and former heads of state have been placed on trial for abuses in Argentina, Chile, Peru, Suriname and Uruguay.

Of course, the international criminal tribunals have shortcomings. Some states continue to protect defendants. Those they have helped to evade trial include Karadzic and General Ratko Mladic, the most responsible for the genocide at Srebrenica; Joseph Kony, leader of the Lord’s Resistance Army, the guerrilla force that has conducted Africa’s longest war in northern Uganda; and Harun, the Sudanese official charged by the ICTY prosecutor with overseeing thousands of murders by the Janjaweed in Darfur.

In 15 years, international justice has advanced faster and further than at any time, except possibly the period of the Nuremberg and Tokyo trials and the adoption of the Genocide Convention of 1948 and the Geneva Conventions of 1949.

We are not yet at the point where international justice is a factor that must be weighed by officials of countries so powerful as the US, Russia or China. There is no prospect of indictments for Russian crimes in Chechnya or for American torture of detainees at Abu Ghraib and Guantánamo Bay. The refusal of the major powers to become parties to the International Criminal Court, and their power to veto resolutions of the UN Security Council, helps to ensure that they are exempt.

Another shortcoming is that the international criminal tribunals have failed to make those who facilitated crimes acknowledge their responsibility. An example is Serbia. Though Serb leaders, Serb media and the Serb military all played parts in launching the wars of the 1990s in Croatia, Bosnia and Kosovo, and though there were a few in Serbia who spoke out against those wars, not many Serbs accept responsibility for the crimes of their military forces.

Perhaps the situation is not hopeless. It took about two decades after World War II for Germans to accept political responsibility for the crimes of the Nazis. Eventually, however, aided by thousands of trials of Nazi war criminals before German courts, Germany transformed itself.

A key question, of course, is whether international justice is deterring the crimes that are its concern. Here, the signs are mixed. On the positive side, several African governments withdrew their forces from the Democratic Republic of the Congo in 2002 just in time to avoid indictment before the ICC. On the other hand, there is no let-up in the crimes committed by Sudanese forces in Darfur. Despite their flaws, the international criminal tribunals have achieved far more than anyone predicted when the ICTY was established 15 years ago.
High Court dismisses over 250 criminal original petitions

Special Correspondent

CHENNAI: The Madras High Court on Friday dismissed a batch of over 250 criminal original petitions, stating the court would direct the police concerned to register the first information report only if the complaint pertained to a heinous offence.

Justice M. Jeyapaul, making it clear that the court would invoke its inherent powers under Section 482 of the Code of Criminal Procedure to issue directions to Station House Officers (SHOs) to register cases in the event of offences such as murder or attempt to murder, rape or attempt to rape, robbery and dacoity, said society at large would lose faith in the system if the court did not go to the rescue of such victims.

The petitioners prayed for a direction to officials concerned to register their cases as the allegations pertained to cognizable offences.

Dismissing all but six petitions, Mr. Justice Jeyapaul said if a complaint reflected commission of grave offences and the SHO refused to register any case, then the High Court must necessarily give a direction to the officer concerned by invoking the jurisdiction under Section 482.

For less grave offences

As for less grave offences, which did not necessitate immediate inspection of the scene of occurrence, recovery of material objects and collection of potential evidence, the persons concerned must exhaust alternative remedies such as approaching the jurisdictional Superintendent of Police or the Judicial Magistrate as provided in the Cr.PC, he said.

If the SHO exhibited supine indifference or callousness in registering such cases, which warrants immediate attention for the purpose of saving the very case from collapse, then inspite of the alternative remedy available under the scheme of the Cr.PC, the aggrieved party could very well invoke Section 482 of Cr.PC to rescue the ends of justice, the Judge noted.
Social composition of panchayats

With the ongoing panchayat elections in West Bengal, this is a good time to examine what such elections reflect. It is now taken for granted in different parts of India that locally elected panchayats can be important instruments for ensuring more effective delivery of different public services and governance programmes, as well as means of social and political mobilisation for more democratic outcomes. But even when the panchayat raj institutions were given prominence two decades ago through the passing of the 73rd and 74th Constitutional Amendments, this was not so obvious.

In fact, West Bengal was a pioneering state in this regard, which set the agenda for the rest of the country. The positive experience of West Bengal’s own panchayat legislations and subsequent measures at decentralisation of different powers were set as the model for other states in the country.

However, there was one significant feature of West Bengal’s experience that made the decentralisation process much more democratic — the fact that it was provided and accompanied by significant land reforms. These increased the power and status of previously marginalised and oppressed groups, encouraged them to participate more actively in gram sabhas and panchayats and increased their proportion in the elected representation.

It is this feature of decentralisation being associated with progressive land reforms that has made West Bengal’s positive experience much harder to replicate in other states, with a few exceptions such as Kerala and Tripura, since there have hardly been significant land reforms in the rest of the country. But it is particularly important because it prevents or reduces the possibility that the panchayats get dominated by village elites, especially large landlords, moneylenders and traders, and thereby reinforce power equations that are already skewed against the poor and socially marginalised groups.

Data on the current composition of panchayats indicate that less well-off categories are more numerous in the panchayat membership and traditional elite groups are hardly represented. Agricultural workers and household workers dominate in terms of the major occupations, but agricultural labour is also reasonably well-represented even at the panchayat samiti level. Teachers do have disproportionate representation. However, landlords and those involved in business, who tend to dominate in the panchayats of most other states, are insignificant in number and as a proportion of total panchayat members. Related to this has been the different social composition of panchayats in terms of caste categories, which is also different in West Bengal compared to other states. While data on occupational background of panchayat members are not easily available for other states, we do have some information on social background and gender for other states, based on a study commissioned by the Ministry of Rural Development. The table presents the results, which refer to five states, in comparison to data from West Bengal, all relating to the period 2001-04.

The most striking feature to emerge from the table is the much greater representation of scheduled castes at all levels of panchayats in West Bengal, compared to all the other five states. This cannot only be explained by the recent presence of SCs in the population of West Bengal, which is high in 23 per cent. The share of SCs in total population is just as high in Maharashtra yet SCs are significantly less in proportion to total elected representatives. Indeed, the representation of SCs in the panchayats is well above their share of population in West Bengal.

The same is true of scheduled tribes. The proportion of STs in total elected panchayat membership in West Bengal may appear to be small at 7.2 per cent, especially in relation to the higher figures evident for tribally dominated states such as Chhattisgarh and Madhya Pradesh. But it is higher than the share of STs in the total population of West Bengal (5.5 per cent). It is also worth noting that both SCs and STs have been relatively well represented not only at the gram panchayat level, but even at the higher tiers of district government such as the zilla parishads.

Another significant aspect relates to the empowerment of women through participation in panchayats. West Bengal has had a history of substantial representation of women in panchayats well before the 73rd and 74th Amendments were passed by Parliament. In fact, more than one-third of panchayat members have been women throughout the 1980s and 1990s. The table shows that this continues and that the proportion of women panchayat members at different levels is somewhat higher in West Bengal than in four of the other states. Only Uttar Pradesh has a slightly higher representation, but in that state the evidence on actual empowerment of women as a result of this is more mixed.

The participation of women, SCs and STs in panchayats tends to have dynamic effects on the social and political empowerment of these groups in general. It also has been seen to have positive effects on the general functioning and responsiveness of panchayats to people’s needs.

There is, therefore, enormous potential for progressive social change in such a process. Indeed, there is also need to ensure adequate representation from minority communities such as Muslims, for which we do not have the data to present to analyse the extent of participation. Panchayats in West Bengal are charged with a very wide range of powers and responsibilities, and these duties have been increasing over time. It is therefore very important to ensure that panchayat members are provided with the requisite facilities and enabled with administrative and technical resources to carry out their many functions.

It is encouraging to note that the state government has recently announced that for the newly elected panchayats as of June 26, 2008, pradhans of the gram panchayats will be declared as whole-time functionaries and their remuneration and honourarium will be reviewed accordingly. This was a much-needed measure to enable proper functioning, and along these lines other measures need to be taken to provide sufficient administrative support to all panchayat members. This is especially important for elected representation who come from weaker sections and have less in the way of their own financial and other resources.
‘Plaintiff has right to speedy trial’

Express News Service
Chennai, October 16

The right to speedy trial was not a fundamental right of an accused alone, but also of a complainant, the Madras High Court has observed. This right is implicit in Article 21 of the Constitution, said Justice K Mohanram while dismissing a petition in a dowry related case.

Roshan Sebastian, Daniel and Philo Daniel - all accused in a case under the Dowry Prohibition Act - had challenged the orders of a Judicial Magistrate in Coimbatore on the speedy disposal of a case. The Magistrate has accepted the plea from complainant Kavitha Stephen, seeking speedy disposal as she got a job in Canada. Hence the present petition.

PROCEDINGS ON TEMPLES: The Madras High Court has stayed for 12 weeks, all further proceedings in the takeover of administration of two temples by the Hindu Religious and Charitable Endowment Administration (HR&CE) Department.

On October 8, the HR&CE department took over the administration of Sri Kusi Viswanath Temple and Lakshmi Narasimha Perumal Temple at Kadapa in Kancheepuram. Justice R Sujana granted the stay while passing interim orders on a writ petition from N Sumantha Muthu Madhavacharya, a trustee of the temples.

DIRECTION TO MEDICAL COUNCIL: The Madras High Court has directed the Tamil Nadu Medical Council to furnish documents sought by nephrologist Dr P Ravichandran, an accused in a kidney scam, within a week. Judge K Kannan gave the direction, while disposing of a writ petition filed by Dr Ravichandran.

On August 28, the Tamil Nadu Medical Council suspended Ravichandran from practicing medicine until further orders. On September 24, Ravichandran wrote to the TNMC seeking certain documents relating to the suspension order to help him file an appeal. However, the council rejected the plea.

OFFICE-BEARERS ELED: R Rajagopal and P S Ashok alias Sinea Ashok have been elected the president and secretary respectively of the Theagaraya Nagar Social Club. KV Ramadoss is the new vice-president, while S V Parthasarathy is the assistant secretary. KV Srinivasan will hold the post of treasurer.

The elections were held on October 12, following a Madras High Court order. A retired judge of the high court and advocates supervised the elections.
‘Special courts needed to try graft cases’

Bring down curtain on delayed justice: PM

J. Venkatesan

NEW DELHI: “Apart from pendency [of cases in courts] and delayed justice, corruption is another challenge we face in both the government and the judiciary,” Prime Minister Manmohan Singh said on Saturday.

“The CJJ [Chief Justice of India] has written to me suggesting that we create special courts to deal with corruption cases. I agree that there is urgent need to do so. This will instill greater confidence in our justice delivery system at home and abroad.”

Dr. Singh was inaugurating a conference of Chief Ministers and Chief Justices of High Courts here.

Expressing concern at the huge pendency of cases, the Prime Minister said all must work together to end this era of delayed justice. Pendency continued to remain a key challenge though the issue figured prominently in all previous conferences. Pointing out that justice delayed could often mean justice denied, he said, “Pendency will continue to increase unless special measures are taken to liquidate the pending cases at a much faster pace.”

One of the measures to bring down pendency was to increase the number of judicial officers in the subordinate judiciary and judges in the High Courts and the Supreme Court and to upgrade judicial infrastructure, “The Centre is willing to help State governments in constructing new court buildings and residential accommodation for judges.”

Justice on doorstep

Explaining the government’s initiative in introducing the Gram Nyayalaya Bill, 2007, Dr. Singh said these courts would provide justice in relatively simple civil and criminal cases in 90 days. “It is also envisaged that the courts would function in a manner that justice can be delivered on the doorstep of the justice seeker. Over 2,000 such courts are expected to be established. Pendency can also be reduced through alternative measures for settlement of disputes. Many disputes can be settled through mediation and conciliation.”

Accumulation of arrears

Chief Justice K.G. Balakrishnan, who presided, said the delay in the decision of cases at all stages inevitably leads to accumulation of arrears and this problem has reached serious dimensions. The delay in disposal of cases leads to dissatisfaction in the public mind about the effectiveness of court process for ventilating grievances.”

ALTERNATIVE DISPUTE RESOLUTION

Use ADR to clear backlog: Judge

Express News Service
Trincomalee, November 2

ALTERNATIVE Dispute Resolution (ADR) mechanisms such as arbitration and mediation are significant steps towards reducing the time required for the judiciary to clear backlogs, said Justice R Bannanathai, at the district-level continuing education workshop conducted for 57 judicial officers of Trincomalee, Thoothukudi and Ramanathapuram districts, at the Mavannattu Sivaharan University on Sunday.

Justice Bannanathai said, “The number of cases pending with the courts in the country have remained stagnant. Hence, judicial officers and advocates should adopt ADR mechanisms such as arbitration, mediation, reconciliation and Lok Adalat, so that justice does not get delayed.”

Apart from speedy justice, ADR would also help reduce the number of pending cases. So, judicial officers and advocates should encourage ADR techniques, which would also reduce the demand for court services and resources, noted Justice Bannanathai.

Justice Bannanathai, who spoke on ‘Legal aid and access to justice for weaker sections’, said the public blamed the judiciary for the delay in disposing cases, but the real cause for the delay was the unusual cases filed each day. All such cases should be heard in a singe day to which there is not enough judges. He also stressed the need for remitting advocates and advocates should adopt ADR mechanisms such as arbitration, mediation, reconciliation and Lok Adalat, so that justice does not get delayed.”
The patchy Indian judicial record

A look at the state of affairs 60 years after Independence.

V.R. Krishna Iyer

The tricolour flies high, but today the Indian judicial culture flags. India liberated itself from the imperial yoke after a long struggle. Swaraj was won, without a war, in August 1947. The native princes vanished. A large unified democracy was wondrously woven together. The people of India, through Prime Minister Jawaharlal Nehru, made a try at destiny. They resolved that every Indian shall share in the freedom and enjoy social, economic and political justice, together with fine-tuned fundamental rights, in a poverty-free, secular society.

In the Constituent Assembly, the Founding Fathers enacted a Constitution, inscribing therein a triad of state instrumentalities: the Executive, the Legislature and the Judiciary. The judiciary, though without purse and sword, was the most august wing because it had paramount corrective power over the Executive when it violated constitutional provisions and over the Legislature when it transgressed the provisions of supervisory law as interpreted by judges (who were sometimes authoritarian, diabolical and absolutist), and vigilantly functioned as a counterweight with respect to every Indian’s human rights.

The autonomy, a pyramidal power of primordial importance, had in the High Court level considerable power to issue writs and directives. And at the level of the Supreme Court it had a vaster jurisdiction since it was functionally unfettered. This was so because it enjoyed constitutional finality and exercised the ultimate jurisdiction to declare the law under Article 143, to decide civil disputes and to command the effective support of the Executive and the Legislature to carry out rulings pronounced from its Bench, while itself acting within the ‘Lakshman Rekha’ of the Constitution.

The judicial process, attuned to the principles of natural justice, adopted the well-established adversary system of adjudication. The pattern of the court, in its ascending tiers, followed the hierarchical structure and was accessible, un

has on rare occasions defined, delayed and devalued. But such instances have been rectified later by larger Benches, critically pass to try their hands at constitutional amendments. Truth to tell, the judiciary system still has the rancor of the British past and licks the nose of Bharat’s recent. This is in contrast with the situation in the US, where the checks and balances philosophy and federal jurisprudence are essentially American.

In its performance the judiciary suffers least from the pathological infirmities of the other two wings. Indeed, the national holds the judiciary high in its esteem since some luminous members on the Bench are as good as the best in the Commonwealth or the US.

Even so, while a critical examination of the judicial process reveals a remarkable level of creativity and humanity, it is at times marred and mangled by grave and goofy theatricality, blatant deviances and daring delinquencies. The fundamental values of the Constitution and the autonomy implicit in powers of judicial jurisdiction and Cabinet initiatives are often ignored. These are rare instances but spoil the majesty of law. Our country has a non-negotiable and non-tolerance of obstructionist jurisprudence and Cabinet initiatives.

At the time of Independence, the Indian judiciary had a single pyramidal structure with a federal court at the apex as laid down in the Government of India Act, 1935. This institutional solidarity and unitive infrastructure continued until the Constitution was enacted and the Supreme Court was created. The Federal Court was eliminated and the judicial powers of the High Courts and the Supreme Court were constitutionally conferred with vast new vistas of jurisdiction and jurisprudence. The appointments, the judges, the courts and the judges involved in the highest bench, were all governed by the Constitution. Loosely speaking, the Constitution is largely borrowed from what the British left behind.

dia from the Empire, but colonial law and feudal justice has not been replaced by the dynamic principles of capitalism, secular, democratic justice meeting the raw realities of Indian life. Judicial jurisprudence has not possessed a progressive, inorganic and critical national commitment one would have expected from a system that was to administer social and economic justice in the context of penurious humanity, reflecting the prescriptive objectives.

Pending cases are astronomical in number, which produces people’s trust in the judiciary. Lag in litigation lures consuming considerable dilution from deck to deck, with supernumerary stages, has led to docketing piles up. One reason is that many judges dispose of cases without deliberating the real issues, thus leading to the rehash of the problems.

The judiciary is a national institution that the people hold in the highest esteem. In a democracy it is not unwise to acquaint the public with the truth about the workings of an instrumentality as strategic and sublime as the judiciary. The best way to eliminate the shortcomings of our judicial system is to keep our citizens informed about them.

Litigation is now a terror and horror. It is never final and is ever perennial. It hinders both birth, life and death. It industries and capricious judges.

The paradoxical, the appeal to the courts and the delays in decisions, could be avoided if the system is streamlined. A. H. Hartnett, a literary celebrity, in a lovely blend of wit and wisdom, observed: “The institution of one court of appeal should be considered a reasonable precaution, but two suggest panic.” People can be taught to believe in one Court of Appeals, but when there are two they cannot be blamed if they believe in neither.

In India, three, four or more appeals, revisions, reviews and special leave petitions make litigation a horrendous gamble. We urgently need three Judicial Commissions at the national and provincial levels. In an Appointments Commission, a Performance Commission and a Post-Scrutiny Commission, they should have the power even to terminate services for cause reference tribunal.
Legal services at your doorstep

Leena Sudi | ENS
Pulcherry, April 14

The free legal aid service awareness
camp organised by the Legal Ser-
cices Committee, Vanur Taluk was
held at the Panchayati Office at
Thiruchirimbaikan on Tuesday.
Over 110 cases pertaining to old age
pension and patta related issues
were presented during the aware-
ness camp.

The camp organised by the Legal
Aid Authority (LAA) mainly concen-
trated in delivering a remedy to the
goopy and deserving people.

Magistrate P Haridas of the Dis-
trict Muniravu camp Magistrate Court,
Vanur in his inaugural address said
that 50 years ago, people were ap-
proaching the courts for justice that
involved lots of money and time.

On the other hand, now-a-days the
court is approaching the people at
their doorsteps to highlight the sig-
ificance of justice and to provide
the poor and the needy various legal
remedies. He has also referred to two
interesting cases during his tenure
at the Salem and Chennai courts.

Through the LAA, justice was ren-
dered to two people from among
the four booked for murder by the Salem
court. Two were released by the
LAA, said Haridas. While in an-
other instance, a lady who was ar-
rested for prostitution, was later
released, after she had accepted her
offense and stated that she had sold
four of her children due to poverty,
said Haridas.

From among the 110 petitions sub-
mitted to the magistrate, one of the
participants in the camp T C Mohan-
am, General Secretary, Kallavan
Nagar Makkal Nalavuva Sangam,
also presented a petition regarding
violation of election norms.

The President of Thiruchirimbakan
Panchayati Pugazavanam Saktivel
proposed over the function. Advocate
P S Jayachandran, R Natrajan, Aru-
gnagam, M Mounusamy and others
participated. The Magistrate who re-
ceived the petitions assured the peti-
tioners that the remedies would be
provided after scrutiny.

“Failure to give reasons is denial of justice”

Giving of reasons is one of the fundamentals of good administration: Supreme Court

Legal Correspondent

NEW DELHI: Observing that fail-
ure to give reasons amounts
to denial of justice, the Su-
preme Court has asked High
Courts to give reasons in their
judgments or orders.

A Bench of Justice Arifj
Pasayat and Justice S H Ku-
padia said, “The giving of rea-
sons is one of the fundamen-
tals of good adminis-
tration. Reasons are live
links between the mind of the
decision taken to the contro-
versy in question and the de-
cision or conclusion arrived
at. Reasons substitute subjec-
tivity by objectivity. The em-
phasis on recording reasons is
that if the decision reveals the
‘incredible face of the sphinx’ it
can, by its silence, render it virtually
impossible for the courts to perform
their appellate function or ex-
ercise the power of judicial
review in adjudicating the val-
idity of the decision.”

Writing the judgment, Jus-
tice Pasayat said, right to rea-
sons is an indispensable part
of a sound judicial system.
Reasons at least sufficient to
indicate an application of
mind to the matter before
the court. Another rationale is
that the affected party can
know why the decision has
gone against him. One of the
salutary requirements of nat-
ural justice is spelling out rea-
sons for the order made, in
other words, speaking out.
The ‘incredible face of a
sphinx’ is ordinarily incon-
gruous with a judicial or quan-
si-judicial performance.”

In the instant case Daga-
ram challenged the order
passed by the Allahabad High
Court in a writ petition filed
by Agarmanth relating to al-
lotment lands by the State
Government to landless people.
The grievance of the apell-
ant in the special leave peti-
tion was that no reasons
were given in the order
passed by the High Court in
September 2003.

Allowing the appeal, the Bench
said, “The specific stand before the
authority was that the respondent
was not a landless person, as
therefore, he was not eligible
to be allotted any land. There
is no reference to this aspect
in the order.

On a plain case of denial of
justice, the High Court ought
to have set forth its reasons,
however brief, in order to indicative
of application of mind, all the more
when its order is amenable
further avenue of challenge.
The absence of reasons rendered the
High Court’s order not sustainable.”

The Bench set aside the order and
remitted the matter back to
the High Court.
President inaugurates Armed Forces Tribunal

Special Correspondent

NEW DELHI: President Pratibha Patil on Saturday asked the newly set-up Armed Forces Tribunal (AFT) to follow the strictest standards of probity.

"There should be predictability in court hearings and adjournments must be granted only in very exceptional circumstances. I hope the Tribunal will conduct its work in a manner which ensures that cases are handled expeditiously and proceedings are completed as soon as possible", the President said, inaugurating the AFT.

No backlog

The President suggested that the AFT put online its list of cases with the dates of hearings and asked it not to run up a backlog, defeating the purpose for which it was established.

Law Minister M. Veerappa Molly termed the AFT the 'magna carta' of Indian military history and hoped it would not get caught in the "juggernaut of bureaucracy."

Defence Minister A.K. Antony said the AFT had come into being 27 years after the Supreme Court observed the lacuna.

Archaic provisions

Chief Justice of India K.G. Balakrishnan said the AFT would be a better justice delivery system for the Services personnel.

He said the Army, Navy and the Air Force Acts had some archaic provisions owing to the colonial legacy, and the general perception was that sitting officers of the Court Martial were not inclined to fair justice.

The government has appointed the former Supreme Court judge A.K. Mathur as chairperson of the AFT, which will have 29 members. It has 8 judicial members and 15 administrative members. A total of 15 courts — three each in New Delhi, Chandigarh and Lucknow and one each in Kolkata, Guwahati, Mumbai, Kochi, Chennai and Jaipur — will function.

The AFT will provide a judicial forum for redress of grievances of some 4.3 million armed forces personnel and 1.2 million ex-servicemen. The decisions of the AFT can be challenged only in the Supreme Court.
1,000 victims of bus accidents yet to get compensation
Shyam Banganathan

CHENNAI: Victims of bus accidents in over 1,000 cases involving State-owned transport corporations are awaiting compensation.

In some cases, the wait has been on for nearly two decades. The total compensation to be paid is around Rs. 12 crore, according to S.K. Kharevanchan, former Congress MP.

Mr. Kharevanchan, a practicing lawyer, says some cases date back to 1992 and that in many of them, the courts had ordered seizure of the vehicle. The State-owned undertakings had not paid the compensation in spite of court orders.

"In cases of injuries, the court has ordered that Rs. 2 lakh be paid to the victims as far back as 1998. The interest has mounted beyond the compensation amount. Still, nothing has been paid," he says. Mr. Kharevanchan says that he had written to Transport Minister K.N. Nehru and Chief Minister M. Karunanidhi.

He has also filed a Right to Information (RTI) petition and is awaiting an answer.

"In many out of two or three vehicles have been seized but they have not been redeemed. In other cases, the transport corporation has diverted the bus concerned to another route to avoid seizure of the vehicle. We are even planning to auction a seized bus in one case because the victim’s family needs the compensation money urgently," he says.

CJ’s meet to discuss backlog
J. Venkatesan

NEW DELHI: A two-day annual conference of the Chief Justices of various High Courts will be held here on August 14 and 15 to devise ways and means to expedite disposal of cases and to streamline and improve the justice delivery system.

The conference will be presided over by the Chief Justice of India, K.G. Balakrishnan, Justice B.N. Agrawal and Justice S.H. Kapadia, the other two senior-most Judges, will also be participating in the conference.

"No magic wand"

The agenda note says, "the Courts do not possess a magic wand by which they can wave to wipe out the huge pendency of cases nor can they afford to ignore the instances of injustice and illegalities only because of the huge arrears of the cases already pending with them. If the courts start doing that, it would be endangering the credibility of the courts and the tremendous confidence reposed in them by the common man. However, the heartening factor is that people’s faith in our judicial system continues to remain firm in spite of huge backlogs and delays."

It says, "The delay in the disposal of cases has affected not only the ordinary type of cases but also those which by their very nature are for early relief. The problem of delay and huge arrears staves us all and unless we do something about it, the whole system would get crushed under its own weight. We must guard against the system getting is credited and people losing faith in it and taking recourse to extra legal remedies with all the sinister potentialities. The problem is much more acute in criminal cases, as compared to civil cases."

"Many a time such inordinate delay contributes to acquittal of guilty persons either because the evidence is lost or because of lapse of time, or the witnesses not remembering all the details or their not coming forward to give true evidence due to threats, inducement or sympathy."

Expressing concern over the arrears, it says at the end of 2008 the arrears of civil and criminal cases pending disposal in various High Courts was 38,74,090 — of which 31,63,352 are civil and 7,20,788 criminal cases.

In subordinate courts the total pendency at the end of 2008 was 2,64,09,011 — of which 1,96,69,163 are criminal and 75,39,848 civil cases. It says "the time has now come for us to put our heads together and find out ways and means to deal with the problem, so as to retain the confidence of our people in the credibility and ability of the system."

Other issues

The conference will also discuss among other things the progress made in setting up of evening/morning courts, strengthening of vigilance cells, computerisation of courts, holding of courts in jail by every Chief Metropolitan Magistrate or Chief Judicial Magistrate or Metropolitan Magistrate of the area on regular basis to take up cases of undertrial prisoners and to consider increasing the ratio of appointments to High Courts from among judicial officers to 50 per cent of the Judges’ strength of the High Court concerned instead of the present one third.
Special Correspondent

CHENNAI: Whether it is legal hearings over the telephone or making claims over the Internet, technology can speed up the delivery of justice, as the British experience has shown.

On a visit to the Madras High Court on Wednesday, United Kingdom’s Minister for Justice, Lord William Bach, told the city’s lawyers and judges how judicial reforms of various sorts are revolutionising the British legal system.

“People need access to justice, but not every dispute needs to be heard by a judge or in court,” said Lord Bach, summing up the spirit of the reforms. As a result, arbitration and mediation have been given more importance so that a smaller number of cases actually come to trial.

Civil cases are split into three tracks — small claims, fast track and the higher claims — each to be decided within a specified time period, with judges made responsible for time management. “It has transformed the civil justice system from a slow and costly process,” he said.

The Minister believes that technology must be used effectively to supplement these changes. “We offer free in-house mediation services for all small claims [below £5,000],” he said. “Ten thousand cases used these services last year, and 72 per cent were settled. Over 90 per cent were decided over the telephone.”

Over half a million calls were made for telephonic legal advice in the U.K. last year, while the Money Claim Online system offered by Her Majesty’s Courts has become popular among claimants and defendants. “In the criminal justice system, we are trying to reduce paperwork in petty crime cases.”

Of course, the most historic change in the British judicial system will take place in October, when the United Kingdom’s new Supreme Court will sit for the first time.

Until now, the House of Lords was the final court of appeal, and for over a century, special Law Lords were appointed to carry out the House’s judicial duties.

“They were a constitutional anachronism, since they were part of both the legislature and the judiciary,” said Lord Bach. The Law Lords will now become the first Justices of the Supreme Court, as the UK further implements the separation of powers.

Madras High Court Chief Justice H.L. Gokhale noted that the move represents international give-and-take. Sixty years ago, the new Republic of India drew from the British pattern of a parliamentary democracy and the rule of law. Now, U.K. will return the favour, as it opens a Supreme Court similar to the Indian pattern, he said.
Everything for justice

V. N. Arishta Iyer

T he Prime Minister and the Chief Justice demand more number of courts—in their thousands. This is part of the pathological arrears syndrome. The truth is more courts, more arrears, more lax judges, more examples of Parkinson's Law and Peter Principle. The real cause of the escalating arrears is the absence of accountability and transparency.

The correctional strategy is an effective Appointments Commission in place of the dubious collegium, a vigilant Performance Commission, and periodic collegial updating of jurisprudence. There is also a need to sensitize judges about socio-economic and political problems to pure down redundant docket and prolix hierarchy, streamline procrastination and ensure better-behaved proctorcy. On the whole, the Victorian system of justice administration should be eliminated and a transformation should occur. There should be periodic Law Reform Commissions whose recommendations are implemented by high-power judicial committees. There should be more itinerant decentralisation, evening courts, creative realism and a critical assessment of the curial hierarchy and public debate of judgments.

For more disposals, early finality and inexpensive justice, the purposeful therapy is not the arithmetical illusion of judicial mannequins but intelligent selection of the robes brethren, of result-oriented technology and summary procedure. One capable judge with sound social philosophy is a better instrument of justice than a dozen mediocre, indolent ignoramuses who merely add to the ailse of the system.

The Bar contributes to the incorruption of the justice system. Typically, an American attorney delivers better arguments in 30 minutes than a Senior Advocate would do in three days in an inert Indian court. An efficient bar is more promotive of the clarity of judicial dispensation than a devotees precedent—in a crowded, paper-logged, forensic, prolonged-performance system. The strategy of judicial excellence is not a play with numbers, or a game of hiding assets or delaying the delivery of judgments. The Supreme Court, which is inordinately the fifth deck of a poor system of justice, is infallible for the rich because it is final, not because it is wise, humanist and compassionate or within the reach of the poor.

The Chief Justice claimed that he had the title to represent the entire judiciary, claiming an unknown power oblivious of the fundamental fact that he is only first among equals and can be overruled by just two of his brothers. It was a joy to read of the daring move of the judges together asserting the transparency principle, defying the chief and deciding to make their assets public. To hide is to stowe suspicion and suspicion is the ills word under whose shade reason fails and justice dies.

Any judge who seeks immunity from truth under the cover of the robe robs the rights of We, the People of India, the sovereign of Bharat. Secrecy is unbecoming of the curial fraternity and shall be exposed if they justify their freedom from revelation by the People of India. The transparency of the socio-economic condition of the judges is not negotiable fundamental in any civilised system of justice. The court is an open book and if the Bench seeks an iron curtain between its economic interest and the litigant community it is violative of glassnost.

All's well that ends well. The huge majority of the judges of the Supreme Court has saved their reputation, dignity and integrity over the most powerful constitutional institution. The Chief Justice of India is the noblest office of justice and is ordinarily infallible, but the court as the whole is supreme and is governed by perestroika and glasnost. What a wonder that the whole court has upheld the finest doctrine of openness. Nothing to hide, everything for justice.

This is why India holds in baleful reverence the administration of justice. Never in the field of human conflict was so much owed by so many to so few. Fundamental rights, human values, sacred duties, peace and stability are governed by the performance of the court (Article 41). The best judge has nothing to hide and everything to discover without fear or favour and do justice to everyone, he be high or humble, without affection or ill-will.

Futile assertion

The pity of it is that the Chief Justice made a case when he vainly made a futile assertion that judicial assets are a hidden treasure. No, he made a mistake. But the fall court saw the wisdom of judicial assets being responsibly disclosed to serious citizens under accountable conditions, not to frivolous busybodies. The chief may be forgiven because even the great could go wrong.

It was Bismarck who wrote: "Is it so bad then to be misunderstood? Pythagoras was misunderstood, and Socrates, and Luther, and Copernicus, and Galileo, and Newton, and every pure and wise spirit that ever took flesh."

In our murky world of gloom, greed and agony, our duty is to save the country by means of a compassionate recipe la Vivekande: "Feel, my children, feel for the poor, the ignorant, the downtrodden; feel till the heart stops and the brain reeds and you think you will go mad. We talk foolishly against materialism. The grapes are sour... Material civilisation, ay even luxury, is necessary to create work for the poor. Read; I do not believe in a God who cannot give me bread here, giving me eternal bliss in heaven. Pooh; India is to be raised, the poor are to be fed, education is to be spread, and the evil of priestcraft is to be removed... more bread, more opportunity for everybody..."
Judges in India beasts of burden?

Prabhakar Rao Vorugunti | ENS
New Delhi, September 3

Justice S Ravindra Bhat, the Delhi High Court judge who almost made history on Wednesday by saying that the details of Apex Court judges’ assets can be made public under the Right to Information Act, also highlighted the hard work put in by the judges in India.

He said the members of the judiciary, including the higher judiciary, shoulder crushing burdens. He said the number of cases filed continued to increase and expenditure on the judicial branch was infinitesimal. The Chief Justices’ conference of 2006 noted that the budget allocation for the judiciary in the Ninth Five Year Plan was a meagre 0.071 percent of the total expenditure. And for the Tenth Five Year Plan, it was 0.079 percent.

The perception that the wheels of justice grind too slowly, in the meanwhile, continues. For the litigant, who pins his hopes on speedy resolution of his disputes, these explanations may wear thin; yet the judge who tries cases is not a superhuman, Bhat said.

He went on to point out that in 1987, the Law Commission of India recommended the appointment of 107 judges per million people when it found that the ratio was only 10.5 judges per million people. Most states have not been able to achieve it even today.

The public perception is that judges do not work after official hours and enjoy long vacations, a hangover of the British Raj.

On the contrary, a crushing load ensures that judges put in equal number of hours, sometimes more than what is spent by them in the open court, resulting typically in 10-14 hour working days, at times more. Most Saturdays are working days, as the judicial officer has to write the judgements and orders that are to be pronounced in open court, Bhat said.
RURAL COURTS

Speedy justice plan gathers momentum

New Delhi, September 23

The process to set up 5,000 rural courts across the country to speed up the disposal of cases will begin from October 2, the Law Ministry said on Wednesday. The notification to set up Gram Nyayalayas will come into effect on October 2, Law Secretary T K Viswanathan said.

Under the Law Ministry’s ambitious project, 5,000 rural courts will be set up at the panchayat level to dispense speedy justice.

Soon after the notification, the state governments will initiate a process to set up rural courts. The process will take some time, said Viswanathan.

The state government was initially reluctant to set up courts due to the expenditure involved. Prime Minister Manmohan Singh, while addressing judges at a national conference here last month, urged states to initiate “immediate action” to operationalise the Gram Nyayalaya Act in their states.

Singh said that while there could be differing views on the adequacy of the assistance being provided, this should not hold us from speedily bringing the act into force.

With more than 3.11 crore cases pending across the country, the rural courts will help get justice delivered at the doorstep of the common man.

Nearly 2.71 crore of the 3.11 crore pending cases can be attributed to subordinate courts. By the next fiscal, the central government plans to set up 200 such courts. The number will go up to 5,000 in three years.

The Gram Nyayalayas will deal with cases at a level below the subordinate courts, but in the same capacity.

The Gram Nyayalaya Act, 2008, provides for First Class Judicial Magistrates dispensing justice. They will be posted at the rural courts and will be called Nyaya Adhikaris.

They will be strictly judicial officers and will be drawing the same salary, deriving the same powers as the First Class Magistrates and working under the high courts, then Law Minister Hansraj Bhardwaj had said.

The Centre will bear the full cost on capital account of the courts to be set up at the district headquarters and in taluks. They will go in a bus or jeep to the village, work there and dispose of the cases. The cost of litigation will be borne by the state and not by the litigant.
Legal aid for poor just a step away

Express News Service
Puducherry, October 15

THE Government of India has recently introduced the system of gram nayalayas, aimed at providing inexpensive justice to people in rural areas. But there is an NGO which has been instrumental in providing such services to the rural folks for the past two years.

The Society for Social Justice and Human Resource Development (SOJAHUR) has been involved in various welfare activities and developmental programmes for the poor and downtrodden in rural areas, with special emphasis on women and child welfare. In order to redress the legal grievances of the villagers, SOJAHUR has been providing free legal services to the villagers.

In Puducherry, they are focusing on three commune panchayats, namely, Mannudipet, Bahoor and Netipakkam. According to MJF Lion M P Manoharan, an advocate and founder of SOJAHUR, the NGO began legal aid camp on January 18, 2006. Till now, they have covered villages like Thirubuvanam, Kalitheerthakkuppam, Vathanur, Sompet, Sorapet, Mannadiyattu, Karayampattur, Pangur, Edatungulayam, Komakkkam, Manakuppayam, Kanuvapet, Periyapet, Abhishegapakkam, T N Palayam and Nallavadi.

Manoharan said 40,002 persons benefited from the legal aid camps held at villages. A total of 12,376 cases pertaining to birth, death, marriage registration and legal heirs have been registered. Among them 6,459 cases were marriage related and 4,158 were birth related cases.

According to Manoharan, litigation is a big problem in rural areas as most of the people were unaware of legal formalities.