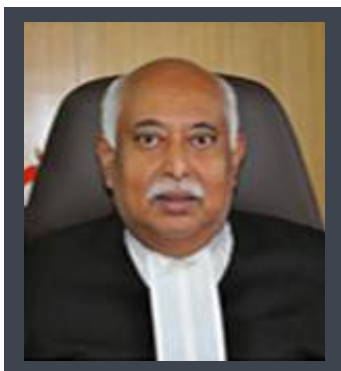




SIKKIM JUDICIAL ACADEMY NEWSLETTER

July-December 2023

Vol. XIX



Hon'ble Mr. Justice Biswanath Somadder,
Chief Justice, High Court of Sikkim &
Patron-In-Chief, Sikkim Judicial Academy



Hon'ble Mr. Justice Bhaskar Raj Pradhan,
Judge, High Court of Sikkim &
Chairperson/ Judge-In-Charge, Sikkim Judicial Academy



Compiled By:
Mr. Nima Gyalpo Sherpa
Director, Sikkim Judicial Academy

Sikkim Judicial Academy

Above Aadhaar Office, Sokeythang, Gangtok, 737102

Phone No. 03192-231541, 03192-231542 Email: dir.sja-sik@nic.in

Website: <https://sikkimjudicialacademy.nic.in>

	Page No.
July	
• Deliberation on Local Laws with special reference to Khatiyon, maps, survey settlement and other documents relating to measurements of land in Sikkim	1-2
• Special role prescribed by the Juvenile Justice (Care and Protection of Children) Act, 2015 to the various stakeholders while dealing with victims and child-in-conflict with law involved in POCSO Act, IT Act and IPC cases	3
August	
• Session on Law of Execution and Enforcement in Civil matters, effective proceedings in Execution Petitions	4
• Session on Disaster Management during Natural Calamities such as floods, earthquakes, famines, or epidemics	5
• Orientation Programme on Sikkim Government Service Rules, 1974 and other relevant rules	6
• Programme on Victim Justice and Criminal Justice Administration	7
• One-day awareness programme on Mental Healthcare Act, 2017	8
• Training/Workshop on Principles of Drafting, Pleading, Cross Examination, Professional Ethics and Commercial Courts Act, 2015	9-11
• Training on Challenges and Constraints faced in investigation of Narcotics Drugs and Psychotropic Substances Act, 1985 and Sikkim Anti Drugs Act, 2006	12-13
September	
• Session on Law of Precedents and Interpretation of Statutes	14
• Refresher Training Course on Appreciation and Recording of Electronic Evidence	15
• Session on Right to Information Act, 2005	16
• Training-cum-Workshop on Pleading, Drafting, Art of Cross Examination, Professional Ethics, Expert's Evidence, and Marriage Laws in Sikkim	17-19
• Skill Development Programme for the Counsellors of Family Courts of Sikkim	20
• Session on Ubuntu and latest Information Technology for effective use in the administration of justice	21

	Page No.
October	
• Online Research of Legal Journals with emerging concept of Artificial Intelligence in Judiciary	22-23
• Interplay between POCSO Act, 2012 & Juvenile Justice (Care and Protection of Children) Act, 2015 and Mental Care of Child	24
November	
• Session on Constitutional Safeguards in Criminal Jurisprudence and Principles of Bail in view of the guidelines issued by the Hon'ble Supreme Court of India	25
December	
• Special Interactive programme on sharing best practices and finding solutions to practical problems faced by Judicial Magistrates during trial	26
• Training & Workshop on appreciation of evidence in criminal trials and effective criminal trials procedure	27

Video Links of the Programmes/Training Sessions

Sikkim Judicial Academy conducted 19 programmes from July-December 2023. Of the total programmes, some were exclusively for the Judicial Officers and rest were conducted for other stakeholders of the Justice Delivery System.

Programme on “Deliberation on Local Laws with special reference to Khatiyen, maps, survey settlement and other documents relating to measurements of land in Sikkim” on 07.07.2023 for Judicial Officers of District Judiciary of Sikkim

Resource Persons:

Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim & Chairperson / Judge-In-Charge, Sikkim Judicial Academy;

Mr. G. T. Bhutia, Deputy Secretary, Land Revenue & Disaster Management Department, Government of Sikkim ; Mr. D. B. Manger, Revenue Officer, Land Revenue & Disaster Management Department, Government of Sikkim & Mr. Naresh Shilal, Deputy Director, Land Revenue & Disaster Management Department, Government of Sikkim

The programme commenced with Mr. G.T Bhutia and Mr. D.B Manger addressing on the demarcation of land boundaries. They emphasized the use of large trees, streams, rivers, and other structures marked on maps to identify land boundaries. They also stated that during demarcation of land, the presence of the boundary holders is necessary. They discussed on Khasra, Khatiyen, and record writing for land plotting. Regarding the transition of land records from 1950-52 to 1979-80, the Resource Persons deliberated on the changes in revenue blocks and the conversion of measurements from acres to hectares. Specific revenue blocks, including Deorali-Bazaar, Bojoghari, Gangtok, Upper-Tathangchen, and Chanmari were highlighted.



The Resource Persons informed that despite the 1979-80 land survey records, the 1950-52 land survey records are still being used for identification of land in Gangtok areas as the 1979-80 survey records for revenue blocks under Gangtok areas are not attested. The discussion also ensued on lands marked as 'Private Estate' during the Chogyal's rule, which remains a gray area.



Deliberation by Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim & Chairperson/Judge-In-Charge, Sikkim Judicial Academy

In the second session, Mr. Naresh Silal deliberated on land survey and the types of land measurements and its conversions. It was informed that for the purpose of fixing of property lines, boundaries, calculation of area of land, and transfer of property from one person to another, the Land Revenue Department uses cadastral survey.

He stated that the purpose of survey is to prepare cadastral maps which shows the boundaries of fields, plots, houses and other properties, and other physical features on the map.

The final session was taken over by Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim. The session was an interactive one in which His Lordship discussed on the issues faced during trial of land disputes by the participating Judicial Officers. His Lordship deliberated on the local land laws, especially Record Writing or Kotha Purnu or Dra-Deb and Attestation Rules for Sikkim State dated 01/10/1951 which has been repealed by The Sikkim Record Writing and Attestation Rules, 1988.

Programme held on “Special role prescribed by the Juvenile Justice (Care and Protection of Children) Act, 2015” on 25.07.2023 for stakeholders dealing with victims and child-in-conflict-with law involved in offence under Protection of Children from Sexual Offences Act, 2012 and Information Technology Act, 2000 and Indian Penal Code, 1860



Resource Person:

Dr. Bipasha Roy, Child Rights Activist, Social Worker, West Bengal.

The Resource Person, Dr. Bipasha Roy, commenced the session with an overview of the Juvenile Justice Act, 2015 and its amendment, Protection of Children from Sexual Offences (POCSO) Act, 2012 and its amendment, and the interplay between the JJ Act, 2015 and the POCSO Act, 2012.

Her deliberation mainly focused on the dual role of the law in protecting child survivors of abuse under POCSO Act, 2012 and handling children alleged to be in conflict with the law (CICL) under the JJ Act, 2015. She further discussed the responsibilities of various stakeholders such as the Special

Juvenile Police Unit (SJPU), Child Welfare Committees (CWC), Juvenile Justice Boards (JJB), and other statutory bodies. She highlighted the necessity for these entities to balance the rights and needs of both child victims and alleged perpetrators, ensuring no child's rights are violated. She elaborated on the general principles of the JJ Act, such as the importance of treating children in conflict with the law with an emphasis on rehabilitation and reintegration rather than retribution.

Programme held on “Law of Execution and Enforcement in Civil matters, effective proceedings in Execution Petitions” on 05.08.2023 for Judicial Officers of District Judiciary of Sikkim



Resource Person:

Mr. Debajyoti Dutta, Advocate, Calcutta High Court.

The Resource Person, Mr. Debajyoti Dutta, began the session by explaining the extensive powers of courts in execution proceedings, particularly in cases involving possession and eviction. He emphasized that courts can provide additional relief beyond the initial decree to ensure justice and prevent Decree Holder from filing multiple lawsuits.

Mr. Dutta highlighted the court's ability to enforce mandatory injunctions without separate suits when unauthorized constructions occur during litigation. He pointed out that executing courts have broad powers to ensure that decrees are

satisfied, including examining third-party interests and requiring parties to disclose relevant documents.

The Resource Person further stressed on the role of appointing receivers for properties, noting that while receivers can monitor bank accounts, they cannot manage ongoing businesses. The importance of clear and unambiguous decrees was stressed, with a clear description of the property and its status. He further advised that in money suits, the courts should move toward immediate execution of decrees and require parties to disclose assets early in the process to prevent asset concealment during prolonged litigation.

Programme held on “Disaster Management during Natural Calamities such as floods, earthquakes, famines, or epidemics” on 11.08.2023 for Executive Magistrates of Sikkim



Resource Person:

Mr. Jigme Bhutia, Deputy Director, Sikkim State Disaster Management Authority (SSDMA), Government of Sikkim.

The Resource Person explained the evolution of disaster management in India, particularly in response to significant disasters like the cyclone in Orissa. He deliberated on the shift in national perception towards the seriousness of disasters and the subsequent governmental actions to address them, which led to the establishment of disaster management frameworks at both state and national levels, as well as international collaborations, such as agreements with the United Nations. Key points include the introduction of disaster risk management programmes, the formation of disaster management authorities, and the emphasis on incorporating risk reduction strategies into policy frameworks.

Various aspects of disaster management, including community involvement, technical expertise, resource allocation, and coordination between departments were explained. The deliberation also touched on the importance of effective communication, the activation of response systems, and the need for flexibility and collaboration in managing disasters. Additionally, he also discussed specific challenges such as landslides, infrastructure damage, and wildlife-related disasters, along with proposed solutions and strategies.

“Orientation Programme on Sikkim Government Service Rules, 1974 and other relevant rules” held on 18.08.2023 for Officers and Ministerial Staff of District Judiciary and Sikkim Judicial Academy



Resource Person:

Mr. Karma Wangchuk Bhutia, Principal District & Sessions Judge, Gangtok.

The Resource Person, Mr. K. W. Bhutia, commenced the session by deliberating on Articles 229 and Article 309 of the Constitution of India. Article 229 states that the appointment and conditions of service of the officers and staff of a High Court shall be governed by rules made by the Chief Justice of the High Court or by some other judge or officer of the Court authorized by the Chief Justice. Article 309 empowers the state legislature to enact laws or regulations governing the recruitment process, terms of employment, salaries, benefits, promotions, and other conditions of service for these employees.

He explained the process of recruitment, appointment, conditions of service, promotion, and disciplinary actions of government employees in the State of Sikkim. The Resource Person stated that these rules outline various aspects of employment, including qualifications, eligibility criteria, pay scales, leave entitlements and retirement benefits for government servants. Additionally, he explained the rules regarding procedures for recruitment through competitive examinations, selection committees, and promotion boards.

Programme held on “Victim Justice and Criminal Justice Administration”
on 19.08.2023 for Judicial Officers of District Judiciary of Sikkim



Resource Person:

**Dr. Nirmal Kanti Chakrabarti, Vice Chancellor,
West Bengal National University of Juridical Sciences, Kolkata.**

The Resource Person, Mr. N. K. Chakrabarti, deliberated on the structure of criminal justice administration and its challenges, emphasizing the importance of understanding criminal law and its characteristics. He explained the difference between criminal law and criminal justice, highlighting the need for behaviour control and societal prohibition through legislation. The principles of criminal justice, including detection, conviction, and sentencing were discussed in the context of implementing substantive law. The adversarial nature of the criminal justice system in India and its alignment with constitutional principles of equality and due process was explained.

The Resource Person highlighted the Crime Control model and the Due Process model, emphasizing India's adherence to the Due Process model, which prioritizes individual rights and protections during legal proceedings. He also discussed about the reformative model that views offenders as individuals deserving of dignity and rehabilitation rather than mere punishment. The discussion extended to the application of laws within the criminal justice system, emphasizing the role of constitutional principles in guiding legal processes and protecting the rights of the accused.

One-day awareness programme held on "Mental Healthcare Act, 2017"
on 20.08.2023 for Officers and Staff Members of the Registry of Hon'ble High
Court

of Sikkim and Sikkim Judicial Academy



Resource Person:

Dr. Satyajit Ash, Consulting Psychiatrist, Kolkata, West Bengal.

Dr. Satyajit Ash began the session by delving into the historical context of mental health care in India, particularly focusing on the pre-independence era and the marginalization of mentally unhealthy individuals. He informed that initially, the approach was to segregate and isolate such individuals from society, often placing them in asylums. However, with advancements in medicine and understanding of mental illness, the focus shifted towards treatment and the rights of mentally ill individuals. He added that the Mental Health Care Act, 2017 represents a significant shift towards a rights-based approach, emphasizing the treatment and inclusion of mentally ill persons rather than their segregation.

The Act mandates mental health care for all individuals without discrimination based on gender, class, or economic status. It defines mental illness as disorders that substantially impair various aspects of cognition, emotion, and behavior.

He explained that the Act promotes independent admission to mental health care establishments whenever possible, with involuntary or supported admissions being recommended only rarely. It shifts the focus from segregation to treatment and emphasizes the importance of capacity in decision-making regarding mental health care.

Training/Workshop held on “Principles of Drafting, Pleading, Cross Examination, Professional Ethics and Commercial Courts Act, 2015” on 26.08.2023 for Bar Members of Gyalshing and Soreng districts

Resource Persons:

**Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim
& Chairperson/Judge-In-Charge, Sikkim Judicial Academy;
Mrs. K. C. Barphungpa, District & Sessions Judge, Gyalshing;
Mr. Tashi Raptan Barfungpa, Advocate, High Court of Sikkim.**



This programme was organized by Sikkim Judicial Academy at the Conference Hall, District & Sessions Court, Gyalshing. The programme was divided into three sessions.

Session 1:

His Lordship began the session by emphasizing the importance of knowledge sharing and mentorship within the legal profession, particularly among advocates.

His Lordship discussed the need for experienced lawyers to mentor younger ones and shares insights into legal practice, such as the importance of gaining knowledge, sharing it, and ensuring justice to the litigants.

His Lordship deliberated on the distinction between "pleading" and "admission", while delving into the significance of language in legal documents and the interpretation of laws.

His Lordship emphasized the importance of asking questions, interpreting legal language accurately, and considering various sources of law in legal analysis.



Deliberation by Mrs. K.C. Barphungpa, District & Sessions Judge, Gyalshing

Session 2:

Mrs. K. C. Barphungpa, Resource Person, commenced the session by highlighting the importance of the need for dedicated commercial dispute resolution courts and the introduction of Commercial Courts Act, 2015 in India. She explained that the enactment of this Act aimed to expedite the resolution of commercial disputes in India. She stated that Commercial Courts are integrated within the existing judicial system but are empowered with all the powers of the Code of Civil Procedure (CPC), 1908.

The Resource Person stated that Section 2(1)(c) of the Commercial Courts Act, 2015 is a pivotal provision that lays down the precise criteria for categorizing a dispute as a "commercial dispute" under the Act and Section 2(1)(i) defines specific value in relation to commercial dispute which shall

not be less than three lakh rupees or such higher value, as may be notified by the Central Government.

She explained that Section 12 of the Act provides detailed criteria for determining the specified value considering the subject matter of the dispute, the relief sought and other factors. The court fee to be paid depends on the value specified in the Act. Lastly, she discussed about the mandatory 'pre-institution mediation' for commercial disputes.

The Resource Person concluded by emphasizing the importance of understanding the specific provisions and amendments of the Act, including the procedures for mediation and the transfer of pending cases.



Deliberation by Mr. Tashi Rapten Barfungpa, Advocate, High Court of Sikkim.

Session 3:

In the final session, Mr. Tashi Rapden Barfungpa, Resource Person, discussed about the challenges faced by lawyers. Issues of client poaching and professional misconduct were highlighted. Emphasis was placed on maintaining integrity and respecting colleagues, the importance of regular self-assessment and honesty in practice. He stated that continuous improvement and transparency are crucial for legal professionals.

He explained that legal professionals should conduct themselves with respect and professionalism, adhering to ethical standards.

He stressed on the importance of clear and effective communication with clients and colleagues for managing expectations and building strong relationships. He also discussed about the various provisions of the Bar Council of India Rules and Advocates Act, 1961.

Training held on “Challenges and Constraints faced in investigation of Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985 and Sikkim Anti Drugs Act (SADA) , 2006” on 28.08.2023 for Police Officers and Public Prosecutors of District Judiciary

Resource Person:

**Mr. Kaushik Manna, Superintendent, Narcotics Control Bureau, Kolkata and
Mr. Samiran Paul, Superintendent, Narcotics Control Bureau, Kolkata**

Session I:

The Resource Person, Mr. Kaushik Manna, commenced the session by explaining the various types of drugs that fall under the NDPS Act, 1985. He explained that legally, a narcotic drug could be an opiate (a true narcotic), cannabis (a non-narcotic) or cocaine (the very antithesis of a narcotic, since it is a stimulant). It was explained that the term ‘psychotropic substance’ denotes mind-altering drugs such as Lysergic Acid Diethylamide (LSD), Phencyclidine, Amphetamines, Barbiturates, Methaqualone, and designer drugs (MDMA, DMT, etc).

The Resource Person discussed about the errors that occur while preparing the documents during investigation. He spoke on the necessity of understanding the modus operandi of the criminals. He also highlighted the significance of law enforcement agencies being trained in technologies like darknet as the criminals use darknet for activities like drug trafficking, which has increased significantly, especially during and after the COVID period.

Mr. Manna also informed that the movement of foreigners, especially in tourist areas, poses challenges as some misuse tourist visas to engage in illegal activities. These individuals sometimes exploit the judicial system to remain in India under the guise of minor legal cases.

He further stated that there are mainly two criminal activities that require focus: fraud and drug trafficking. Fraud includes scams like lottery messages, while drug trafficking involves both natural and synthetic drugs. It was explained that the enforcement agencies’ goal is to understand the linkages in these cases to dismantle criminal networks more effectively. Finally, the Resource Persons added that feedback from investigating officers is crucial for refining the Standard Operating Procedures (SOPs) for investigation of cases under NDPS Act, 1985 and Sikkim Anti Drugs Act (SADA), 2006.



Session II:

This session was taken over by Mr. Samiran Paul. He started the session by focusing on the procedures for search and seizure under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 in India, addressing the importance of properly proving a seizure in court. He informed that while documenting a Seizure/Panchnama, it is crucial to avoid using vague terms like "brown sugar." Instead, precise terms such as "heroin" or "suspected to be heroin" should be used to strengthen the case. This clarity helps in legal proceedings and ensures that cases are not dismissed due to ambiguous terminology. Further, the Seizure Memo/Panchnama should be written in a language of the witnesses. It was informed that in a region where the local language is used, the Panchnama should reflect that language and the witness's perspective. This helps in maintaining the authenticity and reliability of the document.

It was informed that it is important to accurately document the details in the Seizure Memo/Panchnama as the severity of punishment under the NDPS Act, 1985 varies based on the quantity of the substance, ranging from small to commercial quantities.

The Resource Person also discussed the importance of recording statements and informed that, if possible, the accused should be asked to write their statement on their own to add credibility to their statement.

Session held on “Law of Precedents and Interpretation of Statutes” on
02.09.2023 for Judicial Officers of District Judiciary of Sikkim



**Resource Person: Hon'ble Mr. Justice Biswanath Somadder, Chief Justice,
High Court of Sikkim & Patron-in-Chief, Sikkim Judicial Academy**

His Lordship commenced the session by deliberating on the principles of legal precedent, interpretation of statutes, the evolution of the Indian legal system from common law regime to a statute-based regime, and the Application of Precedents and Common Law Doctrines in the Constitution of India.

The importance of Ratio Decidendi and Obiter Dictum in a judgment was discussed. His Lordship also deliberated on the Indian Legal History and the significance of January 26, 1950.

His Lordship emphasized the need to avoid following precedents blindly and insisted on evaluating whether the facts of a case (in the judgment referred to) align with the case in hand, and to use the preamble and objects of statutes as aids in interpretation.

His Lordship also spoke about Equity Jurisdiction and stated that when a court sits as a court of equity, it possesses discretionary powers not present when simply interpreting statutes. These discretionary powers include issuing writs like mandamus, quo warranto, prohibition, and habeas corpus.

Refresher Training Course held on “Appreciation and Recording of Electronic Evidence” on 16.09.2023 for Judicial Officers of District Judiciary of Sikkim



Resource Person:

Mr. Benoy Sharma, Central Project Coordinator, High Court of Sikkim.

The Resource Person commenced the session by explaining that the appreciation and recording of electronic evidence follow the same principles as other types of evidence, with some specific differences. He stated that Section 65B of the Indian Evidence Act, 1872 is heavily debated and litigated. He stated that, in essence, a Judicial Officer needs to understand the ingredients of offenses in the IT Act, 2000 while the appreciation of evidence remains rooted in the Indian Evidence Act, 1872. The Resource Person underscored the difference between physical evidence, which is perceived by the senses, and electronic evidence, which often involves complex technical aspects that can deceive even seasoned judges. To explain the intricacies of understanding offences under IT Act, 2000 and to appreciate the electronic evidence, the Resource Person gave an example involving ATM fraud and cyber crimes.

The Resource Person emphasized the necessity for judges to possess knowledge of electronic devices and systems to effectively evaluate such evidence.

The Resource Person informed about the use of Virtual Private Networks (VPNs) by criminals to mask their activities, making it challenging for law enforcement to trace and prove electronic crimes. He explained how a VPN works and its role in protecting user anonymity, complicating the traceability of electronic offenses. He also touched upon the concept of phishing websites and spyware, highlighting how sophisticated these tools have become in stealing personal information and compromising devices.

Session held on “Right to Information Act, 2005” on 22.09.2023
for employees of State Govt. Departments, Public Information Officers of
Hon’ble High Court and District Judiciary of Sikkim



Resource Person:

**Mr. Bhim Thatal, District Collector-cum-Magistrate,
Soreng District, Government of Sikkim.**

The Resource Person commenced the session by highlighting the significance of right to information as a fundamental right that empowers every citizen to seek information from public authorities. Discussing on the various provisions of the Right to Information Act, 2005, he stressed the duties and responsibilities of Public Information Officers (PIOs) and Assistant Public Information Officers (APIOs) in providing information and the penalties for non-compliance.

Mr. Thatal emphasized that information must be accessible to all citizens, not just a select few, and drew attention to the importance of understanding the law in a precise manner. He emphasized the procedures and timelines for transferring requests and the implications of delays, including penalties and potential disciplinary actions.

The Resource Person explained that the broad scope of the RTI Act, 2005 goes beyond mere documents to include physical inspections, material samples, and electronic records. To explain the same, he gave examples, such as the ability to request samples of construction materials used in public projects. He highlighted the historical and global context of the RTI Act, noting its origins and parallels with similar laws in other countries, particularly mentioning Sweden's pioneering role.

The Resource Person finally concluded by mentioning that government actions should be open to scrutiny, with secrecy being the exception rather than the rule.

Training-cum-Workshop held on “Pleading, Drafting, Art of Cross Examination, Professional Ethics, Expert's Evidence, and Marriage Laws in Sikkim” on 23.09.2023 for Bar Members of Namchi District



Resource Persons:

**Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim
& Chairperson/Judge-In-Charge, Sikkim Judicial Academy;
Mrs. Samita Sharma, District & Sessions Judge, Namchi and
Mr. Tashi Rapten Barfungpa, Advocate, High Court of Sikkim.**

This programme was organized by Sikkim Judicial Academy at the District & Sessions Court, Namchi.

The programme was divided into three sessions.

Session I:

His Lordship opened the session with a deliberation on trial process, emphasizing the need for clarity and coordination among all stakeholders, including the prosecutor, judge, defense, and the parties. His Lordship emphasized the importance of active participation from the judge in questioning if the prosecution or defense fails to do so adequately. The goal, he stressed, is to uncover the truth and deliver justice.

His Lordship also highlighted the importance of drafting legal documents with accuracy and honesty. He stated that while drafting the pleading, the need is to focus on relevant material facts and avoid including unnecessary grounds that could weaken the case.

Emphasis was also laid on knowing local laws and high court precedents, particularly in eviction cases. On cross-examination, His Lordship explained that its purpose is to test the credibility of witnesses and highlight contradictions in their testimony.

He stressed the need for lawyers to master the subject matter thoroughly before cross-examining a witness and to focus on relevant facts.

The session concluded with encouragement for young lawyers to remain committed to truth and justice throughout their careers.

His Lordship also discussed on laws relating to marriage and divorce (in context with Sikkimese Tribals) and applicability of Hindu Laws in Sikkim.

Session 2



**Deliberation by Mrs. Samita Sharma,
District & Sessions Judge, Namchi.**

Mrs. Samita Sharma, District & Sessions Judge, Namchi, took over the second session by stating the definition of an expert as per law as someone with specialized skills in fields such as foreign law, science, art, handwriting analysis, fingerprint identification, and electronic evidence examination. She explained that an expert is one who, through practice and observation, has gained expertise in a particular field.

The Resource Person stated that expert evidence must be corroborated by other direct or circumstantial evidence to be credible.

Session 3



Deliberation by Mr. Tashi Rapten Barfungpa, Ld Advocate, High Court of Sikkim.

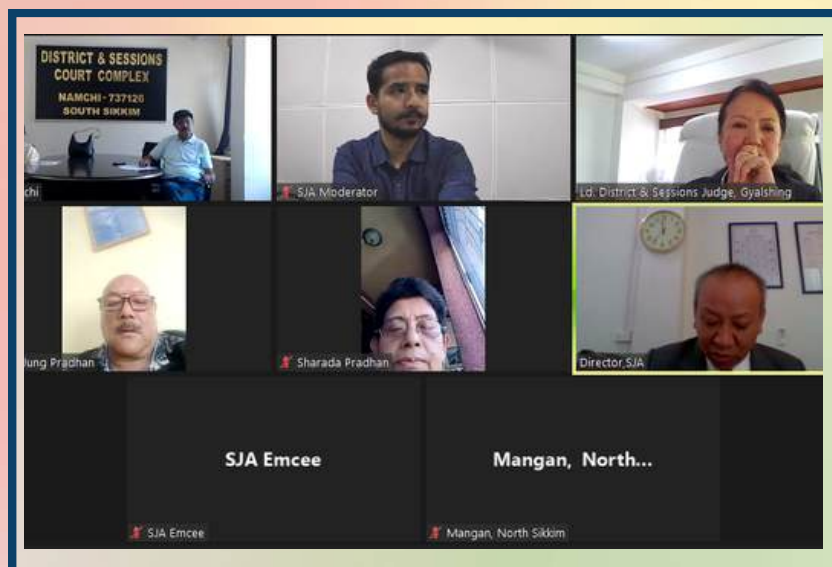
In the final session, Mr. T. R. Barfungpa, Ld. Advocate, deliberated on the evolution of legal profession in India, highlighting key stages from pre-British rule to post-independence.

The Resource Person explained the provisions of Advocates Act, 1961 and its salient features, emphasizing the duty of lawyers to the court and their clients. He explained the duty to maintain dignity, refrain from improper means, and exercise independent judgment. He mentioned instances where courts have invoked their powers to discipline advocates, emphasizing the importance of maintaining ethical standards.

The Resource Person discussed ethical considerations in practicing law, particularly in sensitive areas like human trafficking and domestic violence. He emphasized the importance of special circumstances in deciding whether to represent a client accused of a crime and highlighted the distinction between defending someone and facilitating further wrongdoing.

Finally, he emphasized the collective responsibility of lawyers in upholding the dignity of the legal profession and shared insights to encourage ethical conduct, including the need for simplicity in legal interactions and sensitivity towards clients' situations.

Skill Development Programme for the Counsellors of Family Courts of Sikkim held on 28.09.2023



Resource Person:

Mrs. K. C. Barphungpa, District & Sessions Judge, Gyalshing.

The Resource Person started the session by explaining the basics of counselling and Section 6 of the Family Courts Act, 1984 which deals with appointment process of counsellors to assist a Family Court in the discharge of its functions. She explained that the need for family counsellors arises from the objective of resolving family matters before legal proceedings.

The Resource Person discussed the significance of listening, advising, and assisting parties toward settlement. She stated that skills such as listening, empathy, patience, and effective communication are essential for counsellors.

Further, the Resource Person covered aspects like making proper inquiries, maintaining confidentiality, and the limitations on counsellors appearing as a witness in the court.

Participants were briefed on their role as a counsellor in settling disputes and reporting to the Family Court. She reminded the participants that as counsellors, they should not decide custody but aim to settle differences between parties. It was informed that home visits and interaction with family members are part of counsellors' duties to facilitate settlement.

Session held on “Ubuntu and latest Information Technology for effective use in the administration of justice” on 30.09.2023 for Officers and Ministerial Staff of District Judiciary and Sikkim Judicial Academy



Resource Person:
Mr. Benoy Sharma, Central Project Coordinator,
High Court of Sikkim.

The Resource Person emphasized the need for change and improvement in administrative processes and discussed the importance of utilizing technology effectively and ensuring that all staff members are familiar with the court's computer system & CIS (Case Information System).

He highlighted the need to streamline communication by using email effectively. The importance of following the circular from the High Court regarding communication through email was stressed and he also encouraged use of CIS and its features to its full potential.

He further discussed the importance of identifying and reporting issues that cannot be resolved. For example, he highlighted the potential problem of server crashes and the need for backup computers. He discussed the challenges and benefits of computerization, including tighter control and the need for proper work ethics.

The Resource Person concluded the session by explaining the importance of teamwork, adherence to procedures, and overcoming challenges in the administration and digitization processes.

Programme held on “Online Research of Legal Journals with emerging concept of Artificial Intelligence in Judiciary” on 7.10.2023 for Judicial Officers of District Judiciary of Sikkim



Resource Persons:

**Dr. L.P. Sharma, State Informatics Officer, NIC, Sikkim &
Mr. Thokchom Indrajit Singh, Joint Registrar (Library), High Court of Sikkim.**

Dr. L. P. Sharma, the Resource Person, began the session by discussing on the intersection between digital technology and judicial processes. He explored the diverse applications of Artificial Intelligence within the National Informatics Centre (NIC). He informed that legal professionals can access a vast array of legal journals, articles, and case studies through online databases which has democratized access to legal knowledge, allowing for more comprehensive and up-to-date research. He explained that digital platforms provide advanced search functionalities, enabling users to quickly find relevant information using keywords, phrases, and filters.

The Resource Person informed that Online research allows for the integration of insights from various disciplines, enriching legal analyses with perspectives from economics, sociology, and technology. The Resource Person also discussed about the emerging concept of Artificial Intelligence in Judiciary. He also explained about AI-powered search tools and stated that AI algorithms can sift through large volumes of legal texts to identify relevant case laws, statutes, and precedents. He also spoke about various AI models such as Chat GPT and Google Bard and informed that these tools can provide summaries, highlight key points, and even predict case outcomes based on historical data.

Session 2



Deliberation by Mr. Thokchom Indrajit Singh, Joint Registrar (Library), High Court of Sikkim

In the second session, Mr. Thokchom Indrajit Singh, discussed various online legal databases such as Manupatra, SCC Online, AIR SC, AIR Criminal Law Journal, Westlaw International, LexisNexis, JSTOR, and E-HART.

He explained that Manupatra is known for its comprehensive database covering various courts, tribunals, and legal literature which is suitable for in-depth legal research across different jurisdictions and topics. He also briefly explained that SCC Online is renowned for its detailed and well-organized Supreme Court and High Court judgments, along with statutory materials.

The Resource Person explained that these databases offer access to a wide range of legal information including case laws, legislation, articles, notifications, and commentaries from different countries and organizations, the resource person stated.

The importance of conducting international online legal research using these platforms was highlighted, emphasizing their role in helping legal professionals stay updated on legal developments. He also gave a live demonstration on how to use Manupatra and SCC Online for a better understanding.

Interplay between POCSO Act, 2012 and Juvenile Justice (Care and Protection of Children) Act, 2015 and Mental Care of Child held on 16.10.2023 for Principal Magistrates, Members and State Counsels of Juvenile Justice Boards, Counsellors and DCPOs of Sikkim



Resource Person:

**Dr. Sonam Ongmu Lasopa, Senior Clinical Psychologist,
STNM Multispeciality Hospital, Gangtok.**

The Resource Person began the session with a discussion on childhood memories, child development, and the impact of abuse on children. She encouraged participants to recall their earliest childhood memories, ranging from happy moments to potentially traumatic experiences. She spoke about the memories in the context of understanding children's experiences and how they cope with them.

The Resource Person discussed how childhood experiences, including abuse, can impact individuals throughout their lives, affecting social, emotional, and cognitive development.

She emphasized the importance of empathy when dealing with children, highlighting that one's experiences shape how one interacts with others. She encouraged focusing on the strengths of children rather than dwelling on negative experiences. The Resource Person also talked about the need for sensitivity when working with children, whether in legal settings, counseling, or other roles. Discussion also touched on signs of abuse in children and how it can manifest in their behavior.

Lastly, the Resource Person concluded by providing detailed insights into recognizing and addressing child sexual abuse, emphasizing various methods to communicate with children who may have experienced abuse.

Programme held on “Constitutional Safeguards in Criminal Jurisprudence and Principles of Bail in view of the guidelines issued by the Hon'ble Supreme Court of India” on 18.11.2023 for Judicial Officers of District Judiciary of Sikkim



Resource Person:

Hon'ble Mr. Justice Ashim Kumar Roy, Former Judge, Calcutta High Court

His Lordship began the session by deliberation on constitutional safeguard regarding the non-retrospective application of laws, using examples from the Indian Penal Code (IPC), 1860 and recent amendments. His Lordship explained how amendments in the law could affect the punishment for offences committed before the amendments took effect. The changes in punishment for offenses like gang-related crimes and rape were discussed in detail. The Resource Person also touched upon the possibility of being prosecuted and punished for the same offence more than once, emphasizing the importance of legal safeguards for the accused. Additionally, His Lordship highlighted procedural safeguards for individuals under arrest, such as being informed of the grounds of arrest, the right to consult a lawyer, and the requirement to be produced before a magistrate within a specified time.

His Lordship delved into various legal provisions concerning arrest, detention, and preventive detention. His Lordship, highlighting the importance of legal representation, emphasized on constitutional safeguards ensuring that no accused person remains undefended. Parameters for granting bail, emphasizing factors like the nature and gravity of the offense, severity of punishment, likelihood of the accused absconding, tampering with evidence, and the impact of release of accused in the society were discussed. Finally, he briefly mentioned cases related to money laundering under the Prevention of Money Laundering Act and highlighted how investigations into disproportionate assets are conducted.

Special Interactive Programme held on “Sharing Best Practices and finding solutions to practical problems faced by Judicial Magistrates during trial”
on 02.12.2023 for Judicial Magistrates of District Judiciary of Sikkim



Resource Person:

Mr. K. W. Bhutia, Principal District & Sessions Judge, Gangtok.

The Resource person began the session by providing insights into legal provisions related to injunctions, their types, and the consequences for violation. He shared best practices adopted by him in dealing with execution cases and discussed the issues raised by the Judicial Magistrates regarding the problems they face during trial.

The Resource Person also deliberated on Article 22 of the Constitution of India, emphasizing the rights of an arrested person, including being informed of grounds for arrest and the right to consult a legal practitioner. The importance of producing the arrested person before a magistrate within 24 hours was highlighted.

Lastly, answering to the query raised by participants, the Resource Person stated that even if a CFSL report is pending, a chargesheet can be filed based on collected evidence.

Training & Workshop held on “Appreciation of evidence in criminal trials and effective criminal trials procedure” on 07.12.2023 for Bar Members of Gangtok and Mangan Districts



Resource Person:

Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim & Chairperson/Judge-In-Charge, Sikkim Judicial Academy

His Lordship opened the floor with a discussion on the appreciation of evidence in criminal trials. His Lordship shared his thoughts on the importance of communication between lawyers and judges. His Lordship expressed concern regarding the lack of dialogue between the two, which he believed is crucial for effective administration of justice. Reflecting on his own experiences, his lordship emphasized the need for continuous learning in the legal profession. He recounted anecdotes from his early days as a lawyer, highlighting the importance of thorough preparation and understanding of cases. He also discussed the challenges faced by lawyers in criminal practice, such as proving documentary evidence and handling witness statements.

His Lordship urged the participants to ponder over the ethical dilemmas they might face in their practice, especially regarding the pursuit of justice versus the technicalities of the law. His Lordship urged the lawyers to focus on asking the right questions, not just denying allegations and emphasized the importance of revealing the truth through strategic questioning and bringing out relevant facts.

His Lordship discussed the significance of understanding the provisions of various Acts and concluded by encouraging the lawyers to work hard, understand the law deeply, and strive for excellence in their practice to serve the cause of justice effectively.

YouTube Video Links of the Programmes/Training Sessions

YouTube Video Links of the Programmes/Training Sessions

Sl. Nos.	Dates of the Programme	Video Links on YouTube
1	7 th July, 2023	https://www.youtube.com/watch?v=LKT4oXtYa08
2	25 th July, 2023	https://youtu.be/Vc8knxNwluM
3	5 th August, 2023	https://youtu.be/QZRh3b67fEY
4	11 th August, 2023	https://youtu.be/sJ2ibokNTCY
5	18 th August, 2023	https://youtu.be/m6fgnLkCgXA
6	19 th August, 2023	https://youtu.be/gG0Ycg4R4Zc
7	20 th August, 2023	https://youtu.be/L2ySZRMSIEI
8	26 th August, 2023	https://youtu.be/lpltnbkBtNo
9	28 th August, 2023	https://youtu.be/5vDukZg9wVc
10	29 th August, 2023	https://youtu.be/4zctJgaLdal
11	16 th September, 2023	https://youtu.be/W7gtnAvqM9E
12	22 nd September, 2023	https://youtu.be/20PtAHvLEtk
13	23 rd September, 2023	https://youtu.be/jDb_MmXpFik
14	28 th September, 2023	https://youtu.be/UWejvEmd1aQ
15	30 th September, 2023	https://youtu.be/gyFAzAP-b2s
16	7 th October, 2023	https://youtu.be/mA-Vt2sYinI
17	16 th October, 2023	https://youtu.be/yAZ7WJj8oXo
18	18 th November, 2023	https://youtu.be/8NZzVjns-M8
19	2 nd December, 2023	https://youtu.be/-m0h_tFbBMY
20	7 th December, 2023	https://youtu.be/hYGJtgMn9Yg