

# SIKKIM JUDICIAL ACADEMY



SJA NEWSLETTER JANUARY-JUNE 2018





***Hon'ble Mrs. Justice Meenakshi Madan Rai***  
*Acting Chief Justice, High Court of Sikkim*  
*Chairperson, Sikkim Judicial Academy*



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



***Mrs. Samita Sharma***  
*Director, Sikkim Judicial Academy*



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# HISTORY AND OVERVIEW OF JUVENILE JUSTICE PHILOSOPHY AND RECOGNITION OF JUVENILITY IN THE UK, US AND INDIA

**By Shri. Prajwal Khatiwara**

*District & Sessions Judge, North at Mangaluru*

Juvenile delinquency is an age-old concept. The concern for misbehaviour and delinquency among children has been there since time immemorial. The earliest known code of laws i.e., the Code of Hammurabi<sup>1</sup> (*dating back to about 1754 BC*), was serious about the duties of children to parents and prescribed punishments for violations and aberrations. Under ancient Roman law (5th Century) and the Anglo-Saxon Common law (5th-11th Century)<sup>2</sup> children under the age of seven were considered incapable of criminal intent. Children between age of seven and the time of puberty could be held criminally liable only under certain conditions. However, if found guilty they were subjected to the same laws and the same codes as the adults. They could be held clearly responsible for any socially unacceptable behaviour in case they had already attained the age of puberty i.e., at around the age of twelve in case of girls and fourteen in the case of boys.<sup>3</sup> This understanding of children and criminal responsibility continued in medieval Europe. For example, during the period between 700 and 1500 AD children were not viewed as a distinct group with special needs and behaviours. These early medieval traditions greatly influenced the shaping of juvenile justice in England. Both the Chancery Court, which eventually became responsible for overseeing the general welfare of the citizenry, and the concept of *parens patriae*, which focused on sovereign as the one who protected his or her subjects, played a prominent role in shaping of English Juvenile Justice.<sup>4</sup>

The first Juvenile Court was established in England under the Children Act of 1908. This Court's criminal jurisdiction was for children under age fourteen and for young persons between fourteen and sixteen, and civil jurisdiction was for youths in need of welfare services.<sup>5</sup>

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1. History & Development of the Juvenile Court & Justice Process, <http://www.sagepub.in/upm-data/19434>. (Code of Hammurabi is well-preserved Babylonian code of law of ancient Mesopotamia dating back to about 1754 BC)

2. Ibid

3. Clemens Bartollas and Stuart J. Miller, *Juvenile Justice in America*, 4, (Pearson Education Inc: United States of America, 2014)

4. Larry J. Siegel & Brandon C. Welsh, "Juvenile Delinquency-The Core", <http://www.cengagebrain.com.mx/siegel>

5. Supra note 3 at 321

The above law and other corresponding laws, however, did not emphasize special training for judges, nor did they focus on the special needs of the youth – unless the youth's needs were exceptional. It was later in the Children and Young Persons Act of 1933 that the principle that the Court “*should always act in the best interests of the welfare of the child*” was affirmed as was the principle of *in loco parentis*. The philosophy behind this Act clearly was based on positivism and a welfare model rather than a punishment model of justice. Also established were changes in the ages of youths under the jurisdiction of the Courts; “the age of criminal responsibility was raised from seven to eight (Sec.50) and sixteen-year olds were placed under the criminal jurisdiction of the Juvenile Court.” Thus, the Court had both criminal and civil jurisdiction.

The Children and Young Persons Act of 1969 re-emphasized the importance of treating delinquents the same way as any other youths in need.<sup>6</sup> The age of minimum responsibility was raised from eight to ten, and juveniles who formerly were treated as criminals were handled through civil proceedings. A hard line favouring young delinquents emerged in England at this time paralleling the development of a similar hard line in the United States. At around the same time the Criminal Justice Act of 1982 empowered magistrates to place delinquent youths in custody, issue care orders with residential requirements, and require community service. This Act reflected a blend of treatment and punishment. In 1989, the Children Act affirmed an existing philosophy that youths should be prosecuted only as a last resort; care cases were transferred to the Civil Courts.<sup>7</sup>

The Criminal Justice Act of 1991 renamed the Juvenile Court as the Youth Court, broadened the Court's jurisdiction to include youths as old as age seventeen, emphasized individualized sentencing based on the maturity of youths, placed more emphasis on parental responsibility, called for more inter-agency cooperation in dealing with youths, and developed new procedural guidelines for the Police and Courts. In 1994, the Criminal Justice and Public Order Act was passed. It called for longer custodial sentences and a “secure training order” for juveniles.<sup>8</sup>

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<sup>6</sup> Ibid

<sup>7</sup> Supra note 3 at 322

<sup>8</sup> Ibid

In 1998, England's response to juvenile justice shifted direction with the passage of the Crime and Disorder Act, which set up a Youth Justice Board(YJB) for England and Wales. Under the auspices of the Secretary of State, the YJB had the broader goals of reducing the number of youths in custody by emphasizing community prevention and treatment, and monitoring the performance of the Youth Justice System, the organizational entity responsible for overseeing the actual purchases of places for the placement of children, the promotion of effective practices, and the commissioning of research.<sup>9</sup>

Youth Courts in England are usually presided over by three lay magistrates or, at times, one magistrate. These Youth Courts hear cases of ten to seventeen-eighteen years old.<sup>10</sup> The Youth Court sessions are more informal than adult trials and are conducted by the magistrates at different times and places than the adult Courts when possible; Youth Court proceedings are closed to the public. Juveniles do not have jury trials. The media may be present, but must keep all information about the juveniles confidential. There are restrictions placed on what the media may publish from these proceedings.<sup>11</sup> In England, unlike in the United States, juveniles have the right to bail.

Magistrates, depending on the seriousness of the offence, have a range of sentences available to them.<sup>12</sup> They may discharge cases, issue fines, require juvenile offenders to pay recognizance (*which is refunded if the offenders complete their "binding over" successfully*), place juveniles under supervision(probation), require community service or the payment of compensation to the victim(s), or defer sentences for six months to see how well the youths behave during that time. Magistrates attempt to avoid imposing the maximum custodial sentence of six months on offenders, although two consecutive sentences of six months each may be handed out if necessary. For more serious offences, juveniles over the age of fifteen may be tried in Crown Court, where sentences, including life sentences for murder, may be handed down. The Crown Court is, however, required to take all possible steps to assist the juveniles. The welfare of the juvenile is to be regarded during the criminal proceedings (*as also required by the Children and Young Persons Act, 1933*). Juvenile offenders cannot be placed in prison alongside adults but can only be placed in secure training centers, secure children's homes or young offenders' institution.<sup>13</sup>

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9 Ibid

10 Children's Rights: United Kingdom(England and Wales) [www.loc.gov/law/help/child-rights/uk.php](http://www.loc.gov/law/help/child-rights/uk.php)

11 [www.loc.gov/law/help/child-rights/uk.php](http://www.loc.gov/law/help/child-rights/uk.php)

12 Supra note 3 at 323

13 Supra note 11

Turning now the juvenile justice philosophy in the United States of America, the same began to be recognized in the colonial period and continued English practices.<sup>14</sup> In the late 1700s, the English and the US methods of handling juveniles were almost akin to each other.<sup>15</sup> The main ideologies serving as the foundation for juvenile justice philosophy in the US were the '*welfare of the child*' and '*the safety of the community*.'<sup>16</sup> The first Juvenile Court in the US was established in Cook County, Illinois in the year 1899. It was mainly based on the doctrine of *parens patriae*.<sup>17</sup> The ordinary trappings of traditional criminal courts were not followed in it. The juvenile delinquents could be brought before it on the basis of complaints of citizens, parents, police, school officials, or others. The hearings were not public, and their records were kept confidential because children coming before the Court were not considered criminal. Proof of the child's criminality was not required for the child to be considered in need of the Court's services. The Court had great discretion in determining what kind of services the child required and had wide latitude in determining a disposition. Lawyers were not required because the hearings were not adversarial. The standards and procedures long in use in adult Courts were missing in the Juvenile Court; the standard of proof beyond a reasonable doubt was not required, and hearsay evidence was permitted.<sup>18</sup>

The attractiveness of the Juvenile Court philosophy resulted in most of the States in the US setting up Juvenile Courts. These were Civil Courts, usually a Family Court, and their purpose was rehabilitation, not punishment. The neglected, the dependent, the misbehaving youngster, the status offender, and the delinquent were all subject to the Courts' dictates. But the public was assured that programs would be developed to solve the problems of wayward youth so that they would be released to the community as respectable citizens.

At present, there is no national or centralized juvenile justice system in the US.<sup>19</sup> There are more than 56 different juvenile justice systems independently operated by the US States, territories, the District of Columbia, and local governments. The policies and procedures vary widely from State to State and among local jurisdictions, creating a patchwork quilt of juvenile justice systems

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14 Supra note 3

15 Supra note 3 at 321

16 Bishop, Donna, "Juvenile Justice in the United States: A Review of Policies, Programs and Trends", [http://www.esc-eurocism.org/files/jit\\_juvenilejusticeintheunitedstates](http://www.esc-eurocism.org/files/jit_juvenilejusticeintheunitedstates)

17 Supra note 3 at 6

18 Ibid

19 [www.act4jj.org](http://www.act4jj.org)



resulting in inconsistent outcomes from youth, families, and communities, including youth exposure to physical, mental, and emotional injury. To address inconsistencies and to improve outcomes for youth and community safety, in 1974 Congress passed the Juvenile Justice and Delinquency Prevention Act (*JJDP*A) which changed the way in which States approached juvenile justice. The said Act is reauthorized from time to time. The States are entitled to receive federal funding for juvenile justice programmes under the said Act subject to conditions enumerated under it. The prominent condition being that status offenders be kept separate from delinquents in secure detention and institutions. It, therefore, limits the placement of juveniles in adult jail facilities.<sup>20</sup>

The *JJDP*A is based on a broad consensus that children, youth and families involved with the juvenile and criminal Courts should be guarded by federal standards for care and custody, while also upholding the interest of community safety and the prevention of victimization. It also sets forth federal standards to ensure a minimum level of safety and equitable treatment for youth who come into contact with the juvenile justice system.

With the increase in juvenile delinquency, particularly in serious and heinous offences, and because of concern over violent juvenile offenders and the threat they pose to community, most of the States in the US have passed laws permitting juveniles to be transferred or waived to adult Courts, where they can be tried and punished as adults. Waiver is a very serious issue because it means that a minor child can be sent to adult prison institution. As a matter of fact, more than two hundred thousand youths are prosecuted in the adult criminal justice system each year and ten thousand children are held in adult jails and prisons.<sup>21</sup> Nearly all States in US permit persons less than 18 years to be tried as adults. For example, in California, the majority age is 18 years, but persons older than 14 years may be tried as adults if they commit serious crimes (*rape, robbery, murder, etc.*).<sup>22</sup> The State of New York pegs the age of juvenility at 16 years, and permits the prosecution of persons aged between 13-16 years as adults in case of serious crimes. In Florida, the prosecutor has discretion to decide whether to try the juvenile as such or as an adult, owing to concurrent jurisdiction of the juvenile and ordinary criminal courts.<sup>23</sup>

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<sup>20</sup> Supra note 3 at 122

<sup>21</sup> Supra note 3 at 148

<sup>22</sup> Subramanian Swami & Ors. v. Raju through Member, JJB & Anr. (2014) 8 SCC 390

<sup>23</sup> Ibid



Depending on the State, three major mechanisms are used to waive jurisdiction: Judicial waiver, Prosecutorial discretion and Statutory Exclusion:-

1. *Judicial waiver*: The Juvenile Judge has the discretion to waive jurisdiction and transfer the case to the adult criminal courts on the basis of age and offence criteria. Presently, all States except Nebraska, New York and New Mexico, provide for judicial waiver. This discretion is entirely left to the Judge in some States, whereas others provide some criteria for its exercise. In some States, the Court other than the Juvenile Court makes the decision. The decision can be taken either by the Prosecutor or the Judge.<sup>24</sup>

2. *Prosecutorial discretion*: Here, the Prosecutor has the discretion to decide whether to try the offender in a Juvenile or adult criminal Court.

3. *Statutory exclusion*: Where State legislation provides that the youth be tried as an adult, based on factors such as the gravity of the offence, prior criminal record, age of the youth, etc.

Apart from the above, some of the States follow the concept of Blended sentencing where the Juvenile Court may sentence a convicted juvenile offender to both a juvenile sentence and an adult sentence. The adult sentence is suspended on the condition that the juvenile offender successfully completes the term of the juvenile disposition and refrains from committing any new offence. It is worth mentioning here that Juvenile Courts in the State of Texas may award up to 40 years sentence to offenders.<sup>25</sup>

Thus, in United States the trial procedure and sentencing principles applicable to adults are equally applicable in case a person under 18 years is transferred to an adult criminal Court. Juveniles cannot, however, be sentenced to death<sup>26</sup> or imprisoned for life without possibility of parole.<sup>27</sup>

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24 Supra note 3 at 149

25 Supra note 22 at paragraph 48

26 Roper v. Simmons 543 US 551(2005)

27 Graham v. Florida 560 US 48(2010)

Talking about India, the laws of Manu, during the earliest times, provided that children involved in delinquency could be chastised with a whip, a bamboo cane, a rope and so forth.<sup>28</sup> It may, however, be pointed out here that though ancient India was governed by many laws there was hardly any law specially dealing with juvenile delinquency.<sup>29</sup>

With the advent of the Britishers we could see some concerns for juvenile delinquency. In fact, the first juvenile legislation came into existence in the year 1850 with the passing of the Apprentices Act which dealt with juvenile delinquents. The essential feature of the said legislation was that children below 10-18 years of age who were found indulging in crime were placed in apprenticeship in a trade<sup>30</sup> and were required to undergo vocational training as part of their rehabilitation process.<sup>31</sup> After about ten years the Indian Penal Code came into existence (*which still holds the field of criminal law*) which had few provisions dealing with juvenile delinquents. Section 82 of the Code granted, and still grants, a blanket immunity to a child below seven years of age thereby recognizing the principle of *doli incapax* which is a Latin term meaning '*incapable of crime*'. Provisions such as Section 83 grant qualified immunity to a child/delinquent aged between 7-12 years. Making a further headway in the development of juvenile justice was the enactment of the Reformatory Schools Act of 1897 which empowered the Government to establish Reformatory Schools and to keep young delinquents there till they found employment.

By the early twentieth century some of the Indian States like Madras, Bengal and Bombay enacted their own Children Acts like the Madras Children Act, 1920 and similar Acts of Bengal and Bombay (*passed during 1922 and 1924, respectively*).<sup>32</sup> Most of these Children Acts brought within its ambit two categories of children i.e., youthful offenders and destitute/neglected children. Both these categories of children were handled by the Juvenile Courts. Some scholars argue that it was mostly the States' concern towards juvenile justice and the adoption of the *parens patriae* approach which resulted into the bringing of the various juvenile justice legislation(s) into existence. As per the concept of *parens patriae* the State is regarded as having the ultimate control and power over children. Under

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28 \_Wendy Doniger and Brian K.Smith, The Laws of Manu, 223, (Penguin Books: New Delhi, 1991)

29 \_Prakash D, Haveripeth, "Juvenile Justice-A Hard Look", <http://www.isca.in>

30 \_Ibid

31 <http://www.en.wikipedia.org/wiki/juvenilejusticehistoryinIndia>

32 Adenwalla, Maharukh, "Child Protection and Juvenile Justice system for Juvenile in conflict with law", <http://www.childlineindia.org.in>

English Common law this concept was of particular importance because it justified the intervention of the King in the lives of, first, all citizens and their families and later, children.<sup>33</sup>

Post-Independence era the Children Act, 1960 was the first Juvenile Justice Legislation. It provided, *amongst other things*, for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected and delinquent children and for the trial of delinquent children in the Union Territories. The Act, however, left much to be desired as it was not uniformly applicable in the country. Most of the States had their own Juvenile legislation(s). This often resulted into children in similar situations being judged differently (*in different States*).<sup>34</sup>

In 1985, the General Assembly of the United Nations(UN) adopted the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice<sup>35</sup> where the word “Juvenile” was used in International Law for the first time.<sup>36</sup> Around the same time the Hon'ble Supreme Court of India was pleased to make the following observations in the case of *Sheela Barse & Anr., Petitioners v. Union of India & Ors., Respondents*<sup>37</sup> while emphasizing on the need for complete uniformity in legislation relating to children(at paragraph 13 of Cri.L.J):-

***“13... we would suggest that instead of each State having its own Childrens' Act different in procedure and content from the Childrens' Act in other States, it would be desirable if the Central Government initiates Parliamentary Legislation on the subject, so that there is complete uniformity in regard to the various provisions relating to children in the entire territory of the country. The Childrens' Act which may be enacted by Parliament should contain not only provisions for investigation and trial of offences against children below the age of 16 years but should also contain mandatory provisions for ensuring social, economic and psychological rehabilitation of the children who are either accused of offences or are abandoned or destitute or lost. Moreover, it is not enough merely to have legislation on the subject, but it is equally, if not more, important to ensure***

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33 Supra note 3 at 321

34 Supra note 32

35 On 29.11.1985, also known as “the Beijing Rules”

36 Supra note 32

37 (1986) 3 SCC 632; (1986) SCC (Cri.) 352; 1986 Cri.L.J 1736(SC)

***that such legislation is implemented in all earnestness and mere lip sympathy is not paid to such legislation and justification for non-implementation is not pleaded on ground of lack of finances on the part of the State. The greatest recompense which the State can get for expenditure on children is the building up of a powerful human resource ready to take its place in the forward march of the nation.”***

The obligation of our country to follow the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice (“*The Beijing Rules*”) and the prevailing judicial trend led to the passing of the Juvenile Justice Act, 1986. The Act was, however, found deficient for a number of reasons. For example, it did not provide for differential approach in case of delinquent juveniles and neglected juveniles. It was also felt that the justice system as available for adults was not suitable for being applied to a juvenile or a child.<sup>38</sup> The Act was soon replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000.<sup>39</sup> Unfortunately, as the Act of 2000 blanketly covered all juvenile delinquents irrespective of the seriousness or heinousness of the offences it was subjected to much criticism from all stake-holders who started advocating amendments to the law. In the aftermath of the 2012 Delhi gang rape case (*Nirbhaya case*) there was an unprecedented surge in criticism of the above juvenile law. The Delhi gang rape case<sup>40</sup> generated widespread national and international coverage, concerns and was widely condemned, both in India and abroad. Subsequently, public protests against the State and Central governments for failing to provide adequate security for women took place in New Delhi. Similar protests also took place in major cities throughout the country.<sup>41</sup> Ultimately, the Indian Parliament in its wisdom replaced the Act of 2000 above with the Juvenile Justice(Care and Protection of Children) Act, 2015. The said Act has introduced the concept of judicial waiver in somewhat similar lines as in the US as seen above and allows children-in-conflict with law in the age group of 16-18 years involved in heinous offences to be tried as adults. There has however been intense criticism and protests by the child rights fraternity in that regard.

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38 Vijay Hansaria and P.I. Jose, *Juvenile Justice System*, 145,(Universal Law Publishing Co: New Delhi, 2010)

39 The Act was passed also keeping in view the standards prescribed in the United Nations Convention on the Rights of the Child, 1989; the *Beijing Rules* and the United Nations Rules for Protection of Juveniles deprived of their liberty.

40 [http://www.en.wikipedia.org/wiki/2012\\_Delhi\\_gang\\_rape](http://www.en.wikipedia.org/wiki/2012_Delhi_gang_rape)

41 Ibid



17 February

Sikkim Judicial Academy organized a workshop on “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” for District & Sessions Judges held on 17<sup>th</sup> February, 2018 at Sikkim Judicial Academy, High Court Premises, Gangtok.



Dr. Amita Punj, Associate Professor (Law), National Law University, Delhi was Resource Person for the said programme.





24/25 Feb.

Sikkim Judicial Academy organized a “Refresher Course on Ubuntu Operating System and Case Information System 1.0 and 2.0 (eCourts Oriented)” for the ministerial staff of High Court of Sikkim and Subordinate Courts of Sikkim on 24<sup>th</sup>/25<sup>th</sup> February, February, 2018 respectively at the Sikkim Judicial Academy, High Court premises, Gangtok.



Mr. Rudra Rimal, Sr. System Officer, High Court of Sikkim and Mr. Yoland Christopher, System Administrator, District & Sessions Court, East at Gangtok were the Resource Persons.





10 March

Sikkim Judicial Academy organized a training programme on “General Provisions of the Civil Procedure Code, 1908 and the Criminal Procedure Code, 1973 (Practice and Procedure) and Service of Summons” for Peshkars and Process Servers of the Subordinate Courts of Sikkim on 10<sup>th</sup> March, 2018 (Saturday) at the Sikkim Judicial Academy, High Court Premises, Gangtok.



Mr. Prajwal Khatiwada, District & Sessions Judge, North Sikkim at Mangan was the Resource Person.



18 March

Sikkim Judicial Academy organized a workshop on "Deciding Appeals (in Civil and Criminal Cases) and cases under the Arbitration and Conciliation Act, 1996 for District & Sessions Judges on 17<sup>th</sup> & 18<sup>th</sup> March, 2018 (Saturday & Sunday) at the Sikkim Judicial Academy, High Court Premises, Gangtok.



Mr. Mahadeb Ghose, former District & Sessions Judge, West Bengal was Resource Person for the programme.





7 April

Sikkim Judicial Academy organized a Refresher Course on “Power & Duties of Drawing and Disbursing Officers, Formulation, Presentation of Budget and allied matters including Financial Planning, Financial Rules, Maintenance of Accounts” for Accounts Officers, D&DO, Accountants, Jr. Accounts and Accounts Staff of the High Court and Subordinate Court of Sikkim on 7<sup>th</sup> April, 2018 (Saturday) at Sikkim Judicial Academy, High Court Premises, Gangtok.



Mr. Dorjee Tashi Bhutia, Additional Director, Finance & Accounts, Finance Revenue & Expenditure Department, Government of Sikkim was Resource Person for the said programme.





14 April

Sikkim Judicial Academy organized a Orientation Course for the Oath Commissioners on 14<sup>th</sup> April, 2018 (Saturday) for Oath Commissioners at Sikkim Judicial Academy, High Court Auditorium, Gangtok.



Mr. Benoy Sharma, Chief Judicial Magistrate, North Sikkim was the Resource Person for the programme.





12 May

Sikkim Judicial Academy have organized a workshop on “Practice and Procedure of the “Motor Accident Claims Tribunal (cases under the MACT)” for Members, Motor Accident Claims Tribunal (MACT) and Motor Vehicle Inspectors on 12<sup>th</sup> May, 2018 (Saturday) at Sikkim Judicial Academy, High Court Auditorium, Gangtok.



Shri Sanjay Kumar Aggarwal, Special Judge (P.C Act), CBI, Tis Hazari Court, Delhi was the Resource Person.





20 May

A workshop was arranged under the auspices of Sikkim Judicial Academy on Sunday 20<sup>th</sup> May, 2018 in Sikkim Judicial Academy, High Court Auditorium, Gangtok from 9:30 am. The workshop was entitled "Animal Protection Laws and Animal Welfare Laws" The target groups for the workshop were the Judicial Officers, Divisional Forest Officers and Officers from Animal Husbandry, LF & VS Department.



The workshop was presented by Shri N. G. Jayasimha, Director, Animal Law Center, NALSA at Hyderabad who also manages the programs of the Animal Law Center in India related to farm animal welfare, wildlife and animal used in research. He is enrolled as an Advocate in the Supreme Court Bar Association





3 June

A workshop was arranged under the auspices of Sikkim Judicial Academy for Chief Judicial Magistrates and Civil Judge-cum-Judicial Magistrates on Sunday 3<sup>rd</sup> June, 2018 in Sikkim Judicial Academy, High Court Auditorium, Gangtok from 9:30 am. The workshop was entitled "The Negotiable Instrument Act, 1881".



The workshop was presented by Dr. Ajoy Kumar Mukherjee, Additional District & Sessions Judge, Re-designated Court, West Midnapur.



24 June

A workshop was arranged under the auspices of Sikkim Judicial Academy for District & Sessions Judges on Sunday 24<sup>th</sup> June, 2018 in Sikkim Judicial Academy, High Court Auditorium, Gangtok from 9:30 am. The workshop was entitled “The Intellectual Property Rights”.



The workshop was presented by Dr. Shreya Matilal, Assistant Professor, IIT Kharakpur who is an LLM(Hons.), National law School, Bangalore. he has been conferred with various awards by the Washington, D.C, USA.





## **Last Institutional Training for the Newly appointed Civil Judge-cum-Judicial Magistrates from 01.06.2018 To 28.06.2018**

Sikkim Judicial Academy concluded last institutional training programme for the newly appointed Civil Judge-cum-Judicial Magistrates namely: Ms. Zamyang Choden Bhutia, Ms. Urvashi Pradhan and Mr. Jabyang Dorjee Sherpa, Hon'ble Mrs. Justice Meenakshi Madan Rai, Acting Chief Justice, High Court of Sikkim, Hon'ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim, Judge-In-Charge, Sikkim Judicial Academy, Hon'ble Mr. Justice A. P. Subba, Former Judge, High Court of Sikkim, Hon'ble Mr. Justice S. P. Wangdi, Former Judge, High Court of Sikkim, Mrs. K. C. Barphungpa, District & Sessions Judge, East Sikkim, Mr. N. G. Sherpa, Registrar General, High Court of Sikkim, Mr. K. W. Bhutia, Registrar, High Court of Sikkim, Mr. Prajwal Khatiwada, District & Sessions Judge, North Sikkim, Mr. Suraj Chettri, Member Secretary- Sikkim State Legal Services Authority, Mr. Rudra Rimal, Sr. System Officer, High Court of Sikkim, Mr. Yoland Christopher, Section Officer, District & Sessions Court, East Sikkim and Ms. Monika Rai, Head Surveyor, District Collectorate Office, East Sikkim, were the Resource Persons for the Last Institutional Training Programme for the newly appointed Civil Judge-cum-Judicial Magistrates.

















## INAUGURATION OF SIKKIM JUDICIAL ACADEMY

Sikkim Judicial Academy (Phase-I) which was inaugurated on 27<sup>th</sup> June 2018 was conceived in the year 2012.

The foundation stone was laid by Hon'ble Late Justice Altamas Kabir, the then Judge of the Hon'ble Supreme Court of India in the presence of Hon'ble Mr. Justice Promod Kohli, the then Chief Justice of Sikkim.

The Judicial Academy is the second such Academy in the North Eastern Region. The grand infrastructure of the Sikkim Judicial Academy will be a hub of learning for all stakeholders in the administration of Justice in the Country. The establishment of the Sikkim Judicial Academy thus has filled the gap to train Judicial Officers of Sikkim within the state.

The Academy aims to provide the finest of resource persons and make available the best resource materials to hone the skills of all authorities and person involved in the Judicial Process.









## **The Encouraging words of Hon'ble the then Chief Justice Shri Satish Kumar Agnihotri during the inauguration.**

An institution takes birth through ideas which dwell in the minds of people with varying yet similar vision. The idea of imparting judicial education was developed by several people, but took some time to come to fruition.

When Hon'ble Supreme Court decided that an institute needed to be set up for Judicial education, the idea was that young Judicial Officers need to be guided regarding the foundation of the Judicial system. Not only Judicial Officers, but legal refreshers, Advocates and Sr. Advocates need proper training, and updates.

James Bright remarked that 'there is no better test of excellence of a Government than the efficiency of its judicial system'. There is no doubt that judicial service is one of the most respected and sought after careers today.

We must ensure that there are no unwanted errors, or unnecessary delays in the disposal of cases. If such were allowed to creep into the judicial system it would erode the legitimacy and respect that the judiciary have in society.

The learning process needs to be supported by procedures which provide support, knowledge, and resources to the members of judiciary and of the judicial fraternity.

In the last two years significant strengths have been gained in providing continuous legal education, especially to judicial officers, with the establishment of the National Judicial Academy at Bhopal.

I would also like to use this occasion to point out to the administration, and the faculty of institution, the importance of ensuring that learning methods, and curriculum, are always maintained and evolved in accordance with changing social culture. Perseverance and substantial investment has come from the State Government under the leadership of Hon'ble Chief Minister of Sikkim and his team, my sister Judge Justice Meenakshi Madan Rai, brother Judge Justice Bhaskar Raj Pradhan, former judge Justice A.P Subba, Justice Wangdi. They all have worked tirelessly to make this project a reality. Conceived in 2012, and I don't mind reminding you that it was the brainchild of Justice Wangdi, who sent a team to Punjab.

Sikkim Judicial Academy can emerge as a vital institution for continuous legal education in the country, and contribute to the improvement of skills and knowledge of members of the judiciary, not only in this state judicial fraternity, alone but in the entire North-East states.





**The Chief Guest during the inauguration was  
Hon'ble the Chief Minister of Sikkim  
who enlightened the gathering with these words**

It was on 14<sup>th</sup> May, 2012 Hon'ble Justice Altamas Kabir, Former Chief Justice of India laid the foundation stone of this Academy. I am delighted to be present today for the inauguration ceremony of Sikkim Judicial Academy. Now with the Academy building coming to reality, it is a time for us all to rejoice.

We all know the institution of Judicial Academy came into existence after the Hon'ble Supreme Court felt there was an urgent need to provide judicial education on a systematic basis to the National and State Judicial academies. When the idea of establishment of the Sikkim Judicial Academy was conceived and proposed, our government happily set a priority in preparing the DPR and providing the land.

I am confident that the Judicial Officers and lawyers of Sikkim will benefit immensely from the establishment of this institute. To have judiciary in this country recognizes the relevance of continued legal education. Because of the wide varieties of litigation, the Judicial Officers and lawyers have to frame new responses to tackle and overcome such challenges. Specialized Judicial education and training have become an absolute necessity.

Law and judiciary play a crucial role in the development of society, and maintaining the rule of law is the most important attribute of judiciary in our democracy. I am sure Sikkim Judicial Academy will fulfill its duties and obligations in imparting quality training to Judicial Officers, young lawyers and students of law of the state.

Traditionally Sikkim is known for its social and mutual co-existence. It is certainly desirable that we have a court to adjudicate upon the civil and criminal liabilities. You will be aware that I already am a custodian of the constitution, and honest upholder of the law of the land. I have always respected most sincerely the constitutional provision of Judiciary, and a true follower of democratic principles and philosophy.

I conclude with a strong belief that one day this institute will be one of the best institutions in the country in imparting judicial knowledge and training.

I would like to convey my wishes to all of you.



## SIKKIM JUDICIAL ACADEMY

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