



# Cooperative Approaches to Legal Aid in India

*IBJ continues to be a leading force in India's legal aid network*

*IBJ will work to establish a permanent system of defense lawyers on duty in detention centers and remand prisons to guarantee universal and prompt access to counsel.*

During 2010, IBJ established itself once again as a leading force in the development of India's legal aid network. IBJ continued to employ its complementary approaches to improve access to justice: leading by example through direct client representation and high-level strategic development through local partnerships.

Since December 2009, IBJ lawyers have defended over 250 cases, made possible through its New Delhi-based Fellow Ajay Verma and its partnership with Banglar Manabdhikar Suraksha Mancha (MASUM) in West Bengal. Ajay also led two training events in June 2010, gathering together judges, lawyers, police officials, judicial officers, and legal scholars for mutual instruction and training. Such events help ensure proper compliance with Indian criminal and procedural law at all levels of the criminal justice system. IBJ's special emphasis on guaranteeing

early access to counsel and proper police examination techniques furthers its mission to eliminate torture as an investigative tool.

Throughout October and November 2010, with the assistance of Andy Haas of the International Senior Lawyers Project and volunteer attorney Puneet Kakkar, Ajay met with key advocates, jurists, and officials to discuss how IBJ India could strengthen the criminal justice system through local partnerships and increased day-to-day participation. Both the general trainings and the advocacy programs create a well-connected community of legal aid practitioners and allow criminal justice stakeholders the valuable opportunity to collaborate on ways to improve the Indian legal system. In November 2010, IBJ and its partner, Delhi Legal Services Authority (DLSA), conducted a full day training workshop on effective legal aid advocacy to improve the skills of lawyers working for

DLSA at the trial court level.

In 2011, IBJ will continue to develop its professional relationships with local legal aid organizations, working toward the creation of sustainable resource centers for legal aid lawyers. Development of resource centers in marginalized regions of the country is a priority, as they will help support the advocates and residents most in need. Looking forward, IBJ will work to establish a permanent system of defense lawyers on duty in detention centers and remand prisons to guarantee universal and prompt access to counsel.

## JUSTICE FACTS:

### India

**Rule of Law:** 56.7/100

**2010 Prison Population:**  
384,753,  
32 per 100,000

*“What IBJ wants to achieve through early access to counsel and creating a robust system of criminal defense could prevent suffering to many ordinary people.”*

Hon. K.G. Balakrishnan, Chief Justice of the Supreme Court of India, 2007-2010

Photo courtesy of Tushar Kamti Mandial



Inmates in an Indian prison cell

## *A Major Victory for the Rights of the Accused*

The High Court of Delhi declared: “None can belittle the right of every accused to be fairly and adequately represented in a criminal trial, especially where a capital sentence is involved.”

IBJ Fellow Ajay Verma successfully appealed the conviction of Salamat Ali on the ground that he had not received effective assistance of counsel during his trial. Specifically, Salamat’s trial attorney failed to cross-examine several key witnesses. The trial judge concluded that a lack of cross-examination by defense counsel amounted to an admission by the defendant to the accuracy of their testimony.

However, as the appellate court explained, “an admission is something which is expressly admitted in no uncertain language by the person against whom the admission is pressed into aid.” Consequently, a failure to cross-examine a witness on a topic can never be deemed an admission.

Within the opinion, the appellate court judges stressed a defendant’s fundamental right to counsel and the responsibility of the trial judge to ensure a fair adversarial trial. As a number of witnesses had “not been subjected to any meaningful cross-examination,” the defendant had effectively been denied his fundamental right “to be fairly and adequately represented in a criminal trial.”