

Defences of Judicial Officers Against Strictures

By - S.S. Upadhyay, HJS

Legal Advisor to Governor of U.P.

Lucknow.

It is often seen that disparaging remarks are recorded by the judges of the superior courts in their judgments and orders against the members of Sub-ordinate Judiciary which not only adversely affects their career and reputation but it also deeply hurts them in terms of their peace and calm and confidence as well. In many cases, the judicial officers find it quite difficult as to what are the remedies in law available to them in the event of being faced with condemnatory remarks and strictures at the hands of the superior court judges. The Hon'ble Supreme Court has, over the years, evolved the law on the subject through its host of decisions and the remedies of the judicial officers against strictures can well be found in those decisions. The unhealthy practice of recording strictures, along with the instances of cases wherein they were recorded, is being discussed here with the aid of some important decisions of the Hon'ble Supreme Court providing guidelines and remedies regarding expunction of strictures.

- 1. Object behind creating different tiers of judicial hierarchy**--- In the case of **Braj Kishore Thakur vs. Union of India and others, (1997) 4 SCC 65**, the Supreme Court has reminded the Judges of higher courts that the higher tiers are provided in the judicial hierarchy to set right errors which could possibly have crept in the findings or orders of courts at the lower tiers. Such powers are certainly not for belching diatribe at judicial personages in lower cadre. It is well to remember the words of a jurist that “a judge who has not committed any error is yet to be born.”
- 2. Superior Court Judges to act as friend, philosopher & guide of sub-ordinate judges**---The Hon'ble Supreme Court, while expunging the critical remarks recorded by the Delhi High Court against a Metropolitan Magistrate of Delhi, has in the case of “**K**”, **A Judicial Officer, In Re, (2001) 3 SCC 54** clarified that the role of High Court is also of a friend, philosopher and guide of judiciary subordinate to it.
- 3. Maxim “pardon the error but not it's repetition”**----- In the case of “**K**”, **A Judicial Officer, In Re, (2001) 3 SCC 54**, it has been ruled by the Hon'ble Supreme Court that under the constitutional scheme, control over the district courts and courts

subordinate thereto has been vested in the High Courts. The control so vested is administrative, judicial and disciplinary. The strength of power is not displayed solely in cracking a whip on errors, mistakes or failures; the power should be so wielded as to have propensity to prevent and to ensure exclusion of repetition if committed once innocently or unwittingly. Pardon the error but not its repetition. The power to control is not to be exercised solely by wielding a teacher's cane; the members of subordinate judiciary look up to the High Court for the power to control to be exercised with parent-like care and affection. The exercise of statutory jurisdiction, appellate or revisional, and the exercise of constitutional power to control and supervise the functioning of the district courts and courts subordinate thereto empowers the High Courts to formulate an opinion and place it on record not only on the judicial working but also on the conduct of the judicial officers. The existence of power in higher echelons of judiciary to make observations even extending to criticism incorporated in judicial orders cannot be denied, however, the High Courts have to remember that criticisms and observations touching a subordinate judicial officer incorporated in judicial pronouncements have their own mischievous infirmities. Firstly, the judicial officer is condemned unheard which is violative of principles of natural justice. A member of subordinate judiciary himself dispensing justice should not be denied this minimal natural justice so as to shield against being condemned unheard. Secondly, the harm caused by such criticism or observation may be incapable of being undone. Such criticism of the judicial officer contained in a judgment, reportable or not, is a pronouncement in open and therefore becomes public. The same Judge who found himself persuaded, sitting on judicial side, to make observations guided by the facts of a single case against a Subordinate Judge sitting on administrative side and apprised of overall meritorious performance of the Subordinate Judge, may irretrievably regret his having made those observations on judicial side but the harming effect whereof he himself cannot remove on administrative side. Thirdly, human nature being what it is, such criticism of a judicial officer contained in the judgment of a higher court gives the litigating party a sense of victory not only over his opponent but also over the Judge who had decided the case against him. This is subversive of judicial authority of the deciding Judge. Fourthly, seeking expunging of the observations by a judicial officer by filing an appeal or petition of his own reduces him to the status of a litigant arrayed as a party before the High Court or Supreme Court – a situation not very happy from the point of view of the functioning of the judicial system. May be for the purpose of pleading his cause he has to take the assistance of a legal practitioner and such legal practitioner may

be one practicing before him. Look at the embarrassment involved. And last but not the least, the possibility of a single or casual aberration of an otherwise honest, upright and righteous Judge being caught unaware in the net of adverse observations cannot be ruled out. Such an incident would have a seriously demoralizing effect not only on him but also on his colleagues. If all this is avoidable why should it not be avoided?

4. Importance of judicial restraint--- An interesting case wherein severe condemnation of a Sessions Judge of the state of Bihar was recorded is to be found in the matter of **Braj Kishore Thakur vs. Union of India and others, AIR 1997 SC 1157** where cancelling the bail order passed by a very senior Sessions Judge under the provisions of NDPS Act in the matter of recovery 97 Kgs. of non-duty paid Ganja, a single Judge of the Patna High Court recorded strictures against the Sessions Judge concerned that the Sessions Judge was not aware of the law on the subject, had passed the bail order casually and leisurely possibly for extraneous considerations and therefore he was not entitled to continue as Sessions Judge. The Supreme Court not only directed the expunction of the critical remarks but on judicial scrutiny of the bail order passed by the Sessions Judge found that the Sessions Judge had granted the bail well within his jurisdiction and in accordance with the law laid down by a Division Bench of the Patna High Court in the case of Kamlesh Kumar vs. State of Bihar, (1994) 2 PLJR 600 (Patna—D.B.). The Supreme Court further observed that when the learned Single Judge castigated the Sessions Judge for being “ignorant of the law and the latest rulings” it would have been desirable that the learned Single Judge had reminded himself of the legal position laid down by the same High Court on the very same subject. Since the position of the law as laid down by the Division Bench of the Patna High Court was binding on the subordinate judiciary in Bihar, there was no justification at all for the learned Single Judge of the same High Court to observe that the Sessions Judge had exceeded his jurisdiction in granting bail. The Supreme Court expunged the adverse remarks and observed that “no greater damage can be caused to the administration of justice and to the confidence of people in judicial institutions when Judges of higher Courts publicly express lack of faith in the subordinate Judges. It has been said, time and again, that respect for judiciary is not in hands by using intemperate language and by casting aspersions against lower judiciary. It is well to remember that a Judicial Officer against whom aspersions are made in the judgment could not appear before the higher Court to defend his order. Judges of higher Courts must, therefore, exercise greater judicial restraint and adopt greater care when they are tempted to employ strong terms against lower judiciary. The High Court could

not have asked the subordinate judicial officer to send up a report in defence of his judicial order as reasons in support of a judicial order can appear only in the order itself and it is an unwholesome practice to compel a Judicial Officer to write a report subsequently in defence of his conclusions.” Similar observations have been made by the Hon’ble apex court in the cases of **A.M. Mathur vs. Pramod Kumar Gupta, (1990) 2 SCC 533** & **S.K. Viswambaran vs. E. Koyakunju, 1987 (24) ACC 318**. In the matters of “**K**”, **A Judicial Officer, In Re, (2001) 3 SCC 54** & **State of U.P. vs. Mohd. Naim, AIR 1964 SC 703**, it has further been observed by the Supreme Court that if such critical remarks recorded by the superior court are questioned then the critical remarks recorded by the superior court must withstand the tests of (i) whether the party whose conduct is in question before the court or has an opportunity of explaining or defending himself; (ii) whether there is evidence on record bearing on that conduct justifying the remarks and (iii) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. The overall test is that the criticism or observation must be judicial in nature and should not normally depart from sobriety, moderation and reserve.

5. Relevant considerations while recording strictures: In the case of **S.K. Viswambaran vs. E. Koyakunju, 1987 (24) ACC 318 (SC)**, the Supreme Court has laid down following guidelines as pre-conditions to be observed by the judges of the superior courts before recording strictures in their judgments and orders against the sub-ordinate Judicial Officers -----whether the judicial officer or any other person whose conduct is in question is before the court or has an opportunity of explaining or defending himself; whether there is evidence on record bearing on the conduct of the judicial officer or of the person concerned justifying the critical remarks; and whether it is necessary for the decision of the case as an integral part thereof to comment critically on the conduct of the judicial officer or the person concerned. Judicial pronouncements must be judicial in nature and should not normally depart from sobriety, moderation and reserve.

6. Strictures tantamount to destruction of the institution of Judiciary from within--- In the case of **K.P. Tiwari vs. State of M.P., 1994 Suppl. (1) SCC 540**, the Madhya Pradesh High Court while cancelling the bail granted to the accused by a very senior Addl. Sessions Judge for the offences u/s. 147, 148, 149, 506, 341, 302 IPC observed that the Addl. Sessions Judge had granted the bail as he was won over by the accused and corrupting influences had worked with him in granting the bail. Expunging the critical remarks the Supreme Court issued a note of caution against recording of strictures against the subordinate Judges in the following words “the High Court Judge should not

have allowed himself the latitude of ignoring judicial precaution and propriety even momentarily. The higher courts every day come across orders of the lower courts which are not justified either in law or on facts and modify them or set them aside. That is one of the functions of the superior courts. Our legal system acknowledges the fallibility of the judges and hence provides for appeals and revisions. A judge tries to discharge his duties to the best of his capacity. While doing so, sometimes, he is likely to err. It is well said that a judge who has not committed an error is yet to be born and that applies to judges at all levels from the lowest to the highest. Sometimes, the difference in views of the higher and the lower courts is purely a result of a difference in approach and perception. On such occasions, the lower courts are not necessarily wrong and the higher courts always right. It has also to be remembered that the lower judicial officers mostly work under a charged atmosphere and are constantly under a psychological pressure with all the contestants and their lawyers almost breathing down their necks – more correctly up to their nostrils. They do not have the benefit of a detached atmosphere of the higher courts to think coolly and decide patiently. Every error, however gross it may look, should not, therefore, be attributed to improper motive. It is possible that a particular judicial officer may be consistently passing orders creating a suspicion of judicial conduct which is not wholly or even partly attributable to innocent functioning. Even in such cases, the proper course for the higher court to adopt is to make note of his conduct in the confidential record of his work and to use it on proper occasions. The judges in the higher courts have also a duty to ensure judicial discipline and respect for the judiciary from all concerned. The respect for the judiciary is not enhanced when judges at the lower level are criticized intemperately and castigated publicly. No greater damage can be done to the administration of justice and to the confidence of the people in the judiciary than when the judges of the higher courts publicly express lack of faith in the subordinate judges for one reason or the other. It must be remembered that the officers against whom such strictures are publicly passed, stand condemned for ever in the eyes of their subordinates and of the members of the public. **No better device can be found to destroy the judiciary from within.** The judges must, therefore, exercise self-restraint. There are ways and ways of expressing disapproval of the orders of the subordinate courts but attributing motives to them is certainly not one of them. That is the surest way to take the judiciary downhill.”

7. Stricture as potential damage to career---- In the case of “K”, **A Judicial Officer, In Re, (2001) 3 SCC 54**. a Metropolitan Magistrate of Delhi issued notices to the officials of PWD under the provisions of the Contempt of Courts Act, 1971 and also took cognizance of the offences against them u/s. 380, 201, 120-B of the IPC on the ground that the dias of her court room prepared by the PWD officials was not fit to be used, shaped like a box, when on dias her head could touch the ceiling fan and it was difficult for her to see from the dias the arguing counsel, the litigants and the court staff. The order of the Metropolitan Magistrate was challenged by the PWD officials under section 482 Cr.P.C. read with Article 227 of the Constitution and the same was quashed by the Delhi High Court by recording the following critical observations against the Metropolitan Magistrate concerned-- “the Metropolitan Magistrate wanted to rope in the petitioners in a criminal case in order to pressurize them to have the dias of her court room and other work carried out as desired by her and her act was against the judicial norms and amounted to gross abuse of the process of court.”The Supreme Court, in SLP filed by the concerned Judicial Officer, directed the critical remarks to be expunged by observing that--“a Judge entrusted with the task of administering justice should be bold and feel fearless while acting judicially and giving expression to his views and constructing his judgment or order. It should be no deterrent to formation and expression of an honest opinion and acting thereon so long as it is within four corners of law that any action taken by a subordinate judicial officer is open to scrutiny in judicial review before a superior forum with which its opinion may not get approval and the superior court may upset his action or opinion. The availability of such fearlessness is essential for the maintenance of judicial independence. However, sobriety, cool, calm and poise should be reflected in every action and expression of a judge.The critical remarks made in a judicial order of the High Court against a member of subordinate judiciary, even if expunged, would not completely reconstitute and restore the harmed Judge from the loss of dignity and honour suffered by him.”

8. Confidential report to Chief Justice by superior court Judge—when to be sent?--- In the case of “K”, **A Judicial Officer, In Re, (2001) 3 SCC 54**, it has been laid down by the Supreme Court that the conduct of a judicial officer, unworthy of him, when having come to the notice of a Judge of the High Court hearing the matter on judicial side, the lis may be disposed of by pronouncing upon the merits thereof as found by him by avoiding in the judicial pronouncement criticism of, or observations on the “conduct” of the subordinate judicial officer who had decided the case under scrutiny.

Simultaneously, but separately, in-office proceedings may be drawn up inviting attention of Hon'ble Chief Justice to the facts describing the conduct of the Subordinate Judge concerned by sending a confidential letter or note to the Chief Justice. It will thereafter be open to the Chief Justice to deal with the subordinate judicial officer either at his own level or through the Inspecting Judge or by placing the matter before the Full Court for its consideration. The action so taken would all be on the administrative side. The subordinate Judge concerned would have an opportunity of clarifying his position or putting forth the circumstances under which he acted. He would not be condemned unheard and if the decision be adverse to him, it being on administrative side, he would have some remedy available to him under the law. He would not be rendered remediless.

9. Remedies of Judicial Officers against strictures---In the cases of (i) "K", a judicial officer, in re, (2001) 3 SCC 54, (ii) Raghbir Saran (Dr) vs. State of Bihar, AIR 1964 SC 1 and (iii) State of U.P. vs. Mohd. Naim, AIR 1964 SC 703, it has been ruled by the Supreme Court that Subordinate Judge faced with disparaging and undeserving remarks made by a court of superior jurisdiction is not without remedy. He may approach the High Court invoking its inherent jurisdiction u/s 151 CPC, 482 CrPC or under Article 226 of the Constitution seeking expunction of objectionable remarks which jurisdiction vests in the High Court by virtue of its being a court of record and possessing inherent powers as also the power of superintendence. If the critical remarks or observations have been recorded in a judgment or order of the High Court, the aggrieved judicial officer can, in exceptional cases, approach the Supreme Court also invoking its jurisdiction under Articles 136 and/or 142 of the Constitution. It is well settled that the power to expunge remarks exists for redressing a kind of grievance for which the law does not provide any other remedy in express terms though it is an extraordinary power. Any passage from an order or judgment may be expunged or directed to be expunged subject to satisfying the following three tests—(i) that the passage complained of is wholly irrelevant and unjustifiable; (ii) that its retention on the record will cause serious harm to the person to whom it refers and (iii) that its expunction will not affect the reasons for the judgment or order.

10. Certain more cases of strictures recorded against Judicial Officers—(A) On finding some error of law in some judicial order passed by an Addl. Sessions Judge of Delhi, a single Judge of the Delhi High Court not only recorded serve strictures against him but also directed him to undergo four months judicial training in the Delhi Judicial Academy. In the case of **Kiran Pal Vs. State of U.P., 2009 (65) ACC 50** (All—

D.B.)where an Additional Sessions Judge in UP had convicted and awarded death penalty to three accused persons on the basis of incomplete chain of circumstantial evidence, a Division Bench of the Allahabad High Court not only set aside the judgment of conviction and sentence of death penalty by acquitting all the three accused persons, but also recorded severe strictures against the ASJ concerned by saying that “the presiding officer of the court below who is a senior officer in the rank of U.P. Higher Judicial Services, it cannot be expected from such officer in convicting the accused persons without any evidence and awarding death penalty to all the three accused persons. This shows that there is lack of knowledge of presiding officer regarding provisions of law, who has not paid attention to several decisions rendered by the Apex Court regarding death penalty.” Copy of the judgment of the division bench has also been directed to be sent to the Additional Sessions Judge concerned for perusal and future guidance and one copy of the judgment was also directed to be placed in the character roll of the ASJ concerned.

(B)Sessions Judge condemned for revisional order--- Where a cognizance taking order passed by Magistrate u/s. 190(1)(b) Cr.P.C. upon receiving police report u/s. 173(2) of the Cr.P.C. was challenged in revision u/s. 397 Cr.P.C. and the Sessions Judge dismissed the revision at the time of admission by saying that revision against summoning order was not maintainable, the Allahabad High Court, quashing the order passed by the Sessions Judge, recorded following condemnatory/critical observations against the Sessions Judge concerned-----“It is really a very sorry state of affairs that a Sessions Judge who is heading the District Judiciary, is in utter ignorance of the basic principles of the law so elaborately pronounced by the Hon’ble apex court. Now the judicial officers in this State are provided with the residential library and necessary grant is also placed at the disposal of the Sessions Judge to contribute a number of Journals but probably the Sessions Judge has hardly anytime to look into such Journals to apprise himself with such an established principle of law. If this is the standard of knowledge at this level, what guidance can be expected by the Sessions Judge to his subordinate officers who join the service afresh. This finding recorded by the Sessions Judge is wholly perverse and contrary to settled law. Copy of this order be sent to the Sessions Judge concerned. The registry of this court shall place the copy of the this order alongwith the record of the case before the Administrative Judge concerned who may evaluate the legal knowledge of the Sessions Judge concerned.” See Arvind Kumar Tewari vs. State of U.P., 2005 (51) ACC 139 (All)

Note: The Sessions Judge concerned filed a writ petition under Article 32 of the Constitution before the Supreme Court (S.K. Bhatt vs. State of U.P., 2005(51) ACC 894 (SC) but was directed to first seek appropriate remedy in the Allahabad High Court and thereafter a Division Bench of the Allahabad High Court directed the expunction of the entire critical remarks recorded against the Sessions Judge concerned. See---- **S.K. Bhatt vs. State of U.P., 2005 (52) ACC 699 (Allahabad--D.B.)**

(C) High Court sending copy of judgment to Sessions Judge for misunderstanding the relevant provisions of law--- Where the Sessions Judge had recorded findings in the judgment in a sessions trial that the informant had lodged false FIR against the accused and, contrary to the provisions u/s. 195/340/344 CrPC, directed the SSP in his judgment for registration of FIR against the informant u/s. 182 of the IPC, the Allahabad High Court quashed the directions of the Sessions Judge as being illegal and without jurisdiction and directed the Registrar General of the High Court to send a copy of the judgment of the High Court to the Sessions Judge concerned for his guidance in future. See-----**Lekhraj vs. State of U.P., 2008 (61) Acc 831 (All)**

(D) Stricture against judicial officers for excessive devotion towards cow--- While dealing with a matter of release of cow progeny under the provisions of U.P. Prevention of Cow Slaughter Act, 1955 r/w. Prevention of Cruelty to Animals Act, Hon'ble Single Judge of the Allahabad High Court has made certain observations against the judicial officers of different cadres as under---- "Unfortunately the police of Uttar Pradesh is also helping such anti-social elements by seizing the animals and vehicles carrying them, even no offence under Cow Slaughter Act or Animals' Cruelty Act is made out. Even more unfortunate state of affairs in Uttar Pradesh is that the Magistrates and Judges in subordinate Courts are not looking in subordinate Courts are not looking to this matter and either due to excessive devotion to cow or lack of legal knowledge, they are not only declining to release the seized animals or vehicles carrying them, but without applying their mind, they are rejecting the bail applications also in such cases, although no offence under Cow Slaughter Act is made out and all the offences under Animals' Cruelty Act are bailable. While making inspection of Rampur judgeship is Administrative Judge, I found that a large number of bail applications in such cases were rejected not only by the Magistrate, but unfortunately the then Sessions Judge and some Additional Sessions Judges also did not care to see whether any offence under Cow Slaughter Act is made out or not and without applying the mind bail applications even in those cases were rejected where two or three bullocks were being carried on foot by the accused. This

unfortunate practice of rejecting the bail applications by merely seeing sections 3, 5, 5-A and 8 of Cow Slaughter Act in FIR is prevalent almost in the whole Uttar Pradesh, which has been unnecessarily increasing the work load of High Court. By declining bail to the accused persons under Cow Slaughter Act, although no offence under this Act is made out and the offences punishable under Animals' Cruelty Act are bailable, the personal liberty of the accused protected under Article 21 of the Constitution of India is also unnecessarily curtailed till their release on granting bail by the High Court." See--- **Asfaq Ahmad vs. State of U.P., 2008 (63) ACC 938 (All)**

(E). Stricture against ACJM for lack of knowledge regarding framing of charge u/s. 409 IPC--- Where a charge u/s. 409 IPC was framed by the ACJM, Agra by rejecting the discharge application of the accused, the single Hon'ble Judge of the Allahabad High Court in criminal revision observed that there was no justification to frame the charge against the accused u/s. 409 IPC and it was very surprising and unfortunate too that due to lack of adequate legal knowledge, the ACJM passed wholly illegal order. The Registrar General was directed to send a copy of the order of the Hon'ble High Court to the ACJM concerned for his future guidance and improving his legal knowledge. See--- **Mukesh Chauhan vs. State of U.P., 2008 (63) ACC 514 (All)**

(F) Stricture against Magistrate for order diluting and dropping charge ought to be reasoned While Sec.227/239CrPC provide for recording the reasons for discharging an accused, although it is not so specifically stated in Sec.228/240CrPC, it can certainly be said that when the charge under a particular Section is dropped or diluted, some minimum reasons in nutshell are expected to be recorded disclosing the consideration of the material on record. See... **R.S Mishra vs. State of Orissa, 2011 CrLJ 1654 (SC)**

Note – In the case of R.S Mishra, the Magistrate was found to have diluted and dropped the charge of grievous offenses u/s 304 of the IPC mentioned in the charge sheet though prima facie case was made out in the case diary and the Orissa High Court then took suo motu cognizance of the matter by suggesting the High Court administration to check service record of the magistrate before granting higher scale to him and strictures were also passed against him.

(G). Judicial Magistrate condemned for treating application u/s 156 (3) CrPC as complaint... where an application moved u/s 156 (3) CrPC by a lady applicant with the allegations of rape on her by her father-in-law was treated as complaint by a lady judicial magistrate in U.P., the single judge of the Allahabad High court recorded severe strictures against the lady judicial magistrate by observing that "the order was a blemish

on justice meted out to a married lady who was ravished by her own father-in-law, the judicial magistrate herself being a lady could not think about the outcome of ravishing the chastity of daughter-in-law by her father-in-law and the order indicated total non application of mind, the lady judicial magistrate was warned to be careful for future in passing the judicial orders & the Hon'ble judge expressed his view that he was inclined to refer the matter to the Administrative Committee for taking action against the lady judicial magistrate but refrained from doing so because she was a young officer and has a long career to go". The lady judicial magistrate approached the Hon'ble Supreme Court under Article 32 of the constitution for expunction of the critical remarks. Setting aside the order passed by the learned single judge of the Allahabad High court and restoring and upholding the order of the lady judicial magistrate as valid order, the Hon'ble Supreme Court observed that "This court has outlined an alternate safer and advisable course of action in such a situation, that is of separately drawing up proceeding, inviting the attention of the Hon'ble Chief justice to the facts describing the conduct of the subordinate judge concerned by sending a confidential letter or note to the Chief Justice. The actions so taken would all be on the administrative side with the subordinate judge concerned having an opportunity of clarifying his position and he would be provided the safe guard of not being condemned unheard, and if the decision be adverse to him, it being on the administrative side, he would have some remedy available to him under the law. The difference in views of the higher and the lower courts is purely a result of difference in approach and perception. But merely because there is difference in views, does not necessarily establish that the lower courts are necessarily wrong and the higher courts are always right. Therefore, this court in several reported decision has emphasized the need to adopt utmost judicial restraint against making the disparaging remarks so far as members of lower judiciary are concerned" See... **Smt. Mona Panwar v/s Hon'ble High court of Judicature at Allahabad through its Registrar, 2011(2) ALJ 445(SC).**

(H). Stricture against trial Judge of Fast Track Court for illegal conviction and penalty under SC/ST Act, 1989 ... If an accused commits any offence under IPC with imprisonment for a term less than ten years, then Sec 3(2)(5) of the SC/ST Act , 1989 can not be attracted in such case. Where a Fast Track Judge of Aligarh judgeship had convicted four accused persons u/s 363 IPC r/w Sec. 3(2)(5) of the SC/ST Act (though Sec.363 IPC is not punishable with imprisonment for a term of ten years or more but it is punishable with imprisonment for a term which may extend to seven years) and

