

NATIONAL JUDICIAL ACADEMY



NORTH ZONE-I “REGIONAL CONFERENCE ON OPTIMIZING QUALITY AND EFFICIENCY IN JUSTICE DELIVERY: CHALLENGES & OPPORTUNITIES” [P-1192]

30TH NOVEMBER – 01ST DECEMBER, 2019

PROGRAMME REPORT

PROGRAMME COORDINATORS: MR. SUMIT BHATTACHARYA AND MS. ANKITA PANDEY
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LIST OF RESOURCE PERSONS

S. No.	Name	Designation
1.	Justice S. Ravindra Bhat	Judge, Supreme Court
2.	Justice Madan B. Lokur	Former Judge, Supreme Court
3.	Justice A.K. Sikri	Former Judge, Supreme Court
4.	Justice Gita Mittal	Chief Justice, J&K High Court
5.	Justice D.N. Patel	Chief Justice, Delhi High Court
6.	Justice Rajesh Bindal	Judge, J&K High Court
7.	Justice Rajiv Shakdher	Judge, Delhi High Court
8.	Justice G.S. Sistani	Judge, Delhi High Court
9.	Justice R.K. Gauba	Judge, Delhi High Court
10.	Justice Lok Pal Singh	Judge, Uttarakhand High Court
11.	Justice Ramesh Sinha	Judge, Allahabad High Court
12.	Justice Manoj Misra	Judge, Allahabad High Court
13.	Mr. A. S. Chandhiok	Senior Advocate
14.	Dr. Subhash Chandra Garg	Finance Secretary, Government of India
15.	Mr. Vishal Bansal	Principal Accountant General (A&E), Punjab & Haryana

REPORT

A two day Regional Conference for the North Zone comprising of six High Courts i.e. High Court of Judicature at Allahabad, High Court of Delhi, High Court of Punjab & Haryana, High Court of Jammu & Kashmir, High Court of Himachal Pradesh and High Court of Uttarakhand was organized by NJA on 30th November and 01st December, 2019 at New Delhi, hosted by the Delhi High Court and Delhi Judicial Academy.

The objective of the conference focused on the fact that efficient functioning of subordinate courts is elemental for proper administration of justice and quality justice delivery. Continual dialogue, communication and exchange of evolving horizons of knowledge and best practices between judicial hierarchies- the Higher and Subordinate Courts, conduces and nurtures quality justice delivery. Hence, the regional conference was designed to provide a forum for exchange of experiences, communication of knowledge and dissemination of best practices from across clusters of High Court jurisdictions in the North Zone of our country and amongst hierarchies; to accentuate the experience of familial community between High Court and Subordinate Court judicial officers, besides revisiting established and imperative norms of a constitutional vision of justice and the role of a judge in constitutional democracy.

DAY 1

Inaugural Session – Justice S.A. Bobde

The conference was inaugurated by Hon'ble Chief Justice of India (CJI). In his brief but stimulating deliberation he underscored that to ensure constitutional vision of justice as enshrined in the Preamble of the Constitution of India, if a public servant in his/her most basic endeavor does his/her “duties” diligently, honestly and with compassion, other’s “rights” would automatically be taken care of. While expounding “independent judiciary” he equated it with “efficient judiciary”. Hon'ble CJI elucidated the concept(s) of “dharma”, “justice”, “rights” and “duties” and emphasized on development of effective pedagogy. Quoting Eugene Ehrlich “there is no other guarantees of justice, except the personality of the judge”, he emphasized that ultimate guarantee of justice is the personality of a judge. He distinguished between active and passive modes of learning in his discourse on evolving judicial and legal education in India. While emphasizing upon escalating qualitative improvement in Indian judiciary, on one hand CJI prompted that performers be distinguished and acknowledged, while concurrently he aired the need to have a specialized institution for nurturing young talents pool

to fetch from as tomorrow's judges. He contemplated a national institution akin to the National Defence Academy for the judiciary in India. CJI contrasted the stark anomaly between "dispensing justice" and "dispensing with justice". Briefly touching upon the subject of quality of judgments, the CJI advised judges to inculcate the habit of writing short, precise reasoned judgments.

Session 1 – Constitutional Vision of Justice

Speakers - Justice M.B. Lokur and Justice A.K. Sikri

Chair - Justice S. Ravindra Bhat

The session on *Constitutional Vision of Justice* begun by examining and contemplating "justice". Tracing the provenance from the constitutional edifice, the preamble to the Constitution was referred to assess the various corner-stones of "justice" as social, economic and political. Evaluating the *as is* status of social justice, the festering and prevailing practices *viz.* manual scavenging, bonded labors (e.g. mica mining by children etc.) was discussed. Political justice entitles the citizens equal political rights *viz.* right to contest elections, right to vote, right to hold public office etc. However, complete fairness and freedom in exercising these rights is yet to be accomplished. "Equality" was referred to as yet another indispensable rubric of constitutional vision. It was exemplified that although Constitution of India assures "equal access to justice", but perhaps the quality of legal aid is often not equitable or indiscriminate. It was narrated that if one centennially retrospect's, a significant change would be obviated in the year 1950. Wherein, with the advent of Constitution of India the *locus* of "vision of justice" could be traced inherently within it. Other notions of constitutional vision discussed included "judicial review", "rule of law" and doctrine of "separation of power". The common law jurisprudence of "speedy trial" and "bail as a matter of right" was deliberated upon through the lens of "constitutional vision of justice".

Session 2 – Being a Judge

Speakers - Justice M.B. Lokur, Justice Gita Mittal and Mr. A.S. Chandhiok

Chair - Justice A.K. Sikri

The session, *Being a Judge* broadly was premised on the themes: "role of a judge in a constitutional democracy" and "nurturing public faith in the judicial process". The session was an effective vestibular annex to the preceding one. Quoting Aharon Barak, the role of a judge was extrapolated beyond mere adjudication to include; protecting the Constitution and

upholding “rule of law”; and bridging the gap between law and society. The changing role of a judge was discussed wherein, the need of the hour call for a judge to be more inclusive in adopting “inquisitorial system” (*viz.* in POCSO & Juvenile Justice case where the statute so demands), encourage “mediation” and other “Alternate Dispute Resolution” (ADR) mechanism were cited. It was emphatically shared that reading the Directive Principles of the State Policies (DPSP) into the Fundamental Rights to reach out justiciability is yet another “vision of justice”. The comparative jurisprudence between “pragmatic approach” and “originalist or textual approach” of interpretation of Constitution was discussed. The Indian adoption of “transformative approach” to uphold constitutionalism formed part of the discourse. The notions of “constitutional morality” and “constitutional renaissance” was dwelt upon. Judges were peregrinated through the evolution of the positive legal rights as statutory and common law rights originating from the constitutional source, *viz.* rights associated with arrest, dignity as a perennial human right, right to legal aid, speedy trial, privacy and more. It was urged upon the participants to realize that the role of a judge becomes even more profound, when a good case is insufficiently, ineffectively, or [not] argued by an incapable lawyer; or a bad case is argued by a meritorious lawyer.

Session 3 – Access to Justice

Speakers – Justice Rajesh Bindal and Justice Rajiv Shakti

Chair - Justice M.B. Lokur

In the session dedicated on *Access to Justice: IJR Presentation by Justice M.B. Lokur; Information and Communication Technology in Courts; & Court and Case Management*. This session focused on the theme of “access to justice”, its currently reported status in India, the role of information and communication technology in enabling “access to justice” to its consumers, and how principles of management helps judiciary as an institute to deliver better. At the outset “access to justice” was measured and analyzed with the help of recently published *India Justice Report, 2019* (IJR, a Tata Trust Publication: New Delhi). The objective of the report is to draw the attention of the stakeholders to two areas of national concern *viz.* “access to justice” and “health of our institutions responsible for justice delivery”. The session followed by an interactive discussion on the small things that can make a significant impact in the areas *viz.* transparency, ease of access to data, performance analysis, and identification of areas of improvement. The use of National Judicial Data Grid (NJDG) and e-court services were demonstrated to exhibit the power and potential of effective and disciplined use of information

technology by the Indian judicial system. Discussing the challenges faced by the judiciary even on having a fairly robust IT infrastructure (as referred before), a few points were reflected. The procrastinating and tardy approach of the subordinate courts in uploading the information, lack of awareness and interest to upload relevant and mandatory data and more were highlighted. Extensive use of video conferencing was urged to enable induction of a smart judicial process. Access to justice was distinguished from mere access to courts. Barriers to access to justice were categorically dealt as geographical barriers; social factors (dignity, self-esteem, feeling of shamefulness etc.), premium cost of accessing proficient legal services, logistics (transport facilities etc.). Case law referred included *Hussain v. Union of India*, (2017) 5 SCC 702, wherein the apex court reiterated that, “Judicial service as well as legal service are not like any other services. They are missions for serving the society. The mission is not achieved if the litigant who is waiting in the queue does not get his turn for a long time.” It was underscored that the World Bank has lauded Indian Judiciary for NJDG in *Ease of Doing Business*. While discussing case management clubbing and categorization of cases were emphasized. The development and mobile application of the novel “*Supreme Court Vidhik Anuvaad Software*” (SUVAS) loaded with artificial intelligence (AI) for translation of judicial documents in eight Indian languages was applauded. *Ramrameshwari Devi v. Nirmala Devi*, (2011) 8 SCC 249 was referred citing the steps laid down for trial courts for improving the existing system. The macro level ingredients in court management were discussed including, cause list management; time management; case flow management; court resource management; strategic planning, monitoring and follow-up.

DAY 2

Session 4 - Cadre Management in District Judiciary

Speakers - Justice R.K. Gauba, Justice Lok Pal Singh and Justice Ramesh Sinha

Chair – Justice D.N. Patel

Co-Chair – Justice Manoj Misra

The session on *Cadre Management in District Judiciary: Recruitment Process: Aptitude Test; Identifying and Filling of Vacancies; & Human resources/ manpower planning* was an insightful session wherein the intricacies of cadre management was dealt with. It was stated that development is the key subject matter in the management of cadre. Dealing with “equitable development” it was mentioned that it is a development of the people, for the people, and by the people. While dealing with man-power planning, it was cautioned that though there is an urgent need to fill-up the prevalent and up-coming vacancies, the exercise must be done with utmost diligence avoiding sub-standard intake. Quality must prevail over quantitative absorption. It was suggested that “Bar” is one of the best resource pool available to provide future judges. Hence, nurturing a congenial “Bar & Bench” relation would catalyze qualitative prospective judges. While discussing the challenge to adequately ensure right aptitude while recruiting new officers, reliance on *viva voce* may not be an appropriate mode. The pedagogy may be revisited and insistence on adopting *Officer Like Qualities* (OLQ) akin to requirement in the defense recruitment procedures was suggested. It was also suggested that a couple of years of residential practice at “Bar” with a senior counsel as an academic mandate, akin to that of residents in MBBS and articleship in CA curriculum could be adopted as a “best practice” to improve the quality of prospective resource pool. The serious synapse in the continuum is often apparent when one finds that although recruitment process and appointments are completed but, corresponding infrastructure is absent. Individual driven initiatives was distinguished against institutional initiatives as a policy. While discussing supervisory role of High Court, it was emphasized that, the High Court judge in-charge as a supervisor is a guardian judge, (s)he ought to play a role of a mentor and not a monitor or more abrasively as a fault finder.

Session 5 - Fiscal and Budgetary Planning for District Judiciary

Speakers - Dr. Subhash Chandra Garg and Mr. Vishal Bansal

Chair – Justice G.S. Sistani

The last session delved on *Fiscal and Budgetary Planning for District Judiciary: Planning for the next Fiscal; Infrastructural Issues; & Optimal Utilization of allotted Funds*. The session kicked-off with a general overview of the national fiscal system. The Constitutional scheme of funding was illustrated briefly. Funding to the District Courts are done through two routes i.e. State and Central Governments. Entry 11A of the Concurrent List entitles both the Central and the State Government(s) to make laws for “Administration of Justice; constitution and organization of all courts, except the Supreme Court and the High Courts”. On the revenue side, State Governments have been provided powers under Entry 3 for “fees taken in all courts except the Supreme Court”. Similarly, under Entry 63 (State List) power to levy stamp duty on all judicial documents is also with the State Governments. Article 282 of the Constitution of India makes provisions for Central Government to provide grants covering centrally sponsored schemes; or grants under plan / non plan central sector schemes. The three core budgeting classifications were elucidated viz. “Input based budgeting”; “Output based budgeting”; and “Zero Base budgeting”. The “National Mission for Judicial Delivery & Legal Reforms” was discussed which provides central funds for e-courts Phase II, action research on Judicial Reforms and “Strengthening of Access to Justice in India” (SAJI). SAJI component completed in 2017-18. It was highlighted that provision under this Central Sector Scheme (CSS) has been showing a declining trend since last two years. “Finance Commission Grants” were discussed with special reference to the 13th Finance Commission of India (FC). It recommended a grant of Rs. 5000 crore for supporting improvements in a number of facets of the administration of justice including operation of morning/evening courts, promotion of Alternate Dispute Resolution (ADR) mechanism, enhancing support to Lok Adalats, as well as legal aid and training. It was underscored that the 15th FC has a mandate to recommend measurable performance based grants. The session ended with participatory flavor.
