National Judicial Academy, Bhopal

REPORT

Regional Conference on Contemporary Judicial Developments and Strengthening Justice through Law & Technology – SZ-1

[P-1328]

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Academic Coordinators

National Judicial Academy, Bhopal

A Report on South Zone-I

Regional Conference on Contemporary Judicial Developments and Strengthening Justice through Law & Technology [P-1328]

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The National Judicial Academy (NJA) is collaboration with the High Court of Karnataka and the Jammu & Kashmir Judicial Academy is organizing the South Zone – I Regional Conference which was attended by High Court Justices, Judicial Officers, High Court Computer Committee Chairperson and High Court Computer Committee Members at District Level from the High Courts of Delhi, Karnataka, Kerala, Andhra Pradesh, Telangana and Tamil Nadu. The conference provided a forum for exchange of knowledge, experiences and dissemination of best practices among participant justices and judicial officers under the respective High Court's Jurisdiction. The conference aimed at promoting dialogue between participant judges amongst judicial hierarchies on themes including Contemporary trends in Constitutional Law; Precedential value of judgments by the High Court; and Developments in Criminal Law: Issues and Challenges. The conference focused on effective judicial governance through contemporary technological advancements including artificial intelligence, blockchain as well as information and communication technology in courts vis-à-vis e-courts project.

Session 1

Contemporary Trends in Constitutional Law: Recent Judicial Developments

<u>*Speakers*</u>:

> *Justice M.N. Venkatachaliah (Former Chief Justice of India); Justice V. Ramasubramanian (Judge Supreme Court of India); Mr. Arvind P. Datar (Senior Counsel)*

The session commenced with an expression of gratitude towards Justice M.N. Venkatachaliah for his exuberance and kindness to share his thoughts with the judges in his powerful intellectual dispensation despite of his nanogenarian physical decelerations; Justice V. Ramasubramanian for his diligence to deliberate his thoughts even on being unwell; and Justice R.V. Raveendran for his commitment towards judicial fraternity, which was a conspicuous exponent of true professionalism with self-endurance notwithstanding deep personal losses causing even a shadow over professional commitments. The session included deliberations on contours of "Right to Freedom of Speech & Expression"; the dichotomy between scope of Article 21 and Prohibition; Challenges faced by the Judiciary while dealing with media; the shades and limits of Comparative and Cooperative Federalism.

Quoting Ahron Barak who said "*as I sit at trial, I stand on trial*", the humongous responsibility of a judge was iterated. It is the uniform and ultimate constitutional responsibility of every judge not limited to a class of "constitutional judges" exclusively. Dealing on the contours of free speech and expression (being one of the most contended and defended "right" in the contemporary world by judiciaries across the globe) reliance was paid on one of the exchanges made by Thomas Jefferson with Edward Carrington (Paris Jan. 16. 1787) wherein Jefferson expressed:

> [T]he basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter. [B]ut I should mean that every man should receive those papers & be capable of reading them.

The thoughts of having a free media (press) embracing freedom of original ideas and expressions was mooted in the Constitution of India by its makers. The balance between honest, optimum, unbiased and objective reporting of expressions against purposive (agenda based), corrupt, *malafide*, improper, subjective, misreporting or coloured fabrication, was juxtaposed. Recounting the duty of a judge therein is to sift the grain from chaff to unravel the truth and guard freedom of speech and expression, against an unbridled and potential *infodemic* infringing others rights. The *Oakes Test* created by the Supreme Court of Canada in *R v. Oakes*, [1986] 1 SCR 103 was discussed while establishing the *doctrine of proportionality test.* Interpreting the *Canadian Charter of Rights and Freedoms*, (Part I of the Constitution Act, 1982), the test interprets that, rights are guaranteed, "subject only to such reasonable limits … as can be demonstrably justified in a free and democratic society." It was explained to mean that the Government must establish that the benefits of a law outweigh its negative impact (i.e. that is, its violation of a Charter Right) especially while dealing with "reverse burden" as against "presumption of innocence until proved guilty beyond reasonable doubts". Explaining the courts broader interpretive role another Canadian Supreme Court judgment was cited *R. v. Big M Drug Mart Ltd.*, (1985) 60 A.R. 161 (SCC). Wherein interpreting the fundamental freedoms liberally, the court held that, "embraces both the absence of coercion and constraint, and the right to manifest such beliefs and practices." the Court found the ban on Sunday shopping violated freedom of religion since the law's purpose was to force the Christian religious observance on all Canadians. Referring to *Kaushal Kishore v. State of U.P.*, WRIT PETITION (CRIMINAL) NO. 113 OF 2016, it was asserted that:

i. The grounds lined up in Article 19(2) for restricting the right to free speech are exhaustive. Under the guise of invoking other fundamental rights or under the guise of two fundamental rights staking a competing claim against each other, additional restrictions not found in Article 19(2) cannot be imposed on the exercise of the right conferred by Article 19(1)(a).
ii. Articles 19 & 21 - Horizontal Application - A fundamental right under Article 19 or 21 to be applicable to legal entities beyond the State and its instrumentalities under Article 12.

The wrath of an unbridled media was discussed citing the 1921 infamous incidence of Roscoe "Fatty" Arbuckle facing unfounded charges of sexual assault and murder of Virginia Rappe, later discovered to have been falsely implicated and orchestrated. It is remembered by history as one of Hollywood's blackest spots in terms of scandals. On "federalism" a conceptual pretext was laid down w.r.t. *A.R. Antuley v. R.S. Nayak,* (1992) 1 SCC 225. The contemporary *doctrine of cooperative and collaborative federalism* was discussed by referring to *UoI v. Mohit Minerals (P) Ltd*., 2022 SCC Online SC 657. The dynamics of federalism under Constitution of India from the *doctrine of autonomic federal States structure with a strong Union tilt*, to "cooperative federalism" was examined. The various nature, conventions and operational concepts of federalism *viz.* "simultaneous powers", "competitive v. collaborative federalism", "fiscal federalism", "uncooperative federalism" were delved into with the help of case law jurisprudence and scholarships including *S.R. Bommai v. UoI,* (1994) 3 SCC 1; *State (NCT) of Delhi v. UoI*, (2018) 501; *UoI v. Mohit Minerals (P) Ltd*., (2022) 10 SCC 700.

The doctrine of prohibition contrapuntal to Article 21 was faced with adversarial arguments. *The State of Tamil Nadu v. K. Balu*, (2017) 2 SCC 281 was discussed. The recent refusal of the Apex Court to entertain a PIL in *Viniyog Parivar Trust v. UoI*, to direct the Union to frame a national policy on prohibition of alcohol under List III owing to its severe ill effect on the society was underscored. Citing *Razakbhai Issakbhai Mansuri. v. State of Gujarat*, 1993 Supp (2) SCC 659, the "evil effect" of intoxicating drinks and the express Constitutional mandate under Article 47 as the duty of the State to raise the standard of living and to improve the public health was voiced. The concepts of "*res extra commercium*" and "*res communase*" was underscored with respect to interpretation of the maxims in Indian case law jurisprudence including *Khoday Distilleries Ltd. v. State of Karnataka*, (1995) 1 SCC 574. It was argued that while discussing the nature of the rights of people trading in alcohol, the Apex Court wrongly applied the concept of "*res extra commercium*". It was explained by the speaker that morality had no role to play in the classification of property as *res extra commercium*

It was asserted that while *res extra commercium* had been correctly interpreted in *Angurbala Mullick v. Debabrata Mullick*, 1951 SCC 420, the series of its misinterpretation apparently started from *R.M.D. Chamarbaugwalla v. Union of India*, AIR 1957 SC 628. The misinterpretation followed owing to an erroneous interpretion of a decision in *State of Bombay v. R.M.D. Chamarbaugwala*, AIR 1957 SC 699 as holding that gambling was not trade but *res extra commercium*, wherein actually it was held as "gambling activities from their very nature and in essence are *extra commercium*". It was further interrogated that what is statutorily been permitted, cannot be judicially made impermissible.

However, the right to trade in liquor is qualified by Article 19(6) and Article 47 as held by the Apex Court in *Kerala Bar Hotels Assn. v. State of Kerala*, (2015) 16 SCC 421. The discourse also extrapolated that along with "*res extra commercium*", there are two more doctrines commonly (and often inappropriately) invoked by Constitutional Courts in India. These are namely "*doctrine of privilege*" aptly discussed in *C.S.S. Motor Service v. State of Madras*, AIR 1953 Mad 279, generally applied by State in cases to

regulate liquor trade; and "*doctrine of Police Power*" for founding law relating to public health and safety, which can be traced by a combined reading of the jurisprudence developed by *A.K. Gopalan v. State of Madras*, 1950 SCC 833; *State of West Bengal v. Subodh Gopal Bose,* AIR 1954 SC 92; and *Sagir Ahmad v. State of U.P.*,*AIR* 1954 SC 728.

Session 2

Precedential Value of High Court Judgments

Speakers:

> *Justice R.V. Raveendran (Former Judge Supreme Court of India) and Mr. Arvind P. Datar (Senior Counsel)*

The session on the nature, scope, and optimum application of the doctrine of precedent envisaged on certain well founded principles of common law jurisprudence. However, it was narrated that the concept could be traced back from the doctrinal scriptures of *Mahabharat* (tracing the source much back in time in the Indian epic). The intellectual discourse between *Yaksh* and *Yudhisthir* very well captures the basic principle of precedence in the source of one of the answers by *Yudhishthir* to *Yaksh* wherein replying to the query of what is the correct interpretation of living a happy and fulfilled life, *Yudhishthir interalia* asserts as under:

> तर्कोऽप्रतिष्ठः श्रुतयो विभिन्ना नैको ऋषिर्यस्य मतं प्रमाणम् ।
> धर्मस्य तत्त्वं निहितं गुहायाम् महाजनो येन गतः सः पन्थाः ॥१७॥

Meaning thereby that, the essence of lawfulness and duty lies substantively very deep (implied by a cave). Therefore, the wisdom is, that it is advisable and justiciable to tread the way already explored by the revered and adorable intellectuals in the society.

It was underscored that the *doctrine of precedent* is a double edged sword, and cuts either ways. Hence, a deep sense of caution needs to prevail in deploying it effectively to serve the needs for dispensation of justice. Qualified as a boon it is a certain tool of wisdom reinforcing certainty and predictability in *lis.* However, indiscriminate use of it was diagnosed to be a reason for prolixity and over whelming pendency, rendering a systemic paralysis. As a bane the tool was touted to rob judges' wisdom and unique ability to think originally. It was also narrated that in a sprint to lay down a law (which often is often already there and breathing), often (unnecessary) precedents find a place in a judgment, to justify an individual stereotype of a judge.

While dealing with the scope of the doctrine its i) Horizontal, b) Vertical, & c) Diagonal implications were discussed. Discussing on the numerical strength of a bench in the case of having binding effect the apex court in *Trimurthi Fragrances (P) Ltd. v. Government of N.C.T. of Delhi*, 2022 SCC OnLine SC 1247, held that, A decision delivered by a Bench of largest strength is binding on any subsequent Bench of lesser or coequal strength. It is the strength of the Bench and not number of Judges who have taken a particular view which is said to be relevant. *Shah Faesal v. Union of India*, (2020) 4 SCC 1 was cited while discussing the scope of application of rule of *per incurium* which is to the *ratio decidendi* and not to *obiter dicta.* Therefore, while

dealing with vertically applicable precedents the *doctrine of stare decisis* will be limited to such dotted verticality. Regarding the Diagonal applicability of precedents it could be understood as an exception to the Rule. As established in myriad cases including *Union of India v. R. Thiyagarajan*, (2020) 5 SCC 201 that a judgment of High Court is applicable only to the State(s) within its jurisdiction. Pan-India application of the order of the High Court would tantamount to usurpation of the jurisdiction of the other High Courts. However, Bombay High Court in *CIT Vidarbha v Godavaridevi Saraf*, [1978] 113 Income Tax Reporter (ITR) 589 (Bom) held that in absence of vertical jurisprudence from a High Court having direct jurisdiction, solitary decision of any High Court in India will have a binding effect over of any other Tribunal, Subordinate Courts which fall outside the territorial jurisdiction of such High Court.

It was asserted that a point of law adjudicated by the minority or dissenting bench would acquire precedential value, in the event when the same had not been interpreted by the majority while adjudicating. However, such abandoned point should be a point is issue to be necessarily adjudicated to settle an issue in law. *V. Padmanabha Ravi Varma Raja v. The Deputy Tahsiidar Chittur*, AIR 1963 Ker 155 at para 210 to 203 was cited therein support of the proposition. The significance of an "*obiter dicta*" to be a potential *"Ratio Decidendi"* was discussed citing catena of decisions including *Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi*, [(1975) 1 SCC 421; *Ramana Dayaram Shetty v. International Airport Authority of India*, (1979) 3 SCC 489; *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722 etc. It was accentuated that at times apex court prefers to settle a principle of law which might not be necessarily having a proximate issue in the extant case but for the advantage of building up a base for evolution of future precedential jurisprudence.

Session 3

Developments in Criminal Law: Issues and Challenges

Speakers:

Justice L. Nageswara Rao (Former Judge Supreme Court of India) and Justice Joymalya Bagchi (Judge, Calcutta High Court)

The session was commenced by highlighting that the civil courts are burdened with injunction application while the criminal courts are filled with bail applications. The session involved discussion on four major areas including constitutional and statutory protections as well as restrictive bail conditions under the Prevention of Money Laundering Act 2002 (PMLA) vis-à-vis the judgment in *Vijay Madanlal Choudhary v. Union Of India* [2022 SCC OnLine SC 929], appreciation and admissibility of electronic evidence and global legal perspective, the evolving contours of bail jurisprudence, and modalities of reverse burden of proof including shifting onus viz. statutory requirements.

Article 21 of the Constitution of India was highlighted which provides that no person shall be deprived of his personal liberty except according to procedure established by law. A reference was made to the judgment in *Gudikanti Narsimhulu v. Public Prosecutor,* (1978) 1 SCC 240 wherein the Supreme Court has highlighted the

importance of personal liberty of an accused. And emphasized on creating a balance between the right and liberty guaranteed under Article 21 of the Constitution of India. It was pointed that *Gudikanti Narsimhulu's* case was the fist which developed the jurisprudence of bail. Art. 14 right to equality and Art. 19 on freedom of speech and expression were also cited. With regard to PMLA, Sec. 45 of the Act was deliberated upon with reference to the judgement in *Nikesh Tarachand Shah v. Union of India,* (2018) 11 SCC 1 wherein the pre-trial bail provision under Sec. 45 of PMLA imposing twin stringent conditions for offences classified thereunder were held to be manifestly arbitrary, discriminatory and invalid.

The twin conditions provided for granting bail to an accused under clause (1) of Sec. 45 were discussed at length viz. firstly, the public prosecutor must be given an opportunity to oppose the application and secondly, when the application is opposed, the court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and is not likely to commit any crime while out on bail. The session further dwelt upon Sec. (s) 5, 8(4) and 17 of the PMLA with regard to wide discretionary power of the Enforcement Directorate (ED) to attach the property of the accused, search and seizure The powers of detention of ED was also discussed. It was mentioned that the Constitutional validity of Sec. 45 of the PMLA was in question in various cases in the Apex Court. It was pointed out that similar provisions like Sec. 45 is there in MACOCA and was in TADA also. A reference was made to the case *Vijay Madanlal Choudhary v. Union of India*, 2022 SCC OnLine SC 929 wherein the Apex Court held the "twin conditions" under Sec. 45 of PMLA reasonable. It was opined that there are statutory safeguards where in person's liberty will not be arbitrarily violated and that judges are bound by the judgment in *Vijay Madanlal Choudhary's* case.

On Electronic Evidence the discussion focussed on the judgment in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantayal,* (2020) 7 SCC 1. The intricacies and nuances relating to Sec. 65A and 65B of the Evidence Act pertaining to admissibility of electronic evidence were discussed. The session drew attention to the case law jurisprudence with regard to admissibility of electronic evidence starting from *NCT of Delhi v. Navjot Sandhu,* (2005) 11 SCC 600 as the first case wherein the issue of certificate under Sec. 65B was dealt with. Followed by judgments in *Anvar v. P.K. Basheer and Ors.* (2014) 10 SCC 473 which held the judgment in *Navjot Sadhu's* case as bad law; *Tomaso Bruno v. State of UP,* (2015) 7 SCC 178; *Shafhi Mohammad v. State of HP,* (2018) 2 SCC 801 and *Arjun Panditrao Khotkar's* case wherein the judgment in *Anvar's* case was upheld and the decision in *Shafhi Mohammad's* case and *Tomaso Bruno's* case were held *per incuriam* and bad in law. The session also dwelt upon the relevancy, authenticity and proof of electronic evidence and the need to re-look the provision of Sec 65B(4) of the Evidence Act. It was highlighted that the relevancy and authenticity of electronic document are important aspects to prove in the court of law. It was stated that if the storage of mobile phone of an individual is tempered or manipulated then warrant by phone is needed.

With regard to contours of bail jurisprudence it was underscored that bail is not explicitly defined in CrPC and the concept of 'bail not jail' seems to exist in theory and not in practice. It was mentioned that due to arbitrary arrest, prolonged trial, strict bail provisions and heavy bail bonds/conditions have led to large number of undertrial prisoners followed by convicts and detenues. It was opined that judges need to change their approach while dealing with bail applications. A shift in the stance of Supreme Court from 1985 to 2021 was highlighted by referring to the judgment in *Jagdish v. Harendrajit Singh*, (1985) 4 SCC 508 wherein it was held that in bail matters the Apex Court should not entertain petitions for special leave in against orders granting or refusing or cancelling bail or anticipatory bail and *Arnab Manoranjan Goswami v. State of Maharashtra*, (2021)2 SCC 427 wherein it was held that Supreme Court may intervene at all times. It was discussed whether there is a need for a standalone bail Act in India similar to that in United Kingdom (Bail Act 1976), Canada, Australia (New South Wales Bail Act), and New Zealand (Bail Act, 2000).

The recommendations given in the case of *Satender Kumar Antil v. CBI*, 2022 SCC OnLine SC 825 were listed and some best practices for handling bail matters were highlighted such as Presumption of Innocence - Onus on prosecutor to justify continued detention; Prompt hearing of bail applications; Reasons to be given- No final opinion on merits but must advert to relevant parameters which prompt the court to grant/deny bail; and granting reasonable conditions for bail and not giving an impression of pre-judging issues/disrespectful to accused or victim. The triple test for granting bail was also highlighted wherein the following aspects must be considered viz. Gravity & nature of offence including severity of punishment, nature & strength of evidence collected, and age, gender, status & standing in society of the accused. The session also reflected upon the recent developments in bail jurisprudence such as house arrest and bail in writ jurisdiction. Anticipatory bail and statutory bail also formed part of the discussion.

On the reverse burden of proof it was highlighted that burden of proof is always on prosecution as under Sec(s). 101-103 of Indian Evidence Act but in exceptional cases burden shifts on the accused as under Sec(s). 105, 106, 111A, 113A, 113B and 114A of Indian Evidence Act; Sec(s). 35 and 54 of NDPS Act; Sec. 24 of PMLA; Sec. 43E of UAPA; and Sec(s). 29 and 30 of POCSO Act. It was dwelt upon whether reverse burden is contrary to the presumption of innocence. The constitutionality of reverse burden was highlighted by referring to the judgment in *Noor Aga v. State of Punjab*, (2008)16 SCC 417 and *Sher Singh vs State of Haryana*, (2015) 3 SCC 724.

Session 4

Overview of E-courts Project

Speakers:

Justice Raja Vijayaraghavan (Judge, Kerala High Court) and Justice R. C. Chavan (Former Judge, Bombay High Court)

The session reflected upon the developments with regard to e-courts in India. Phase I, II and III of the e-courts projects were discussed at length. The challenge of lack of funds was pointed out wherein it was suggested that judges have to find ways to seek finances from the government to fund the projects with regard to advancement of technology in their courts. Judges were suggested to look into the need for special infrastructure to advance their courts and modify designs for existing building. Judges were suggested to learn best practices on adoption of technology and advancement in their courts from different High Courts. The issue of non-responsiveness of National Informatics Center (NIC) and man-power crunch was also reflected upon. It was emphasized that Phase I and Phase II of the e-courts project was initially not meant to cover the High Courts but only the district judiciary. The recruitment of technical manpower and the meagre remuneration given to IT professionals was highlighted as one of the major challenge in bringing advancement of technology in courts.

Another suggestion put forth during the session was to monetise the data available with court to reduce the financial crunch, engaging private peers for better softwares and to improve technology in courts. However, judges were also cautioned that there are chances of misuse of data by the private companies which must be looked into.

Autonomy of High Courts and uniformity *versus* diversity while adopting technology in different jurisdictions was deliberated upon. It was mentioned that in a country of diversity bringing uniformity is difficulty. Therefore, it was suggested that a single user interface for the entire country may be adopted, however, the state systems may be designed as per the specific needs of the respective state incorporating diversity on a single user interface. It was opined that the High Court of Delhi, Kerala, Madhya Pradesh have been doing well with regard to embracing technology in their courts. It was emphasized that sharing of programs/softwares and best practices among different High Courts is an important aspect to bring all courts of the country at par with regard to use of technology.

The session focussed on developing efficient judicial system for court and case management. The potential to advance technology in courts across country was put forth by citing the achievements of Kerala High Court wherein the trajectory of digital advancement by incorporating Information and Communication Technology (ICT) has transformed court functioning. The situation of functioning in Kerala High Court prior to 2019 when filing of cases was a lengthy procedure in contrast to post 2019 introducing e-filing mechanism was explained. Attention was drawn to how bail applications are handled effectively by filing the applications online, where all documents could be uploaded at the portal and the scrutiny officer scrutinises the

documents with the help of a software. Thereafter, in case of default in any document the same is intimated to the lawyer concerned and all stakeholders are also updated about the status of the application through a 'Dashboard'. It was stated that in Kerala adoption of this mechanism has improved how fresh cases are filed by lawyers and judges have the option to hear the matter virtually. The speaker displayed the online platform used in the Kerala High Court viz. 'Dashboard' and virtual courts. The design of 'Dashboard' platform and how it is used by a lawyer and a judge was displayed.

The vision document by the e-committee for Phase III of the e-courts was reflected upon listing its broad vision as – Interlinking all courts across the country; ICT enablement of Indian judicial system; Enabling courts to enhance judicial productivity both quantitatively and qualitatively; and Make judicial system accessible cost-effective, transparent and accountable. The key goals of Phase III Vision document viz. installation of relevant hardware, adopt data governance, create digital infrastructure and enable access to critical service were cited.

The session also highlighted the use of ICT in judicial proceeding such as automation of case filing (e-filing), case scrutiny & registration, subject-wise mapping, allotment of cases to judges as per the roster, generation of cause list, automated case listing, separate dashboard for all stakeholders, hybrid & physical court hearing and preparation & delivery of judgments/orders. Thereafter, broad features of an ideal e-justice platform were suggested that is secure & user friendly portals for accessing documents and filing legal documents, digital tools for communication and collaboration between parties like video-conferencing & document sharing, electronic case management systems that allow for real–time tracking of court proceedings and case status updates, accessibility features for people with disabilities, including support for screen readers and alternative input methods, interoperability between different systems and courts to allow for seamless information and coordination, a robust and dedicated service team to provide support and assistance to users, predictive analytics, protections for data privacy and security to ensure the confidentiality of sensitive information, etc. The trajectory of how technology has advanced over the years and ICT enabled case management system was also dwelt upon during the course of discussion.

Session 5

Emerging and Future Technology for Effective Judicial Governance

Speakers:

Justice Sanjeev Sachdeva (Judge, High Court of Delhi) and Justice Suraj Govindraj (Judge, Karnataka High Court)

The Session was rolled-out with a nostalgic journey of evolution of technology from 20th century to date. The general evolution of technology also witnessed certain intermittent revolutionary surges *viz.* transition from type-writers to computers; or journey from capacitors and condensers to microchips; from conventional sources of

energy to electro-magnetic to renewable energy sources; from initial capability to compute and store memory to supercomputing to quantum computing, to leverage storage from bits to peta bites and more. The session helped to exemplify the transition from a fully paper based judicial system to a completely paperless system. Three States were lauded for pioneering electronic and digital transition to enable judicial functioning to the next level of paper-less courts *viz.* State of Madhya Pradesh, Delhi, and Kerala. The immense potential of digitisation was shared. Apprehensions to transit to a digital world while operating a judicial system was addressed very effectively by citing live examples, demonstrations and simulations. Hands-on demonstrations were given, wherein the success of almost every participant to individually handle smart devices with great adeptness was accentuated. It was underscored that the same was possible only through embracing technology and practice. Lauding the user-friendliness of contemporary digital world it was insisted that judges must embrace the digital change rather than resisting it. Addressing the "fear of loss" while embracing the novel technology it was asserted that, it is the duty of executive and the legislature to ensure operational safety and security of data, and hence the judges should not be apprehensive of remote sense of insecurity beyond practicing and complying to the prescribed "Standard Operating Procedures" (SoP).

While dealing with the new generation technology, the emerging domains and its interface with the judiciary *viz.* with Artificial Intelligence (AI); Blockchain; Crypto Currency; Smart Contracts; Regenerative AI like ChatGPT etc. were discussed.

An interesting simile and interplay between the courtroom-technology-legal process by Prof. Frederick I Lederer was cited:

> The Courtroom is a place of adjudication, but it is also an information hub. Outside information is assembled, sorted and brought into the courtroom for presentation. … The courtroom is thus the center of a complex system of information exchange and management. Ultimately, because lawyers and Judges deal continuously with 'data', high technology courtrooms exist and virtual courtrooms are possible.

Dealing with judicial governance, its limitations and prospects (when augmented with technology), it was asserted with conviction that, systems and processes, when implemented, could remove administrative inefficiencies bringing about judicial efficiency. A landscape of judicial governance *vis-à-vis* AI was examined to emphasize that AI could impact judicial governance in many ways. Amongst such myriad ways as few discussed included, on one hand increasing efficiency and reducing costs, wherein, AI can be used to automate repetitive and time-consuming tasks, such as document review and data analysis, which can help courts to operate more efficiently and effectively. Additionally, AI can help to reduce costs by automating tasks that would otherwise require human labor. While on the other hand, it can do so by improving decision-making. AI can be used to analyze large amounts of data and identify patterns that might not be immediately apparent to humans. This can help judges and other decision-makers to make more informed and accurate decisions. A caveat was however drawn, wherein it was held that it is however important to ensure that the decision-making process is transparent, so that parties can understand how

the AI came to a conclusions. It was further resounded that, AI-enabled virtual courtrooms and online dispute resolution systems can make it easier for people to access the courts and participate in the legal process.

A broad categorization of the various modes of such AI applications were accounted to include AI-based tools and systems to assist in decision-making, case management, and legal research. The categorization could also be considered under the following inclusive heads for ease of understanding and implementation:

i. Predictive analytics
ii. Case management and legal research
iii. Sentence recommendation
iv. Contract analysis
v. e-discovery Chat-bot
vi. Document review

A brief account of the implementation of AI by the global judicial fraternity was explored. The examples included: (i) Estonian "robot judge" that could adjudicate small claims disputes of less than €7,000 (about $8,000) using artificial neural network. (ii) U.K.'s - Harm Assessment Risk Tool' ('HART) which uses algorithmic tools in a policing context. HART makes predictions based on historical offender data, and so will be affected by past arrest history, force targeting decisions, social trends and prioritisation of certain offences, (iii) Canadian Action Committee recommended that the civil and family justice system be reformed to avoid, manage, and resolve disputes in ways that are as timely, efficient, effective, proportional, and just as possible; Before beginning a claim with the CRT (Civil Resolution Tribunal), a person with a dispute can access a free online tool called the "Solution Explorer", which uses guided pathways to help a person learn more about their dispute so that they can make informed choices about how to resolve it. At the end of the pathway, the Solution Explorer provides a summary of the person's claims as well as recommended resources and next steps; (iv) Brazilian - AI tool "VICTOR" is the result of the initiative of the Brazilian Supreme Court (STF). In the initial phase, VICTOR can read all the extraordinary appeals that go up to the STF and identify which ones are linked to certain topics of general repercussion; Yet another tool "SOCRATES" at the Superior Court of Justice (STJ), the AI system SOCRATES was "trained" using data from 300,000 court decisions. AI "reads" new cases and groups those with similar issues together so that they can be judged in blocks; moreover, a third AI tool SIGMA is an intelligent system for the use of models for the production of decision drafts; (v) Argentinian – "PROMETEA" is a predictive artificial intelligence system created in Argentina, developed by the Public Prosecutor's Office of the City of Buenos Aires. Under the technique "supervised learning," Prometea is an exponential optimizer of bureaucratic processes.

In Indian context it was held that role of AI could be initiated in Motor Accident Cases Tribunals (MACT); Traffic Offences; Negotiable Instruments Act (NI) cases. Also use of AI to streamline the process of listing of cases for hearing especially for Supreme Court and High Courts was advocated. Wherein AI to classify and group cases of similar nature, ie. Mandamus for *Khatha* could be consolidated and disposed. AI could

be used to assign dates on the basis of the pressure of the roster and approved by the judge. Low-hanging fruits could be disposed giving time for other matters. Also, AI along with smart contract could be used to automatically trigger events.