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8.	S.P. Sathe, <i>Towards Cooperative Federalism – Revisioning the Centre- State Relations</i> in SELECTED WORKS OF S.P. SATHE, Ed. Sathya Narayan, 12 (Oxford University Press, 2015)	
9.	Justice Ruma Pal, <i>Judicial Oversight or Overreach – The Role of the Judiciary in Contemporary India</i> , (2008) 7 SCC J-9	
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12.	Richard A. Posner, <i>The Rise and Fall of Judicial Self-Restraint</i> , 100(3) California Law Review 519-556 (2012)	
<b>Additional References</b>		
1.	Tony Honoré, <i>The Necessary Connection between Law and Morality</i> , <i>Oxford Journal of Legal Studies</i> , Autumn, 2002, Vol. 22, No. 3 (Autumn, 2002), pp. 489-495	
2.	L. C. Green, <i>Law and Morality in a Changing Society</i> , <i>The University of Toronto Law Journal</i> , Autumn, 1970, Vol. 20, No. 4 (Autumn, 1970), pp. 422-447	

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| 3. | Dana Patton, <i>The Supreme Court and Morality Policy Adoption in the American States: The Impact of Constitutional Context</i> , Political Research Quarterly, Sep., 2007, Vol. 60, No. 3 (Sep., 2007), pp. 468-488 |
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### **Judgments**

*(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)*

### **Judgments on Constitutional Morality**

1. **Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2023) 4 SCC 541** [Whether the power of the head of Dawoodi Bohra community to excommunicate its members is non-justiciable being protected under the umbrella of clause (b) of Article 26. Whether the exclusionary practice which prevails in the Dawoodi Bohra community of excommunicating its members will stand the test of constitutional morality? - Held - A person who is excommunicated by the community, will not be entitled to use the common property of the community and the burial/cremation grounds of the community. In a sense, such a person will virtually become untouchable (being banished or ostracised) within the community. In a given case, it will result in his civil death. It can be argued that the concept of constitutional morality which overrides the freedom conferred by clause (b) of Article 26, will not permit the civil rights of excommunicated persons which originate from the dignity and liberty of human beings to be taken away. The concepts of equality, liberty and fraternity are certainly part of our constitutional morality. Basic ideas enshrined in our Constitution are part of constitutional morality. The conscience of our Constitution is constitutional morality. Therefore, the constitutional court ought not to tolerate anything which takes away the right and privilege of any person to live with dignity as the concept of constitutional morality does not permit the Court to do so. Therefore, in our view, the protection under Article 26(b) granted by the decision in *Sardar Syedna [Sardar Syedna Taher Saifuddin Saheb v. State of Bombay, 1962 Supp (2) SCR 496 : AIR 1962 SC 853]* to the power to excommunicate a member of the Dawoodi Bohra community, needs reconsideration as the said right is subject to morality which is understood as constitutional morality. This issue will require examination by a larger Bench.
2. **Kaushal Kishor v. State of U.P., 2023 SCC OnLine SC 6** [ruled that ministers, Members of Parliament (MPs) and Members of Legislative Assembly (MLAs) enjoy freedom of speech in equal measure as other citizens under Article 19(1)(a) of the Constitution and greater/ additional restrictions cannot be imposed on the fundamental right of free speech of such public functionaries. The Court also held that statement made by a minister related to the government or its affairs cannot be vicariously attributed to the government. Importantly, the Court held that the right to freedom of speech lies not only against the State but also against non-State actors.]
3. **Kantaru Rajeevaru v. Indian Young Lawyers Association, (2020) 3 SCC 52** [Constitutional Morality in a secular polity would imply the harmonisation of the Fundamental Rights, which include the right of every individual, religious denomination, or sect, to practise their faith and belief in accordance with the tenets of their religion, irrespective of whether the practise is rational or logical.] [As has been explained in some of our judgments, “constitutional morality” is nothing but the values inculcated by the Constitution, which are contained in the Preamble read with various other parts, in particular, Parts III and IV thereof.]
4. **Shrimat Balasaheb Patil v Speaker, Karnataka Legislative Assembly, (2020) 2 SCC 595** [Constitutional morality should never be replaced by political morality, in deciding what the Constitution mandates.]
5. **Indian Young Lawyers Association & Ors v. The State of Kerala, (2019) 11 SCC 1** [The term “morality” occurring in Article 25(1) of the Constitution cannot be viewed with a narrow lens so as to confine the sphere of definition of morality to what an individual, a section or religious sect may perceive the term to mean. We must remember that when there is a violation of the fundamental rights, the term “morality” naturally implies constitutional morality and any view that is ultimately taken by the Constitutional Courts must be in conformity

with the principles and basic tenets of the concept of this constitutional morality that gets support from the Constitution.] [Hon'ble Justice Chandrachud observed: "Constitutional morality is not subject to fleeting fancies of every time and age but is deeply rooted in fundamental postulates of human liberty, equality, fraternity and dignity. Freedom of religion and, likewise, the freedom to manage the affairs of a religious denomination is subject to and must yield to these fundamental notions of constitutional morality.]

6. **K. S. Puttaswamy (Aadhaar) v. Union of India**, (2019) 1 SCC 1 [Para 1525 - The importance of the existence of courts in the eyes of citizens has been highlighted in Harper Lee's classic *To Kill a Mockingbird*: "But there is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal."]
7. **Manoj Narula v. Union of India**, 2014 SCC OnLine SC 640 [Constitutional morality is not a natural sentiment. It has to be cultivated. We must realise that our people have yet to learn it...] [Democracy, which has been best defined as the government of the people, by the people and for the people, expects prevalence of genuine orderliness, positive propriety, dedicated discipline and sanguine sanctity by constant affirmation of constitutional morality which is the pillar stone of good governance.]

The Court heavily relied upon the background of the Constitution of India and the History of the country with the intent to plug some of the bleeding points in the working of the Constitution so that the high Constitutional functionaries may work it well. Taking into consideration that a question might arise regarding marking a distinction between an accused or convicted minister, the Court was of the opinion that there can be no dispute over the proposition that unless a person is convicted, he is presumed to be innocent but the presumption of innocence in criminal jurisprudence is something altogether different, and not to be considered for being chosen as a Minister to the Council of Ministers because framing of charge in a criminal case is totally another thing and that framing of charge in a trial has its own significance and consequence.]

8. **State (NCT of Delhi) v. Union of India**, (2018) 8 SCC 501 [Constitutional morality in its strictest sense of the term implies strict and complete adherence to the constitutional principles as enshrined in various segments of the document. When a country is endowed with a Constitution, there is an accompanying promise which stipulates that every member of the country right from its citizens to the high constitutional functionaries must idolize the constitutional fundamentals. This duty imposed by the Constitution stems from the fact that the Constitution is the indispensable foundational base that functions as the guiding force to protect and ensure that the democratic setup promised to the citizenry remains unperturbed.]
9. **Navtej Singh Johar v. Union of India**, (2018) 10 SCC 1 [The concept of constitutional morality is not limited to the mere observance of the core principles of constitutionalism as the magnitude and sweep of constitutional morality is not confined to the provisions and literal text which a Constitution contains, rather it embraces within itself virtues of a wide magnitude such as that of ushering a pluralistic and inclusive society, while at the same time adhering to the other principles of constitutionalism. It is further the result of embodying constitutional morality that the values of constitutionalism trickle down and percolate through the apparatus of the State for the betterment of each and every individual citizen of the State.]
10. **Joseph Shine v. Union of India**, (2018) 2 SCC 189 [It is not the "common morality" of the State at any time in history, but rather constitutional morality, which must guide the law. In any democracy, constitutional morality requires the assurance of certain rights that are indispensable for the free, equal, and dignified existence of all members of society. A commitment to constitutional morality requires us to enforce the constitutional guarantees of equality before law, non-discrimination on account of sex, and dignity.] [The fundamental rights chapter is like the north star in the universe of constitutionalism in India. Constitutional morality always trumps any imposition of a particular view of social morality by shifting and different majoritarian regimes.]
11. **Shayara Bano v. Union of India**, (2017) 9 SCC 1 [Held that Triple Talaq is "manifestly arbitrary" in the sense that the marital tie can be broken "capriciously and whimsically" by a Muslim man without any attempt at reconciliation, which is against the fundamental tenets of the Shariat.]

12. **Independent Thought v. Union of India**, AIR 2017 SC 4904 [*In this case, the principle of constitutional morality was applied to counter the prevailing societal norms, which consider women the property of men with no sexual and bodily autonomy. "Constitutional morality forbids us from giving an interpretation to Exception 2 to Section 375 IPC that sanctifies a tradition or custom that is no longer sustainable."*]
13. **Naz Foundation v Government of NCT and Ors.**, (2009 SCC OnLine Del 1762 [*The Court differentiated public morality and constitutional morality - Popular morality, as distinct from a constitutional morality derived from constitutional values, is based on shifting and subjecting notions of right and wrong. If there is any type of "morality" that can pass the test of compelling state interest, it must be "constitutional" morality and not public morality.*]) [*In our scheme of things, constitutional morality must outweigh the argument of public morality, even if it be the majoritarian view.*]
14. **Nashirwar Etc v. The State of Madhya Pradesh**, 1975 AIR 360 [*Central Provinces Excise Act, 1915 and Section 18A of Abkari Act - whether permissible for State to auction licenses for carrying on business of selling foreign liquor which neither manufactured nor imported by State - Act of 1915 and Abkari Act states that citizen cannot have right to carry on trade in liquor except to extent and subject to such conditions as may be imposed by Legislature under its regulatory powers - State Legislature authorised to make provision for public auction by reason of power contained in Entry 8 List 2 of Constitution which empowers State to legislate with regard to intoxicating liquor - State has exclusive right or privilege of manufacturing and selling liquor - State grant such right or privilege in shape of license or lease - State has power to hold public auction for grant of such right or privilege and except payment of sum in consideration of grant of lease.*]
15. **S.P Gupta v. Union of India**, AIR 1982 SC 149 [*The Supreme Court of India recognized the public's right to information as being included in rights to freedom of speech and expression. It also further narrowed the scope of protection from disclosure afforded government documents.*]
16. **State of Haryana v. Faridabad Industries Association**, CM-936-CWP-2022 in/and CWP-24967-2021 [*Stay of legislation can only be when the Court is of the opinion that it is manifestly unjust or glaringly unconstitutional - Sufficient reasons should be given for staying legislations.*]
17. **Jayalakshmi and Others v. State of Tamil Nadu**, 2021 SCC Online Mad 16513 [*Relevant Paras 16-23*] [*...where the Constitutional values themselves become the nursery of morality for the cultivation of an invisible binder for holding the Constitution and its institutions together, it transcends beyond the conceptual morality which is normative to the natural law.... Constitutional morality may not be considered as a reference material for appreciating the issues concerning the fundamental rights (where its efficacy may be doubted and debated as a dependable tool of interpretation by the puritans of positivist school) but is extendable to every aspects in energizing the working of the Constitution – from the orderliness of the citizens to the discipline of the judiciary.*]
18. **Budhadev Karmaskar v. State of West Bengal**, 2022 SCC OnLine SC 704 [*The Supreme Court recognised sex work as a "profession" and held that consenting practitioners of sex work were entitled to dignity and equal protection under the law. The Court also directed UIDAI to issue Adhar Cards to the Sex Workers based on a proforma certificate and, using its inherent powers under Article 142 of the Constitution, issued directions for the rehabilitation measures in respect of sex workers.*]
19. **Janhit Abhiyan v Union of India**, (2023) 5 SCC 1 [*In a 3-2 majority, the Supreme Court upheld the 103rd Constitutional Amendment providing EWS reservation. With this, the Court extended the net of reservation benefits to include solely economic backwardness. 10% in addition to the existing reservations does not result in violation of any essential feature of the Constitution and does not cause any damage to the basic structure of the Constitution of India on account of breach of the ceiling limit of 50%.*]
20. **Aishat Shifa vs The State of Karnataka**, 2022 SCC OnLine SC 1394 [*Hijab Case*] [*A two-judge bench of the Supreme Court delivered a split opinion on an appeal against a Karnataka High Court decision upholding a state order that mandated a uniform for educational institutions, consequently banning the hijab.*]
21. **State of Jharkhand v. Shailendra Kumar Rai**, 2022 SCC OnLine SC 1494 [*The two finger test has no scientific basis. It instead re-victimises and re-traumatises women. The Supreme Court reiterated the case of Lillu v. State of Haryana, (2013) 14 SCC 643 and held that the two-finger test violates the Right to Privacy of a Woman. However, the test was still conducted, and hence, the Court in the present case held that if anyone*]



*performs a two-finger test on a sexual assault victim, it will be construed as an offence of misconduct and will be penalized accordingly. The Court noted that “The two-finger test must not be conducted. The test is based on an incorrect assumption that a sexually active woman cannot be raped. Nothing can be further from the truth, it is patriarchal and sexist to suggest that a woman cannot be believed when she states that she was raped, merely for the reason that she is sexually active.”]*

22. **Arunachala Gounder v. Ponnusamy**, (2022) 11 SCC 520 [The legislative intent of enacting Section 14(I) of the Hindu Succession Act, 1956 was to remedy the limitation of a Hindu woman who could not claim an absolute interest in the properties inherited by her but only had a life interest in the estate so inherited.” In this case, the Court had to determine whether, before the commencement of the Hindu Succession Act, the self-acquired property of a Hindu male will devolve onto the daughter upon the death of her father intestate by inheritance or it will devolve on to father’s brother’s son by survivorship. The Court noted that the ancient texts and commentaries written by various learned persons and even judicial pronouncements “have recognized the rights of several female heirs, the wives and the daughters being the foremost of them.”]
23. **Dr. Ashwani Kumar v. Union of India**, (2019) 2 SCC 636 [Right to health of senior citizen and for allocation of old age homes.]

### **Judgments on Cooperative Federalism**

24. **Union of India v. Mohit Minerals (P) Ltd.**, 2022 SCC OnLine SC 657 [Cooperative and Collaborative Federalism - whether an Indian importer can be subject to the levy of Integrated Goods and Services Tax<sup>2</sup> on the component of ocean freight paid by the foreign seller to a foreign shipping line, on a reverse charge basis.]
25. **Swaraj Abhiyan v. Union of India & Ors.**, (2018) 12 SCC 170 [Principles of Cooperative Federalism- Sovereignty divided in form of Centre and State- Centre and States often meet and interact at various levels to achieve goal of cooperative federalism – Centre is not powerless (Art.256) and it is improper on part of States to ignore implementation of welfare legislations enacted by Centre]
26. **Union of India v. VKC Footsteps India (P) Ltd.**, 2021 SCC OnLine SC 706 [It was observed that the One Hundred and First Amendment to the Constitution is a watershed moment in the evolution of cooperative federalism. Since its origin, the Constitution contained a three-fold distribution of legislative power. Under Article 246, the subjects of legislation enumerated in the Union List of the Seventh Schedule were assigned to Parliament, those in the State List were assigned exclusively to the States and those in the Concurrent List were assigned both to Parliament and the States with precedence to Parliament under the provisions of Article 254.”]
27. **K. Lakshminarayanan v. Union of India**, (2020) 14 SCC 664 [Challenge to the nominations made by the Central Government in exercise of power under Section 3(3) of the Government of Union Territories Act, 1963, to the Legislative Assembly of Union Territory of Puducherry - All Members including the nominated Members are entitled to vote in the sitting of the Legislative Assembly]
28. **State (NCT of Delhi) v. Union of India**, (2018) 8 SCC 501 [Difference of opinion between Lieutenant Governor and Ministers of representative Government of NCT of Delhi on “any matter”- Scope of power of Lieutenant Governor to make reference of such dispute to President]

## SESSION 2

### ELEMENTS OF JUDICIAL BEHAVIOUR

1.	Justice R.V. Raveendran, <i>How to be a Good Judge: Advice to New Judges</i> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd., (2021) pp. 277-317	387
2.	Lord Denning, “ <i>Into the Conduct of Judges</i> ” in THE DUE PROCESS OF LAW, Oxford University Press (2012), pp. 58-66	430

3.	Justice V. K. Bist, <b>Judicial Behavior and Conduct in the Present Scenario</b> , Uttarakhand Judicial & Legal Review, Uttarakhand Judicial & Legal Review, Available at: <a href="https://ujala.uk.gov.in/files/ch1.pdf">https://ujala.uk.gov.in/files/ch1.pdf</a>	439
4.	Justice Sunil Ambwani, <b>Ethical Reasoning in Judicial Process</b> , (2012) 4 SCC J-35	445
5.	Aharon Barak, <b>The Role of the Judge: Theory, Practice and the Future</b> in THE JUDGE IN A DEMOCRACY, Princeton University Press (2008) pp. 306-315	455
6.	<b>The Bangalore Principles of Judicial Conduct, 2002</b> [The Bangalore Draft Code of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002].	474

### CASE LAWS

(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)

1. **Harendra Rai vs. State of Bihar and Others 2023 SCC OnLine SC 1023** [The Trial Court and the High Court miserably failed to notice the sensitivity and intricacies of the case. Both the Courts completely shut their eyes to the manner of the investigation, the Prosecutor's role, and the high-handedness of the accused as also the conduct of the Presiding Officer of the Trial Court, despite observations and findings having been recorded not only by the Administrative Judge but also by the Division Bench deciding Habeas Corpus petition. They continued with their classical rut of dealing with the evidence in a manner as if it was a normal trial. They failed to notice the conduct of the Public Prosecutor in not even examining the formal witnesses and also that the Public Prosecutor was acting to the advantage of the accused rather than prosecuting the accused with due diligence and honesty. The Presiding Officer of the Trial Court acquitting the accused as also the learned Judge of the High Court dismissing the revision, were both well-aware of the facts, legal procedures, as well as the law regarding appreciation of evidence in a criminal case. Both the courts below ignored the administrative reports as also the judgment of the High Court in the Habeas Corpus petition. In fact they should have taken judicial notice of the same. They completely failed to take into consideration the conduct of the accused subsequent to the incident, which was extremely relevant and material in view of Section 8 of the Evidence Act. They failed to draw any adverse inference against the accused with respect to their guilt.]
2. **Muzaffar Husain v. State of Uttar Pradesh and Anr. 2022 SCC OnLine SC 567** [Showing undue favour to a party under the guise of passing judicial orders is the worst kind of judicial dishonesty and misconduct. The extraneous consideration for showing favour need not always be a monetary consideration. It is often said that "the public servants are like fish in the water, none can say when and how a fish drank the water". A judge must decide the case on the basis of the facts on record and the law applicable to the case. If he decides a case for extraneous reasons, then he is not performing his duties in accordance with law. As often quoted, a judge, like Caesar's wife, must be above suspicion]
3. **Mathew Z Pulikunnel v. Chief Justice of India**, WP(C) NO. 17654 OF 2021 [If it is held that a party who is directly or indirectly connected with a dispute decided by a Judge can approach the Court in a proceedings under Article 226 of the Constitution seeking direction on a complaint lodged against the Judge concerning the decision taken by him alleging that the same is not one conforming to the Restatement of Values of Judicial Life, there cannot be any doubt that the same will have a deleterious effect on the institution.]
4. **Sadhna Chaudhary v. State of Uttar Pradesh** (2020) SCC Online 307 [Judicial officers must aspire and adhere to a higher standard of honesty, integrity and Probity]
5. **Shrirang Yadavrao Waghmare v. State of Maharashtra**, (2019) 9 SCC 144 [The first and foremost quality required in a Judge is integrity. The need of integrity in the judiciary is much higher than in other institutions. The judiciary is an institution whose foundations are based on honesty and integrity. It is, therefore, necessary

*that judicial officers should possess the sterling quality of integrity]*

6. **Registrar General, Patna High Court v. Pandey Gajendra Prasad**, 2012 STPL(Web) 305 SC [There is no gainsaying that while it is imperative for the High Court to protect honest and upright judicial officers against motivated and concocted allegations, it is equally necessary for the High Court not to ignore or condone any dishonest deed on the part of any judicial officer]
7. **Rajendra Singh Verma (Dead) Through LRs. v. Lieutenant Governor (NCT of Delhi)**, (2011) 10 SCC 1 [In case where the Full Court of the High Court recommends compulsory retirement of an officer, the High Court on the judicial side has to exercise great caution and circumspection in setting aside that order because it is a complement of all the Judges of the High Court who go into the question and it is possible that in all cases evidence would not be forthcoming about integrity doubtful of a judicial officer]
8. **Tarak Singh v. Jyoti Basu**, (2005)1 SCC 201 [There is nothing wrong in a Judge having an ambition to achieve something, but if the ambition to achieve is likely to cause a compromise with his divine judicial duty, better not to pursue it. Because, if a Judge is too ambitious to achieve something materially, he becomes timid. When he becomes timid there will be a tendency to make a compromise between his divine duty and his personal interest. There will be a conflict between interest and duty]  
[“Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the judicial-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside.”]
9. **High Court of Judicature at Bombay v. Shashikant S. Patil**, (2000) 1 SCC 416 [Honesty and integrity are the hallmarks of judicial probity. Dishonesty and lack of integrity are hence the basic elements of misconduct as far as a Judicial Officer is concerned]
10. **Union of India v. K.K. Dhawan** (1993) AIR 1478 [The judicial officer, if acts negligently or recklessly or attempts to confer undue favour on a person or takes a decision which is actuated by corrupt motive, then he is not acting as a judge]
11. **High Court of Judicature at Rajasthan v. Ramesh Chand Paliwal**, (1998) 3 SCC 72 [Judges have been described as ‘hermits’, further reminding that, “they have to live and behave like hermits, who have no desire or aspiration, having shed it through penance. Their mission is to supply light and not heat]
12. **High Court of Judicature at Bombay v. Uday Singh**, (1997) 5 SCC 129 [Maintenance of discipline in the judicial service is a paramount matter. Acceptability of the judgment depends upon the credibility of the conduct, honesty, integrity and character of the officer. The confidence of the litigating public gets affected or shaken by lack of integrity and character of Judicial Officer]
13. **Daya Shankar v. High Court of Allahabad**, (1987) 3 SCC 1 [Judicial officers cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy]
14. **State vs. Chief Editor, Manabjain and others**, LEX/BDHC/0113/2002 (Supreme Court of Bangladesh), [To safeguard the position Court suggested suggested to follow the self-restrained path of social isolation. The Supreme Court held that Judges should keep the confidence of the public in the judiciary by laying down certain key points.]
15. **C. Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors.** (1995) 5 SCC 457 [Judicial office is essentially a public trust. Society is, therefore, entitled to expect that a Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of judicial process]
16. **K.P. Singh vs. High Court of H.P. & ors.** 2011(3)KLJ11 [A judge is judged not only by the quality of his judgments, but also by the quality and purity of his character and the measurable standard of that character is

*impeccable integrity reflected transparently in his personal life as well. One who corrects corruption should be incorruptible. That is the high standard, the public has set in such high offices of institutional integrity. Therefore, any departure from the pristine codes and values of discipline and disciplined conduct on the part of the judicial officers will have to be viewed very seriously lest the very foundation of the system would be shaken and, if so, that will be the death knell of democracy...]*

17. **R.C. Chandel v. High Court of M.P.**, (2012) 8 SCC 58 [There can be no manner of doubt that a Judge must decide the case only on the basis of the facts on record and the law applicable to the case. If a Judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law. 10. In our view the word “gratification” does not only mean monetary gratification. Gratification can be of various types. It can be gratification of money, gratification of power, gratification of lust etc., etc.]
18. **All India Judges' Association v. Union Of India**, 1992 AIR 165 [Para 61 – It is time we mention about society's expectation from the Judicial Officers. A judge ought to be wise enough to know that he is fallible and, therefore, even ready to learn and be courageous enough to acknowledge his errors. The conduct of every judicial officer should be above reproach. He should be conscientious, studious, thorough, courteous, 'patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and indifferent to private, political or partisan influences; he should administer justice according to law, and deal with his appointment as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.]
19. **Rajesh Kohli vs. High Court of J. and K. and Anr.** (2010)12SCC783 [Upright and honest judicial officers are needed not only to bolster the image of the judiciary in the eyes of litigants, but also to sustain the culture of integrity, virtue and ethics among judges. The public's perception of the judiciary matters just as much as its role in dispute resolution. The credibility of the entire judiciary is often undermined by isolated acts of transgression by a few members of the Bench, and therefore it is imperative to maintain a high benchmark of honesty, accountability and good conduct.]
20. **In Re: “K” a judicial officer**, AIR 2001 SC 972 [Adverse remarks - appeal filed for seeking deletion of adverse remarks passed by High Court in judgment delivered - judgment delivered in appeal filed against decision passed by appellant - appellant (Metropolitan Magistrate) contended that remarks made in judgment was not essential and adversely affect her career growth - no opportunity of explaining herself given to appellant - remarks passed were not necessary for matter decided - they were not formed the part of reasoning given in judgment although found prejudicial to appellant's career - remarks directed to be deleted.]

#### Additional Readings

1.	Justice G. S. Singhvi, <b>Judicial Ethics</b> 7(2) Journal of Delhi Judicial Academy 93-106 (2011)
2.	Commentary on <b>Bangalore Principles of Judicial Conduct</b> , United Nations office on Drugs and Crime, September 2007 Link to access: <a href="https://www.unodc.org/documents/corruption/publications_unodc_commentary-e.pdf">https://www.unodc.org/documents/corruption/publications_unodc_commentary-e.pdf</a>
3.	<b>Restatement of Values of Judicial Life, 1999</b> [As adopted by Full Court Meeting of the Supreme Court of India on 7th May, 1997]. <a href="https://main.sci.gov.in/pdf/Notice/02112020_090821.pdf">https://main.sci.gov.in/pdf/Notice/02112020_090821.pdf</a>

### SESSION 3 JUDGMENTS WRITING TOOLS

1.	Justice R. V. Raveendran, <b>Rendering Decisions- Basics for New Judges(Decision-Making &amp; Judgment-Writing)</b> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd. (2021) pp. 319-361	488
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2.	Justice G. Raghuram, <i>Art of Judgment</i>	510
3.	Justice Sunil Ambwani, <i>The Art of Writing Judgment</i> in JUDGMENTS AND HOW TO WRITE THEM, Eastern Book Company (2018)	520
4.	S. I. Strong, <i>Writing Reasoned Decisions and Opinions: A Guide for Novice, Experienced, and Foreign Judges</i> , 2015(1) Journal of Dispute Resolution 93 – 128 (2015)	532
5.	S.D. Singh, <i>Judgments in General</i> , in JUDGMENTS AND HOW TO WRITE THEM, EBC Publishing (P) Ltd. (2018) pp. 8-45	570
6.	S. Sivakumar, <i>Judgment Or Judicial Opinion: How To Read And Analyse</i> , Journal of the Indian Law Institute, July – September 2016, Vol. 58, No. 3 (July – September 2016), pp. 273-312	590
7.	Justice Michael Kirby CMG, <i>The Australian Law Journal on the Writing of Judgments</i> pp. 29-50	630
8.	David Neuberger, <i>Judgment and Judgments – The Art of forming and writing Judicial Decisions</i> , Denning Society Lecture delivered at Lincoln’s Inn, 30 November 2017	652

### CASE LAW

(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)

1. **SBI & Another v. Ajay Kumar Sood**, (2022) SCC OnLine 1067 [The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skillful application of law and logic.]
2. **Aparna Bhat v. State of M.P.**, (2021) SCC OnLine SC 230 [Court to make sure survivor can rely on their impartiality and neutrality. Sensitivity in judicial approach/language/reasoning. Sensitivity to the concerns of survivors of sexual offences. Embargo on orders that reflect adversely on the judicial system/undermining the guarantee to fair justice. Removing gender bias.]
3. **Shakuntala Shukla v. State of Uttar Pradesh**, 2021 SCC OnLine SC 672 [“Judgment” means a judicial opinion which tells the story of the case; what the case is about; how the court is resolving the case and why. ... It is also defined as the decision or the sentence of a court in a legal proceeding along with the reasoning of a judge which leads him to his decision. ... It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. The judicial opinion is to be written in such a way that it elucidates in a convincing manner and proves the fact that the verdict is righteous and judicious. What the court says, and how it says it, is equally important as what the court decides. ... The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded.] (Refer Para 9)
4. **Ajit Mohan v. Legislative Assembly Delhi**, 2021 SCC OnLine SC 495 [it is the need of the hour to write clear and short judgments which the litigant can understand. The Wren & Martin principles of precis writing must be adopted.]
5. **Surjeet Singh v. Sadhu Singh**, (2019) 2 SCC 396 [there was no need to cite several decisions and that too in detail. Brevity being a virtue, it must be observed as far as possible while expressing an opinion. ]
6. **Nipun Saxena v. Union of India**, (2019) 2 SCC 703, [Keeping in view the social object of preventing the victims or ostracising of victims, it would be appropriate that in judgments of all the courts i.e. trial courts, High Courts and the Supreme Court the name of the victim should not be indicated. This has been repeated in a large number of cases and we need not refer to all.]
7. **Kanailal v. Ram Chandra Singh**, (2018) 13 SCC 715 [Reasons are live links between the mind of the decision-

taker to the controversy in question and the decision or conclusion arrived; Objectivity in reasons; Adjudging validity of decision; Right to reason is indispensable part of sound judicial system; Salutory requirement of natural justice]

8. **Joint Commissioner of Income Tax v. Saheli Leasing & Industries Ltd.**, (2010) 6 SCC 384 [State only what are germane to the facts of the case; Must have correlation with applicable law and facts; Ratio decidendi should be clearly spelt out; Go through the draft thoroughly; Sustained chronology in judgment – perfect sequence of events; Citations should afford clarity rather than confusion; Pronounce judgment at the earliest]
9. **Board of Trustees of Martyrs Memorial Trust v. Union of India**, (2012) 10 SCC 734 [Brevity in judgment writing; Due application of mind; Clarity of reasoning; Focussed consideration; Examination of every matter with seriousness; Sustainable decision]
10. **Reliance Airport Developers v. Airport Authority of India and Ors**, (2006) 10 SCC 1 [Judicial Discretion – Parameters to be followed while exercising Discretion - Relevant Paras 26-35]
11. **B (A Child)(Adequacy of Reasons)**, [2022] EWCA Civ 407 (Lord Justice Peter Jackson & Lady Justice Nicola Davies) (Relevant Paras 59 and 60)

*Judgments reflect the thinking of the individual judge and there is no room for dogma, but in my view a good judgment will in its own way, at some point and as concisely as possible: state the background facts; identify the issue(s) that must be decided; articulate the legal test(s) that must be applied; note the key features of the written and oral evidence, bearing in mind that a judgment is not a summing-up in which every possibly relevant piece of evidence must be mentioned; record each party's core case on the issues; make findings of fact about any disputed matters that are significant for the decision; evaluate the evidence as a whole, making clear why more or less weight is to be given to key features relied on by the parties; give the court's decision, explaining why one outcome has been selected in preference to other possible outcomes.*

*The last two processes – evaluation and explanation – are the critical elements of any judgment. As the culmination of a process of reasoning, they tend to come at the end, but they are the engine that drives the decision, and as such they need the most attention. A judgment that is weighed down with superfluous citation of authority or lengthy recitation of inessential evidence at the expense of this essential reasoning may well be flawed. At the same time, a judgment that does not fairly set out a party's case and give adequate reasons for rejecting it is bound to be vulnerable.*

12. **Siddharth Vashisht Alias Manu Sharma v. State (NCT of Delhi)**, 2010 6 SCC 1 [Adverse remarks - Trial Judge made adverse remarks against prosecution-And Division Bench against trial Judge-Such adverse remarks expunged. The higher Courts in exercise of their appellate or original jurisdiction may find patent errors of law or fact or appreciation of evidence in the judgment which has been challenged before them. Despite this, what is of significance is that, the Courts should correct the error in judgment and not normally comment upon the Judge. The possibility of taking a contrary view is part of the system. The judicial propriety and discipline demand that strictures or lacerating language should not be used by the higher Courts in exercise of their appellate or supervisory jurisdiction. Judicial discipline requires that errors of judgments should be corrected by reasons of law and practice of passing comments against the lower courts needs to be deprecated in no uncertain terms. The individuals come and go but what actually stands forever is the institution.]

#### SESSION- 4 OVERVIEW OF E-COURTS PROJECT

1.	<b>e-Courts Brief</b> , National Information Centre.	
2.	<b>The Milestones of e-Committee</b> , Supreme Court of India (2021)	
3.	<b>Digital Courts Vision &amp; Roadmap Phase III of the eCourts Project</b> (Draft), e-Committee Supreme Court Of India.	

4.	<b><i>E-Courts Mission Mode Project, Available at <a href="https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/#">https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/#</a></i></b>	
5.	<b><i>National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary</i></b> , e-Committee Supreme Court of India, August, 2005. Available at <a href="https://main.sci.gov.in/pdf/ecommittee/action-plan-ecourt.pdf">https://main.sci.gov.in/pdf/ecommittee/action-plan-ecourt.pdf</a>	
6.	<b><i>Status of Implementation of e-Court Mission Mode Project</i></b> , 05 Aug 2022, Ministry of Law and Justice.	
7.	R. Arulmozhiselvi, <b><i>Court and Case Management through National Judicial Data Grid (NJDG)</i></b> (2021).	
8.	R. Arulmozhiselvi, <b><i>Court Management through JustIS Mobile App</i></b> , (2018)	
9.	G. Mahibha and P. Balasubramanian, <b><i>A Critical Analysis of the Significance of the eCourts Information Systems in Indian Courts</i></b> , 20 Legal Information Management 47 (2020).	
10.	Daniel Stepniak, <b><i>Technology and Public Access to Audio-Visual Coverage and Recordings of Court Proceedings: Implications for Common Law Jurisdictions</i></b> , 12 Wm. & Mary Bill Rts. J. 791 (2004).	

#### Recent Judgments & Orders

*(Judgments mentioned below include citations and short notes for reference. Please refer full judgment for conclusive opinion) (Full Text Judgment available in Pen Drive)*

1. ***In Re: Children in Street Situations***, 2022 SCC OnLine SC 189 [Standard Operating Procedure for recording evidence of children through video conferencing to be followed in all criminal trials where child witnesses, not residing near Court Points, are examined and not physically in the courts where the trial is conducted. Remote Point Coordinators to ensure that child-friendly practices are adopted during the examination of the witnesses.]
2. ***In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic***, (2021) 5 SCC 454 [The Video Conferencing in every High Court and within the jurisdiction of every High Court shall be conducted according to the Rules for that purpose framed by that High Court. High Courts that have not framed such Rules shall do so having regard to the circumstances prevailing in the State. Till such Rules are framed, the High Courts may adopt the model Video Conferencing Rules provided by the E-Committee, Supreme Court of India to all the Chief Justices of the High Court.]
3. ***Arnab Manoranjan Goswami v. The State of Maharashtra***, (2021) 2 SCC 427 [The NJDG is a valuable resource for all High Courts to monitor the pendency and disposal of cases, including criminal cases. For Chief Justices of the High Courts, the information which is available is capable of being utilized as a valuable instrument to promote access to justice, particularly in matters concerning liberty. The Chief Justices of every High Court should in their administrative capacities utilize the ICT tools which are placed at their disposal in ensuring that access to justice is democratized and equitably allocated. Administrative judges in charge of districts must also use the facility to engage with the District judiciary and monitor pendency.]
4. ***In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic***, (2020) 6 SCC 686 [The Supreme Court of India and all High Courts are authorized to adopt measures required to ensure the robust functioning of the judicial system through the use of video conferencing technologies. The District Courts in each State shall adopt the mode of Video Conferencing prescribed by the concerned High Court. Courts shall duly notify and make available the facilities for video conferencing for such litigants who do not have the means or access to video conferencing facilities. Video conferencing shall be mainly employed for hearing arguments whether at the trial stage or at the appellate stage. In no case shall evidence be recorded without the mutual consent of both the parties by video conferencing. Every High Court is authorised to determine the modalities which are suitable to the temporary transition to the use of video conferencing technologies. All measures taken for functioning of courts in consonance with social distancing guidelines and best public health practices shall be deemed to be lawful.]
5. ***Pradyuman Bisht v. Union of India***, (2018) 15 SCC 639 [Directions for installation of CCTV Cameras in court

complexes.]

6. **Swapnil Tripathi v. Supreme Court of India**, (2018) 10 SCC 639 [Directions regarding Livestreaming of court proceedings - virtual access of live court proceedings will effectuate the right of access to justice or right to open justice and public trial, right to know the developments of law and including the right of justice at the doorstep of the litigants., live streaming of court proceedings in the prescribed digital format would be an affirmation of the constitutional rights bestowed upon the public and the litigants in particular. Sensitive cases, matrimonial matters, matters relating to children not to be livestreamed. Discretion of the judge to disallow live-streaming for specific cases where publicity would prejudice the interests of justice.]

#### **Additional Readings (Suggestive)**

- National Council of Applied Economic Research, **Information & Communication Technology in the Indian Judiciary: Evaluation of the eCourts Project Phase -II**, (2021)  
Available at: <https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2021/03/2021031717.pdf> / <https://ecommitteesci.gov.in/publication/ncaer-evaluation-of-the-ecourts-project-phase-ii/>
- **Memorandum of Understanding between CSC e-Governance Services India Limited and Department of Justice, Ministry of Law & Justice on Common Service Centers.**
- **Policy and Action Plan Document Phase II of the eCourts Project**, e-Committee Supreme Court of India.  
Available at: [https://ecourts.gov.in/ecourts\\_home/static/manuals/PolicyActionPlanDocument-PhaseII-approved-08012014-indexed\\_Sign.pdf](https://ecourts.gov.in/ecourts_home/static/manuals/PolicyActionPlanDocument-PhaseII-approved-08012014-indexed_Sign.pdf)

#### **Rules (Available in Pen drive)**

- **Model Rules for Video Conferencing for Courts**, e-Committee, Supreme Court of India.
- **Model Rules for Live-streaming and Recording of Court Proceedings**, e-Committee, Supreme Court of India.
- **Model Rules for E-Filing - Rules for On-Line Electronic Filing (E-Filing) Framed under Article 225 and 227 of the Constitution of India**, e-Committee, Supreme Court of India.

#### **Manuals (Available in Pen drive)**

- **E-Filing Procedure for High Courts & District Courts in India**, e-Committee Supreme Court of India.
- **National Service and Tracking of Electronic Processes (NSTEP)-Android OS APP**, e-Committee Supreme Court of India.
- **eCourts Digital Payment**, e-Committee Supreme Court of India.
- **E-Filing, from Case Management through CIS 3.0, Case Information system 3.0**, e-Committee, Supreme Court of India.

### **SESSION- 5**

#### **EMERGING AND FUTURE TECHNOLOGY FOR EFFECTIVE JUDICIAL GOVERNANCE**

1.	Dory Reiling and Francesco Contini, <b>E-Justice Platforms: Challenges for Judicial Governance</b> , 13 IJCA 1 (2022)	
2.	Barry, B. M., <b>The Future Of Judging</b> , in HOW JUDGES JUDGE: EMPIRICAL INSIGHTS INTO JUDICIAL DECISION MAKING, 273-290 (2021)	
3.	Nowotko, P. M., <b>AI in Judicial Application of Law and the Right to a Court</b> , 192 Procedia Computer Science, 2220-2228 (2021)	
4.	Sengupta <i>et.al.</i> , <b>Responsible AI for the Indian Justice System – A Strategy Paper</b> (2021) accessed at <a href="https://vidhilegalpolicy.in/research/responsible-ai-for-the-indian-justice-system-a-strategy-paper/">https://vidhilegalpolicy.in/research/responsible-ai-for-the-indian-justice-system-a-strategy-paper/</a>	
5.	Richard Susskind, <b>The Future of Courts</b> , 6(5) The Practice 1 (2020)	
6.	Bhupatiraju <i>et. al.</i> , <b>The Promise of Machine Learning for the Courts of India</b> , 33(2) National	



	Law School of India Review, 2020. Accessed at <a href="https://nlsir.com/the-process-of-machine-learning-for-the-courts-of-india/">https://nlsir.com/the-process-of-machine-learning-for-the-courts-of-india/</a>	
7.	Francesco Contini, <i>Artificial Intelligence and the Transformation of Humans, Law and Technology Interactions in Judicial Proceedings</i> . Volume 2 (1) 2020 Law, Technology and Humans.	
8.	Morison, J., & Harkens, A., <i>Re-engineering Justice? Robot Judges, Computerised Courts and (Semi) Automated Legal Decision-Making</i> , 39(4), Legal Studies, 618-635 (2019).	
9.	Susskind, R., <i>Artificial Intelligence</i> in ONLINE COURTS AND THE FUTURE OF JUSTICE, 263-275, Oxford University Press (2019).	
10.	Melissa Whitney, <i>How to improve technical expertise for judges in AI-related litigation</i> , Report Produced by Center for Technology Innovation Available at: <a href="https://www.brookings.edu/research/how-to-improve-technical-expertise-for-judges-in-ai-related-litigation/">https://www.brookings.edu/research/how-to-improve-technical-expertise-for-judges-in-ai-related-litigation/</a>	
11.	<i>Emerging Technologies and Judicial Integrity - Toolkit for Judges</i> , United Nations Development Programme (2021)	
<p style="text-align: center;"><b><u>Additional Readings (Suggestive)</u></b></p> <ul style="list-style-type: none"> <li>• Zichun Xu, <i>Human Judges in the Era of Artificial Intelligence: Challenges and Opportunities</i>, 36(1) Applied Artificial Intelligence, 2013652 (2022).</li> <li>• <i>European Ethical Charter on the use of Artificial Intelligence in Judicial Systems and their Environment</i>, Adopted at the 31st plenary meeting of the CEPEJ (Strasbourg, 3-4 December 2018).</li> <li>• Tania Sourdin, <i>Judge v Robot? Artificial Intelligence and Judicial Decision-Making</i>, 41(4)UNSW Law Journal (2018)</li> <li>• A. D. Reiling, <i>Courts and Artificial Intelligence</i>, 11(2) International Journal for Court Administration 8 (2020)</li> </ul>		