

NATIONAL JUDICIAL ACADEMY



Programme Report

Court Excellence Enhancement Programme

25th to 27th august, 2017

Programme Coordinator

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Three days Court Excellence Enhancement Programme was organized by National Judicial Academy, Bhopal from 25th to 27th August, 2017 with the aim to provide a forum to several stakeholders for identifying challenges and constraints to efficiency and evolve standard working models for delivery of quality justice.

The Programme seeks to develop a comprehensive Court Excellence Plan for enhancing qualitative and timely justice through harnessing the synergies of various stake and duty holders in the system. An action plan is envisaged to be developed, which would identify areas calling for systemic improvement.

The entire programme was spilt into 10 sessions. Prof (Dr.) G. Mohan Gopal, Hon'ble Justice Ravi R. Tripathi, Hon'ble Justice Dr. Shalini Phansalkar Joshi, Hon'ble Justice R Y Ganoo were the Resource Persons of the Programme.

Day-1

Session1- Assessing and Enhancing Court Performance

Session 2- Discussion on Court Excellence Indicators and Model Court Plan

Session 3- Break out Groups (Stakeholder Wise) Discussion and Filing template

Session 4- Group Discussion/ Presentation (Stakeholder Wise) Challenges Faced by the Stakeholders and Suggestions to improve Performance of Courts

Day-2

Session 5- Best Practices for Improving Court Performance

Session 6- Developing Court Excellence Enhancement Plan (Court Wise)

Session 7- Developing Court Excellence Enhancement Plan (Court Wise)

Session 8- Court Wise Presentation on Developing Court Excellence Plan

Day-3

Session9- Court Wise Presentation on Developing Court Excellence Plan

Session10- Court Wise Presentation on Developing Court Excellence Plan and Way forward

Day 1

Session-1

Theme: Assessing and enhancing court performance

Speakers- Prof (Dr.) G. Mohan Gopal Panel and Justice Ravi R. Tripathi

Prof. D.P Verma initiated the session by welcoming all the resource persons and participants. A brief introduction to the objective of Court Excellence Enhancement Programme was given.

Justice Ravi R. Tripathi requested the participants to freely discuss any issues and try to institutionalize the learnings in their respective jurisdiction. It was stated that there were numerous factors that impact the justice delivery system and litigants are the customers and should get justice so as to retain the trust and confidence in the judiciary.

Prof. Dr. G. Mohan Gopal stated that academy is a place of silence where actions are reflected together. Definition of court were discussed during the course of discussion. The definition of the court was discussed. It was explained that court is a team activity which upholds the rights of society and judges are like a captain of the court. It was pointed out that if courts are not working properly then responsibility lies on all the stakeholders which includes the judges, advocates and ministerial staff. Sections 20 of IPC which defines court of justice was discussed which states “the word court of justice denote a judge who is empowered by law to act judicially alone or a body of judges which is empowered by law to act judicially as a body, when such judge or body of judges is acting judicially.” The scope of fact- in issue was also discussed. It was stated that the court has exclusive power to determine the existence, non-existence, nature or extent of any right or liability as per the constitutional values. The session concluded with the suggestion that every court within judicial system is a court of justice.

Session-2

Theme- Discussion on Court Excellence Indicators and Model Court Plan

Speakers- Justice Ravi Tripathi and Prof (Dr.) G. Mohan Gopal

Indicators of the court excellence were discussed. It was stated that following are the indicators of court excellence:

1. Sharing information on pendency, filing, disposal and arrear amongst all the duty holders.
2. Delegation of responsibilities from judges to non-judge staff.
3. Fair and efficient allocation of workload between judges.
4. Expeditiously disposal of cases
5. Monthly monitoring the workload of each court.
6. Defining main role, standards and tasks for each duty holders.
7. Transparency in the allocation of files to judges.

8. Adequacy between the judges' functions and the files entrusted to them (training periods, specialization and classification of cases).
9. Good infrastructure and sufficient staff.
10. Coordination meeting and other occasions in which all stakeholders participate for discussing common issues.

Discussions on the indicators for Management with respect to hearing of cases were deliberated. It was highlighted that there are no such measurable instruments which can determine a good judge. However, required number of judges can be determined by applying a formula i.e. total number of present judges divided by number of pending cases or total number of present judges divided by total number of disposed cases in last year. Further, it was emphasized that out of 3 crore cases pending in Indian courts only 40% of cases are one year old. It was delineated that actual number of pendency in the Indian courts is 1.8 crores.

It was emphasized that in the year 2012, National Court Management Committee was established with the purpose to set up Court Excellence Programme. This committee prepared numerous baseline reports which needed implementation. Four indicators were referred through which effectiveness & quality of a legal system may be evaluated that includes:

1. Public Trust and Confidence,
2. Access to Courts for the purpose of protecting Constitutional, legal and contractual rights, especially by the weakest and the poorest who are least able to protect their rights without the assistance of courts.
3. Degree of adherence by courts to ten Core judicial system values that determine the internal integrity of the institution such as Integrity; Competence; and Propriety (three Individual Values applicable to judges, advocates, ministerial staff; executive agencies which are essential for the effective functioning of any court), Independence; Equality, Fairness; Impartiality; and Certainty (five Judicial Decision Making Values applicable to judges); and Faith in, and allegiance to, the Constitution; and the Rule of Law, Transparency and Accountability (two sets of institutional values applicable to all stakeholders of the judicial system).
4. Expedition, efficiency and efficacy of court proceedings.

Reasons for delay in disposal of cases were also discussed during the session that includes inadequate judge- strength, lack of supporting staff and essential infrastructure, lack of coordination between the bench and bar and repeated adjournment of cases. It was suggested that time must be framed for disposal of particular nature of cases.

Session-3

Theme- Discussion and filing Template

Stakeholders were divided into 4 groups and each group was instructed to fill one template through discussion. Separate rooms were allotted to every group where 1st room given to Judges 2nd to Advocates, 3rd to Public Prosecutors and 4th to Ministerial Staff. Each group was requested to discuss and suggest the measures for the improvement in the performance of the court

Session-4

One representative from every group of the duty holders made presentation on Challenges faced by them and gave suggestion to improve performance of courts.

Important Suggestions made by the duty holders are:

1. Raise the standard of infrastructure with the facilities of E- courts, E- governance and E- service.
2. Providing E- messaging facility regarding hearing date, proceedings, name of the advocate etc. Court should be digitalized and internet connection must be provided to the court as well as to the prosecutors.
3. Practice of granting unnecessary adjournment should be discouraged.
4. Orientation courses for ministerial staff and for junior advocates.
5. Nodal officer may be appointed for proper execution of summons.
6. Interactive sessions on weekends beyond court hours shall be encouraged. The presiding officer and the staff members shall be free to exchange views on enhancing the court excellence. Valuable suggestions of the senior members of the BAR shall be given due weight age.
7. Duty holders should follows time line
8. Atmosphere of the court should be friendly.

Session-5

Theme- Best Practices for Improving Court Performance

Speakers- Justice Dr. Shalini Phansalkar Joshi, Justice R Y Ganoo and Prof. (Dr.) G. Mohan Gopal

It was stated that Judge is a captain of the court like karta in family and decision of judge gives command to others. It was emphasized that duty holders should follows time line. If judges start coming on time then advocates, litigants and ministerial staff will follow this practice. Respect for each other and work together as a team is the only solution to all problems.

It was stated that this course gives a chance for self-introspection and to know what is the good practices adhered in other courts. Participants were advised to learn good practices from other participants and implement it in their jurisdiction. It was highlighted that word 'time' has great importance and each member of every institution has to remember words 'Start on time and End on time'.

It was emphasized that judicial system is based on rightness and wrongness of conduct. Court is an activity which upholds the right conduct. One must feel constitutional value while working in court. It was highlighted that the failure of legal system in the society is because of non- acceptance of the values of constitution.

It was emphasized that constitution is the only institution that protects society by creating rules. When court stands with constitutional values, there will be equality. It was strongly suggested to participants that if one wants to bring solidarity then informally, CEEP working group should be created which should be chaired by judge and must met once in a month for discussion on how performance of the court can be improved. It was remarked that one has to enhance its performance then only the performance of others will improve which will intern improves the efficiency and efficacy of the court performance.

Session-6 and 7

Court excellence enhancement plans were prepared by dutyholders (Court Wise) through discussion.

Session- 8, 9 and 10

Theme- Court Wise Presentation on Developing Court Excellence Plan

The Chief Judicial Magistrates of all 12 courts gave presentation on the court excellence enhancement plan for improving the quality of justice delivery which the court delivers to all the litigants. They have also discussed the proactive steps that they have taken and the recommended the improvements that can take place in their court to make the system more effective and efficient keeping in view the constraints and challenges.

Following observations and suggestions were deliberated by the judicial officers on different parameters that can be adopted by all the courts for the smooth functioning of the justice delivery system:

Observations by the Judicial Officers

Observations:

1. Most of the cases remain untraced.

2. Sometime, investigation is not completed within time and CDs are not made available at the time of hearing.
3. The infrastructures of courts are generally poor except in three or four states.
4. Categorization of cases is necessary.
5. Time taken to dispose the same case can be different for two courts in the same district, if the pendency of cases before the court is different.
6. Filing of interlocutory applications by the advocates is proving to be a stumbling block in disposing of the old cases on civil side.
7. Unnecessary questions in the cross examination consumes lot of time.
8. In the state of Telangana, majority of the courts have no facility of toilets, drinking water and lifts for the litigants.
9. A lawyer is a social scientist who gets firsthand knowledge of the problems of the litigant public.

Suggestions by Judicial Officer

Court Management

- a) Ten and five years old cases need to be prioritized and a record of the same should be maintained.
- b) A brief description of the cases and the main reasons for delay should be mentioned.
- c) Case Information System is to be made up-to-date so that the litigants may access the case status.
- d) Unnecessary adjournments should not be granted either the prosecution or to the defense counsel.

Access to Court

- a) User Friendliness- For security point of view only relevant parties are permitted to enter the court premises. There should be separate waiting room and toilet for the witnesses. There should be facility for providing food at reasonable rate in the court premises for the litigants, witness and advocates.
- b) Responsiveness- It should be mentioned in the summons that accused and witnesses should come to court with their Identify Cards/Aadhar Cards for their identification. There should be display boards showing the location of each court.
- c) Witness should be treated as honored guest of the court who should not be made to wait unnecessarily.

Accountability

There should be a complaint register or a box at a conspicuous place and complaint should be redressed effectively through proper redressal mechanism.

Court Infrastructure

1. There should be a display board showing case number and specification.
2. Court Malkhana is required where in article seized in connection with cases are kept.
3. There is need of waiting room for witnesses and E-messaging system, counselling room for witnesses adjacent to the court room are also required.

Court Infrastructure

1. There should be a display board showing case number and specification.
2. There a requirement of waiting room for witnesses and children.
3. Need for E-messaging system, counselling room for witnesses adjacent to the court room are also required.

Effective use of ADR Measure

1. First time offender should be encouraged to participate in Plea Bargaining process and they should be informed about the provisions of Probation of Offenders Act.
2. 138 N. I. Act Cases may be sent to Mediation/Lok Adalat so that the possibility of compromise may be explored.
3. Government Bodies/Public Services Authorities should be encouraged to participate in plea bargaining, especially where the offender is first time offender.
4. By segregating compounding and minor offences, court should issue special notice the complainants and accused with a direction to appear before the lok-Adalats and to settle their matters amicably.

Expectations from the Judge

1. Every Judge is expected to be an honest, fair, duty minded and impartial.
2. Judges should be cordial and friendly with the local bar, prosecution and with all concerned in the process of speedy and effective disposal in accordance with law.
3. Judges should dispose of bail application/Miscellaneous Application & urgent Application on the same day.
4. Judges should be updating their knowledge.
5. Judges should allow the stakeholders to express their opinions for achieving court excellence.

Cooperation and Expectations

Cooperation from the Bar- Advocates are boycotting the courts at the drop of a hat, this tradition should be curbed to save court's time so that disposal of the case may take place expeditiously.

Cooperation from prosecutor-

- a) Public Prosecutors should assist the court and provide an action plan for the disposal of old cases.
- b) Prosecutors should prepare file with written notes that may be tagged with police file so that it becomes easy for him as well as for any new prosecutor to understand the complication in the case.
- c) Prosecutors must be honest and need to strictly follow the provision of Section 294 of the Code of Criminal Procedure

Cooperation from Police-

- a) Police constables should be made accountable for producing the witnesses as per schedule.
- b) Police should use mobile phones to record the video of the spot and arrests photographs should be taken.
- c) Police should send all the reports to the court in time and should also inform the complainant about status of investigation.
- d) Police agency may constitute special cell for execution of summons and warrant of the Case.

Expectations from Court staff-

- a) Court staff should be skilled and maintain files properly.
- b) Staff members should be fully aware of the procedure of the Court and should have basic knowledge of computer.
- c) Staff should always show minimum courtesy to public litigants.

Focal areas need urgent requirement Arrears and pendency

Weightage should be given to the disposal of oldest matters and unnecessary adjournment should not be granted.

The guidelines under section 309 of Cr. P.C are to be followed strictly. CIS is being maintained properly.

Old cases to be classified and should be dealt with separately.

Once the classification is done then monitoring of cases is required and for that a separate plan has to be framed under the heading of case management.

The points to be taken under consideration are:

Avoiding Delay in Serving Processes:

- a) Avoiding partially filed charge sheets and ensuring contact details and photographs of accused and witnesses
- b) With regard to the witnesses it was suggested that the copy of aadhar card & phone numbers may be placed on record by IO in a sealed cover in addition to charge sheet and not as part thereof to prevent the supply of the same to the accused.
- c) Ensuring Fair and timely investigation:
- d) Ensuring Copies of all Police records along with the final report-
- e) Examination of accused and witnesses on the day of their presence-
- f) Avoiding unnecessary adjournment-
- g) Ensuring Proper examination of accused and witnesses and avoiding lengthy cross examination-
- h) Controlling Oral Arguments-
- i) Managing Verification of bail bonds in an effective manner-
- j) Avoiding strike/ boycott by advocates-
- k) Management of non-judicial work & protocol duties- Administrative work should be separated from judicial work and a particular day should be fixed for the same.

Coordination with stakeholders-

There should be frequent co-ordination meetings between the bar members and Judges, police officers and Judges to discuss the bottlenecks in the speedy delivery of justice. CEEP working group should be there in each court comprising of all duty-holders and meeting should be held every 15 days to review the steps taken to enhance excellence of the court. The meeting should end with preparation of a table indicating the steps taken and proposed to be taken for enhancement of excellence. The District Judge should hold the District Level CEEP Working Group meeting every month to know the problems faced by duty-holders and to find solutions for the same.

Use of Information Technology in Court Processes

For fair efficient transparent justice system :

- a) E-justice information system should be developed carefully.
- b) Video conferencing services should also be used for witnesses who are far away from judgeship.
- c) Latest technology with expert may be provided from time to time.
- d) Legal data bases should be uploaded regularly.

Role of Court

- a) Rights of the accused should be ensured.
- b) Ensuring proper facilities & protection to witnesses.
- c) Prison should be inspected by Judge In charge (Prisons) on regular basis.
- d) CC TV should be fixed in court rooms.
- e) Court should ensure that effective legal aid and other services are provided by District Legal Service Authority.

Performance Assessment

- a) The performance can be assessed in CEEP meetings both at the respective court's level and District Level. The assessment should be on the qualitative and quantitative basis and not only on the basis of quantitative disposal.
- b) Performance of a judge may be measured or managed owing to his skill of court crafting, avoiding delays and managing arrears and reducing arrears.

Expectations from Higher Authorities

Sufficient budgetary allocation should be made. Unit Criteria should be modified in such a manner that old cases are taken on priority basis.

It was emphasized that court is an institution meant ultimately to promote justice which is a mandate for the entire legal system.

It was remarked that court is an institution meant ultimately to promote justice which is mandate for entire legal system. Court is a team activity and it will only work when all members work together. He further stated that there are four requirements out of which 2 are mindsets and 2 are actions which must be taken into account for the enhancement of court performance which are as follows:

Mindsets

- a) The judge should commit to the court and must ensure that they will not do anything that harms the institution of court.
- b) One should work together constructively and cooperatively for the court.

Actions

- a) Judge should finalized the Court excellence plan with the approval of higher authorities.
- b) A judge should set up court excellence working group including all stakeholders and people of your jurisdiction.

It was emphasized that one has to have vision about how the courts will look after 12 years and make this vision plan public by putting it on the website.

The conference was concluded with the concluding remarks of Hon'ble Justice G. Raghuram, Director National Judicial Academy. Justice remarked that this programme is a hope of creating better working of court system with the object to achieve the justice

delivery system which is a continuous work. It was delineated that duty holders should act as mentors of the institution and should strive together to meet the ends of justice as per the constitutional values. The Director Hon'ble Justice G. Raghuram thanked all the resource persons and participants representing the twelve courts.

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