

NATIONAL JUDICIAL ACADEMY



**WEST ZONE-II: REGIONAL CONFERENCE ON OPTIMIZING QUALITY
AND EFFICIENCY IN JUSTICE DELIVERY: CHALLENGES &
OPPORTUNITIES [P-1209]**

Organized by

National Judicial Academy, India

in association with

**High Court of Bombay and Maharashtra Judicial Academy, at Uttan-
Bhayander**

(29th February, 2020 to 01st March, 2020)

PROGRAMME REPORT

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Objectives of the seminar: The National Judicial Academy organized two day “West Zone-II Regional Conference on Optimizing Quality and Efficiency in Justice Delivery: Challenges & Opportunities” from 29th February 2020 to 01st March 2020. The participants were mixed cadre of judges involving High Court Justices, PDJs, CJMs and Registry Officers from four participating High Courts of West Zone viz. Bombay, Gujrat, Madhya Pradesh, & Rajasthan. Regional conference was organized at Maharashtra Judicial Academy, Uttan in association with High Court of Bombay & Maharashtra Judicial Academy, Uttan Dist. Thane. The Regional conference was designed to provide a forum for exchange of experiences, communication of knowledge, and dissemination of best practices from across clusters of High Court jurisdictions in West Zone and among hierarchies. The conference aimed to accentuate the experience of familial community between High Courts and Subordinate Court judges, besides revisiting established and imperative norms of a constitutional vision of justice and the role of a judge in a democracy. The conference highlighted that efficient functioning of subordinate courts is elemental for proper administration of justice and quality in justice delivery. Continual dialogue, communication and exchange of evolving horizons of knowledge and best practices between judicial hierarchies- the Higher and Subordinate Courts, conduces and nurtures quality of justice delivery. The conference had special emphasis on themes relating to access to justice including information and communication technology in courts; courts and case management; and critical administrative issues.

(DAY – 1)

Introductory Session

Chair: Justice Navin Sinha, Justice B. P. Dharmadhikari & Justice G. Raghuram

In the introductory session, guests and resource persons were formally welcomed by Joint Director of Maharashtra Judicial Academy followed by lighting of traditional lamp. Thereafter, introductory address was delivered by Justice B. P. Dharmadhikari, Acting Chief Justice, Bombay High Court. He expressed his gratitude and wished grand success for the seminar. Justice G. Raghuram, Director NJA then set the theme of the conference and explained the rationale behind organizing a regional conferences at each zones of our country. Justice Navin

Sinha, Judge Supreme Court of India then delivered keynote address and emphasized the need to have discussion about the role of judiciary across the cadres and across the high courts. He said these kind of conferences offer and opportunity to the judges from all the cadres to share their good as well as bad experiences and understand the best practices. Mr. S. V. Yarlagadda, Joint Director, Maharashtra Judicial Academy, Uttan expressed the vote of thanks and concluded introductory session.

Sessions 1 & 2

Constitutional Vision of Justice and

Being a Judge: Role of Judge in a Constitutional Democracy; & Nurturing Public Faith in the Judicial Process

Chair: Justice Navin Sinha

First two sessions were themed at Constitutional Vision of Justice and Being a Judge: Role of Judge in a Constitutional Democracy & Nurturing Public Faith in the Judicial Process. These two sessions involved deliberations by the resource persons as well as group discussions and presentations by the participants on given themes. Justice Navin Sinha chaired the session. Justice G. Raghuram, Director NJA opened session setting the theme of the sessions and themes for group discussions. Justice Navin Sinha then took over and expressed his thought on constitutional vision of justice. He emphasized that constitutional vision is not only the prerogative of High Courts or Constitutional Courts but the trial courts and subordinate courts also hold a greater responsibility to nurture the constitutional vision of justice as enshrined in our constitution. Whenever a subordinate court judge decides a case ultimate test to be applied by him should be whether what he is doing is constitutionally permissible. Most of the provisions in CrPC and other laws which trial judges deal with day in and day out are related to the constitutional vision of justice. He then explained four themes for group discussion viz. Equality, Gender Justice, Social Context Judging, & Rule of Law. He emphasized that all these four themes are unique in nature and have relevance to fundamental rights as well as fundamental duties as enshrined in our constitution. He explained each theme in brief to the

participants and concluded his introductory remarks. Justice B. P Dharmadhikari, Acting Chief Justice of Bombay High Court then expressed his opinions about the themes for group discussions and emphasized that out of these themes social context judging is the important part when it comes to deciding cases relating to labour and other similar jurisdictions.

The participants were then divided into four groups and given one theme each for discussion and preparing presentation. The details are as follows –

Group A: theme EQUALITY

Group B: theme GENDER JUSTICE

Group C: theme SOCIAL CONTEXT JUDGING

Group D: theme RULE OF LAW

Participants were given 30 minutes time to discuss on the theme and come up with the presentations of their views. From Group A: EQUALITY total three participants expressed the views of their groups. They highlighted the importance of equality referring to various articles in the Constitution of India viz. Art. 14, 15, 16, 21 etc. They expressed that prime role of a judge in a constitutional democracy is to secure the equality. The judge has to be equal to all and within the constitutional limits. They highlighted that equality means an equality amongst the equals. Similarly circumstanced people should be treated similarly. They also touched the concept of intelligible differentia as enshrined in Art. 15 & 16 of Constitution and also referred to the recent cases of Navtej Singh Johar and Right to Privacy Judgements. Justice Navin Sinha concluded the discussions on theme of equality asking the judges to think about the discrimination by judicial orders.

Thereafter, two participants from Group B: Gender Justice made their presentations. They highlighted the issue of gender discrimination in Indian society stating it starts even before the actual birth. To support this they referred to the PC-PNDT Act which prohibits and criminalizes pre-birth sex selection. Thereafter, at every stage of life women/girls face gender discrimination. They highlighted various laws and judicial pronouncements relating to gender

justice and emphasized that it is not the law or precedents but it is our attitude towards gender justice which is more important. Our thinking pattern should be changed towards women and then only we will be able to understand the true sense of gender justice. They discussed various provisions of Indian Constitution referring to gender justice. They maintained that financial stability is very important factor for true gender justice. One of the participants referred to a very unique law in State of Goa viz. Goa Common Civil Code also called the Goa Family Law which is uniform to all religions and in that sense Goa is the only state having Uniform Civil Code. In that Code, there is one provision which says that on performance of marriage bride/girl gets 50% of share in her husband's property and at the same time bridegroom/boy gets 50% share in his wife's property. Most of the participants and even resource persons appreciated this law and expressed that it should be implemented at National Level. The discussions were concluded stating that now a days gender justice is not only related to men and women but we should also consider the rights of third gender (transgenders) in gender justice as envisaged in NALSA Judgement.

Group C thereafter, made their presentation on the theme of 'SOCIAL CONTEXT JUDGING'. They stated that in rigid sense, job of the judiciary is to implement the law as it is. But in a constitutional democracy judges need to be aware about the social realities also. Judges need to bear in mind the social realities while passing the orders. While doing so they can give certain concessions to socially backward classes. They referred to the provisions of reasonable classification in constitution and also to some of the directive principles of state policy. They suggested that in appropriate situations judges can exercise their discretion to achieve the goal of complete justice as enshrined in our constitution. For social context judging guiding factor should be Constitutional ideals and its vision of justice. They cited cases relating to sentencing, bail, maintenance proceedings, SC/ST Act cases etc. as some of the instances where social context judging plays an important role and it should be considered by judges inevitably. Justice Sinha concluded the discussion on the theme stating that what is more important for social context judging is change in our attitude along with the changing society and social realities.

At last, Group D: RULE OF LAW expressed their views on the theme given to them. They emphasized that Rule of Law is a very big and important concept. In fact, it's a glory of human civilization. It is said that 'Law is a King of Kings'. They emphasized that judges should have high regard for rule of law than any other thing. They highlighted principles of Supremacy of Law, Equality for All and Predominance of Legal Spirit as the set principles of rule of law around the world. No one is above the law, not even the Parliament or the Supreme Court. They maintained that in Law of Jungle it is the survival of the fittest but in Rule of Law it is always the Survival of the Weakest. They highlighted the case of Maneka Gandhi vs. Union of India as the example of rule of law and emphasized that, Rule of Law should always be based on sound principles of Justice. They also highlighted the 'due process clause' and the test of 'Just, fair and reasonable' as laid down in Maneka Gandhi case. Justice Navin Sinha concluded the discussion on the theme as well as the session by posing a question and asking the participants to think whether Rule of Law would also mean and include balancing the rights and duties of the individuals.

Session 3

Access to Justice: Information & Communication Technology in Courts; Court and Case Management; and Role of a Judge in Promoting ADR

Speakers: Justice A. S. Chandurkar & Justice S. D. Kulkarni

Last session of the day i.e. session three was on the theme Access to Justice: Information & Communication Technology in Courts; Court and Case Management; and Role of a Judge in Promoting ADR. Justice G. Raghuram set the theme of the session explaining the importance of information and communication technology in tomorrow's courts. He highlighted the issues and challenges posed by Artificial Intelligence and its impact on court system. He said that today or tomorrow and willingly or unwillingly we have to accept that artificial intelligence is going to have a greater impact on our daily lives and we should be prepared to cope up with the new technology. Justice A. S. Chandurkar then expressed his opinions about the importance of ICT in judiciary. Justice S. M. Modak then presented his PPT about the Access to Justice and

ICT in Indian Judiciary. He stated that object of ICT in judiciary is to enhance judicial productivity – qualitatively & quantitatively, to make Justice delivery system – affordable, accessible, cost effective, transparent and accountable and to speed-up the process of deciding cases. He then went on to discuss objectives set out in National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary-2005 and its current status. He highlighted the achievements like provision of laptops for judges, information kiosks, E-payment of court fees, E-filing, Digitization, CIS Mobile Application etc. during the course of discourse. Justice Anil Kilar then explained the importance of ICT and discussed the National Policy on ICT. He specifically discussed phase-II of e-courts projects and its achievements. Justice A. S. Chandurkar then expressed his views on role of judge in court and case management and emphasized that, it is the duty of the judge to see that case reached to the logical conclusion once the case is registered and brought before him. Justice G. Raghuram then expressed his opinions about the court and case management and emphasized that, judges should not be treated as super-humans having the knowledge of all fields. The area of court and case management should be completely given to the management professionals specially trained in the field and having expertise to deal with the issues involved in it. He highlighted the importance of dedicated cadre of court managers. He maintained that we have to improve the vitality of the institution of courts and should focus on team efforts to achieve greater degree of efficacy in court and case management. Justice Borkar also expressed his views on court and case management and stated that judge's innovative thinking and creativity in management of resources plays very important role in court and case management. He requested the participants to be more cautious in granting adjournments. Justice S. D. Kulkarni then presented his PPT on Role of a Judge in promoting ADR. He highlighted the importance of ADR like arbitration, mediation, conciliation and lok-adalat to avoid the court clogging and speedier disposal of cases. He also referred to the provision of sec. 89 of CPC and role of judge therein. He discussed relevant case laws like Afcons Infrastructure case on the topic to highlight importance of ADR and involvement of judge therein. He said that particularly in family matters and property disputes judges should endeavour to settle the dispute amicably. Session was concluded by Justice G. Raghuram explaining the themes of sessions for the next day.

(DAY – 2)
Session 4

Cadre Management in District Judiciary: Recruitment Process & Aptitude Test; Identifying & Filling of Vacancies; and Human Resource/Manpower Planning

Speakers: Justice Sonia Gokani & Justice M. S. Karnik

Session four was Cadre Management in District Judiciary: Recruitment Process & aptitude Test; Identifying & Filling of Vacancies; and Human Resources/Manpower Planning. Justice G. Raghuram opened the session making a comment that these are the house keeping areas of our system and we need to be more concerned about these areas. The recruitment of candidates with right attitude and aptitude is a most basic thing for any system to flourish. High Courts should be more pragmatic in recruitment and shall strive to get best talent available. Justice Sonia Gokani then took over and presented her views on the cadre management and recruitments in district judiciary. She said an Independent and Efficient Judiciary is one of the basic structures of the Constitution. She then went on to discuss the Constitutional provisions relating to recruitment and supervision of district judiciary and the responsibility of High Courts. She also discussed relevant law commission reports dealing with human resource management and manpower planning in judiciary. It was highlighted that at present in district judiciary we have Junior Civil Judges, Senior Civil Judges and District Judges as three cadres. The recruitment and promotion to these cadres in the light of Constitutional provisions and judicial pronouncements was discussed in detail. The idea of All India Judicial Service (AIJS) and its feasibility was discussed. She also dealt with the issue of judge population ratio in India as compared to developed countries and stressed on the need to bring the judge population ratio at least to 50 judges per million population. At present, judge-population ratio in India is 10.5 judges per million, which is much below average. She also discussed the issue of affirmative action in representation to people from socially and economically backward classes in service and its implications. She also dealt with the issues relating to recruitment of non-judicial staff and intricacies involved in it with great detail and suggested that instead of going for central recruitment, it should be left to the wisdom of District Judges to recruit non-judicial staff in his district. She also discussed important judicial pronouncements like All India Judges

Association cases, Malik Mazhar Sultan Case etc. and concluded her presentation. Justice M. S. Karnik then took over and expressed his views about the cadre management and recruitments in district judiciary. He suggested that best talent should be attracted to the judicial service. Most of the participants raised their concerns and problems relating to promotion and criterions for it and panel tried to satisfy them.

Session 5

Fiscal and Budgetary Planning for District Judiciary: Planning for the next Fiscal; Infrastructural Issues; and Optimal utilization of allotted funds

Speaker: Justice Sonia Gokani

The last session was themed at Fiscal and Budgetary Planning for District Judiciary: Planning for the next Fiscal; Infrastructural Issues; and Optimal Utilization of allotted funds. Justice Sonia Gokani opened up the session stating that budgeting is one of the very important and crucial aspect of administration of district court administration. She accepted the concerns of most of the participants about the lack of proper infrastructure and problems arising due to the same. She requested the participants, especially registrars dealing with budget, to share their experiences about the budget and infrastructural issues. Most of the participant judges highlighted the issues of lack of proper courtrooms, chambers, other facilities etc. The speaker also highlighted the issues of lack of sufficient courtrooms and residential accommodations for judicial officers. She also highlighted the issue of lack of sufficient grants for court restructuring and other things. It was agreed that there is certainly some gap in communication between judiciary and executive as executive is the one who holds the purse. The need to have better communication between executive and judiciary about the infrastructure and budgeting was stressed and it was suggested that High Court can play pivotal role in streamlining the said issues. Finally with the expression of vote of thanks by Justice G. Raghuram, Director NJA, conference was concluded.
