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*(P-1244)*

# **NATIONAL JUDICIAL ACADEMY**



## **NATIONAL WORKSHOP FOR HIGH COURT JUSTICES**

**13<sup>th</sup> – 14<sup>th</sup> MARCH, 2020**

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**FACULTY, NATIONAL JUDICIAL ACADEMY**

## Objective

*The objective of the workshop is to provide a platform for judges to share experiences and insights on Administration and leadership skills: conferencing and collegiality among Judges. The workshop also intends to engage participant judges in discussion on themes including; Styles of Judicial Reasoning: The Process of Decision Making and Introduction of Artificial Intelligence in Judicial System. A dedicated session on inner Re-engineering for Attitudinal Changes & Biases also forms an integral part of the workshop. Identifying challenges and evolving optimal strategies to effectuate qualitative justice delivery will also be discussed.*

The National Judicial Academy, Bhopal had organized a two day National Workshop for High Court Justices on 13<sup>th</sup> and 14<sup>th</sup> March, 2021 which was attended by 32 participants. Justice Deepak Gupta Justice T.B. Nair Radhakrishnan, Justice S. Ravindra Bhat Justice M.B. Lokur, Justice T.S. Sivagnanam Justice Mohammed Mushtaq, Justice Ram Mohan Reddy Mr.C. Aryama Sundaram Dr. Harish Shetty guided the sessions.

### **Session 1 - Administration and Leadership Skills: Conferencing and Collegiality among Judges**

The importance of administration and leadership skills for high court judges was highlighted as their work is not only limited to judging but also involves supervision and superintendence of the district judiciary. The significance of camaraderie, conferencing, collegiality and comity between judges both on the judicial and administrative side was emphasized. It was stated that administrative skills are necessary for effective and efficient utilization of manpower and material resources. The participant judges were advised to act as guide and mentor to ascertain the difficulties of the judges and staff of their respective districts. Further, they were suggested to undertake periodic visit for monitoring & inspection of the courts. The participants were apprised about usage of NJDG as management tool and were advised to physically verify data uploaded on NJDG on an annual basis.

It was opined that there should be direct communication between the high court judge and judges of the district judiciary. The participants were advised to personally meet the officers and encourage them for their work. It was opined that that there should be zero tolerance for corruption and the administrative judge should be strict towards maintaining punctuality and discipline in the courts. Furthermore with reference to writing Annual Confidential reports (A.C.R.) the judges were advised to be fair in writing A.C.R. and it should never be impacted by extraneous circumstances. The career of the Judicial Officer gets adversely affected by the strict or liberal approach of the administrative judges while writing A.C.R. It was opined that there should be standardization with respect to writing A.C.R and subjectivity should be curtailed to the maximum extent. Furthermore the practice of delay in preparation of A.C.R. was frowned upon. The judges

should prepare the judgment after due consultation and should not merely act as a rubber stamp. It was opined that there should be ease of doing judicial business and the judges should discuss and exchange ideas to transform the judicial process to enhance productivity and efficiency of the justice delivery system. The participants were exhorted to familiarize themselves with the rules as soon as possible for better court administration. The judges were advised to engage in discussion and healthy debate and share views and ideas for enhancing academic knowledge.

## **Session 2 - Styles of Judicial Reasoning: The Process of Decision Making**

It was stated that judicial reasoning has an intrinsic value since it provides information about the thought process and is a safeguard against arbitrary decisions. Moreover, the reasoning assists in understanding the rationality behind the discretion of the judge on various aspects i.e. sentencing, victim compensation, bail, death penalty. The formalistic and realistic theories of judicial reasoning were expounded upon and it was stated that the realistic school is premised that certain events happening in society and community cannot be ignored while writing the judgment. The judges were advised to study facts of each case along with the applicable legal standards carefully and to decide in an impartial manner. It was opined that the strength of a judge is in transparency of his court proceeding. It was also advised that the judge should recuse themselves when he has an interest in the matter. They should be free from bias and prejudices and not to be swayed by considerations of class or community. The judges were cautioned that extraneous considerations should never impact judicial reasoning.

Judgments were described as means through which judges address the litigants and public, therefore, it was suggested that judgments should be in a structured manner and may provide a roadmap at the beginning for enhancing accessibility. Furthermore, a coherent judgment is important for a system based on precedent since the lower court has to understand and apply the judgments. It also has a vital role in the appellate process since it provides critical information regarding the reasons by which the lower court reached a particular decision. It was stated that the judges are under duty to provide well-reasoned judgments since they are important for public trust and legitimacy of the judiciary. Judgments should be clear, well written and provide information about the disputed issues, decision and reasons for reaching a particular decision. The judgment should be written in short sentences and it should maintain a single flow and too many ideas should

not be incorporated in a single line of the judgment. It was suggested if the reasoning is supplanted by various judicial precedents then the author should make a brief reference to the precedent which would support the fact that this proposition has been widely accepted. The process of editing judgment should also be undertaken with due care and caution by checking accuracy of names, facts and dates and elimination of repetitions. It was also advised the complicated jargons and expression should not be used. It was also highlighted the clarity is the key in a judgment and the participants were cautioned to avoid hyperbole or to include morals in the judgment.

### **Session 3 -Introduction of Artificial Intelligence in Judicial System**

It was opined that Artificial Intelligence is never going to substitute the decision making process of judges. It was stated that Artificial Intelligence requires huge amount of data to be fed into the system wherein algorithms analyze it and specific actions are undertaken by the system. However the same algorithm can be manipulated to get a specific result. Furthermore the speaker discussed the difference between online courts and virtual courts. It was stated that currently virtual courts are available mainly in traffic challan cases. It was opined that artificial intelligence cannot make any value judgment as it does not have any knowledge of ethics, compassion and cultural differences. Hence at present Artificial intelligence can only be employed to a limited extent in the justice delivery system like traffic cases. Judicial discretion, subjective decision making and the issue of judgment writing by AI system were also highlighted. Different definitions of Artificial Intelligence were discussed during the discourse. Moreover various AI technologies like Machine Learning, Natural Language Processing, Vision and Speech were elaborated upon during the course of the session. It was opined that repetitive, non-value-addition tasks can be given to AI. It could be used to discover and analyze pattern and to predict future patterns. The Supreme Court Vidhik Anuvaad Software (SUVAS), Auto Docketing and Filing into Court Software and Optical Character Recognition (OCR) were highlighted as examples of use of AI in courts. Thereafter the principles provided in the European Ethical Charter on the use of Artificial Intelligence in Judicial Systems and their Environment were also discussed.

It was stated that for application of artificial intelligence institutional structures are to be improved. Furthermore, barriers should be removed by engaging power of network and by creating effective partnership with the different stakeholder involved in administration of justice. It was also advised

to establish institutional structure for technology implementation. The issue of managing data in the context of declaration of privacy as the fundamental right was also deliberated upon. The role of AI in creating inclusive society, empowering the citizens and removing inequality were also highlighted during the discussion. It was opined that AI could be utilized in judicial administration by creating software for performance audit, promotion, ascertaining deficiencies, roster management identifying issues related to the delay and customized training. The key challenges to adoption of AI in India were also discussed which included lack of enabling data ecosystems; low intensity of AI research; Inadequate availability of AI expertise and manpower and unclear privacy, security and ethical regulations.

#### **Session 4- Inner Re-engineering for Attitudinal Changes and Biases**

The speaker commenced the session by elaborating upon the nature of biases, role of these biases in judicial process and the areas where judges would have to be careful so that these biases does not enter into the realm of judicial decisions. It was pointed out that biases and beliefs are innate in a person. Biases can be segregated in to personal biases which are not permissible and the other biases of beliefs, views and convictions which requires constant tempering by judges. It was stated that judges have to rise above biases and re-engineer his human psyche. It was opined that the essential requirement of a judge include comprehensive scholarship, sense of right, craftsmanship and versatility. Furthermore it opined that the traits which are necessary for optimal judicial temperaments are independence, courtesy, patience, dignity, open mind, impartiality and compassion. The session also involved discussion on different classification of biases like explicit bias, implicit bias and structural form of bias. It is necessary to increase the motivation among the judges and to train them to overcome biases. The oath administered to a judge was highlighted and it was stated that the oath clearly mentions that they should undertake their work without fear or favour. It was also opined that the judges should introspect and understand the various social and economic biases. Furthermore the participants were advised that they should engage themselves in qualified self-analysis and seek out patterns of behavior that cannot be recognized in any single decision.

Paradoxical biases was also discussed in brief by the speaker. The speaker sought responses from the participants by providing certain hypothetical situations. The responses helped in gauging the biases, pre-conceived notions and mental conditioning of participant judges. It was stated that stray

spontaneous sentences, slip of the tongue and slip of the thumb should be analyzed since it allow to ascertain deep seated biases and prejudices. It was opined by the speaker that no individual including judges is free from biases. However, the quest to render adjudications free from biases is a continuous process. It was stated that inner re-engineering is possible when a person is aware about his automatic thoughts, feelings, sensations and behavior and it is one of the most important method to transform himself. Lastly the judges were advised that they should not form oversimplified opinions; to be aware about surroundings; look after their intense feelings and undertake slow motion analysis which would help in curtailing confirmation bias.