NATIONAL JUDICIAL ACADEMY

National Workshop for High Court Justices

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The online workshop aimed to sensitize High Court Justices on attitudinal changes and biases to re-imagine the interpersonal and intrapersonal dimensions within the court. The norms and best practices relating to judicial conduct and ethical issues formed part of the discourse. The workshop facilitated discussion on the role of High Courts in legal education reforms to include pedagogy and assess training needs, to bring socially sensitive judges & lawyers ready to face challenges of the present times. A discussion on crafting safeguards around the use of AI for public function and ensure that the element of human discretion remains whenever required was also a part of the workshop.

Session 1:
Judiciary and Media: Need for Balance
Speakers- Justice Gita Mittal & Mr. R. Venkataramani

Session 1 was on *Judiciary and Media – Need for Balance*. The major angles on which discussions were broadly based included exercise of right to free speech and its impact on fair trial, specially the presumption of innocence of an accused in criminal cases. Media being regarded as the fourth pillar of democracy, moulds the opinion of the society and it changes the perceptions of the people about various events. The problem that has come up is the temptation of everyone to become the harbinger without corroborating the truth. It was stated that many times selective reporting and slightly erroneous reporting hampers the lives of all those persons involved in that particular case. Media trials allows the public to form opinion without the accused being actually put to trial. Particularly in criminal trials, media trial sometimes impacts the fairness of court proceedings and which can result in disastrous outcomes. The origin of media trial was discussed during the discourse. In *Zahira Habibullah Sheikh v. State of Gujrat* (2004) 5 SCC 353 the Supreme court identified the basic principles of fair and free trial namely; impartial Judge, fair prosecutor,

atmosphere of judicial calm, unbiasedness and witnesses should not be coerced, bribed, threatened or otherwise influenced in any way were highlighted. Indian media has played a significant role for inspiring up the conscience of the people through sting operations and investigative journalism. It was mentioned that there are no statutes that prescribe the functions of the media, however the 200th Law Commission Report, recommended that it is necessary to train media personnel in certain aspects of law like constitutional law, human rights, protection of life and liberty and the law on contempt.

It was noted that freedom of expression relates almost to every human activity and expression. It not only covers news, commerce, culture and arts but also religion, politics, economics, war, terriosiom, law, justice and personal relationships. It was stated that with the advent of technology the medium of exchange has become so intrusive and complex and further difficult to define and articulate the limits of freedom of speech and expression .It was mentioned that the opinions are sharply divided, depending upon the assertion of conflicting freedoms namely freedom of expression v. privacy, freedom of expression v. ethical practices, freedom of expression v. criminal law, the right to reputation, honor and dignity v. reporting crimes and other socially questionable behavioural conducts. It was opined that the voice against criminalizing defamation is a classic example of the expansive scope of freedom of expression.

There are several important issues related to differences of opinion, first, the media in its own way have acquired rights, whether those rights should be regulated or not, is a crucial issue, secondly, the input and output of the administration of justice process are complex and there is no law to address the issue, and thirdly, some channels aid in expressing one's opinion and they require independent protection. The value and importance of freedom of expression to civilize the social order, democracy, individual autonomy,

promotional equality and enhancement of good governance are not in doubt at all. During the discussion, the important considerations included regulation, restraint, and how to protect freedom of expression. It has been suggested that media reporting requires continuous experimentation and exploration in the administration of justice. In addition, it has been suggested that there must be a consultative process regarding what needs to be reported and what needs to be restrained from the public. International Conventions on Freedom of Media like UNESCO, UNGA Resolution and the Madrid principles also formed part of the discussion. Plethora of cases involving media in India like *R.K. Anand v. Registrar* (2009) 8 SCC 106*, Shashi Tharoor v. Arnab Goswami* (2017) SCC Online Del 12049, *Indu Jain v. Forbes Incorporated* (2007) SCC Online Del 1424 were also cited and discussed. It was emphasized the need for a principled media for several reasons, namely judicial proceedings is an important State function where accurate reporting is the only way to ensure accountability; for a layperson, understanding formal court proceedings and judgements is a daunting task; and finally, unlike other institutions, the judiciary cannot respond to inaccurate reporting. Therefore, it is essential that the media reports, court proceedings must be reported in a fair, accurate and responsible manner. The session concluded with Q & A.

Session 2:
Introduction of Artificial Intelligence in Judicial System
Speakers- Justice Sanjeev Sachdeva & Justice Raja Vijayaraghavan V.

Session 2 was on *Introduction of Artificial Intelligence in Judicial System* began with a discussion of how technology is improving the administration of justice by reducing processing time, accelerating court processes, increasing transparency, and also making human error less likely. It was highlighted that

technology allows effective tracking, searching, editing and archiving using optical character recognition (OCR) and machine readable data. It was observed that Artificial Intelligence (AI) incorporates Machine Learning (ML), Natural Language Processing (NLP), speech (text to speech and speech to text), robotics and vision. Companies are using digitized data to gain valuable insights into voluminous amount of data generated. Technology plays an increasingly significant role in the legal profession. NLP benefits like spam detection, machine translation, and text summarization were discussed in detail. The three core capabilities of cognitive computing, namely the ability to gather information, analyze and understand the information and then make decisions based on this understanding are fundamental to ML and Deep Learning (DL) were deliberated upon. Big Data, E-filing, NJDG, N-step, E-challan and E-service app were also discussed during the session.

AI can act as a catalyst in lessening the burden of judiciary, especially in those cases that involve menial offences, leaving the complex cases to be decided by human judges. The usage of software JUDi, which helps from managing documents to assigning tasks to communicating *via* emails, video calls, reading and highlighting scanned documents etc. were discussed. It was mentioned the Supreme Court has come up with software called SUPACE that helps to process information and make it available for the judges for decision but it does not participate in the decision making process. SUVAS, being the first software which has entered into the judicial domain and has the capacity and capability of translating English judicial documents, orders or judgments into vernacular language was discussed.

The potential benefits of AI adjudication and applications of AI were also touched upon. The session covered Blockchain and its features such as consensus, provenance, immutability, and finality. Key benefits

of Blockchain along with the challenges in implementing AI were discussed. AI should be understood in its fundamental forms like addressing fundamental issues arising in the legal system. Courts struggle to process massive amounts of information and litigants and judicial officers must make complex decisions with little assistance. It was stressed that use of ML and AI in scheduling of hearings, long documentation e-filings etc. can greatly increase efficiency and improve case flow management. AI can help to answer litigants' questions, explain legal reasoning to them, and help them to know their rights and make claims. The speaker discussed about the challenges of using AI in judicial system, and the right to fair trial. It was emphasized that right of access to a court should not be undermined. AI tools have the ability to reveal existing bias/discrimination, care has to be taken at both the development and deployment phases that it do not reproduce or aggravate such discrimination. It was further advised that the professionalism in the justice system should be able to review judicial decision. The session concluded on the note that judges need to understand how AI works in order to make adequate use of it. Lastly, courts in turn, need to digitize information and provide it with legal interpretation, in order to make it more usable for AI system.

Session 3:
Role of High Courts in Reforms in Legal System
Speakers- Justice N. Anand Venkatesh & Prof. Dr. N. L. Mitra

Session 3 was on *Role of High Courts in Reforms in Legal System.* It was delineated that Law College/ School of law/ Department of law is the foundation of legal system. Study of law is an essential step towards the functioning of the justice delivery system and is also responsible for the good governance in the society. Section 7 of the Advocates Act, 1961 that enumerate the functions of the Bar Council of India (here in after referred as BCI) and its role to lay down standards of professional conduct and etiquette for advocate was

discussed. It was iterated that the objective behind the establishment of a National Law University is to provide high quality legal education, get good trained lawyers and provide justice to common man. However, it was emphasized that very less students opt and join academic profession and it was opined that teachers usually get appointment on contractual basis.

It was stated that there is an unequal distribution of the litigation work. 75 to 80 percent of the litigation work goes to big firms and only 20 to 25 percent work gets distributed among other advocates.

The statutory framework to enable High Courts to bring in reforms in legal education was discussed during the discourse. The power of BCI to prescribe standards of legal education was also discussed. In reference to the general power of the BCI to make Rules, Section 49 of the Advocates Act, 1961 was discussed which speaks about the standards of legal education to be observed by Universities in India and the inspection of Universities for such purpose. The Rules on standards of legal education and recognition of degrees in law for the purpose of enrolment as advocate and inspection of Universities for recognizing its degree in law under Sections 7(1)(h) and (i), 24(1)(c)(iii), and (iiia), 49(1)(af),(ag),and (d) of the Advocates Act, 1961 made by the Bar Council of India in consultation with Universities and State Bar Councils was discussed. Rule 34 which speaks about the Directorate of Legal Education was emphasized upon. 184th Report of Law Commission of India on The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961; Section 12 of The University Grants Commission Act, 1956 (UGC Act) which speaks about the powers and functions of the commission and Section 22 of the UGC Act with reference to right to confer degrees was also discussed during the discourse.

R. Muthukrishnan v. The Registrar General of the High Court of Judicature at Madras (2019)16SCC 407

was discussed where Rules 14-A to 14-D as framed in May, 2016 by High Court of Madras empowering

High Court to debar an Advocate from practicing were struck down as they were *ultra vires* to Section 34

of Advocates Act. The judgment of *Supreme Court Bar Association v. Union of India* (1998) 4 SCC 409

was also highlighted in which it was held that it is not permissible for Court to take over the role of statutory

bodies and organs of State and perform their functions.

For the overall improvement in the legal education system following suggestions were made:

1. The law college/Department of law and NLU's should collaborate with non-national law universities.

2. Senior advocates should be invited to address students on the specialized subject, who should share their practical experience and aspects of the legal profession which includes advocacy skills.

3. Lawyering skills should be imparted to the students.

4. There should be a law academy for training the law teachers.

5. Internship with advocates and judges should be made mandatory along with some stipend.

6. Students should attend free legal aid camp.

7. Part time law teachers should be discouraged and full-time law teachers should be appointed.

It was stated that legal education is not a 'justice education' and there must be school for 'justice education'.

Justice lays down logic, collect information and proof from various sector. After the selection process the

judges should be imparted two-year training on justice education as it is with All India administrative

services. Justice is the sovereign function of the State. It was opined that justice cannot be produced in the

law school rather it can be created from the society at large.

It was stated that BCI plays an important role in setting the standards for legal education in the name of legal education curriculum development committee. It was opined that legal education includes professional and value education. Legal education comes under national education policy and in this light new education policy 2020 was discussed. The concept and overview of higher education commission was discussed. It was stated that apart from higher education commission there is a medical commission and Bar Council of India. It was stated the new education policy is a bliss for legal law education.

New education policy states that legal education should be multidisciplinary and should include science, art, technology etc. Legal education should be globalized as most of the economic laws are dominated by global agreements. It was also emphasized that the courses in the legal education must be vocationalized. It was suggested that there may be two law courses one for the trial courts and the other is for the High Courts. If a person wants to shift his/her practice from trial court to High Court, he/she should pass the course of High Court. Legal education should be bilingual. It was stated that there is no exit option in five-year law integrated course. It was delineated that as per the new education policy there are exist options in the undergraduate courses.

It was asserted that nearly 2000 law schools are in a very dilapidated condition and the ratio of the law teachers are very less in numbers as compare to the students pursuing the law course. It was suggested that the affiliated colleges of the university should go off or reduce to minimum as the standard of its education has gone down. However, there should be autonomous colleges or any good institution may be turned into university. It was further suggested that bunch of colleges may also be club together to form a university.

Session 4:
Inner Re-engineering for Attitudinal Changes & Biases
Speakers- Justice Ram Mohan Reddy & Dr. Harish Shetty

Session 4 was on *Inner Re-engineering for Attitudinal Changes & Biases*. The session emphasized on the quantitative justice delivery system that can be achieved through identifying attitudinal change, its challenges that can be countered and its optimal solutions. It was iterated that great judges have some common characteristics that includes sterling character with exhibited comprehensive scholarship, understanding the sense of rightness, versatility and craftsmanship of analysis of things, good memory, generosity, persuasiveness, compassion etc. It was emphasized that great judges lead life of probity and is free from all scandals. Optimal judicial temperament that includes dignity of the office, courtesy and patience was discussed. It was emphatically stated that impartiality is an important aspect of a judge. It was suggested that a judge should not be aggressive and adventurous. Decoding of judicial behaviour and in this light the explicit, implicit and structured form of bias were discussed.

It was stated that explicit bias especially attitudes that can be conceived through senses and are accessible for introspection. Implicit bias are those attitudes that cannot be consciously accessible through introspections. It was iterated that structured bias are unconscious bias. It was suggested that one should understand human weakness and failings and it is important to integrate fairness in the judicial system. Socio- economic biases were also discussed and it was stated that wealthy background should play no role in judicial decision making. It was suggested that judges should understand the gap between rich and poor litigants and in this light the objective of fair decision making was discussed. Motivation and learning of good traits of a judge should be imparted at the point of induction of the judges. It was suggested that judges

should be able to make a situation that should be mindful and deliberative to avoid emotional swings. It was opined that increasing accountability may decrease the influence of biases. It was suggested that judges should continuously self-analyse and introspect their behaviour. The causes of judicial stress that includes variety of cases, disrespect by the lawyer, poor assistance, public scrutiny of judicial decision, decision on cases that allow significant judicial discretion etc. were also discussed during the discourse. It was emphatically stated that judiciary is a noble profession that requires stability to perform judicial and administrative functions with utmost transparency and free from all forms of biases. It was suggested that emotional impulses should be avoided. Judge has to be innovative but should avoid adventurism. The theory of karma and inner consciousness was discussed. It was stated that mind automatically do autopsy at the time of sleeping. It was delineated that beliefs are unconscious, genetic, constantly reinforce and change slowly. It was emphasized that it is extremely important to examine the belief of others and there should a reflective shift of thinking. It was deliberated that one should be a deep listener and alert which also helps in removing ones prejudices and biases. It was stated that slip of tongue in a spontaneous chat and casual conversation helps in realizing the self-belief. It was remarked that the simplest minds are most profound. It was stressed that awareness and mediation helps to reflect with oneself allows to be grounded and also aid in curbing prejudices and biases. It was stated that ideas have no ownership. It has an energy, character, thinking, feeling and life of its own. A book on How Judges Decide Cases: Reading and Writing Judgments authored by Andrew Goodman was suggested for reading.

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