

# NATIONAL JUDICIAL ACADEMY



**P-1307**

**Workshop on Judicial Ethics & Behaviour**

**For District Judiciary**

**17-18 September, 2022**

**Programme Report**

**PROGRAMME CO-ORDINATORS**

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The National Judicial Academy (NJA) organized the **Workshop on Judicial Ethics & Behaviour** for District Judiciary on 17-18 September, 2022. The workshop emphasised on judicial ethics as an arrangement of professional principles as well as an institutional apparatus of judiciary is an essential part of court administration which is centered on the norm of self-regulation. The workshop focused on significant documents which serve as a guide to judges, vital for an independent and strong judiciary, essential in impartial administration of justice viz., Restatement of Values of Judicial Life; the Bangalore Principles of Judicial Conduct, and the Oath of a Judge, as contained in the Third Schedule of the Constitution of India. Emphasis was also placed on Nolan Principles of Public Administration, UN Convention against Corruption and State Public Civil Services Rules. Participants were apprised on the ethical conundrums in judging and significance of judicial conduct on and off the bench. The distinct challenges of judicial ethics in the digital age with special reference to social media and digital security formed an integral part of the discourse.

### **Session -1**

#### **Judicial Conduct on and off the Bench**

##### **Scope of discussion:**

- Significance of Judicial Propriety
- Connotations of Judicial Competence
- Judicial Role & Ethical Integrity

##### **Speakers: Justice Ram Mohan Reddy & Justice Mridula Bhatkar**

The session highlighted that the first conundrum that troubles judges when they take oath is how to conduct themselves while on and off the bench. What is important for judges is to understand that authority is always accompanied by accountability and how a judge discharges his responsibility from the first to the last day of his/her service is tuned by their personal attributes. It was stressed that judges are in the direct gaze of

perception from the public at large. Judges were cautioned that activities which are usually legal or commendable for general public might not be apt for them and may lead to disciplinary proceedings against judges. Judges ought to keep in mind that they are supposed to abide by the rules of conduct. It was stressed that with authority comes responsibility and how a judge discharges that responsibility is all the more significant. Judges were cautioned to remember that when they are on the bench they are man of no pedigree. The neutrality, partiality, integrity and sobriety of judges is all proverbial. Society looks up to the judiciary with faith and where hope can be attributed. In return judges can discharge their authority and responsibility with humility and sensibility. While discussing the relationship between the High Court and the District Judiciary with respect to discipline, Article 235 and 237 of the Constitution of India were referred and it was accentuated that through these two articles discipline could be maintained by High Court Judges who are guardian of the lower judiciary. The district judiciary should be fearless and if they follow what is required within the ethics of a judge then no question of any fear arises. It was iterated that propriety, both professional and personal are essential elements of a judge's life. In this regards, *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors.* (1995) 5 SCC 457, was discussed in which it was held that, a judicial officer 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.

The session further highlighted that judges are required to insulate themselves, it is one of the significant virtue of being a judge. While emphasizing on the connotations of judicial competence it was underscored that judges should be very well aware of biases. Judges have to ensure rule of law which is only possible when judges are themselves disciplined. While discussing *S.P. Gupta v. Union of India*, AIR 1982 SC 149, it was emphasised that the independence of judiciary is inevitable.

## SESSION 2

### **Ethical Conundrums in Judging**

#### **Scope of discussion:**

- Ethical Foundation of Judicial Decision Making
- Ethical Dilemmas in Judging
- Managing Peripheral and Core Professional Pressures

**Speakers: Justice C.V. Karthikeyan & Justice Ram Mohan Reddy**

The session initiated by emphasizing upon the ethical foundation of judicial decision making i.e., the understanding of the freedom struggle, the constitutional values and most importantly, the understanding of India as whole with its numerous diversities. It was stressed that judges should understand the constitutional vision of justice which includes understanding of social, economic and political rights; in-depth understanding of the Code of Conduct and their post; that public expect judges to restore equality and; to acknowledge sufferings and thereafter, secure justice. The Bangalore Principles of Judicial Conduct were also highlighted. Subsequently, it was underscored that ethical judicial decision making includes- capacity to understand a situation, taking proper action, learning from mistakes, intelligent reasoning and drawing a better conclusion. Referring to *Bhagat Raja v. Union of India*, AIR 1967 SC 1606, importance of reasoned orders was emphasised. The discussion further highlighted dilemmas that a judge may face with respect to independence as the *sine qua non* of judicial ethical integrity, upholding rule of law, decisional independence and institutional independence. It was stressed that decisional independence means the ability to render a judgment without social prejudice or personal bias. Alongside, it was accentuated that institutional independence incorporates structural autonomy of judiciary and external regulation of judicial conduct. Two significant peripheral pressures as highlighted during the discourse are firstly, general pervasiveness of corruption in society and secondly, the

social media and its influence. Whereas, the core professional pressures are- Caste, culture, creed and language, go safe syndrome and seeking adulation. To handle these pressures judges ought to inculcate in themselves the habit of deep listening of what is being argued, which helps in doing away with bias and aids in required change of perceptions. Reflecting on what exactly is the bias all about is even more significant. Judges should always keep in mind that they are accountable for decisions contrary to Constitutional or legal standards and that they are required to have sensitivity in promoting the constitutional vision of justice.

### **SESSION 3**

## **Role of Judicial Ethics in Court Administration: Aspiration & Implementation**

#### **Scope of discussion:**

- Institutional Arrangements and Processes
- Balancing Bar and Bench relation
- Harmonizing Work Allocation

#### **Speakers: Justice C.V. Karthikeyan & Justice Mridula Bhatkar**

The session initiated by drawing attention to the role of a judge in promoting collegiality, harmonizing work allocation and balancing relations between the bar and the bench to help the judicial family move like a unified clan. It was suggested that the collective approach of a judge will help in handling various day to day problems which judges have to deal with in the court. Four principles for judges to handle the bar as suggested during the discourse are:

- To inculcate worldly wisdom that enable them to cordially handle the bar.
- To indoctrinate the art of conscious listening

- To be graciously witty for having a healthy work environment in the court
- Ought to be kind but not friendly in the court
- To encourage juniors and,
- To maintain integrity of the court

It was further suggested that judges ought to remember that they are to deliver judgments and not to dispose off cases. While handling administration of the court judges are required to be keep in mind the contemporary values that govern the work of professionals, should follow the code of ethics and maintain the standard of conduct. Judges are also required to maintain core values of judicial ethics by ensuring that independence, impartiality and integrity is followed. Judges must also strive for protecting rights and respecting gender. To ensure that the institutional arrangements and processes are in place judges need to adhere with the policies, formal rules like- who will have how much power to take decisions?, what all rights cannot be violated, to have effective and unbiased management and most importantly maintain coordination among all the stakeholders. For balancing the bar and bench relation it was stressed that although independence of judges and judiciary is supreme but the independence of the bar is on equal footing. It is an independent bar and independent bench which forms the backbone of any democracy. With respect to the conduct of lawyers and the duty of the court *Hukumat Rai v. The Crown*, AIR 1943 LAH 14 was highlighted. While referring to *R. Muthukrishnan v. Registrar General, Madras High Court* (2019) 16 SCC 407, it was reiterated that *“The balancing of values, reverence between the Bar and the Bench is the edifice of the independent judicial system. Time has come to restore the glory and cherish the time tested enduring ideals and principles. For a value driven framework, it is necessary that perspective is corrected in an ethical and morally sound perspective.”* For harmonizing work allocation judges should ensure- matching the kind of work and value addition that the individual brings; sensitivity to gender; work-life balance approach; resource allocation; psychological well-being; and flexible work practices.

## SESSION 4

### **National & International Standards of Judicial Ethics**

#### **Scope of discussion:**

- Bangalore Principles of Judicial Conduct
- Nolan Principles of Public Administration
- UN Convention against Corruption
- State Public Civil Services Rules

**Speakers: Justice G. Raghuram & Justice Dama Seshadri Naidu**

The session initiated by discussing biases developed in an individual during the course of life. Judges were suggested to identify the societal structure, nuances and problem and subsequently, customize their services accordingly. It is significant to understand that the faith of the people in the judiciary is much higher than in the other branches of the government. To maintain standards of judicial ethics judges are required to look and follow the best in the system and not vice-versa. Inspiration can be drawn from any level and there is no need to follow the hierarchy. Judges must identify the values that have sustained in the society. Faith in the personality of the judge is significant. Judges should not be unnecessarily attached with their judgments, they should not attach emotions to their judgments else it becomes difficult to handle work pressures and work objectively. It was highlighted that several documents of authority and realism are existing as drafted by numerous mediums at both the national and international level however, it is challenging to structure a code that can be entrusted at all. Most of these standards are passed down from generations to generation. Imbibing these codes in the judicial life of a judge is inevitable. It is substantial for judges to comprehend and honor the judicial office, which they hold as a public trust. Moreover, judges must frequently inspect the ethics-intensive circumstances that they encounter and the competing considerations

involved in handling those situations. This will help them evaluate their role and conduct. It was emphasized that ethics are the basic principles of the accurate actions of a judge that may be in relation to ethical act, demeanor, purpose or personality of judges as well as what is correct and appropriate for them.

## **SESSION 5**

### **Judicial Ethics in Digital Age: Social Media & Digital Security**

#### **Scope of discussion:**

- Use of Social Media by Judges
- Ethical Implications of Social Media

#### **Speakers: Justice R.C.Chavan & Justice G. Raghuram**

The session commenced by underlining that in contemporary time there has been an avalanche of social media which has grossly smashed everything with judiciary being no exception. What is significant to understand is that whether judicial rendezvous with social media advances principled distresses or not. It was stressed that judges should make sure that they do not create controversies. Image of the judicial institution and the public trust in the justice delivery system is dependent on every judge. No doubt that with the advent of social media lives of judges have seen unprecedented level of access by the public. Ethical inferences of social media also implies how judge deal with it. Judges were advised to have limited access to social media. They were also suggested to use secured corridors like Sandesh or government emails. It was further stressed that there is a need to shift from server based information to blockchain technology. Reference was also made to the live streaming rules. It is significant for judges to understand that since they are not holding an office which is elected by the public therefore, they should avoid speaking on matters in the public. Recognition and motivation should come from



within, judges should not give the remote of motivation to others. Rather, motivations should come from within and not promotion.

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