

**NATIONAL JUDICIAL ACADEMY**



**P-1332**

**North Zone-II Regional Conference on “Contemporary Judicial  
Developments and Strengthening Justice through Law &  
Technology”**

**29<sup>th</sup> & 30<sup>th</sup> April, 2023**

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**PROGRAMME REPORT**

**PROGRAMME COORDINATORS: PAIKER NASIR & PRASIDH RAJ SINGH**

The National Judicial Academy in collaboration with the High Court of Himachal Pradesh and the Himachal Pradesh Judicial Academy organized the North Zone-II Regional Conference on “*Contemporary Judicial Developments and Strengthening Justice through Law & Technology*” on 29<sup>th</sup> & 30<sup>th</sup> April, 2023, at, Shimla, Himachal Pradesh. The conference was attended by High Court Justices and Judicial Officers from the High Courts of Delhi, Himachal Pradesh, Punjab & Haryana, Uttar Pradesh, Jammu & Kashmir and Ladakh and Uttarakhand. The Conference witnessed extensive deliberations on themes including Contemporary trends in Constitutional Law; Precedential value of judgments by the High Court; and Developments in Criminal Law: Issues and Challenges. The conference focused on effective judicial governance through contemporary technological advancements including artificial intelligence, block chain as well as information and communication technology in courts vis-à-vis e-courts project.

### **Session 1: Contemporary Trends in Constitutional Law: Recent Judicial Developments**

***Panel: Mr. N. Venkataraman & Mr. S. Shekhar Naphade***

***Chair: Justice Aniruddha Bose***

The session began by highlighting the Supreme Court of India's commitment to upholding and safeguarding the Doctrine of Basic Structure. It delved into the significance of both Part-III and Part-IV of the Constitution. Furthermore, it was emphasized that the Supreme Court of India has played a pivotal role in shaping constitutional principles, particularly the "Doctrine of Basic Structure," through numerous landmark judgments. The importance of Article 141 of the Indian Constitution, which mandates that decisions of the Supreme Court are binding on

all courts in India, was also elucidated. Drawing a parallel with the American system, it was pointed out that the Supreme Court aspires to function as a third chamber of democracy.

The discussion then shifted to the role of the judiciary in a democratic society. In the context of prohibition, it was stressed that Article 47 of the Indian Constitution obligates the State to prioritize public health and elevate the living standards of its citizens. Article 47 directs the State to enhance nutrition levels and quality of life for its residents, underscoring the essential need for good health and resources among citizens. The State's duty to ensure the well-being of its citizens' health was highlighted, with a reference to the *Khoday Distilleries Ltd. Vs. State of Karnataka 1995 (1) SCC 574* case, which affirmed that the right to engage in any occupation, trade, or business does not extend to activities that are inherently harmful to the public's health, safety, and welfare. The discussion underscored that when there is a legislative or legal gap, it becomes the foremost responsibility of the judiciary to fill that void. Additionally, the judiciary must adhere to specific criteria when addressing such gaps, making it imperative for the judiciary to impose self-regulated standards to determine when it should take the lead.

The session then delved into the concept of cooperative federalism, using the Goods and Services Tax (GST) as an exemplary instance of a "One Nation One Tax System." This highlighted the collaborative approach between the central and state governments in the implementation of GST.

Finally, in the context of the judiciary and the media, the discussion emphasized that in contemporary times, the media often tends to provide opinions rather than objective news reporting. Particularly in high-profile criminal cases, the media exerts immense pressure, but it was noted that the media also has a responsibility to act with sensitivity in such situations.

## **Session 2: Precedential Value of High Court Judgments**

**Panel: Justice S. Ravindra Bhat, Justice Sanjay Karol & Mr. N. Venkataraman**

The session began by referencing the legal scholar Salmond, who defined a precedent as a judicial decision containing a fundamental principle, often referred to as the "*ratio decidendi*."

It was emphasized that a judicial precedent serves as an example or authority for cases that are identical or similar, involving similar questions of law. The concept of judicial precedent was briefly discussed, with references to both the English Common Law system and Roman law.

In the Indian context, Article 141 of the Indian Constitution was highlighted, which specifies that decisions made by the Supreme Court are binding on all courts within India's territory. This means that following the binding precedents set by the Supreme Court is not just a matter of common law principles; it is a constitutional requirement. It was stressed that when the Supreme Court has made a decision on a particular type of case with a similar legal question, that decision becomes binding on subsequent cases of a similar nature.

The discussion further emphasized the importance of writing judgments in a manner that is comprehensible to the average person. Judges should draft their judgments concisely and reasonably. Each judge's writing style should be reflected in their judgments. Additionally, it was noted that when a precedent is followed, the legal principle it represents is extended and applied to similar factual situations. The true essence of a case's *ratio decidendi* becomes clear when the principle is elaborated, discussed, and developed in a series of cases where it is cited and followed. This series of decisions on a particular issue helps in providing a clearer understanding of the law.

It was further emphasized that the legal principle should not change based on individual opinions. The session underscored that the ratio decidendi of a judgment is what constitutes a binding precedent, while the obiter dicta (remarks made in passing) in a judgment and non-speaking orders are not considered precedents. It was also pointed out that precedents are not equivalent to statutory provisions, and even minor differences in the facts of a case can lead to different legal conclusions. The primary purpose of adhering to precedents is to maintain legal consistency and prevent the law from being subject to the whims of individual judges' opinions.

### **Session 3: Developments in Criminal Law: Issues and Challenges**

#### ***Panel: Justice Ashutosh Kumar & Justice N. Anand Venkatesh***

The session commenced with an exploration of the concept of bail, delving into its etymology. It was noted that the word 'bail' has its origins in the French word "Baillier," which conveys the notions of control, guardianship, and delivery. This term can be traced back to the Latin word "Taitilare," which means to bear a burden, and "Baiithis," signifying a porter or carrier. The discussion highlighted that bail serves as a means to harmonize two fundamental human values: an accused person's right to personal freedom and the broader public interest. The release of an accused individual on bail is contingent upon a surety's commitment to produce the accused in court to ensure their appearance during the trial. The central challenge lies in striking a balance between various factors, including sociological, psychological, criminological, socio-economic, and judicial considerations.

The session emphasized the contemporary developments in bail laws, with particular reference to anticipatory bail. While discussing the personal liberty of the accused, it was stressed that the human rights of the accused should take precedence when addressing bail matters. Reference was made to the landmark judgment of *Gurbaksh Singh Sibbia v. State of Punjab*,

(1980) 2 SCC 565, in which the Supreme Court ruled that Section 438(1) of the Criminal Procedure Code, 1973 should be interpreted in the light of Article 21 of the Constitution, which safeguards the right to life and personal liberty. The court can impose reasonable restrictions on a case-by-case basis, and the granting of anticipatory bail should not be unduly limited by time, as it is considered an individual's right.

The session also elaborated on the concept of electronic evidence, specifically focusing on the provisions outlined in Sections 3 and 65-B of the Indian Evidence Act, 1872. It was emphasized that maintaining equilibrium among the various stakeholders when dealing with bail matters is imperative for a judge. Regarding the admissibility of electronic evidence, the session discussed the case of *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal & Ors.*, (2020) 7 SCC 1.

Furthermore, the discussion highlighted the constitutional validity of conditions imposed when granting bail, referencing *Nikesh Tarachand Shah v. Union of India*, AIR 2017 SC 5500. It was stressed that the presumption of innocence places greater importance on the rights of the accused to avoid wrongful convictions compared to the interests of the community. When the accused is required to prove their innocence based on probabilities, the risk of mistaken convictions increases. Conversely, a reverse burden of proof decreases the risk of erroneous acquittals. Setting a higher criminal standard of proof reduces the risk of mistaken convictions but increases the risk of erroneous acquittals. The session referenced cases such as *Vijay Madanlal Choudhary v. Union of India*, 2022 SCC OnLine SC 929, and *Anvar v. P.K. Basheer and Ors.* (2014) 10 SCC 473 to illustrate these principles.

## **Session 4: Overview of E-Courts Project**

*Panel: Mr. Justice Sanjeev Sachdeva & Justice Suraj Govindraj*

The session centered around the transformative impact of technology in the judiciary, with a particular focus on digital court filing, e-filing, e-court fees, push SMS facility, e-post office, and various other digital initiatives. The main objective was to emphasize the advantages of digitalization and its revolutionary effect on court procedures and processes. The session also shed light on specific software and applications introduced in the Delhi High Court, highlighting their benefits. The session underlined the significant technological advancements witnessed in the judiciary, drawing parallels between the transition from black and white television to high-definition displays and typewriters to computers and printers. The digitalization of courts was exemplified through visual representations of the Delhi High Court, showcasing the positive changes brought about by technology. The COVID-19 pandemic and subsequent lockdown further accelerated the adoption of paperless courts and virtual hearings, which proved to be highly beneficial. Several digital initiatives were discussed during the session, each serving a specific purpose to enhance court processes. Noteworthy initiatives included:

- **Parcha Entry:** This feature provides a calendar displaying the scheduled date for a case, facilitating easy assessment of case listings.
- **Push SMS Facility:** An information system that sends SMS notifications to parties registered with the court, providing updates on case status, such as registration, transfer, order passage, and disposal.
- **NSTEP (Process Service Tracking Application):** NSTEP is a centralized web application and mobile app designed to streamline the process of serving notices and summons. It offers real-time status updates and transparent tracking of service.

- E-Postoffice: Introduced by the Department of Postal Services, this facility enables individuals to send electronic messages to any address across India. After signing and sealing, summons/notices are dispatched on the same day through speed post, ensuring efficient communication.
- E-Inspection Software: This software allows advocates and litigants to register their mobile numbers on the High Court of Delhi's e-filing portal. It facilitates online inspection of case files, saving time and providing greater convenience.
- Digital Courts for Contested Traffic Challans: Two digital courts were established in Delhi specifically to handle contested traffic challans. This initiative enables individuals to remotely defend their cases, reducing the need for unnecessary travel to courts for trial purposes.
- Bail Order Sharing Module: This application provides prisoners and under-trials with digital copies of bail orders, ensuring immediate access and time-bound enforcement. The aim is to expedite the bail process and enhance efficiency.
- JustIs: JustIs is a mobile app that serves as a court management tool, assisting judicial officers at the district and taluka level in efficient court management through data analysis and tracking capabilities.
- Interoperable Criminal Justice System (ICJS): ICJS integrates all stakeholders involved in the criminal justice system, including courts, police, forensic laboratories, and jails. It facilitates easy access to FIRs and charge-sheets for courts and enhances coordination among stakeholders.



## **Session 5: Emerging and Future Technology for Effective Judicial Governance**

*Panel: Justice Raja Vijayaraghavan & Justice Suraj Govindraj*

The session accentuated the critical role of technology in the justice delivery system, emphasizing its potential to inform, support, and advise individuals. Special attention was given to Chat GPT, an artificial intelligence developed by OpenAI, which enables users to engage in human-like conversations. It was underscored that chat GPT offers a range of features, including assistance with email writing, assignments, and research work. However, it was acknowledged that Chat GPT has limitations, such as the availability of data only up to the year 2021 and occasional inaccuracies or incomplete responses. The session underlined the importance of e-Seva Kendra, which has been established in every state in the country, including at least one district in each state. It was pointed out that these e-Seva Kendras have proven invaluable for advocates and litigants, facilitating online case filing, providing access to case status information, and allowing obtaining of orders and judgments.

Reference was made to the judges dashboard in the Kerala High Court, including case file views based on cause lists, access to the law journal, analysis of pending cases and disposal rates by judges, and the delivery of digitally signed orders to litigants, ensuring the timely receipt of interim orders. Furthermore, the session delved into the role of technology in reshaping the justice delivery system, with a focus on futuristic models in judicial governance. It was underscored how technology enhances the administration of justice by assisting in case scheduling, creating cause lists, and extracting accurate legal positions. It was highlighted that while artificial intelligence (AI) cannot replace human judgment, it can serve as a valuable support system and augmentation tool in research, automation, and administration. The session highlighted the Jugalbandi application, an initiative under the Bhashini Mission, which aims to bridge language barriers in the justice, health, and education sectors. This application allows users to ask questions in their preferred language and receive answers accordingly.

Subsequently, participants were also informed about Nyaya Bandhu, a pro-bono legal service program that provides voluntary legal assistance to individuals and organizations unable to afford legal services.

The session also emphasized on various artificial intelligence (AI) tools and their applications in the justice delivery system such as Casemine, Quillbot, Artificial Intelligence System to Read and Summarize Judgments, Supreme Court Vidhik Anuvaad Software (SUVAS), and Supreme Court Portal for Assistance in Court Efficiency (SUPACE). These tools enhance efficiency, accessibility, and accuracy in legal research, case analysis, language translation, and court data management. During the course of discussion participants gained valuable insights into the practical applications of AI in the legal domain, paving the way for more effective and efficient justice delivery processes.