

# NATIONAL JUDICIAL ACADEMY



**East Zone-I Regional Conference on Contemporary Judicial Developments  
and Strengthening Justice through Law and Technology [P-1402]  
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The National Judicial Academy (NJA) in collaboration with the Calcutta High Court and West Bengal Judicial Academy organized the 'East Zone-I Regional Conference on Contemporary Judicial Developments and Strengthening Justice through Law and Technology' at Kolkata (West Bengal) on 29th June & 30th June, 2024. The East Zone-II Regional Conference involved the participation of High Courts of the East Zone I viz., High Courts of Calcutta, Sikkim, Tripura, Manipur, Meghalaya and Gauhati.

The conference aimed to provide a forum for exchange of knowledge, experiences and dissemination of best practices among participant justices and judicial officers under the respective High Court's jurisdiction. The conference was designed to promote a dialogue between participant judges amongst judicial hierarchies on themes including Constitutional Morality and Contemporary Constitutional Trends; Elements of Judicial Behaviour; and Judgment Writing Tools. The conference intended to focus on effective judicial governance through contemporary technological advancements including artificial intelligence as well as information and communication technology in courts vis-à-vis E-Courts project.

The programme commenced with the inaugural session which was presided by the Hon'ble Chief Justice of India, Justice D.Y. Chandrachud. The inaugural session involved participation of Hon'ble Justice T. S. Sivagnanam, Chief Justice, Calcutta High Court, Hon'ble Smt. Mamta Banerjee, Chief Minister, West Bengal, Justice Aniruddha Bose, Director, National Judicial Academy, Hon'ble Justice B.R. Gavai, Judge, Supreme Court of India, Hon'ble Justice Dipankar Datta, Judge, Supreme Court of India and Mr. R. Venkatramani, Attorney General of India were also present in the inaugural session.

### **Session-1: Constitutional Morality and Contemporary Constitution Trends**

**Speakers: Hon'ble Justice B.R. Gavai, Hon'ble Justice Dipankar Datta and Mr. R. Venkatramani**

The session highlighted the evolving role of judges in interpreting the law and emphasizing their responsibility to uphold constitutional values such as liberty, equality, and fraternity. Judges must adhere to the Constitution and should ensure that decisions reflect constitutional values. Concerns regarding judicial activism were addressed, particularly the judiciary's role in areas traditionally managed by the executive and legislative branches. Landmark cases such as *Bandhua Mukti Morcha v. Union of India* 1984 SCR (2) 67, *Vishaka and Ors. v. State of Rajasthan* AIR 1997 SC 3011, and *DK Basu vs. State of West Bengal* 1997 (1) SCC 416 were referred to illustrate the judiciary's role in expanding the scope of fundamental rights and promoting gender equality.

The balance between Fundamental Rights and Directive Principles of State Policy was discussed, and the judgment *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461, which was referred. The importance of cooperative federalism, especially during the COVID-19 pandemic, was highlighted, illustrating the need for collaboration between the central and State governments. The judiciary's role in maintaining the balance of power, fostering unity, and advancing societal progress through careful constitutional interpretation was stressed.

The session further explored constitutional morality, referencing Aristotle's assertion that the greatest means to ensure the stability of the Constitution is to foster the right constitutional temperament. The Preamble, Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties were collectively identified as embodying constitutional morality. Significant cases such as *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321 and *Indian*

*Young Lawyers Association v. Union of India*, (2017) 10 SCC 689 were cited to illustrate its application. Historical context and judicial interpretation were highlighted and ideas of George Grote and Dr. B.R. Ambedkar were referred. Landmark judgments such as *Manoj Narula v. UOI* (2005) 7 SCC 52 and *Govt. of NCT of Delhi v. UOI*, AIR 2018 SC 1029 were discussed.

Challenges and criticisms of constitutional morality, including concerns of judicial overreach and activism, were acknowledged. Despite these criticisms, judicial activism was seen as playing a crucial role in advancing social justice, as evidenced in cases like *Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar*, (1979) AIR 1369, *Vishaka and Ors. vs State of Rajasthan*, AIR 1997 SC 3011 and the *Indian Council of Enviro-Legal Action vs Union of India*, 1987 (1) SCC 395. The importance of technology in enhancing access to justice was emphasized, with the E-Courts project aiming to break language and distance barriers, making legal resources accessible to all. The digitization of the Supreme Court reports and video conferencing were noted as significant advancements.

The significance of the 1789 Constitution of the United States of America and the global opening of markets were highlighted, stressing the need for practical mechanisms to adapt to changing times. Contributions from various countries, including Canada and Australia, to the Indian Constitution were noted. Indian federalism was described as requiring cooperation among people, States and stakeholders, integrating economic, social, and technological aspects. Resource allocation and environmental legislation in the U.S. were discussed, suggesting that effective resolutions require creativity and activism. Evolutionary biology was referred to illustrate adaptability, and the need for consultation as outlined in Sections 91 and 92 of the Canadian Constitution.

## **Session 2: Elements of Judicial Behaviour**

**Speakers: Hon'ble Mr. Justice Ujjal Bhuyan, Hon'ble Mr. Justice Aparesh Kumar Singh, Hon'ble Mr. Justice Joymalya Bagchi, Hon'ble Justice Moushumi Bhattacharya**

The session highlighted the necessity of adhering to norms of constitutional morality to ensure that all communities are well represented. It was noted that while the judiciary is contra-majoritarian, it is not anti-majoritarian. Judges were urged to self-introspect and maintain thorough knowledge of both procedural and substantive laws. Sensitivity and respect towards lawyers were emphasized, as there is always a litigant behind every lawyer. The focus should shift from the judge centric model to the court centric model.

The role of junior judges in ensuring the proper functioning of the court was stressed, with a call for senior judges to consider the views of their junior colleagues. Judgments must reflect constitutional principles, as stated by Justice Frankfurter, "the judiciary does not wield a sword but relies on public confidence, which must not be breached". A feudal approach by judges was deemed unacceptable.

The integrity of judicial conduct was highlighted, noting that public faith depends significantly on judges' behavior. The importance of independence, impartiality, integrity, and discipline in the judiciary was emphasized. Speedy and effective adjudication of disputes, coupled with equity, fairness, and compassion, was deemed essential for justice delivery. Judges must ensure that the quality of advocacy does not impede justice.

Judicial behavior encompasses the acquisition of judicial and administrative skills, and judicial ethics. Judges should follow constitutional beliefs even if they personally disagree. The Bangalore Principles of Judicial Conduct, 2002, were highlighted for encapsulating accountability and impartiality. Key points were emphasized including the magnification of conduct by the judicial robe, the importance of practicing aloofness, and the theory of hermit and non-controversial principle. Judges should communicate through judgments and not through interviews, and should avoid speaking on sub judice, controversial matters, or disputed appointments.

Abstinance from social media was discussed under the principle of aloofness, but having a social media account was not considered against judicial ethics. However, the "UNODC Guidelines on the use of social media by judges" should be followed. Judges should be exemplary in their conduct, as their actions are constantly observed.

Impartiality was emphasised as part of a judge's character and persona, distinguishing it from neutrality. Notable comments by Justice Srikrishna on Cardozo's views were cited, emphasizing that true judicial independence is marked by standing firm like the rock of Gibraltar in the face of tides and currents. The Pinochet case *R vs Bow Street Metropolitan Stipendiary Magistrate, Pinochet Ugarte* (1999) 2 WLR 272 (HL) was referred, noting that a judge is automatically disqualified if he/she is interested in a cause promoted by one of the parties, while prior political affiliation is not a ground for recusal in certain jurisdictions. The session was concluded by highlighting essential qualities judges must possess including simple language, proper body language, confidence in dealing with matters, and the ability to summarize arguments .

### **Session 3: Judgment Writing Tools**

**Speakers: Hon'ble Justice Ujjal Bhuyan, Hon'ble Justice Moushumi Bhattacharya, Hon'ble Justice Hamarsan Singh Thangkhiew**

The session commenced with emphasizing the expanding role of judges in justice delivery system, including participation in committees such as executive councils and advisory bodies. The importance of judicial discipline in the justice delivery system was highlighted, emphasizing the necessity to avoid lengthy judgments that could dilute the subject matter. It was advised to refrain from making personal remarks and to strive for grammatical accuracy through practice and experience.

Effective utilization of judgment writing tools was discussed, stressing the significance of understanding the reasons behind each case and applying precedents based on their underlying rationale. In cases with complex facts, detailed reasoning was deemed essential and preference for active voice over passive voice in judgments was advocated.

Reference was made to specific judgments emphasizing the need for short, comprehensible sentences and balanced time allocation for writing judgments to ensure fairness. The use of IRAC (Issue, Rule, Application, Conclusion) was recommended for structured and clutter-free judgments. The session also addressed issues like gender stereotyping in courts and the potential of AI in judgment writing, noting its effectiveness in analyzing extensive factual data under appropriate circumstances.

Furthermore, the importance of transparency in judgments was highlighted as crucial for enhancing public confidence in the judicial process. Clarity in writing was emphasized through structured organization, simple language, detailed reasoning, consistency, engagement with precedents, and conciseness. The role of transparent judgments in educating citizens about legal principles and promoting legal awareness was discussed, citing relevant judicial decisions.

Examples of lucid language in judgments were discussed by referring to various judgments including *State Bank of India v. Ajay Kumar Sood*, (2023) 7 SCC 282, and *KS Puttaswamy v. State of Kerala*, (2017) 10 SCC 1. The session was concluded by stressing that judicial independence and public confidence are reinforced when judges articulate their views fearlessly and transparently, ensuring adherence to the rule of law.

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

**Speakers: Hon'ble Mr. Justice Rajesh Bindal, Hon'ble Mr. Justice A. Muhamed Mustaque and Hon'ble Mr. Justice Suraj Govindaraj**

The session commenced with focusing on the issue that how decentralization technology and trust could aid in the digitization of courts. Further emphasis was laid on how we have lived in a decentralized society for hundreds of years and how with the changing times we are moving towards a more centralized society and the benefits of such a centralized structure were highlighted. The speakers explained as to how initiatives like the E-Courts project, JustIs app and the e-sewa kendra are working towards improving the justice delivery system of our country.

Thereafter, the session focused on judicial governance and the promise of technology in this regard. The session highlighted on how Artificial Intelligence could be used for purposes such as transcription, scheduling of matters as well as for purposes of finding cases of a similar nature to enable clubbing of cases. Additionally, with the introduction of JIWA, it is expected to act as an assistant to the judges in the day to day functioning of courts. Finally, success of the E-Courts project was discussed and deliberations were done on how the use of technology has helped in improving the justice delivery system. The initiatives like NSTEP, ICJS and JustIs and their phenomenal role in improving the justice delivery system were highlighted.

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

**Speakers: Hon'ble Mr. Justice Rajesh Bindal, Hon'ble Mr. Justice A. Muhamed Mustaque and Hon'ble Mr. Justice Suraj Govindaraj**

The session began with the demonstration of Mobile E-Sewa Kendra in Kerala and how it promoted better accessibility to courts and also catered to problems of space shortage in courts. Further, the intelligent listing of cases based on priority was highlighted and the possibility of using blockchain technology in the digital environment was explained. Then the speakers explained that how the PUCAR Digital Court System and Anuvandhini are helping the courts today. Additionally, it was stated that Nyaya Setu has also proven to be efficient to provide immediate information and answers to legal queries. The use of the artificial intelligence in various processes of courts were discussed. It was stated that at present the artificial intelligence tools can be incorporated in the court processes including analysis of the data from the court, assisting in legal research and addressing issues of delay and pendency. The issue of biases in

the data collected and analyzed by the artificial intelligence toolss was also addressed. The session then involved interaction with participants and they shared their experience about the successful implementation of technology in their respective courts. The speakers also answered many queries of the participants and clarified doubts with regard to application of technology in judicial process. The session finally concluded with the promises of technology in the present day and how it can help in transforming the judicial governance for a better tomorrow.