

**PROGRAM REPORT**

# **NATIONAL JUDICIAL ACADEMY**



**P-1174**

## **WORKSHOP FOR NEWLY ELEVATED HIGH COURT JUSTICES**

12 & 13 October, 2019  
At National Judicial Academy (NJA), Bhopal

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The National Judicial Academy (NJA) organized a two day “Workshop for Newly Elevated High Court Justices” from 12 – 13 October, 2019 at the NJA, Bhopal.

The workshop facilitated deliberations among participant justices on contemporary topics of ICT in courts; court management techniques to improve efficiency and strengthen justice administration; core constitutional principles such as judicial review, federal architecture, separation of powers, doctrine of basic Structure and fundamental rights.

The workshop included interactive sessions and round table discussions on designated themes among participant justices.

About 21 Justices from different High Courts participated in the workshop. The workshop was divided into various sessions over the duration of 2 days on following themes.

#### **SESSION 1**

Constitutional Vision of Justice & Theories of Judicial Review

#### **SESSION 2**

Separation of Powers & Allocation of Legislative Powers: The Federal Architecture

#### **SESSION 3**

Fundamental Rights and Restrictions on Entrenched Rights & Theory of Basic Features:  
Contours

#### **SESSION 4**

Court Management and Information & Communication Technology in Courts

#### **SESSION 5**

The Art of Hearing

## PROGRAM SCHEDULE

TIMING	SESSION(S)
<b>Saturday</b>	<b>Day-1: 12.10.2019</b>
10:00AM -11:30AM	<p><b>SESSION 1</b></p> <p>Constitutional Vision of Justice &amp; Theories of Judicial Review</p> <p>Chair: Justice Madan B. Lokur Speakers: Dr. Justice S. Muralidhar &amp; Prof. V.K. Dixit</p>
11:30AM - 12:00PM	<b>Tea Break</b>
12:00PM - 01:30PM	<p><b>SESSION 2</b></p> <p>Separation of Powers &amp; Allocation of Legislative Powers: The Federal Architecture</p> <p>Chair: Justice Madan B. Lokur Speakers: Dr. Justice S. Muralidhar &amp; Prof. V.K. Dixit</p>
01:30PM - 02:30PM	<b>Lunch</b>
02:30PM - 04:00PM (In house tea at 03:30PM)	<p><b>SESSION 3</b></p> <p>Fundamental Rights and Restrictions on Entrenched Rights &amp; Theory of Basic Features: Contours</p> <p>Chair: Justice Madan B. Lokur Speakers: Dr. Justice S. Muralidhar &amp; Prof. V.K. Dixit</p>
<b>Sunday</b>	<b>Day-2: 13.10.2019</b>
10:00AM -11:30AM	<p><b>SESSION 4</b></p> <p>Court Management and Information &amp; Communication Technology in Courts</p> <p>Speakers: Justice Ram Mohan Reddy &amp; Justice M. Seetharama Murti</p>
11:30AM - 12:00PM	<b>Tea Break</b>
12:00PM - 12:55PM	<p><b>SESSION 5</b></p> <p>The Art of Hearing</p> <p>Speakers: Justice Ram Mohan Reddy &amp; Justice M. Seetharama Murti</p>
12:55PM - 01:00PM	<i>Audit of the Course by Participant Justices of the High Court</i>
01:00PM	<b>Lunch &amp; Departure</b>

## **SESSION 1**

### Constitutional Vision of Justice & Theories of Judicial Review

Chair: Justice Madan B. Lokur

Speakers: Dr. Justice S. Muralidhar & Prof. V.K. Dixit

Session began with brief introduction and warm welcome by Justice G. Raghuram, Director, NJA, thereafter, Hon'ble Chair initiated discussion with participant justices by asking "what are their expectations from the workshop" on which participant justices pointed out and highlighted the following issues and expectations.

- Clearer view on how to exercise jurisdiction,
- Clarity on how to apply principle of supreme court judgement to the facts of a particular case,
- Rule of Law,
- Practical problems faced in the court on day to day basis,
- Judging,
- How to carry out a smooth transition from a lawyer to judge,
- Speedy Justice,
- Ways & methods to bring down pendency,
- On Interim orders,
- Regarding writ of habeas corpus and writ of certiorari,
- When and up to what extent a PIL should be entertained,
- On bail application,
- How to interpret constitution to apply judicial review,
- On discretion of a judge to decide the case particularly to fundamental rights,

- The art of writing judgments,
- How to be an ideal judge,
- Case and court management; and
- Principles of natural justice in writs and so on.

Hon'ble Chair then briefly explained constitution vision of justice in terms of social, economic and political justices. Attention was drawn to social context judging, fundamental rights, speedy justice and access to justice. It was stressed that institutions such as Union Public Service Commission, Supreme Court, Parliament, Comptroller and Auditor General, Election Commission etc should be strengthened.

While discussing essence of justice delivery it was pointed out that everything must be done with a reason, therefore while writing an order/judgement or whether agree or not agree, a judge must give reasons.

The speakers further emphasized that principles of Constitution should be applied according to the changes in the society. The temporary values can be changed according to the changes of the society but the permanent values should be kept undisturbed.

Thereafter, a short video on constitutional debate called "Samvidhaan" was played to draw attention of participant justices at different values of constitution as highlighted by the speakers in the video and based on this; participants were requested to form groups to give brief presentation on the same.

## **SESSION 2**

Separation of Powers & Allocation of Legislative Powers: The Federal Architecture

Chair: Justice Madan B. Lokur

Speakers: Dr. Justice S. Muralidhar & Prof. V.K. Dixit

This session continued with left over discussion in the previous session. Following areas under constitution were discussed in this session.

- On official language,
- On socialism & secularism,
- On equality and fraternity,
- On casteism & untouchability,
- On fundamental rights and directive principles of state policy
- On individual liberty and interest of the society
- On democracy
- On checks and balance
- On right to practice and profess any religion; and
- On free education

Thereafter, attention was drawn to different aspects of constitutional values & morality. It was stressed that every judge has a different value due to different backgrounds; however, one should keep his or her personal prejudice aside at the time of adjudication and therefore, we all must find out that one constitutional value which should be the only value that we all carry forward.

The concept of fundamental rights was further elaborated by sharing recent examples to point out the areas of conflict and it was stressed that to resolve such conflicts, a judge must go back to the constitution and its values.

On issue of media trial, it was pointed out that self regulation has not helped India. Freedom of speech & media trial is still a debatable issue. To explain it further, some important examples of fake news & media trial were discussed during the session.

### **SESSION 3**

#### **Fundamental Rights and Restrictions on Entrenched Rights & Theory of Basic Features: Contours**

Chair: Justice Madan B. Lokur

Speakers: Dr. Justice S. Muralidhar & Prof. V.K. Dixit

This session continued with left over discussion in the previous session. Issue of individual liberty & freedom was discussed on the question 'as to what extent & on what grounds individual liberty can be curtailed'.

Issue of habeas corpus, particularly in context of runaway couples was also discussed during the session. It was pointed out that menace of honor killing does exist in our society, therefore, such matters should be taken up urgently and protection must be provided from the court. It was further stressed that judges can also act as counselor in such matters.

While discussing some landmark judgements of the Supreme Court, It was further pointed out that court had always been vigilant at the time of violation of personal liberty and in cases of illegal detention; the burden of proof is always on the state.

It was reminded that Oath we took is not just limited to protecting constitution alone but also life and liberty of individual.

On issue of law & order and security, it was pointed out that Supreme Court has identified and categorised this in to 3 categories.

- Law & Order,
- Public Order; and
- Security of the Nation

The issue of conflict between police and judiciary was also discussed in the session.

Thereafter, a short video clip was played to show the debate between two Supreme Court justices of the USA on interpretation of the constitution of the USA. The video was played to point out completely different opinion on the same constitution as one insisted that constitution should be applied as it is and not to be changed, while other opined that constitution should be interpreted according to the changes in the society and not otherwise.

On Judicial review, it was pointed out that judicial review comes into play in two situations

- Government does/doesn't do something, judiciary intervenes; and
- Government supposed to do something, but failed to do it, judiciary intervenes, for instance issue of environment and other important issue which reaches court through PIL.

Judicial review of executive action was also discussed in the session on which a question on core executive action was posed to the participant justices and thereafter, the areas of conflict between executive, legislative and judiciary was briefly explained with the help of some landmark judgements.

On Separation of Power, it was emphasized that the concept is out dated and now it is cooperation of powers between executive and judiciary which must be strengthened.

In the last, some key points were discussed regarding how to be an ideal judge and participants were also suggested to go through Bangalore principle of Judicial Conduct.

## **SESSION 4**

### **Court Management and Information & Communication Technology in Courts**

**Speakers: Justice Ram Mohan Reddy & Justice M. Seetharama Murti**

The speaker commenced the session pointing out that court management includes case management, court management and case information.

While discussing the background, it was pointed out that we had adversarial system, pace of a case was always dependent on lawyers and hence there was unnecessary delay. Therefore, a transition was required with the help of ICT.

It was further highlighted that long process of judging should be eliminated in order to benefit the litigant. Following parameters were mentioned and discussed regarding the possible way of transition.

- Early dispute resolution,
- Reduction in time taken for trial,
- Effective use of judicial resource,
- Establishment of trial standards,
- Monitoring caseloads,
- Development of Information Technology,
- Increasing accessibility in court,
- Facilitating planning for future,
- Enhance public accountability,
- Reduce the criticism of justice delivery system in context of prejudice and bias,
- Innovation in judicial process by applying different methods,
- Simplifying the judicial process,

- Case flow management through classification and sub classification of case,
- Grouping of cases and issues,
- Early resolution of dispute through ADR; and
- Built trust and confidence among public through technology and transparency

On case flow management, about 11 important issues were discussed in the session. These are;

- Identify and narrow down the issue,
- Encourage private settlement,
- Refer to ADR,
- Issue direction relating to trial,
- Simplify legal proceedings and court processes,
- Encourage litigants,
- Address the problem of delay,
- Tracking of cases,
- Pre-litigation conference,
- Address the problem of complexity; and
- Allow the litigant to dictate the pace of the case

Stress was given to Innovation as a tool to deal with court management. Assistance from other stakeholders such as registrar, law students, lawyers, NGOs as a possible way of court management was also emphasized. Importance of artificial intelligence in court management and reducing the backlog of cases was also pointed out and discussed in the session.

Digitization of court records, document management system was also discussed in the session.

**SESSION 5**  
The Art of Hearing

Speakers: Justice Ram Mohan Reddy & Justice M. Seetharama Murti

Session began with stressing that A Judge has to have this art to give justice. It is expected that a judge will give patient hearing to the case of a litigant. He should be open-minded while hearing the case. He shall not look as to who is arguing the case or in manner it is being argued, but he should try to look at the litigant who is waiting for the relief.

It was stressed that if a lawyer is not able to put forth his case properly than it is duty on a judge to go through full pleading.

Listening means focusing, analyzing and grasping. A judge should be known by his judgment. Attitude of knowledge means what to say, how to say and how much to say and wisdom to say.

It was further pointed out that art of hearing is a species of art of listening. Making eye conduct, active listening, listening without judgmental mind, listening to non-verbal communication, observing the court rooms are also falls under the art of listening.