

**National Conference of Judges of the District Judiciary on Access to Justice  
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**Report of the Conference**

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The National Judicial Academy organized the “National Conference of Judges of the District Judiciary on Access to Justice” during 10-12 October, 2014. The main objective of the conference was to discuss the major issues regarding access to justice in India and the role of the judges of district judiciary in enhancing it. Total 26 judicial officers from the district judiciary of each state of the country participated in the Conference. The resource persons in the Conference included Justice B.P. Katakey, Justice Dalip Singh, Ms. Flavia Agnes, Mr. B.G. Harindranath, Dr. Geeta Oberoi and Mr. Rajesh Suman.

**Following are the main issues discussed in the Conference**

- Courts must avoid legalistic interpretation and should try to mould the best remedy according to the facts and circumstances of the case. The inherent powers mentioned in the CPC must be followed to provide justice to the people.
- Poor person appear only as defendants in criminal cases. They do not prefer to voluntarily coming to the court. The awareness among the poor people regarding their rights is required to be increased.
- There should be front information desk in every court as the people don't know whom to approach the courts. The user friendliness of the courts can be increased greatly if this arrangement is done in the district court.
- The victim has to be supported for improving investigation as lot of valuable information can come from victim which cannot be retrieved if victim is not traceable or not in a mentally fit condition to depose. In cases where victim gets due support from the state and the NGOs the investigation also improves and the case can result in conviction. There should be proper medical arrangements for conducting test on victim and police should not be allowed to check victims in any manner. Victim should also have privacy in courts. There should not unnecessary cross-examination of victim by the defence counsel and the judges must control the cross examination. The Gurmeet Singh judgment, 1994 of the Supreme Court should be followed and in camera trial should be conducted in such cases.
- ADR system is made part of legal aid services and has substantial potential to reduce the burden on courts. Judges must some time to tell litigants to refer the suitable cases to lok adalats. The Afcon judgment should be followed properly in all the courts.

- There should be enhanced use of plea bargaining and it should be resorted to in deserving cases. However it has to be done with care and caution and accused should have the representation of an advocate so that he/she can understand the consequences of plea bargain. The scope of plea bargain should be enhanced to cover offences having punishment beyond seven years of imprisonment.
- The accused should be given the benefit of s. 436 A, CrPC. The judges should visit prisons to see the under trial prisoners languishing in prison who has already spent more time half of the time of their prospective sentence.
- The presiding should handle the victims of sexual offences properly and all the guidelines of the Apex Court should be followed by the court. The minor victim particularly faces lot of trauma and in case of rapes by relative the victim remains under lot of pressure from the home and the community to withdraw the case. The court should order interim compensation wherever it is necessary for the immediate rehabilitation of the victims.
- Library management is one of the integral components of court management as there should be wastage of time in finding the law. There should be digital libraries in each state having subscription to online database.
- Judges must sort out the issues for which evidences are not required. In a case the evidence may not be required for some of the issues and therefore the court should manage evidence in proper manner.
- Judges must fix the time schedule for hearing of the cases well in advance. The Kerala's special list system is exemplary in this regard. The case should not be posted for hearing if it could not be heard on the day of hearing. Only those cases should be posted for which all preparations have been made.
- Proper classification of cases in different tracks is very necessary for managing the different types of cases according to their complexity. Now the different high courts have laid down the rules for caseload management and such rules should be strictly implemented. There should be regular meetings between judges, registrars and court managers to discuss strategies for better Caseload management in courts. Registry particularly can support by sending the relevant recording immediately to the concerned and more particularly in the matter of appeal and revision.
- Delay in the submission of FSL report in criminal cases is another cause of delay in the disposal of criminal cases. There is need of enhanced coordination between the courts and the forensic and scientific laboratory.
- Extensive training is required for the investigating agency and the prosecution. The investigation is done in haphazard manner which lead to unnecessary acquittals in many cases. The prosecutors are also not competent and their laxity too is the cause of unnecessary acquittal. There should be more appointment of the prosecutors so that the existing prosecutor can be less burdened and they can prepare the case in efficient

manner. At present in many places one prosecutor is given the responsibility of presenting cases in more than two courts.

- Judges involvement in the monitoring of cases should be there from the initial stage itself as laxity in the initial stage can trigger problems which can make the trial uncontrollable subsequently. The matters should not be left at the discretion of reader alone and there should be monitoring of the work of court staff.
- There must be proper allocation of work among judges. Sometime some judges are given more work and other judges are given comparatively lesser work. Proper information management system could help in the allotment of work to the judges in district courts. In the area of Special courts also the general work should not be allotted to the judge of the special court.
- The proper monitoring of the process serving is necessary. The summons and warrant serving report should be reviewed and laxity in the service of summon must be checked. The SP of the concerned area could be contacted for expedite the process of serving warrant. Much problem arises in the serving of summons if the parties have changed locations and start residing in the different state. Proper communication between the authorities of two states must be made to expedite the process of serving summons. There is need of drafting guidelines for the serving officer for efficient service of summons.
- The judges must make use of s. 89, CPC wherever situation arose. This will reduce the burden on courts. The referral of cases to mediation and conciliation requires proactive involvement of the judges and therefore the role of judges is crucial for the success of this system.
- The judges must go through the files before hearing. The jurisdictional issues must be made clear beforehand before hearing of the case. A prior study of the file will prevent unnecessary lengthy presentations of the advocates in courts. The judges must summarize the issues and can intervene accordingly in courts to prevent argument on unnecessary issues.
- Heavy cost should be imposed on adjournment seekers. The court must make use of order 10 and 17 of the CPC and s. 309, CrPC. If all the rules regarding adjournment and costs will be followed then surely it will deter the advocates from asking unnecessary adjournments. The adjournments has to given according to law and in special circumstances only. There should be information available to the judges as to the number of adjournment been granted in a particular case.
- The judgment of Justice Raveendran in Shila datta case should be followed in letter and spirit to expedite the cases in motor vehicle cases.
- The court clerks should be trained. For their training the senior court clerks can be asked to supervise the junior staff. A training programme can also be organized for the junior court clerks where the senior or retired court clerks can be invited to guide the junior

staff. Judges should have constant communication with the court clerks and periodical meetings should be there to monitor the work and to guide the court staff. The behavior between the judges and the court staff should be very cordial.

- There should be control on lengthy cross-examination by the advocates. Judges must intervene to stop unnecessary cross examination by the advocates. The judges must keep themselves updated on law so as not get confused by the irrelevant arguments of the advocates on legal issues.
- Judges needs to develop leadership skills in four areas i.e. Human Resource Management, Time Management, Record Management and Caseflow Management. These four areas are very crucial for enhancing the effectiveness of justice administration in India. Judges must motivate their staff to excel in these areas to improve their capacity. The proper leadership practices will create conducive working and litigant friendly environment in courts.
- In the area of indigent defence, the legal aid advocate has proved to be an inadequate resource at present. Proper training of legal aid advocate is the need of hour at present. There should be public defender system India where the legal aid advocate could be appointed on permanent basis and they can be trained to serve better the vulnerable persons.
- There should also be an effort to minimize unfairness during trials and a proactive judicial intervention needs to be there in cases involving poor accused persons. The prosecution also requires to be committed to justice and should not show a tendency to seek evidence by employing unfair means.

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