

National Orientation Programme for Civil Judges (Junior Division)

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Programme Report by

(Program Co-ordinator: Ms. Nidhi Gupta)

National orientation programme for civil judges (junior division) was organized at NJA from 14th to 20th Novemner 2014. 55 judges from across the country participated in this programme. One of the main aims of this programme was to draw attention of the junior division judges towards the role that they are expected to play in upholding the cause of justice in the Indian legal system. Various session were designed to ensure that the junior division judges too can appreciate their role in a Constitutional democracy as ‘the third pillar of democracy’, the epithet which has so far been used to describe only the Higher Judiciary of the country.

While the adequate attention was devoted to the conventional areas like criminal and civil justice administration, this programme also introduced the civil judges to some new areas of like, cyber laws and laws relating to disability. Aiming to make learning process more enjoyable, interesting and interactive the programme consisted of a unique combination of training and learning techniques and methodologies, such as break out groups, table-wise discussions, interactive games, class-room exercises, questionnaires, presentations, film, documentary screening and some lectures. Also, in order to acquaint participants with different perspectives this programme brought together resource persons from different fields, such as lawyers, academics, social activists, and judges district judiciary as well as higher judiciary.

On day one of the programme Prof Geeta Oberoi made the opening remarks. After the opening remarks, the programme coordinator, Ms. Nidhi Gupta, gave an introduction to the program and also informed the participants about main objectives of the program. The sessions on day one were chaired by Justice Chandresh Bhushan and Justice Maithli Sharan, former judges, M.P. High Court. Prof BT Kaul addressed the participants on the theme, *Situating District Judiciary in Constitutional Context*. He highlighted the foundational values enshrined in our Constitution. He drew attention of the participants to the preamble of the Constitution and opined that the duty of the courts is to secure all kinds of justice avowed in the Preamble- political, social and economic. He also drew the attention of the participants to part III and part IV of the constitution and the values which are to be protected and promoted by the judicial institutions. Equality, fraternity,

liberty and freedom are the core values basing on which our Constitution was drafted and Prof Kaul called for upholding these values which adjudicating the individual cases. Prof Kaul stirred up interaction on the relevance of the Constitution for judiciary the grassroots level. He invited participants to think on different understandings of the commonly used words like Constitution, Judges, Governance. The main aim of these sessions on the first day was to draw attention towards the relevance of the Constitution for judges at the lowest level of judicial hierarchy. Documentary screening after session one was followed by extensive discussions on the challenges faced by the judges in their day to day work. This session was meant to give chance to the participants to air their concerns about the difficulties faced by them in their day to day work. One of the main aims underlying these discussions was to draw participant judges' attention towards those areas of improvement which were under control of individual judges and which could empower judges to perform their role as presiding officers of the court in more effective and efficient manner. Ms. Nidhi Gupta addressed the participants on the theme, *Reframing the Challenge: Identifying the "Judge" in the Adjudication Process*.

Sessions on day two were devoted to the specific theme of criminal justice administration. The sessions on this day were guided by Justice S Nagamuthu, judge Madras High Court and Prof BT Kaul. In session one the second day, Prof BT Kaul explained theoretical underpinnings of the criminal justice system in India. He explained the difference between the adversarial and inquisitorial systems that are prevalent in different parts of the world. He also explained about two models of criminal justice system- crime control model and due process model. He emphasized that India being a constitutional democracy the judges should strive towards realizing due process model in implementation of criminal law. Justice Nagamuthu addressed the participants in the second and third sessions on the topic of role of magistrates in the pre-trial stage and also during trial stage. The last session was devoted to discussions on the subject of sentencing.

First half of the day three was devoted to the discussions on the theme of civil justice administration. Justice SK Saxena and Justice DK Upadhyay from Allahabad High Court and Justice Seetharama Murthi from Andhra High Court expressed concern about diminishing civil litigation in Indian courts. Considering long delays and pendency in the civil courts as one of the reasons for this eroding faith he suggested new measures for rejuvenation of civil litigation in India. The general discussion on civil justice administration was followed by some topical

discussions on the subjects of interlocutory order and execution of decrees. The second half of day three was devoted to the topic of cyber crimes. Ms. Karnika Seth addressed the participants on the theme of, “Understanding Cyber Crimes” and Mr. Harold D’Costa addressed the participants on the theme, “*Appreciation of Electronic Evidence*”. He also explained new techniques of investigation that are used by the police to deal with the cyber crimes or to deal with the situations where technology is used in commission of crimes.

Fifth day of the conference, November 18 was devoted to the topic of gender justice and Law relating to Disability. Ms. Nidhi Gupta explained the concepts of gender and gender justice as she addressed the participants in the session titled, Understanding the Concepts of Gender and Gender Justice. Justice PK Mishra, former Chief Justice, Patna High Court and Chairman Goa Human Rights Commission addressed the participants on the topic of property rights of women under Hindu Law. He discussed various changes in law through the 2005 Amendment Act in the Hindu Succession Act 1956. Justice SN Dhingra, former judge, Delhi High Court spoke on the theme of “Crimes against Women”. Mr. Sumit Roy, a clinical psychologist addressed the participants in the post-lunch sessions. He conducted various exercises and made participants play certain games in order to make them understand meaning of the term ‘disability’.

First session on sixth day of the conference was devoted to the theme: *Understanding Ratio-Decidendi*. This session was addressed by Prof Kushal Vibuhate, Professor, school of law, IIT Kharagpur. Mr Pattabhi Rama Rao spoke on the topic of understanding witnesses. He drew attention towards nuances that needs to be kept in mind by judges which accepting witness accounts of reality in any given case.

The last day of the conference was devoted to the topic- Influence of media on decision making. Prof. M. Sridhar, Information Commissioner, CIC addressed the participants on the topic of media trials. He argued that though there is a need to regulate media reporting in order to prevent the practice of sensationalisation of cases, this should be done with due regard to the freedom of press and freedom of expression. The sessions on last three days of the conference were chaired by Justice PK Mishra, Chairman, Goa Human Rights Commission.

The conference concluded with an extensive discussion on “take home messages”. The session was moderated by Ms. Nidhi Gupta.