

**NATIONAL CONFERENCE OF STATE JUDICIAL ACADEMIES ON
CONTINUING JUDICIAL EDUCATION: REVIEW OF REFRESHER
PROGRAMMES AND RESEARCH ACTIVITIES AT THE STATE JUDICIAL
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Program Report

Nidhi Gupta (Programme Coordinator)

National Judicial Academy organized a meeting of the directors/representatives of the State Judicial Academies on January 10th and 11th. 18 representatives from the Judicial Academies across the country participated in the second meeting of the calendar year 2014-15. Justice S. Vimala, Judge, Madras High Court; Justice Indira Banerjee, Judge, Calcutta High Court; Justice RC Chavan, Former Judge, Bombay High Court; Justice KG Shankar, Former Andhra High Court chaired the sessions and guided the discussions. Prof. Ved Kumari, Professor, University of Delhi, Mr. Anil B. Suraj, Faculty, IIM Bangalore and Ms. Nidhi Gupta, Assistant Professor, NJA also addressed the participants during this two day conference.

SESSION 1

In the beginning of the conference Dr. Geeta Oberoi, Professor, NJA made opening remarks and this was followed by Introduction by the participants. Ms. Nidhi Gupta made a presentation on the topic, “Importance and Relevance of Research for the Judicial Academies.” Defining research as a means to obtain knowledge about any phenomena she mentioned that research is inherent to training, something essential and inevitable for existence of the training academies, since the academies must first understand the functioning of the judicial system before imparting training. She also mentioned that training academies have to be constantly involved in research even to decide the most basic issues such as whom to train, what course content to offer and how to deliver what is to be delivered. In other words, some kind of research is essential to decide even the most fundamental issues like the target audience, the course content and also the methodologies to deliver the course content in different programs. She explained training in simple words as a planned process to prepare individuals who enter the system or are already a part of the system to attain goals of an organization.

She highlighted the distinction between education and training by giving an example of what law schools are meant to do and what training institutions or judicial academies are expected to do. She mentioned that while law schools/colleges are expected to prepare the students for legal profession in general, judicial academies have the responsibility to build capacity of the judges, of the fresh entrants as well as of those who are already in

service for some years, to attain the goals of the judicial system. Training, she mentioned has to be focused on three elements: attitude, skill, and knowledge. At the same time it is also essential that the training institutions are clear about the goals of the organization for which the trainees have to be oriented. Continuing judicial education, she said, is to keep, prepare and more than anything else, it is to rejuvenate those who have lost their enthusiasm and energy. She further highlighted that there is always a gap between what is desired by the organisation and the actual performance of the members of the organization and the task of the judicial academies is to study and analyse the above gap and to devise ways to address the reasons for the gap between actual performance and the desired performance.

Ms. Gupta mentioned that the systematic approach to training would have following steps: (i) Identification of training needs, (ii) Plan and design, (iii) Implementing Training; (iv) Assessment of results or impact of training. All the above steps are to be taken to achieve the goals of the organization. She stated that the Judicial Academies are unique institutions as they have to be both inside and outside the judicial system, in other words, to understand and be sensitive demands of the functioning of the judicial system and of judges and also to be able to take distance and undertake critical analysis of the functioning of the system. She suggested that the Judicial Academies may play a role in developing good image of the institution which, in turn, is essential for building public trust and confidence in the institution of judiciary. There is a need to reflect over the idea whether Judicial Academies may take up the role of being a mouthpiece of judiciary.

She classified the tasks of judicial academies into 3 categories which are-induction, in service programs and think tanks. Its areas of focus may be-persons, knowledge (substantive or procedural), process of judging, courts, institutions of judiciary and judicial system. There are a number of tasks required to be done in pursuance of a refresher programs. These tasks are selection of participants, to decide relevancy of issues to be discussed, to decide contents of material, diversity in selection of Resource persons, adoption of methodologies, etc. (Copy of the presentation annexed)

Commenting positively on the presentation of Ms. Gupta, Justice Banerjee, added that service oriented approach is needed in judicial system rather than judge oriented approach. Justice S. Vimala stated that judiciary is considered to be temple of justice, and role of judicial academies is to suggest and devise ways for maintaining sanctity of this temple.

While endorsing the understanding of the concept of training and the role of training academies presented by Ms Gupta Justice KG Shankar shifted the focus of discussion towards the constraints faced by the Academies in fulfilling their mandate. He made a candid admission that lack of autonomy and interference by the senior authorities

hampers functioning of the judicial academies. He mentioned that to some extent approach of the Higher Courts Justice is determinantal for implementations of such discussion derived policies. Shankar's remark elicited an open discussion. While some directors of the Academies, tacitly agreed to the statement of Justice Shankar, some others expressed that they have been provided freedom in this respect.

There was a general discussion among the resource personnel over creation of a data base in the direction of wrong application of principles by judges. Participant from Delhi State Judicial Academy mentioned their technique of sending five judgments of each participant to the resource personnel for scrutiny before any seminar.

SESSION 2

The theme of session 2 was, "Tools and techniques for Research Activities in the Training Institutions." This session was lead by Prof. Ved Kumari, Professor of Law, Law Centre-I, Faculty of Law, University of Delhi. She gave a presentation on the Methods of Legal Research. She explained that research is a careful, diligent and exhaustive investigation of a specific subject matter with a view to know the truth, making contribution in the existing stock of knowledge.

She then gave a number of issues which may form the core of a research. It can be in ascertainment of a law, highlighting gaps and ambiguities in law, etc. She also explained various types of researches. According to Professor Ved Kumari, after we decide the kind of research we shall like to do we would be able to select tools for such research. But before pursuing any research, it is essential to develop the objectives of such research. As in case of training a fresh law graduate, he need to learn to be a lawyer and similarly a lawyer needs to unlearn to be a lawyer. It is necessary for an Academy to know its audience and research over their attitude, knowledge, skills, economic background, etc.

She further highlighted that research should be in a scientific method. It should be free from personal bias. We should ascertain demonstrable quality of a phenomenon. Research should be guided by rules of logical reasoning. She gave the example of research by a renowned criminologist Lombroso to illustrate the need for reasoning and rationality in a research. A research should be internally consistent. Scientific method is logical, empirical, operational, committed and pre supposes ethical neutrality. It aims at theorizing. For this she illustrated the example of random sampling.

Prof. Ved Kumari discussed about Research Methodology. It is not only the research methods but also the reason and rationale behind such a method. She mentioned that while selecting specific research methods we need to introspect why we are not using other methods.

She also mentioned that there are various tools for research, and such tools may be legal or non-legal, primary or secondary or from other sources. Drawing attention towards the problem of plagiarism she mentioned that the sources of research must be acknowledged. Proper citation is necessary in any case. In order to foster research work within the Academies Prof. Ved Kumari said that subscription to various databases is necessary.

In an empirical research, it is necessary to develop a hypothesis. Our research revolves around the hypothesis. It is not essential that the hypothesis should be proved correct; rather it is essential that the research should be focused on hypothesis. There was an extensive discussion on the issue of plagiarism and importance of footnoting. Research need not be de novo, but acknowledgment is necessary.

Thus this session was enlightening due to such a scholarly discussion by Prof. Ved Kumari on importance and methods of research. This received appreciation by all.

SESSION 3

In the post-lunch session the participants were welcomed by Justice K.G. Shankar. One of the main aims of this session was to give opportunity to the participating directors to talk about the refresher programs and research activities in their respective academies. He endorsed the importance of appropriate research methodology for fulfillment of research objectives. He highlighted the issue of scarcity of faculties in Academies. There was also a discussion on difficulties faced by the Academies in collaborating with other institutions for research projects. Again Prof. Ved Kumari stressed on the need of making appropriate use of technology in judicial functions. Although everybody agreed that that computers or technology can only provide assistance and not be a substitute to a judge. Citing a positive example of initiative taken by judges addl director from the delhi judicial academy highlighted how Talwant Singh, Addl. District & Sessions Judge, Delhi undertook computerization of about 300 Courts in Delhi District in record time of 2 years.

The panel said that timely and quality justice delivery is important. Thus it is essential that academies should research on how the above is possible and how they may contribute into it. Justice Banerjee shared concern of the directors of the academies in not having adequate faculties and knowhow for conducting research. Judicial Governance Program was acknowledged at this juncture. It is essential for the development of a country that the Judicial Process is expeditious and qualitative. Therefore judicial reforms are need of the Indian Society today.

Justice Banerjee mentioned that it is rather important that the judicial academies focus on the aspect of attitude of judges. She mentioned that it is essential that the attitude of

Judiciary should be that of a service provider. It should be polite towards litigants, public and advocates.

Academies can take the role of motivators also. It was suggested that the judges, with the help of researchers may create an online database. In research programs at SJAs, participants should not be sent according to their availability, but in accordance to their need. Academies should assess their participants. Panel was of the view that issues like judicial bias and prejudices should be openly discussed.

There should also be a proper research on improvements in functioning of judges and the courts post training. Judiciary, it was emphasised during discussion, needs to keep up with its image of guardian of rights. Quasi justice shall bring a bad name to judiciary. It should be disallowed.

Justice Banerjee mentioned that one of the important areas for research by the judicial academies is relating to judicial conduct and ethics. She stated that the Bangalore Principles on Judicial Conduct should be uniformly interpreted and followed in India. Procedural errors should be avoided. In certain areas there is a need to be more pragmatic.

Session 4

This session was aimed at discussing the new areas of research that can be adopted by the Academies. Justice Shankar mentioned that the academies should focus on such programs which can go a long way in enhancing capabilities of judges.

The participant from Lucknow emphasized on hesitation of trainees to open up. To this Justice Chavan added that a good teacher should also be a great motivator. Academies should try to open up the minds of the trainees. This shall enable them to know the issues involved in such hesitation and then develop alternative courses of action for such trainees. Ms Nidhi Gupta made a suggestion of documentation of all the above. Justice Shankar said that a Judge shall have no fear after his reputation is established. Thus he should be motivated to have confidence and establish such a reputation.

Representatives from West Bengal, Uttar Pradesh, Andhra Pradesh, Maharashtra, Jammu and Kashmir, Himachal Pradesh, Delhi, Punjab and Haryana, Jharkhand, Odisha and Tamil Nadu discussed and shared what research work they have pursued and are willing to pursue. The discussion expressed a need to increase the quantum of Research activities in all academies to improve Judiciary in India.

Professor Ved Kumari told in the conference that academies should not express dearth of resources and personnel as their reason for lesser research. It is essential that they should

prioritize their activities and develop a balance between their research activities and their training activities. She gave example of various fields where the academies may research. She enumerated all 6 Bangalore principles of Independence, Impartiality, Integrity, Propriety, Equality and Competence and diligence and stated that research should feed into training programs, which in turn should serve one or more of the six values mentioned above.

She told that there could be a research on Judicial Conduct, Penology, Victimology, Disposal of cases, etc. She said that knowledge of penology is crucial to Indian Judiciary. The disjuncture between reason for conviction and punishments prescribed needs to be resolved. Academies should try to find solutions to the loopholes in the functioning of judiciary.

The Research Activities should be included in training programs. It must be something to share with the trainees who shall be able to develop an insight into the level of services provided by the Indian Judiciary, and thus give them a scope for improvement. She also emphasized on examination of feedback submitted by the trainees. Thus the conference was concluded for the day by Justice Shankar on the note that sharing of information is as essential as acknowledgment for using it is.

At the end of day one, while all agreed that research is essential for effective functioning of training academies, the participants also admitted frankly that leave apart big research projects, most academies are not even adopting proper mechanisms for understanding training needs or assess the impact of training. While some directors mentioned that they simply implement the calendar prepared at a higher level, others, especially Delhi Judicial Academy, mentioned that they are seeking opinions from judges of all levels, and also from lawyers and academics in finalizing their academic calendar. It was also admitted that there does not exist any methods for assessing needs of individuals judges or to understand the areas where they need improvement. Some directors also mentioned that there are no mechanisms for imparting training to judges before they are given charge of special courts or are endowed responsibility for implementation of any special legislation. It was also mentioned that there is need for devising mechanisms to elicit genuine feedback from the participants so that training programs can be improved.

SESSION 5

On day two the session began with a presentation by Mr. Anil B. Suraj, faculty from IIM Bangalore. The topic for the session was “Developing Management Skills among Judges: Initiating Collaboration with Management Institutions.” Mr. Suraj started with the importance of governance in Judiciary. His slides focused on establishing relevance of management principles for the Judiciary.

According to him there is a difference between application of management principles for corporate sector and public sector, which are essentially service oriented. He said that while in many western jurisdictions litigant is referred as a consumer, perhaps in Indian context use of the word consumer is not appropriate. Judges make a lot of decisions. Judicial Process is a unique process. It has wide dimensions of judicial task, administrative task, managerial task, etc. He talked about timely justice in India. He also stressed on Court Record Management System. According to Mr. Suraj management institutes may help in improving organizational behaviour, human resource management and training in the field of judiciary.

He then discussed the problem of financing, regulation and accountability in judiciary. He also discussed how adoption of management principles shall help the judiciary in reducing pendency. There is a need for process related approach in judiciary.

He then discussed certain relevant management principles. He discussed about strategy and decision making. There was a discussion on specific personal skills required for judiciary like leadership orientation, communication skills etc. He stated that the judicial officers also need to work on their skills of negotiations, since they need to work on consensus building also. There is a need for proper communication between public and courts.

Participant from Andhra Pradesh judicial academy discussed about ego issues in Judiciary, and reluctance of judges to adopt new approaches. Additional director of the Delhi judicial academy shared her academy's experiences of organizing management related programs for judges having invited faculty from the management institutions. She mentioned that while these programs were interesting most of the participating judges were not able to establish relevance of management principles for judiciary. She also discussed about disjuncture between the thoughts of Management personnel and the judicial officers. She emphasized that before inviting management faculty to address judges it was important that judicial system is carefully studied and understood by the management people with the involvement of judges. Justice Chavan said that before management personnel may work for the improvement of judiciary they have to be given a chance to study the judicial system. Justice Vimala gave information about such a project which was initiated in Tamilnadu, and where management personnel were able to make useful suggestions in areas like space management. Justice Chauhan said that managerial skills should also be imbibed in the judicial officers through proper resource allocation, time management, personal management, etc. Also the regular rotation of such personnel is necessary. There was a consensus on the fact that managerial skills should enhance judicial competency. Also another conclusion that could be drawn from the discussion was that IIM personnel may act as motivational speakers in judiciary. While everybody agreed to the suggestion by Prof Suraj was that it is essential that there should

be stress management programs for judges, there was a wide consensus, that before any such step it is important to study the judicial system to understand its special requirements for application of management principles.

SESSION 6

Final session titled, “Roadmap for strengthening Continuing Judicial Education and Research Activities.” Participant from Maharashtra showed a presentation on preparation of repetitive orders. It was a presentation on how technology should be used in expediting judicial process. Such training should be imparted to all judicial personnel. The software Dragon and its versions were discussed. Their utilities were discussed.

There was a discussion on suggestions to improve continuing Judicial Education. Participant from Ranchi advised that there should be targeted disposal of cases. There was a discussion on bail procedure. It was discussed that there should be research activities undertaken by academies. Such research work should be practically oriented research. Chair and panel suggested that all academies should pick up areas of research and work on them. Representative from the U.P. Academy discussed that they shall now research on feedback forms after seminars and conferences.

The conference was concluded by Ms. Nidhi Gupta, as she presented a brief summary of two days discussion. She said, in order to ensure that Academies become relevant to judicial system academies should devise and adopt methods to know the needs of the trainees. She highlighted that research activities, only for the purpose of assessing training needs can go a long way in making academies relevant to individual judges. In addition of taking suggestions from various stakeholders for designing calendar, it is also essential that Academies take research projects to understand the trends in judicial decision making in different areas of litigation. There should be research on reasoning processes of the judges, which can be done through reading of orders, files and records of cases. She mentioned that while we can aspire for sophisticated, interdisciplinary research projects at the behest of judicial academies, judicial academies can initiate research studies to identify blatant errors committed by judges in application of law in different litigation areas. Justice Banerjee concluded the conference on the note that Judges should act in Justice, Equity and Good Conscience. They should be true to their conscience and fearless about consequences.