

VISION STATEMENT- 2018

Dr. A.P.J. Abdul Kalam once observed that “the judiciary is the guardian of civilised life.” A strong and independent judiciary having the sovereign power of judicial review of legislative and administrative actions is the very backbone of a progressive nation. The exercise of such power judiciously, reinforces the confidence of the public in its integrity. Indubitably, the judiciary in its decision making process has to be both independent and transparent as they are the key precepts of the judicial system in a democracy wedded to the rule of law. This can be achieved only by a sensitive and proficient judiciary capable of administering fair, speedy and quality justice.

The judiciary, as one of the three key organs of the State, has to be sensitive and principle driven in its approach to justice. Thus, there exists an urgent need to sensitize the judicial officers and other functionaries in the legal system to enhance their decision making capability by raising their consciousness to the socio-economic issues plaguing the society. In such a scenario, it is imperative to impart quality education and training to the judicial officers apart from ensuring their constant interaction with experts from a range of disciplines such as literature, medicine, technology, law, the social sciences and more.

The importance of the professionalization of judges has been stressed by Livingston Armytage when he stated that:

Judicial competence should be seen as the mastery of the knowledge, practical skills and disposition of judging. Competence is the ability to perform a range of tasks through the application of knowledge and skills to the resolution of particular problems according to certain standards, within a framework of rules of conduct and ethics of the judicial profession.

The value of judicial education and training therefore, can hardly be exaggerated. Conventionally, judicial education refers to imparting knowledge of substantive laws whereas judicial training involves instruction on ‘judgecraft’ which basically refers to the acquisition of decision making, leadership and managerial skills. Judicial education includes collegial judicial meetings and the professional information received by the judge in whatever form be it print, audio, video, computer disk, online or electronic. It also envisages within its purview distance learning, self-study, mentoring and feedback programmes. It has two

prongs namely, induction or orientation programmes on the one hand, and continuing in-service education throughout the judge's professional life, on the other.

Judicial training, on the contrary, is more or less a formalised process of continuous learning leading to the professionalization of judges. It primarily aims at improving the quality of judicial performance by equipping the judges with the required tools for developing professional competence. Unlike occupational training, judicial training moves beyond technical competence and focuses primarily on the acquisition of skills critical to effective judicial dispensation. It includes within its purview not only mastery over theoretical knowledge but also enhancing the problem solving capacity of judges, identifying and addressing shortcomings in performance, developing ethical standards, maintaining collegiate identity and reconceptualising the judicial mission as a whole. The underlying idea is to equip participants of the programmes with the ability to recognise, understand and meet the collective needs of a civilised society both at a technical and institutional level, considering the fact that the process of on the job learning might be relatively slow and cumbersome.

The primary purpose of judicial education and training is to sensitize judges to the danger of assuming that their personal sensibilities or prejudices are normative and to equip them with the tools of argumentation that would make the articulation of their reasoning processes in their judgments both sound and transparent. Judicial education and training programmes must, as a consequence, necessarily involve academics, forensic scientists, sociologists and public interest groups in order to raise the awareness level of participants as regards the social and economic realities of fellow citizens that may be outside the scope of their personal experience. The UK Judicial Studies Board, while recognising the importance of judicial education and training, has observed:

Judicial studies are no longer a novelty... No competent and conscientious occupant of any post would suggest that his performance is incapable of being improved, and, since there is a limit to what can be done simply by self improvement, almost all judges are able to perceive the need for organised means of enhancing performance.

It is here that the role of the Delhi Judicial Academy becomes relevant. The Academy, as a centre of excellence in judicial education and training, strives towards organisational efficiency and reform of the judicial process. The Academy dedicates itself to the task of providing the best learning based judicial education and training in order to achieve a fine balance between the technicalities of the law and respect for basic human values. It also successfully acts as a forum to facilitate dialogue between the various stakeholders in the justice delivery system such as judges, prosecutors, lawyers, academicians, medical professionals, psychologists and public interest groups. The Academy's commitment to the aforementioned cause permeates its Academic Calendars of Judicial Education and Training since the last four years. The scheduled programmes have been structured to meet the aspirations of the society and to find ways and means to deal with present and future challenges. The curriculum of each programme is need based, addresses concrete issues and is subject to periodic evaluation.

More specifically, the education and training programmes of the Academy are three pronged. First, they ensure that the new entrants to the Delhi Judicial Service undergo a comprehensive and rigorous one year programme to enhance their knowledge in addition to developing their core competence and justice oriented decision making capacity. This is done by means of classroom lectures and discussions, workshops and mock trials, supported by direct exposure of the participants to the workings of district courts through attachments. Second, those joining the Higher Judicial Service from the bar are made to undergo a four month long foundation course during which they are sensitised about and familiarised with the jurisdictions in which they are to discharge their duties also through court attachments. Third, a similar albeit a less rigorous orientation programme of four weeks has been designed for the judicial officers joining the Delhi Higher Judicial Service on promotion from the Delhi Judicial Service level. At each of these levels, the judges are given inputs by experts including judges of the Constitutional Courts in areas such as dealing with expert evidence, vulnerable witnesses, unrepresented litigants, sentencing, protecting and promoting human rights of the marginalised sections of society and the use of alternative dispute resolution mechanisms.

It is often said that the court room represents a microcosm of society considering that the decisions rendered often affect the lives of people in the most fundamental and immediate ways. It is therefore, axiomatic that any judicial education and training

must have, at its heart, a consideration for the social context in which rights and duties of the people have to be adjudicated. There needs to be a move away from the privileged status quo to address the concerns of people who have been systematically discriminated based on gender, race, age and disability. Further, judges need to develop the capacity to interrogate stereotypes, inherited biases and outlived practices, including those contrary to developments, in science and technology which have the potential to interfere with the administration of justice. The Academy recognises the need for the appreciation of such social context adjudication as an integral part of the judicial process and accordingly organises numerous conferences, seminars, sensitisation programmes and orientation courses for judicial officers at all levels round the year.

In the year 2018, the Academy is taking yet another leap forward by specifically addressing the concerns of the most vulnerable and marginalised members of society by introducing a special sensitization programme on ‘vulnerabilities and disabilities’. Additionally, the Academy also intends to organise much needed workshops on ‘Mental Health’ in order to address the challenges and stigma faced by those suffering from mental illnesses. The aim is to underscore the shift in the mental health jurisprudence from ‘welfare’ to ‘rights based’ approach. Moreover, the Delhi Judicial Academy has, since its inception, consistently focussed on the rights of women, children and the third gender. It shall continue to do so in the coming year as well by means of programmes designed to create a judiciary that is sensitive and responsive to their needs.

The Delhi Judicial Academy firmly believes that the process of social transformation is a collective effort of the various stakeholders engaged in the justice delivery system. Accordingly, each such functionary needs to be sensitized and empowered to secure justice for all persons especially, those belonging to the weaker sections of society. Since 2015, the Academy has consistently focused on securing the participation of various groups such as Prosecutors, Principal Magistrates and members of the Juvenile Justice Boards, members of the Child Welfare Committees, Counsellors attached to the Family Courts and others in order to make the process of dispensation of justice more inclusive.

Judges in all democratic societies wedded to the rule of law hold judicial office as a public trust and endeavour to protect the constitutional, statutory, and human rights of all beneficiaries. It is safe to say that courts derive their power from the public

acceptance of their authority and the perceived integrity of its officers. It is, therefore, crucial to ensure that judges refrain from impropriety and apply principles such as reasonableness, prudence, due care, proportionality, due process and equity in their decision making processes. The Academy shall, in the coming year, seek to lay greater emphasis on the importance of judicial ethics as a part of its core competence programmes.

The changing nature of business transactions, the operation of global networks and the quasi-physical component of cyberspace have led to an increased focus on cyber law in recent years. Cyber crimes encompass challenges across the board relating to not only electronic commerce but also freedom of expression, intellectual property rights, and privacy rights in addition to jurisdictional and choice of law issues. Further, the wrongs that have both civil and criminal law components make the process of adjudication all the more challenging. There has been a steady increase in offences relating to credit card fraud, data theft, software piracy, cyber stalking and child pornography, to name a few. The fact that most evidence in such matters is intangible makes it necessary for the judiciary to adopt a pragmatic approach in the administration of justice. Appropriate education and training needs to be imparted to judicial officers focussing on the various technological aspects of cyber crimes to ensure timely disposal of cases without compromising on the quality of justice due to vagaries of law and evidence. The Academy has, therefore, introduced programmes focussing on issues relating to e-commerce, cyber laws and digital offences to keep judges abreast with the latest developments in this area of increasing importance.

Although advances in medical sciences have led to the development and introduction of new drugs and medical devices, there persists unease in relation to their availability, accessibility and affordability. Therefore, there is a need to balance individual rights against public interest. Further, judges need to be exposed to the legal regime governing clinical trials, including issues concerning informed consent, the management of adverse events, compensation in case of injury or death and the role of the judiciary in enforcing the human rights of participants. Furthermore, innovation in the fields of biotechnology and artificial intelligence present fresh challenges in terms of their ethical and legal construction. The Delhi Judicial Academy seeks to keep its programmes up to date with the latest developments in science and technology in order to ensure that participants are able to discharge their judicial functions with the necessary knowledge and acumen.

In a democratic society, the judiciary is of fundamental importance in the protection of personal and proprietary rights with statutory provisions playing a limited role unless applied with swiftness and dynamism. The infringement of intellectual property rights presents further challenges as opposed to violations of tangible property rights. The fact that globalisation has resulted in intellectual property acquiring a trans-boundary effect, coupled with easy access to technology, has made it even more vulnerable to infringement. Accordingly, considerable leeway has been granted to judges to provide remedies balancing national interest on the one hand and the rights of the holders of intellectual property on the other. The aim of enforcement proceedings should be to safeguard the rights vested by the State to the inventor or creator of such property, while at the same time, serving as a deterrent for future violations. There is a strict need for judicial imperativeness in the application of the principles of natural justice by the authorities whose actions may adversely affect the rights holders. The role of the judiciary becomes all the more onerous when such monopoly rights have to be weighed against public interest. The Delhi Judicial Academy through its various programmes, has consistently endeavoured to keep the decision makers abreast with the latest developments in the field, conscious of such matters and the prevailing social context.

Last but not the least, the Academy recognises that efforts towards the process of judicial reform can be enriched by keeping the mind open to the varied experiences of other jurisdictions. Accordingly, it welcomes participants from other parts of the country and abroad in its judicial education and training programmes. Such participation encourages not only a comparative study of laws but also promotes a healthy exchange of ideas and good practices. The programmes of the Academy regularly witness participation from judicial officers and functionaries not only from other Indian States but also from the neighbouring countries of Sri Lanka and Bangladesh.

The Academy sincerely hopes that the hard work and dedication that have gone into drawing up the Academic Calendar of Judicial Education and Training for the year 2018 will surely actualise in meaningful and effective judicial education and training, thereby creating a social order geared towards the sole purpose of improving the quality of justice.

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