

**SECOND INTERNATIONAL CONFERENCE ON THE TRAINING  
OF THE JUDICIARY**

**Ottawa, Canada, Oct. 31 - Nov. 5, 2004**

**WORKSHOP ON**

**CREATING AND SUSTAINING A SUCCESSFUL TRAINING CENTRE**

**SOME INSIGHTS FROM THE INDIAN EXPERIENCE  
WITH  
NATIONAL JUDICIAL ACADEMY, BHOPAL**

**Prof.(Dr.) N.R. MADHAVA MENON  
Director  
National Judicial Academy  
Bhopal (M.P.), INDIA**

## **The Indian Judicial Scenario :**

With a multi-cultural population exceeding 1.03 billion and with a large territory of over 3.5 million Sq.Kms divided into 35 administrative units (28 States and 7 centrally administered territories), the Republic of India presents a mixture of the old and the new in terms of culture, polity, standards of living and systems of dispute resolution. The Indian judiciary has an enviable record of integrity and independence. It is the most respected constitutional institution enjoying enormous power of judicial review of executive and legislative action.

The Court System in India is like a pyramid; at the bottom are about 13,500 trial courts of different jurisdictions spread over the 565 Districts of the country; above them are 21 High Courts which enjoy original and appellate jurisdiction, one in each State (in some cases for more than one State/Union Territory) and with over 700 judges in all; finally, at the apex is the Supreme Court with 26 justices including the Chief Justice of India. Besides, there are several specialized tribunals set up by the Central and State Governments for specified subject areas. The courts subordinate to the High Courts are maintained by the State Government and is called the State Judiciary. The Union Judiciary consists of the High Courts and the Supreme Court which alone enjoy power of judicial review.

On an average 15 to 18 million cases are decided every year by all the courts in India. On a rough estimate 12 to 15 million fresh civil & criminal cases are filed every year in different courts. There are approximately 25 million cases pending for disposal, which is causing the greatest worry to the Indian judiciary. The ADR systems (mainly “Lok Adalats”) on an average manage to settle 3 million cases (pending in courts) every year. While the 700 judges of 21 High Courts decide close to 1.5 million cases, the Supreme Court with 26 judges dispose of more than 50,000 cases every year. With only 13 judges per million population, the judicial output is impressive when compared to other democratic countries under rule of law.

## **Evolution of Judicial Training :**

Judicial training in India can be conceived in three phases. The first phase lasting till early 1980s is characterized by what may be called “on the job training” without any organized institutionalized programme to supplement the learning by doing model. The second phase between 1980s and 2000 saw feeble attempts at the level of some High Courts to develop a curriculum and to organize lectures by judges to new recruits of the subordinate judiciary. By the end of 2000 nearly 13 of the 21 High Courts had set up judicial academies or training directorates under the supervision of committees of judges to give induction training to subordinate judges and occasionally refresher courses for members of the higher judicial

service. Seldom was there independent faculty, proper infrastructure facilities or separate budget for training.

The third and current phase of training can be traced to the report of the First National Judicial Pay Commission (2000) and the establishment of the National Judicial Academy (2002) under the direct supervision of the Supreme Court.

### **The National Judicial Academy (NJA) :**

Established as an independent registered society, NJA has the Chief Justice of India as Chairman (ex officio) and a small membership of Superior Court justices, leading law academics and few Central Government representatives. The Academy is run by the Society to which it is accountable. The funds come by way of annual grants from the Government of India and also by way of fees and other charges collected from judges who come for training or from the High Courts who sponsor them. The annual budget of NJA is in the range of Rupees 35 million. NJA has a large infrastructure with facilities to accommodate 250 trainees at a time. It is located in the centre of India in the city of Bhopal and is accessible from Delhi and Mumbai within an hour's flying time. The first Director of the NJA is the author of this note who has been a law professor for four decades and founder of two National Law Schools at Bangalore and Kolkata.

The mandate of the Academy includes (a) providing induction and in-service training for judicial officers and court administrators; (b) publishing books and journals and collaboration with training institutions for developing judicial capacities; and (c) providing research, training and policy development support for the achievement of higher levels of excellence in judicial administration and administration of justice in the country.

NJA has undertaken a variety of activities in pursuance of its mandate. An year-long training calendar offering 16 different in-service residential courses for District Judges and High Court Justices have been announced under which nearly 450 judicial officers have already participated in as many as 11 courses so far. A thrice-a-year Newsletter, an annual Journal and a series of Occasional Papers are published besides study materials for different courses. A research project on "Access to Justice for the Disadvantaged People" is being executed in association with seven High Courts and their respective State judicial academies. Two rounds of consultation with trainers in State Academies have resulted in standardization of judicial training curriculum, adoption of better strategies in imparting training and co-ordinating efforts in building capacities of training institutions.

The Chief Justice of India recently declared 2005 as the “Year of Excellence in Indian Judiciary”, revealed several new steps on judicial reform being introduced and called upon the National Judicial Academy and State Academies to organize “training for judges for achieving and maintaining professional excellence” (Keynote Address at the Conference of Chief Justices, September 18, 2004). The Ottawa Conference with its various Workshops bringing together experiences on judicial training from around the world has come at an opportune moment for the NJA to strategize its efforts on training in collaboration with leading institutions of its kind present at the Conference.

### **Judicial Education Issues relating to Gaining Legitimacy and Establishing Partnerships :**

For the present Workshop on “Getting Started”, I have been asked to speak on select issues which confront a training institution with limited resources like NJA, Bhopal. I have chosen to place before you few thoughts on two issues only, namely (a) how to overcome resistance to Judicial Training Centres (JTCs) and gather acceptance of stakeholders and (b) what are the partnerships which are likely to be of advantage to advance the goals of JTCs with minimum scope for conflict of interest or friction.

#### **Legitimacy Issue :**

For any new institution of higher learning catering to professional advancement, there are internal and external problems relating to credibility, acceptance and legitimacy among the members of the profession generally and of peers in particular. The initial years are crucial and depending on how the problems are addressed JTC may grow or stagnate. Here are some common problems and possible solutions drawn from the Indian experience :

#### **Training considered as subversive of Independence :**

- (a) In many common law countries where judges are selected from among lawyers with some length of experience at the bar, there was no tradition of institutionalized training and there exists a lurking fear that any such attempt might jeopardize independence of judiciary. Though training is now not only accepted but considered essential for newly recruited judges by the Judiciary itself, there are still judges in influential positions who doubt the relevance and usefulness of such programmes and consider their officers better off without it! In such a climate, JTCs will have a formidable job in selling their products and services. Only through qualitative excellence of

programmes and higher levels of professionalism and utility can JTCs survive the initial resistance coming from within the judiciary.

### **Divorce of Selection and Training :**

- (b) JTCs are often not associated with the selection process. Committees of Judges in association with State agencies conduct the selection examination, interview the candidates and prepare the list of prospective candidates for appointment. Such candidates having already secured the appointment do not take training seriously and are in a hurry to take their positions in the judiciary. This near total divorce between selection and training is a disincentive to learning against which JTCs have to struggle to make their programmes interesting in content and method to the bright, average and indifferent among trainees in equal measure.

Increasing the motivation level of candidates with varied capacities and attempting to equip them with minimum levels of professional competence have not been easy tasks for judicial academies. A system of rewards and punishments is essential to induce trainees to take training seriously and put in their best to maximize learning during training. Unlike education in schools and colleges, adult learning in professional training academies depends for its success on participatory exercises and high levels of motivated performance. Presently Academies are trying to overcome these problems by using the superior court justices under whom the trainees have to work as resource persons for lectures and introducing more of self-study activities and field visits. However, these measures are not sustainable in the long run. Firstly, all the superior court justices are not necessarily good trainers. Secondly, in the context of reforms needed in judicial administration, use of senior judges experienced in past traditions may not always be desirable as they sometimes transmit uncritically practices which have outlived their utility.

### **Judicial Trainers are non-existent species :**

- (c) A related problem inhibiting legitimacy for JTCs is the non-availability of trained trainers in adequate numbers to innovate, experiment and reform training methods. There are no models to imitate; nor programmes to replicate. Given the general impression that judges alone can train judges best (consistent with conceptions of judicial independence) there is a real problem to find suitable faculty for JTCs. It is difficult even to stipulate the qualifications and experience required for teaching positions in JTCs.

Teaching and Judging are two separate professions and to find experts who can train persons in judge craft is indeed a difficult enterprise. Consequently most judicial training centres are managing with other options like guest faculty, self-study programmes etc. which do not cater to all objects of a good training programme.

### **Sponsorships and Partnerships can enhance legitimacy :**

- (d) Sponsorship and patronage of superior courts and association of role models in the judiciary with the programmes and management of JTCs do bring with it a certain degree of legitimacy among stakeholders and prospective users of its services. It is further enhanced by developing partnerships with renowned institutions of law teaching and research within the country and outside.

Enlisting support of leaders of the bar does help in a number of ways in improving the quality of training as they are the best assessors of the strengths and weaknesses of the judiciary. The problem is in making a balanced selection of the lawyers needed and in preparing them to perform the job assigned without exceeding the briefs.

Sometimes representatives of non-government organizations can help bring ground realities surrounding legal disputes to the attention of judges in order to give social context orientation to the judging function. It is trite to say that law is what the law does and justice must not only be done but must seen to be done. In systems which function without juries it is important that judges are constantly sensitized to public perceptions of justice and made to realize the impact of judgments in society. Where else can this happen excepting in training academies and judicial seminars in which non-judges interact with judges face to face.

### **Value Addition for personal development :**

- (e) Another strategy to gain legitimacy for JTCs is liberal mixing up of practical lessons for successful living along with training in judge craft. These include sessions on inter-personal skills, stress and time management techniques, computer skills etc. Depending on the profile of trainees and local needs these subsidiary activities can be made more attractive and useful.

Similarly, the publication of Bench Books on selected areas of complex civil and criminal litigation is found to be popular among judges and they are prepared to pay the costs and continue with regular subscription to support such efforts.

### **Responding to Market Demands :**

- (f) Legitimacy also comes with innovation and professionalism. When new laws are introduced warranting changes in substantive and procedural aspects, there arises genuine demand in the bar and the bench for capsule courses imparting the new knowledge and skills. Even Government is willing to pay to educate and train the profession for the tasks involved in such major initiatives.

Again, for removal of entrenched biases and prejudices and for acquisition of new values which society considers essential for their judges, JTCs are persuaded to act by non-governmental and civil society organizations. On gender and disability issues sensitization courses are often held in JTCs both for new recruits as well as for those already in judicial service.

In India the business and trade circles are clamouring for judicial training on issues related to economic liberalization and globalization.

For all these activities the Faculty has to necessarily come from outside the judiciary which compels re-visiting the “independence of judges” argument in relation to structuring of training modules, selection of reading materials and invitation of resource persons. Nonetheless, they do bring in legitimacy for JTCs and tend to establish partnerships with non-judicial institutions for mutual advantage.

### **Specialization in justice delivery system :**

- (g) Every system providing public services tend to acquire specialization in their personnel and style of delivery of services. The justice system is no exception to this. JTCs have another entry point in this regard in acquiring legitimacy and credibility among the stake holders. In the Judicial Studies Board in England and Wales, a system of ticketing reportedly exists under which those who possess tickets issued by the Board after undergoing specialized training are preferred for technical jobs in special courts.

**Conclusion :**

Legitimacy for a voluntary activity is often acquired by the quality of services and seldom conferred. JTCs have the advantage of close association with the judiciary both in organization and administration. They do have problems in finding appropriate faculty and in offering professionally significant, socially relevant, cost-effective programmes on a continuing basis. There are no reliable methods of measuring the degree of benefits of any programme or service. Judges cannot be compelled to take training nor can motivation be generated beyond a point given the separation of selection and training in most jurisdictions. In spite of all the difficulties, JTCs around the world seem to grow fast developing services by trial and error methods under judicial supervision.

JTCs everywhere stand to gain by mutual co-operation and partnership. The process of globalization and judicial conferences do help in developing such partnerships which seem to be in demand more for strategic tasks rather than for resources mobilization. The process of standardization has to continue and an element of accreditation by judicial bodies has to be evolved for the healthy development of newly established JTCs. If and when that happens there is likelihood of increase in exchange of faculty, course designs and materials among JTCs of different jurisdictions.