

LAW COMMISSION OF INDIA



ONE HUNDRED SEVENTEENTH REPORT

ON

TRAINING OF JUDICIAL OFFICERS

NOVEMBER 1986

ONE HUNDRED SEVENTEENTH REPORT

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Tel. No. 384475.

Shri Ashok Kumar Sen,
Minister for Law & Justice,
Government of India,
Shastri Bhavan,
NEW DELHI.

November 28, 1986.

Dear Minister for Law and Justice,

Quick on the heels of my letter forwarding One Hundred and Sixteenth Report of the Law Commission sent yesterday, I am happy to forward One Hundred and Seventeenth Report of the Law Commission on the topic; *'The Training of Judicial Officers'* (Item No. 5) of the terms of reference in the context of studying judicial reforms.

Justifiably assuming that you had time and opportunity to read the reports submitted by the present Law Commission, you must have noticed that they form a chain and provide continuity from topic to topic. To illustrate, the first report dealt with the mechanism for resolution of disputes in rural areas and thus catering to the needs of the rural population and encompassing 60% of the litigation coming to courts. It covered in part Item No. 1 of the terms of reference in the context of studying judicial reforms; the second report dealt with restructuring courts dealing with disputes under taxation laws with a view to their expeditious disposal and avoiding multiple litigation. It had the inbuilt tendency to reduce pressure on the High Courts helping them to clear the backlog of cases. It was in reference to Item No. 1 (iii) of the terms of reference in the context of studying judicial reforms.

The third report dealt with the Formation of an All-India Judicial Service which formed Item No. 9 of the terms of reference hereinabove mentioned.

This report deals with Item No. 5 as pointed out earlier recommending a comprehensive scheme for training judicial officers at various levels.

(i)

(ii)

You will appreciate that this establishes a chain in the matter of introducing judicial reforms, to wit, train the officers in the modern methods of resolution of disputes, make justice participatory so as to re-establish credibility of the justice system, restructure judiciary on an all-India level and deal with one aspect which had a major contribution in piling-up backlog of cases. You will appreciate that if any link in the chain is broken, the whole thing will go out of the gear.

I will appreciate if the Ministry of Law & Justice keeps the Law Commission informed of the follow-up action taken in the matter of these reports as also the difficulties experienced in the implementation so that a two way traffic will expeditiously resolve the problems that may confront introduction of judicial reforms.

With regards,

Yours sincerely,

(Sd.)

(D. A. DESAI)

Encl: *A Report*

Copy to:

Shri Hans Raj Bhardwaj,
Minister of State for
Law and Justice,
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CHAPTER 1

INTRODUCTORY

1.1. Any organisation—service-oriented in character—can be appraised in terms of (a) effectiveness in the achievement of its objectives-goals—results, and (b) promotion of internal ‘efficiency’ in order to achieve the results. What are the goals or objects to achieve which justice delivery system was devised? Indian Judicial System is admittedly colonial in origin and imported in structure. Without even a semblance of change in the last four decades since independence, in its mode, method of work, designations, language, approach, method of resolving disputes, it has all the trappings of the system established by the foreign rulers.

On the attainment of independence, this system was overnight expected to be an effective instrument of ushering in social revolution in Republican India. On the enforcement of the Constitution in January 1950, this system was expected to adapt itself to facilitate the transformation of Indian society into a nation and to become an effective instrument for carrying out the mandate of article 38. Judiciary being an important instrumentality for exercise of State judicial power, it had to shoulder the burden along with other wings to set up a welfare State in which justice—social, economic and political—shall inform all the institutions of national life. It must also shoulder the primary responsibility of eliminating inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas engaged in different vocations. It had the added responsibility of becoming a guardian angel for the protection of fundamental rights of the citizens. Thus, from a purely colonial institution operating more or less as a wing of law and order enforcement machinery, it was to become a sentinel on the *qui vive*.

Human resources constitute a critical element of any organisation; the quality and quantity of human resources significantly influence the level of effectiveness as well as efficiency of organisation. The criticality of human resources is reflected in the oft-repeated adage that any organisation (its structure and systems included) is only as good as the people who operate it. The nature and degree of knowledge, skills and ethics of the people on the one hand, and clarity in their appreciation of, and commitment to, the objectives on the other, are critical to the internal efficiencies and external effectiveness of organisation.¹ If the human resources of an organisation thus form a very important part of an organisation, it is undeniable that it must remain up-to-date both with regard to changes in the hopes and aspirations of the people, demands from the justice system and contemporary needs of the society, research in the field of law, new and revised methods of resolving disputes in the society, the concept of equality in a society consisting of unequals and the goals of the Constitution. Further, the Indian society is in a constant state of flux. Under the impact of technological advances coupled with developments plans, it is facing new challenges and problems. Bhopal gas disaster has thrown up numerous challenges to the Indian Justice system and necessarily the personnel manning the same. And yet what the Chief Justice Warren Burger said while addressing the American Bar Association *mutatis mutandis* applies to the present day Indian justice delivery system. He said, “In the final third of the century, we are still trying to operate courts with fundamentally the same basic methods, the same procedures and the same machinery, Roscoe Pound said, were not good enough

1. Dr. G.R.S. Rao, Senior Faculty Chairman, Public Policy and Systems Area, Administrative Staff College, Hyderabad: A note submitted to the Commission—Sept. 1986.

In 1906.¹ What Lord Devlin said for British Justice system has equal validity for our system. He said, "If our business methods were as antiquated as our legal system, we would have become a bankrupt nation long back". If it is thus undeniable that the judges have to be up-to-date and can afford to fall behind at their own peril, the updating can hardly be left to the voluntary effort of the judge to read modern literature on the subject. Add to this the hardship of availability of such literature in lower rung of the ladder where need to update knowledge is keenly felt. Thus, the need for imparting training to the members of the judiciary at every level with a view to improving performance and efficiency cannot be over-emphasised. Knowledge is power and it can only be acquired by facilities for training. It is conceded that training can significantly upgrade the capability of everyone called upon to perform a duty. It is all the more so in the case of judicial officers, because sociology of law is acquiring new and added significance in the development of the society. Therefore, their knowledge, skills and attitudes require to be sharpened. In the report of the Law Commission for introducing participatory justice at the grass-roots level² and in the report recommending all-India judicial service,³ Law Commission has reiterated the need for continuing and on-going programme of pre-service and in-service training for judicial officers. This report deals thus with item No. 5 of the Terms of Reference in the Context of Studying Judicial Reforms assigned to the Law Commission which relates to "the training of judicial officers".

1. 1970 Address of Chief Justice Warren Burger to the American Bar Association.
1. LIC *One Hundred Fourteenth Report*.
2. LCI *One Hundred Sixteenth Report*.

CHAPTER II

JUSTIFICATION FOR IMPARTING TRAINING

2.1. The need to impart technical training has not received its due recognition till recently. Pre-service institutional training for entrance to judicial service has hardly engaged the attention of the High Courts and the Supreme Court of India or the Government. It was assumed that standing at the Bar for certain number of years before entering judicial service would provide adequate training to be able to preside over the court to which one is appointed. Later on, schemes were devised for imparting practical training by attaching the new entrants to the service to the courts presided over by senior judges for a period extending roughly to three months. Observation in the court was to be the form of training. Before we examine the need for a comprehensive training programme for judicial officers, it is necessary to look around and gather information about the need and the scope of training for judicial officers.

2.2. France recognised the need for institutional training by invoking the famous dictum of Napoleon when he said:

“Military qualities are required only in a few circumstances. Civil virtues which characterise a true Judge, have an influence every moment on public felicity.”

One can enter judicial service in France after graduation without any qualifying previous practice at the Bar. This method has attracted young people with good talent to the service without the hazard of a waiting period at the Bar. It was believed that direct entry into service without some kind of practice at the Bar would eliminate the possible allegiance of the entrant to some senior members of the Bar as also any attachment to private interest, which might have provided legal work to him. For imparting training to judicial officers, the Ministry of Justice has set up the National Academy for the Judiciary which as such is an autonomous body. The administration vests in the Principal assisted by Vice-Principal in charge of practical training and a Director of Studies. The teaching staff consists of Professors and Readers of Law and Senior Judicial Officers appointed by the Principal in consultation with the Advisory Board. A competitive examination for the recruitment to judicial service is held every year. It is open to persons of both sexes aged 27 or less and possessing the degree of Bachelor of Law. The recruitment is according to the merit list prepared on the result of the examination. Institutes of Judicial Studies attached to Faculties of Law provide instructions for preparing to appear at the competitive examination. The written tests consist of an essay on general culture, one test in civil law, another in criminal law or public law and the preparation of a note with the help of documents relating to judicial problems. Those who qualify at the written test have to undergo oral tests consisting of a conversation of 30 minutes with the Board of Examiners, five oral tests of 15 minutes each on different branches of law and a test of 30 minutes in foreign language.¹

Ordinarily, the recruitment is primarily from the source of fresh graduates taking competitive examination. Few persons may also be admitted after a special examination, if need be, from advocates, notaries, sarishtadars, government servants specialised in legal activities, other persons who distinguished themselves in the juridical field, provided they all possess the degree of Bachelor of Law.

1. David Annoussamy, *Judiciary in France*, *Journal of the Bar Council of India* (1981) Vol. 8, p. 296.

The training lasts for 28 months and consists of a study in the Academy for 9 months, a period of practical training, a final practical training of two months after the final examination in the court where the officer is to be posted first and a period of specialised training of four months which should be completed within the four years of their appointment as judicial officers in one of the specialised branches of the judiciary.¹

The training aims at giving sufficient expertise in the professional technique required for the performance of the duty of a judicial officer. Seminars, lectures on methodology, study of files, lectures on special subjects, are organised during the period of training. Practical training is imparted in the courts. They are even allowed to observe the deliberations of the Benches of the judicial officers for arriving at judgments. It may be mentioned here that following the old French proverb "juge unique, juge unique, (single judge unfair judge)", in France every court except the lowest is provided with a Bench of Judges and in no higher court does a single judge give decision.² This gives them an opportunity to view the deliberations of judicial officers for arriving at judgments. Occasionally, they are invited to express their own opinion. As part of training, the trainees are sent for short periods to police stations, prisons, home for delinquents, industrial and commercial concerns and in some cases to foreign countries also. At the end of training, there is a final examination consisting amongst others of:

- (1) drafting judgments; and
- (2) oral test of 15 minutes consisting of penal or civil pleading.

The French system has been extensively reproduced here to specifically emphasize the need for training, both institutional and practical.

2.3. Article 80 of the Constitution of Japan provides that the judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. Ordinarily, the recommendation of the Supreme Court is invariably accepted. The term of office for judges of the inferior court is of 10 years. They are generally re-appointed. If the Supreme Court does not recommend re-appointment, the judge is removed from judicial office without any recourse to an impeachment type process. According to the Courts Act, there are four categories of judges of the inferior courts. The are:

- (1) Presidents of the High Courts;
- (2) Judges;
- (3) Assistant Judges; and
- (4) Summary Court Judges.

The matter worthy of notice is that assistant judges are appointed from amongst those people who have completed two years of training at the Legal Training and Research Institute, an agency of the Supreme Court. After having first passed the Bar examination, summary court judges are appointed either:

- (1) from amongst those who have served for not less than three years as an assistant judge, public prosecutor or practising attorney;

OR

from amongst those who have the knowledge and experience necessary for carrying out the duties of a summary court judge such as

1. David Annoussamy, Judiciary in France, *Journal of the Bar Council of India* (1981) Vol. 8, p. 298.

2. Lehar Singh Mehta, The French Legal System; *Journal Section, All India Reporter*, 1959 p. 83.

those who have engaged in judicial business for many years and have been recommended by the Supreme Court.¹

It thus appears that the entry at the grassroots level as assistant judges is from those who have completed two years training at the institute hereinabove mentioned. Before entering the institute, the candidate ought to have passed the national legal examination. The institutional training provides for class-room instruction, field training under the guidance of individual judges, etc., and a course in drafting. On the completion of the course spreading over two years and qualifying at the examination, one becomes eligible to be appointed as an assistant judge.²

2.4. The need to impart training, both pre-service and in-service, has been felt for a long time and 'has been nationally neglected so far, with the rather disastrous consequences to development and justice'.³ Inefficiency, inexperience or inadequacy of knowledge of the judicial personnel had come to surface way back in the early fifties. Training course for judicial officers was considered imperative to improve their efficiency. Some kind of training has been in vogue, the period varying from three months to two years. Topics for training were: the practical experience in the trial work in civil and criminal matters, in some cases in revenue work and administrative work.⁴ The approach at that time was that the training must be confined to equip the judge to handle day-to-day cases and effectively manage his office. This narrow view with regard to training remained in vogue for a long time. The Eighth Law Commission, while dealing with the question of delay and arrears in trial courts, expressed an opinion that the training course lasting for a period of three to six months for recruits to subordinate judiciary must be provided. Such period was to be utilised for giving intensive training to the judicial officers by competent and experienced members of the Bar, the stress in such course being to acquaint the recruits with procedural requirements for dealing with different stages of cases. The training, it was suggested, must be directed to inform the new entrant as to how to record statements of parties before framing issues, how to frame issues and how thereafter to record evidence and write judgments. Training may as well be imparted in the art of writing interlocutory orders. They may be familiarised with different stages of execution proceedings and they may be taught how to dispose of matters at each of those stages.⁵ The 1983 conference of the Chief Justices of High Courts adopted a resolution requesting the Government to set up regional training institutes for members of subordinate judiciary in four zones of the country where eminent professors, lawyers, judges and jurists could be invited to deliver lectures on various legal and other important subjects. A fresh approach indicating the width and content of training that was to be imparted to the members of the judiciary was clearly spelt out.

2.5. Pursuant to this resolution, the Government of India in the Department of Justice collected information from State Governments and Union Territories as regards the existing training facilities for judicial officers available in each State with a view to examining the feasibility of setting up of regional training institutes. The information collected is tabulated and annexed hereto as Appendix I will show at a glance the existing facilities available in each State for imparting training to judicial officers.

1. Hideo Tanaka (Edited): *The Japanese Legal System*, Ch. 6, Sec. 2, p. 534 to 556.

2. *Id.* at Sec. 4, p. 566.

3. Blueprint forwarded by Chief Justice of India to Ministry of Law and Justice, Government of India.

4. LCI, *Fourteenth Report*, Vol. I, Ch. IX, para 42-46, pages 178-179.

5. LCI, *Seventy-seventh Report*, Ch. IX, para 9.8, page 34.

Cleaning through the information, it transpires that institutional training at present is being imparted only at the North-Eastern Judicial Officers Training Institute at Guwahati and Andhra Pradesh State Judicial Academy of Administration at Secunderabad. Broadly stated, the judicial officers taking training in these Institutes have the benefit of a short-term pre-service training in the conduct of proceedings in the court and allied matters as also the management of office. No refresher course is being held at these Institutes with the result that the training begins and ends at the pre-service level and it is of a short duration. There is an Administrative Training Institute set up at Nainital by the Uttar Pradesh Government where pre-service training is imparted to judicial officers extending over a period of six to eight weeks. The relevant rules adopted by the State of Orissa provide for an elaborate training programme. In the rest of the country, fresh recruits to judicial service are given a semblance of training by being directed to work with senior civil judges and/or district or sessions judges for an average duration of three to six months before actual posting is given.

2.6. The most glaring omission in the existing training schemes is that they do not provide for in-service training or refresher courses, save and except a few selected individuals being deputed to attend training course on "crime and justice and criminology" conducted by the Institute of Criminology and Forensic Science, New Delhi, and some others are deputed to participate in the course "Administration of criminal justice" conducted by the Indian Institute of Public Administration, New Delhi. The duration of these courses varies from one week to three weeks.

Another lacuna in the present day schemes is emphasis only on giving practical training by observation in courts on how to conduct cases. This system has an in-built disadvantage of sustaining the past practice without any change or without any effort to tone it to the mores of the day. The basic aim of training briefly spelt out is to equip the trainees not only with tools to execute their work, but to endow them with vision as to what is expected of the system which they serve. What is meant by justice? What is decision making process? What are the goals of the Constitution? What is the direction in which law must move? What does the dictum justice according to law imply? And a horde of other questions must confront the authority in charge of the new in-coming judges.

2.7. Are these facilities adequate enough to impart requisite training, both pre-service and in-service, to judicial officers? Inadequacy of these training facilities stare into our face. It is not the opinion of the Law Commission but it is the opinion of all concerned. In August-September, 1985, the Chief Justice of India and the Ministry of Law and Justice Jointly convened for the first time in the history of India a joint Conference of Chief Justices of High Courts, Chief Ministers and Law Ministers of all States to debate what ails the present justice delivery system and, after diagnosing the disease, to sort out and prescribe the remedies. The question of imparting training to judicial officers was in the forefront. It was unanimously resolved at this Conference that there should be an institute or academy for the training of judicial officers to be set up by the Central Government with the Chief Justice of India as Chairman. A governing body under the Chairmanship of the Chief Justice of India should be set up to be in charge of the administration of the institute or academy. The governing body was to devise a whole scheme of pre and in-service training for judicial officers as also to specify places where branches of the institute or academy should be set up. In fact the expectation was that the governing body will devise the structure of academy, the selection of entrants to the academy,

faculty, syllabi and all other aspects relevant to the efficient functioning of the institute or academy.

Thereafter, the Law Commission was requested as part of recommending overall judicial reform to study the advisability, need and operational requirement for imparting training to members of judiciary. The Commission set in motion its own enquiry.

2.8. Pursuant to the aforementioned resolution, the Chief Justice of India prepared and sent a blueprint for the establishment of an academy for the training of judicial officers. The Minister of State for Law and Justice forwarded a copy of the blueprint to the Law Commission for its consideration. As this report exclusively deals with the question of imparting training to judicial officers at every level, the blueprint of the Chief Justice of India would be carefully considered with respect it is entitled to in the course of this report. As has been the practice, the Law Commission, with a view to adequately informing itself of various currents and cross-currents relevant to the topic under examination, addressed detailed letters to the Chief Justice of India, all Judges of the Supreme Court, Chief Justice of each High Court and all Judges of the High Courts requesting them, *inter alia*, to give us the benefit of their detailed views on various topics relevant to judicial reforms, one such being training of judicial officers. As the question of training pertains to the field of expert academics, the Commission also wrote detailed letters to the principal of every law college in the country with a request to bring the letter to the notice of the professors working with him, to the Deans of Law Faculty of every university as also to bodies like Indian Law Institute, Indian Institute of Public Administration and Director, Administrative Staff College, Hyderabad. Bar Council of India claims that it has sole responsibility for legal education and allied subjects. Accordingly, the Commission also wrote detailed letters to the Chairman of the Bar Council of India and Chairmen of various State Bar Councils requesting them to accord benefit of their views to the Commission on all topics relevant to judicial reforms, specifically including therein training of judicial officers. Chairman of All India Bar Council did not extend the courtesy of acknowledging the letter and wholly ignored it. The response from State Bar Councils was wholly inadequate. The Commission also invited information and views of the Supreme Court Bar Association and such other bodies as also organisations of judicial officers. All others responded with enthusiasm. A fair measure of the cross-country opinion is available to the Commission.

2.9. The Commission was informed that as a sequel to the resolution of the Joint Conference of Chief Justices of High Courts, Chief Ministers and Law Ministers of States, the officers of the Department of Justice, Government of India, drew up a tentative scheme of training for our consideration. The commission called for the proposed scheme drawn up by the Department of Justice. A skeleton scheme appears to have been drawn up. It is in fact a brief outline of what ought to be the approach to the question of training of judicial officers. The Department of Justice probably was unaware of the fact that the Law Commission dealing with recommending comprehensive judicial reforms would engage itself in examining the feasibility and advisability of setting up an all-India Judicial Service, to be styled as Indian Judicial Service. The Law Commission has submitted a comprehensive report recommending setting up of Indian Judicial Service to which there would be recruitment from fresh law graduates on the result of a competitive examination.¹ The hitherto accepted norm of some minimum practice at the Bar as an essential qualification for entry in judicial service at any stage has been given a go-bye for very valid and vital reasons. Once

1. LCI, *One Hundred and Sixteenth Report*.

the recommendation as to setting up of Indian Judicial Service is translated into action and in reality the service is set up, the whole gamut of imparting training would acquire a new dimension. The note proceeds on the assumption that both pre and in-service training will have to be imparted to such recruits to judicial service who have had some minimum stint at the Bar. The assumption would no more be valid. Therefore, even though the scheme may be examined for whatever it is worth, a *de novo* approach to the problem is necessitous.

2.10. The scheme in its bare outline deals with institutional and in-service training. Without specifying the period, it has been suggested that the existing institutional facilities for imparting training to the officers recruited to the State Civil Executive Service and State Police Service should be utilised to impart training to the recruits to the judicial service after suitably augmenting the existing facilities to meet the needs of the judicial service. The scheme further provides that the period of training for recruits to judicial service must be the same as for the recruits to executive and police service. The subjects for pre-service training include: (1) salient features of the Constitution of India; (2) Civil Law, criminal law and labour law; (3) local laws; (4) law relating to police excesses and customs and other economic offences; (5) law relating to conditions of service of employment; (6) nyaya panchayats, etc.; (7) relations with police and civil executive officers; (8) problems of scheduled castes/tribes, other backward communities and weaker sections, family disputes; (9) jail administration; (10) aspects to be taken care of by presiding officers of subordinate courts with a view to minimising delay in disposal of cases and reducing arrears in courts; and of writing judgments, (11) historical development of legal and judicial system in India; and (12) cultural and social conditions and their impact on legal and judicial administration. The scheme also provides for refresher courses of short duration for judicial officers having put in eight to ten years of service. The refresher courses according to the scheme must include: (1) amendment of the Constitution and the civil, criminal and other laws in the last 10 to 15 years; (2) case law—decisions of the Supreme Court/High Courts; (3) new developments in the field of economic laws and constitutional law; (4) modern practices of office management, including documentation and storage of judicial records; (5) modern jail administration; (6) measures to expedite disposal of cases in courts and reduce arrears; and (7) problems of scheduled castes and tribes, other backward communities and weaker sections, family disputes. After quoting resolution adopted at the 1985 meeting hereinbefore referred to the framers of the scheme frown upon establishment of new regional training institutes as it would involve considerable expenditure and would, therefore, suggest feasibility of expanding the existing institutional arrangements available in the State of Andhra Pradesh and one set up at Gauhati by the Governments of Assam, Meghalaya, Manipur and Nagaland. It further refers to the possibility of providing facilities for refresher courses at Indian Law Institute, Delhi. This is the brief outline of the scheme.

2.11. It is time to advert to some suggestions received by the Commission in its search for concrete proposals for providing facilities for training of judicial officers. The search was a multi-pronged one in that what should be the institutional framework for imparting training, the subjects to be taught, the duration of the training and incidental and ancillary matters. In the words of a legal academic of repute, the basic aim for imparting training must be central to the programme of training. In his words the whole concept of judicial process has undergone metamorphosis, such as from an adjudication of conflicting claims to a creative dispute resolving process, balancing the competing interests with a view to maximising to total social interests through this process and as such it would be helpful if the judicial officers actively engaged in dispute

resolving process are exposed from time to time to the emerging trends in legislative and judicial spheres.

There was a broad consensus on traditional lines on the topics forming the curricula for training. The question to be posed is, in what subjects should the judges be trained? Traditionally stated, the answer was, court management, current developments in law, judgment writing, handling the ways of the Bar, solicitude for human rights of the impoverished. To this can be added goals and objects of the Constitution, more particularly as set out in Part IV of the Constitution, the goals and objects of justice system, what constitutes justice and the role of justice legal system in Republican India.

The next question which was posed was the time frame for the training to be imparted pre-service, in-service, workshop, refresher courses, etc. It will also include the question up to what level judicial officers should receive training, the training varying from level to level. The emerging picture in this behalf from views received and discussions held was, in the words of an outstanding academic, that it should not be a one-shot affair. Depending upon the educational qualification and the length of practice at the Bar as minimum qualification, the pre-service training may vary from 1 to 2 years to 3 to 6 months. The refresher courses may be of the duration of 12 to 18 weeks. The training programme must include, apart from the pre-service training, continuous in-service exposure.

On the question of constitution of faculty, those who responded to the queries of the Commission were broadly of the view that legal academics, judges and some top members of the Bar must be invited to be the faculty members. It was said, 'It is the mistake, common enough in India, that knowledge grows necessarily in proportion to seniority, age and hierarchical position'.¹ The suggestion was that, rejecting this untenable assumption, lawyers, judges and academics should be involved in terms of their specialists' competences. A novel suggestion worthy of acceptance was that 'the victims of administration of justice may as well be invited to contribute to the training'.² One suggestion was that eminent citizens in different walks of life, not claiming to have direct specialisation in law, may as well be invited. One academic expressed the view that 'if the bed-rock of the Constitution is a society which would be governed by laws rather than by men and that the entire transformation of the society was to be ushered in through law, then those responsible for implementing those laws ought to know the law and principles of justice'. A correlation, it was said, must be firmly ingrained in the minds of the entrants to judicial service between law and justice.

There were numerous other suggestions more or less on the same line and primarily focussing upon the intensive training in the application of procedural laws (Civil Procedure Code and Criminal Procedure Code), understanding of the penal law and more especially the Indian Penal Code, Indian Evidence Act and certain local laws.

Two distinct trends were noticeable bearing on the question of what ought to be the subjects of topics to be taught at the time of the pre-service training. One view was that an effective grasp of procedural laws would help in reducing delays and expeditious disposal of causes and controversies brought before the court. The other view was that the goal of justice system is not any other than the one enshrined in the preambular statement of the Constitution, i.e., of transforming the society in which there will be no exploitation of man by man,

1. Dr. Upendra Baxi—comprehensive note submitted to LCL

2. *Ibid.*

justice, social, economic and political, will inform all institutions of the national life including judiciary. Therefore, the goals of Constitution must be specifically taught so that justice system makes its effective contribution in the transformation of society. For this purpose, it was suggested that the curriculum must be devised first for pre-service training and specific subjects should be reserved for refresher courses taking account of the developments in the field of law and administration of justice, both internal as well as external, from the time of entry in judicial service till the date of refresher course, the distance between the two should not in any case be more than five years.

The Indian Institute of Public Administration holds refresher courses and it has an expertise in this behalf. Its view was that each judicial magistrate should be required to undergo three training programmes before he is able to reach the level of additional district judge. It was of the opinion that the pre-service training course must spread over a period of one and a half years and one month's refresher course at an interval of 6 to 10 years of service, two weeks refresher course after 10 to 16 years of service and one week's seminar after 16 to 20 years of service. It was of the opinion that three days' conference of High Court Judges (biennial) and annual conference of Chief Justices of High Courts may as well be utilised for the purpose of acquainting the justices of the higher and highest courts in the developments and sociology of law. Such conference, it was suggested, may as well be utilised for a short duration to acquaint themselves of the effect of judgments rendered to determine whether the development has taken place in the right direction or not.

A member of the Bar expressed an opinion that instead of providing institutional training to the entrants to the judicial service, which would entail huge cost, it would be advantageous to provide statutorily that anyone who wishes to join subordinate judiciary must have adequate training under senior lawyers practising exclusively either in civil or criminal courts for a period of six months each, which would adequately, according to him, impart training to make such person competent to become an effective and efficient judge. Before the advent of three-years degree law course, it was incumbent upon anyone wishing to join the Bar to enrol under a senior advocate for a period of one year to be trained in the art of advocacy. After evaluating this mode of training, it has been given a decent burial. It is not possible to retrieve it from the past where it is buried.

Chief Justices of some of the High Courts responded to the query of the Commission. S/Shri Satish Chandra and P.D. Desai jointly submitted their proposal. It was suggested that an entrant to Indian Judicial Service should be required to undergo a training. According to them, a direct recruit should be imparted institutional training for 1½ years and 6 months' training in court and a promotee to the service should receive training for a period of 6 months at the institute. A further training should be imparted at the institute when a promotee is promoted to the senior scale. On the question of syllabus, they expressed an opinion that the same may be adequately prescribed by a Committee of the Chief Justices. They recommended a proviso that anyone who is promoted to Indian Judicial Service at the age of 50 years or above shall be exempt from undergoing any training or passing any departmental examination. Almost an identical scheme was recommended by the High Court of Himachal Pradesh. Chief Justice Chandurkar of the Madras High Court was of the opinion that every person appointed to the service shall be required to undergo a training for one year at the end of which he must clear a departmental examination. In his view, anyone who is promoted to service at the age of 50 years or after shall be exempt from under-

going training. One more suggestion received from one of the Chief Justices was that a Judicial Administration School should be established to impart training to the entrants to the judicial service on the topics of fairness, impartiality, objectivity and independence from executive interference. They may be trained, according to him, to undertake administration of justice free from personal bias and ideology. One other suggestion emanating from the Chief Justice was that on entering the service, a judicial officer may be designated as an apprentice for a period to be determined by High Court in each case and he should not be put in independent charge until the High Court is satisfied that he is in a position to deal with cases coming before him. In his view, the training may take the form of observation in courts at all levels, coupled with lectures and discourses by the Judges of the High Court and Senior District and Sessions Judges.

Rendering justice is the primary goal of any justice delivery system. In the context of Indian situation, rendering social justice is one of the imperatives for the justice system. Even if the system were to maintain a stance of 'judicial-processual neutrality', it has to commit itself to the demands of change ordained by the Constitution. 'The shift in the objectives of Indian Judiciary should be traced to the imperatives of change, (with both value and materialistic orientations) emerge from the preambular statement to the Constitution in terms of secularism, socialism, egalitarianism. This is juxtaposed to the existing realities in terms of abuse and misuse of law where "Rule of Law is operating more as a mask for the Rule of Class" as E.P. Thompson observes'.¹

The Kerala High Court Staff Association expressed an opinion that more intensive training is now required to be imparted in view of the inadequate knowledge acquired at the law colleges. It was suggested that a training must take the form of practical working in courts as also discussions with those well-versed in law and allied subjects.

There were suggestions from Professors attached to law colleges and a few lawyers, all of whom while conceding the imperative necessity of imparting training to the entrants to judicial service, differed in specifics, about the method of imparting training and subjects to be taught.

1. E.P. Thompson: *Whigs and Hunters*, 1975, p. 1259, cited in Dr. G.S.R. Rao's note submitted to LCI.

CHAPTER III

APPROACH OF THE LAW COMMISSION

3. Law Commission has in its One hundred sixteenth Report recommended constitution of Indian Judicial Service to which recruitment would be from three independent sources; (i) direct recruitment on the result of a competitive examination through which fresh law graduates would enter service, (ii) promotion from the State Judicial Service and (iii) direct recruitment from amongst senior and experienced members of the Bar. The time honoured approach envisages practice in the courts for a period ranging from two to three years before one can qualify for entering judicial service at the lowest rung of the ladder. Article 233 (2) of the Constitution prescribes practice of not less than seven years at the Bar before being eligible for entering service at the level of district judge or the term as explained in article 236. Standing at the Bar for a certain period was considered adequate to equip the entrants to judicial service for effectively handling causes and controversies and resolving them according to law. The assumption underlying this approach was that a certain number of years of practice at the Bar enables the person not only to be effectively acquainted with various stages of trial and the method of dealing with them but also observation of working of the court, so that the entrant to judicial service could be presumed to be adequately equipped for performing the duties of a judge. Apart from the fact that this assumption has been found to be wholly unsustainable,¹ now that a fresh law graduate is being given an opportunity to enter judicial service, the need for pre-service training which was keenly felt since long as pointed out hereinabove, is further accentuated by this radical departure in doing away with the essential qualification for entering service, namely, standing at the Bar. A degree in law, presumably, may equip the holder thereof with the knowledge of rudiments of law. The art of advocacy is acquired in the course of standing at the Bar. Rendering justice is an art in itself and acquiring rudiments of art needs training. The minimum equipment to render justice requires a keen intellect to shift grain from the chaff, to perceive falsehood, to appraise relative claims, to evaluate evidence, a fair and balanced approach, needs of the society, the constitutional goals and above all a keen desire to do justice. None of these aspects are dealt with in the syllabus prescribed at law colleges. If training is imparted to an impressionable mind, not contaminated by some of the prevailing undesirable practices in vogue in the present day Bar, amongst others by judges who have mastered the art of rendering justice, the same can be acquired. In order therefore to equip a fresh law graduate to be a good judge a pre-service training is indispensable. Similarly, those who enter state judicial service at grass roots level will equally need training in the art of rendering justice. While the basic tenets of training in respect of both may be same, the duration may vary depending upon the minimum qualification prescribed for becoming eligible for entering service. The Law Commission must cater to the needs for pre-service training at both the levels, institutional as well as practical training.

1. Civil Justice Committee in its Report, para 8, page 183, observed that "The rule in force in certain provinces required the candidates to have practised at the Bar for a period of three years or more furnished no guarantee that the candidates have acquired any real useful experience."

CHAPTER IV

SCHEME OF TRAINING

4.1. A comprehensive training scheme must comprehend the institutional format, scope and content of training, the duration of training, the syllabus and the faculty. Each limb may now separately be examined.

INSTITUTIONAL FORMAT

4.2. Only two recognised institutions are at present functioning for imparting training to judicial officers. They are:—

- (i) Andhra Pradesh State Judicial Academy of Administration at Secunderabad; and
- (ii) North Eastern Judicial Officers Training Institute at Guwahati.

A training institute for judicial officers was set up by the Government of Maharashtra at Nagpur in the year 1972, but it appears to have been wound up in 1978 on the spacious plea that the cost of maintaining institute far outweighs the benefits. The Government of Gujarat has set up a training institute for labour judiciary named Gandhi Labour Institute at Ahmedabad. This was in pursuance of a recommendation made by the Gujarat Labour Law Review Committee in 1974¹. The Chief Justice of India in his blueprint has adopted the suggestion put forward in the resolution adopted by the joint conference of Chief Justices, Chief Ministers and Law Ministers held on 31st August—1st September, 1985, in New Delhi which recommended the setting up of an Academy by the Central Government for imparting training to judicial officers with a view to improving their quality and efficiency. At a conference on the Indian Legal System organised by the Indian Law Institute to celebrate its silver jubilee in February, 1983, the Committee on judicial reforms expressed an opinion that “it was agreed that a training college or a college and research institute be established for Judges and that refresher course be introduced for judicial officers to keep them abreast of developments in law and to inculcate decision making skills. The importance of a training centre or college for Judges was emphasised and so also the importance of continuing legal education”. The draft scheme prepared by the officers of the Department of Justice, Ministry of Law and Justice, envisages setting up of regional institutions in four zones of the country for providing training facilities for judicial officers. There is in vogue, in various States, a method of imparting practical training by attaching entrants to judicial service to Judges of some standing. The present system, method and facility for imparting training to judicial officers is wholly inadequate and it has in no way helped the judges to acquire proficiency in the art of rendering justice. It is absolutely necessary to set up a Central Academy at a suitable place in the country for providing intensive training to new entrants to Indian Judicial Service. All those who qualify at a competitive examination and are recruited to Indian Judicial Service and are allocated to the States shall have to take training in the Academy. The Academy may suitably be located at a central place. The Chief Justice has recommended Bangalore as the seat of the Academy which, if otherwise found to be suitable, may be accepted.

1. *Report of Labour Law Review Committee, Gujarat, 1974, Ch. 4, para 19.*

SCOPE OF TRAINING

4.3. What ought to be the scope of training must next engage our attention. In recent years, expectations from Judiciary have increased manifold. Widening scope of *locus standi*, public interest litigation, epistolary jurisdiction, relaxing considerably the mandate of procedural laws, legal aid and Lok Adalats, have contributed to the expanding horizon of judicial duties and functions. Union and State Governments accepting the mandate of part IV of the Constitution, have enacted plethora of legislations with a view to improving the lot of the poor, the down-trodden and the deprived. The labour laws have brought to fore a different kind of causes and controversies. Members of the Judiciary aiming to translate into action the concept of socio-economic justice within the framework of the Constitution must be fully equipped to meet the challenges facing the Judiciary. This equipment can come from institutional training. The scope of training must comprehend all these aspects. The Commission is of the view that the recommendations of the Omrod Committee of the United Kingdom would not be adequate for imparting sufficient training to the new entrants to the judiciary. That Committee recommended the setting up of an institute of professional legal status to offer continuing legal education in five broad sections:—

- (i) Courses in Judicial duties;
- (ii) Refresher courses;
- (iii) Courses in new legislation;
- (iv) Specialist's courses; and
- (v) Inter-disciplinary courses.

Undoubtedly, courses in judicial duties may include topics such as fair and unbiased approach, critical appreciation of evidence, object and purpose behind legislation and achievement of constitutional goals. If such be the splitting-up of heads then, of course, the five broad sections indicated by the Omrod Committee may provide adequate scope for imparting training to judicial officers. While broadly indicating syllabus, topics to be included in the three distinct courses will be specifically set out. Suffice it to say at this stage that the training must be comprehensive so as to equip a fresh young entrant to judicial service with all such qualifications as would make him an ideal and useful judge.

DURATION OF TRAINING COURSE

4.4. What should be the length of training is not easy to answer? The period may vary for different categories of entrants to judicial service. The virtual indispensability of training is for that class of entrants to judicial service who would be fresh law graduates, recruited on the result of a competitive examination. Their exposure to law would be what they learnt in the law colleges. The academy atmosphere and the court atmosphere materially differ. Undoubtedly, innovative approaches such as, moot courts and case method system have to some extent helped the students in law colleges to have a glimpse into the working of the court system. However, this peripheral knowledge could hardly be said to be adequate for being effectively posted as a Judge. At any rate, the *curriculum vitae* in the law colleges do include procedural laws but not the art of advocacy, recording of evidence, decision-making process and writing of judgements. Further, a day-to-day working in a court room requires a skill to handle the Bar, to effectively dispose of frivolous objections, the adjournment mania etc. Therefore, extensive training is a *sine qua non* for such fresh law graduates entering judicial service. In their case, the duration of institutional training should extend to a period of one year. We consider the

suggestion in the blueprint of the Chief Justice of India that the foundation course duration for new entrants as direct recruits as District Judges and other judges should extend from 12 weeks to 18 weeks wholly inadequate. A fresh law graduate in the age group of around 24 years should be exposed to intensive training in an academic environment by giving him instructions in various topics directly and indirectly connected with trial of causes and controversies not merely by acquainting him with processual stages but to bring to bear upon the subject, the wisdom, the sagacity, broad mindedness, catholicity of outlook, constitutional culture and the goals of justice system. Such extensive training cannot be compressed within a period of 12 to 18 weeks. Therefore, the Commission is of the firm opinion that for entrants to Indian Judicial Service on the result of a competitive examination from fresh law graduates, the institutional training must extend over a period of one year. While discussing the syllabus, the detailed heads of instruction would be pointed out.

4.5. An institutional training for a period of one year by itself would not develop the faculties of trainee to such an extent as to qualify him for conferment of power of adjudicating causes. A further practical training is absolutely a must. The court atmosphere, the trial of cases, the art of advocacy cannot be reproduced adequately in a moot court in the institution. Therefore, at the end of training for a period of one year, the fresh recruit to Indian Judicial Service should be given further training of a practical nature involving technique of applied law by first posting him as a super-numerary officer in the court of Munsif/Civil Judge/Judicial Magistrate, First Class for a period of three months. Thereafter, he must be posted in the same capacity and for the same duration in the court of Civil Judge, Senior Division or the Judge having unlimited pecuniary jurisdiction. He must then be posted for six weeks to sit with Metropolitan Magistrate and other six weeks with Judge, Small Causes Court. In the next three months, he must be attached to the court of District and Sessions Judge at the District Headquarters.

4.6. During the period of his attachment with various Courts, he must perform the obligatory duties of sitting with the Judge concerned. Throughout the working day, he must listen to all the cases being tried by the Principal Judge of the Court. If the evidence is being recorded, he must record for his own benefit the evidence. He must listen to all arguments. He must read all the case papers of the cases being heard in his presence in the court. At the conclusion of the trial after listening to the arguments, he must prepare his own judgement. This is the extensive training to which he must be exposed in all the courts to which he is attached for a period of one year. All the judgments or orders written by him shall be submitted to the District Judge who must, after calling for remarks from the concerned Principal Judge with whom the supernumerary Judge was sitting, analytically examine the same and prepare his own comments. Thereafter, the person concerned should be called for personal discussion and the merits and demerits of his work should be brought to his attention. The District Judge should then submit a comprehensive report to the High Court who would forward it with its own remarks to the National Judicial Service Commission that the person concerned has adequately utilised the training facilities provided to him. He must also clear a test at the end of a training period of two years. Thereafter, he must be given a substantive posting. Thus, the raw graduate, fresh from the law college, will have an extensive training for a period of two years, both institutional and practical, which it is hoped would adequately equip him to undertake the task of deciding causes and controversies at the lowest level of judicial service. This intensive training would adequately compensate for having no

practice at the Bar before joining judicial service. The Law Commission is of the opinion that the two years intensive training would outweigh the advantage, if any, of three years practice at the Bar which often enough hardly helps in the matter of equipping oneself.

4.7. The next cadre for whom training facility must be provided is the one of promotees from State Judicial Service to Indian Judicial Service. They must be given institutional training for a period of 12 weeks. It is unnecessary to provide for them any practical training course because it is assumed that the promotees would have to be in active judicial service of seven years and over before being promoted to Indian Judicial Service. For them, in-service training as herein indicated, would be adequate.

4.8. It is a matter of regret for the Law Commission to note that while in all other disciplines workshops, seminars and symposia are held at regular intervals, the judges are hardly, if ever are exposed to it. In fact, the Law Commission has information which it considers reliable that there is some reluctance on the part of High Courts to permit the District Judges and Judges subordinate to it to participate in workshops and seminars. The Commission came across an incident which is worth referring here. In one of the Northern States, a body set up by the local Government and charged with a duty to expand legal aid service convened a workshop at a district level for setting up local legal aid body. The workshop was presided over by a Judge of the High Court having jurisdiction in the State. Surprisingly, neither the District Judge, nor the Judges subordinate to the District Judge participated in the workshop. On an enquiry at the proper place, the information given was that the High Court does not favour exposure of judges in such seminars and workshops. The Law Commission found this closed-door non-exposure approach un-understandable. Therefore, over and above the in-service training for promotees to Indian Judicial Service, there should be regular refresher courses for each judge at the interval of 5 years. Workshops, seminars and symposia may be held for discussing latest trends in the development of law, inter-disciplinary relations and expanding goals of justice system. It must be the obligatory duty of the High Court to make provision for convening such workshops, seminars and symposia for District Judges with the active participation of the Judges of the High Courts, teachers from the faculty of law and leading advocates. This is how comprehensive training is conceived for judicial service.

CHAPTER V

SYLLABUS

5. Any training scheme, to be effective, useful and result-oriented, must have comprehensive syllabus. It must be frankly confessed that drawing up a comprehensive syllabus by a body composed of non-academics is a challenging task. The Law Commission, with a view to acquainting itself about the topics to be prescribed for training, has held long discussions with the Chief Justice of India, Chief Justices of High Courts and some legal academics. The Commission had a close look at the five years' law course prescribed by the Bar Council of India. Judgeship can be appropriately styled as a multi-disciplinary office. To be a judge worthy of his office, the incumbent must know sociology, economics, humanities, constitutional culture, unbiased approach, psychology to understand the litigant and witnesses, decision-making process, modern management techniques and, above all, social orientation of rural society, problems of poverty and the problems of the neglected sections of the society, such as members of the scheduled tribes, scheduled castes and the underdog. To draw up a comprehensive syllabus incorporating all these topics is a difficult task. To some extent, the Commission is relieved from undertaking this exercise in view of the blueprint submitted by the Chief Justice of India in which comprehensive syllabus has been drawn up. The same is being annexed here as Appendix II to this report for ready reference. The authorities in charge of the academy proposed to be set up for imparting training in collaboration with the National Judicial Service Commission will draw up a comprehensive syllabus for training in the academy. Without being exhaustive, those topics which must be given priority may be briefly set out hereunder:—

SOCIOLOGY OF LAW

- (1) Goals of justice system;
- (2) Role of judiciary in the development of society;
- (3) Concept of justice;
- (4) Goals set out in the Constitution of India;
- (5) Conciliation, not confrontation, as a method for resolution of disputes;
- (6) Method of expeditious disposal of causes and controversies;
- (7) Problems of poverty;
- (8) Affirmative State action or positive discrimination in favour of the weaker sections of the society;
- (9) Recent decisions of the Supreme Court of India indicating the direction in which law is moving.

MODERN COURT MANAGEMENT TECHNIQUES

- (1) Internal management of office, including the computerised management;
- (2) Inter-relations with allied branches, such as Bar, Police, Jail, etc;

- (3) Classification of records;
- (4) Preservation of old records, including micro-filming of them, etc.

CRIMINAL

- (1) Problems of victims of crime;
- (2) Sentencing process;
- (3) Approach in the matter of violation of socially beneficent legislations, such as Minimum Wages Act, Bonded Labour Abolition Act, etc.;
- (4) Theory of punishment.

PROCEDURE

- (1) Important provisions of Procedural laws, both civil and criminal;
- (2) Art of writing judgements.

CHAPTER VI

FACULTY

6. Selecting competent faculty for manning training course in the academy is of vital importance. Ordinarily, every member of the society comes directly or indirectly in contact with the judiciary. Expectation from the judiciary by the society is very high. An honest, intelligent and upright judge inspires so much confidence in the society that any investment in producing such judges should not be viewed from the standpoint of cost benefit syndrome. To train and produce such judges, the academy will have to assemble highly qualified members of the faculty. It can be broadly indicated here that they must be drawn from outstanding legal academics, justices of the High Court and Supreme Court, senior and outstanding members of the Bar, and even leading citizens rendering social service though not equipped by any formal legal knowledge. The last category would draw up a picture of a judge in the society and what the society expects of him. The authorities in charge of the Academy and the National Judicial Service Commission will draw up a detailed requirement of the members of the faculty and select the same.

CHAPTER VII
**THE CONSTITUTION OF THE ACADEMY AND THE INCIDENTAL
MANAGERIAL ASPECTS**

7.1. The Academy herein recommended must be set up by the Government of India. The Chief Executive Officer of the Academy would be the Director who would be in overall charge of the administration of the Academy. In order to avoid multiplicity of bodies dealing with one or other aspects of judicial services, National Judicial Service Commission should act as an advisory body for the Academy. Broad policy framework should be laid down by the National Judicial Service Commission in the capacity of an advisory body of the Academy. The function of selecting the Faculty must be entrusted to a committee of experts to be set up by the National Judicial Service Commission in consultation with the director of the Academy. The Director will set up a committee of himself and four senior members of the faculty to be in charge of the internal administration of the Academy. The administrative staff may be selected and appointed as per the requirements of the Academy by this committee.

7.2. Separate reports are being submitted by the Law Commission dealing with different terms prescribed with reference to judicial reforms. However, they form a chain not permitting any link to be broken. The Law Commission in its earlier report¹ referred to National Judicial Service Commission while dealing with the question of Indian Judicial Service. The body therein conceived is to be charged with multifarious duties, one such being to be the advisory body for the Academy recommended in this report. Its constitution, composition and functions would form the subject matter of a separate report to be handed in shortly. It is accordingly suggested that National Judicial Service Commission will be the advisory body for the Academy of which Director will be the Chief Executive Officer.

1. LCI, *One hundred and Sixteenth Report.*

CHAPTER VIII
REGIONAL TRAINING CENTRES

8. The need for imparting training to those who would enter State Judicial Service cannot any more be under-estimated. The reasons for imparting training to the members of Indian Judicial Service will *mutatis mutandis* apply for imparting training to the entrants to the State Judicial Service. The duration of the institutional training for such recruits must not be less than three months. This is predicated on the assumption that the States would retain minimum practice qualification at the Bar for entering into State Judicial Service. However, every State cannot afford to set up its own judicial training centre nor would it require the facility of such a training centre for few entrants to its judicial service from year to year. Therefore, the proper thing to do is to set up regional training centres catering to the needs of three to four States contiguously situated. To illustrate, the training centre at Secundrabad in Andhra Pradesh must cater to the needs of Tamil Nadu, Kerala and Karnataka. One centre may be set up at Nagpur. There was already one there as pointed out earlier but it has been wound up. It must be restarted. The training centre at Nagpur must cater to the needs of Maharashtra, Madhya Pradesh, Rajasthan and Gujarat. The third training centre must be set up at Allahabad which must cater to the needs of Jammu and Kashmir, Punjab, Haryana, Uttar Pradesh and Bihar. The centre at Guwahati which is already functioning must also cater to the needs of West Bengal, Sikkim and Orissa. The States taking advantage of the various centres must contribute proportionately to the cost and expenses of running the centre. The topics to be selected for training may be appropriately selected from those herein above mentioned subject to the requirement that goals of justice system, art of writing judgment and court management must be among the core subjects.

The Law Commission accordingly recommends the setting up of an academy, regional training centres, courses for pre-service and in-service training and allied subjects.

(D. A. DESAI)
Chairman

(S. C. GHOSE)
Member

(V. S. RAMA DEVI)
Member—Secretary

New Delhi, dated the 28th November, 1986.

TABLE

APPENDIX I

TRAINING FACILITIES FOR JUDICIAL OFFICERS IN VARIOUS STATES

S.No.	State	Officers to whom training is imparted	Nature of training		Duration of Training	Future Plans	Other Remarks
			Training Institute	Other Forums			
1	2	3	4		5	6	7
1.	Andhra Pradesh	District Munsifs	Andhra Pradesh State Judicial Academy of Administration, Secundrabad.	..	..	Refresher course for all Officers under contemplation.	..
2.	Assam, Meghalaya, Manipur and Nagaland	(i) Munsifs and Judicial Magistrates (ii) Additional District and Sessions Judge	North Eastern Judicial Officers Training Institute Guwahati.	..	(i) 4 months (ii) 1 month	..	..
3.	Bihar	..	..	..	..	..	No training Institute and no provision for refresher courses
4.	Delhi	Judicial Service Officers	..	Attached to civil judges & Session Judges	4 weeks	To set up a training institute	..
5.	Gujarat	Civil Judges (Jr. Division)	..	In courts	Depending on the experience at Bar of the candidate concerned	..	No objection to training institute at the Central level

APPENDIX I—Contd.

1	2	3	4	5	6	7	
6.	Jammu and Kashmir	..	..	..	..	..	Training courses for new recruits and refresher courses for senior judicial officers were started in 1972 but have ceased to function since long
7.	Karnataka	Munsifs of 1980 batch	..	At High Court	..	Setting up of Training Institute under active consideration	..
8.	Kerala	(i) Munsifs and Judicial Magistrates II Class (ii) District Judges and Chief Judicial Magistrate	..	(i) At High Court (ii) Courses conducted by Indian Institute of Public Administration and Institute of Criminology and Forensic Sciences	(i) 6 months	..	..
9.	Madhya Pradesh	Civil Judges	..	Under District Judges	6 months	..	..
10.	Maharashtra	Civil Judges cum Magistrates	..	Under District Judges	6 months	..	Judicial Officers Training Institute Nagpur started in 1972 but closed in 1978 as expenses were not commensurate with advantages derived
11.	Orissa	(i) Munsifs (ii) Officers of Lower and Higher Judicial Services	..	Inservice training for a refresher course	(i) Provision for 2 years which may be shortened by High Court	..	Favour training programmes with extensive refresher courses

APPENDIX I—*Concl'd.*

1	2	3	4	5	6	7	
12.	(i) Punjab & Haryana (ii) Himachal Pradesh	Judicial Officers .. ..	..	Training course at Institute of Criminology and Forensic Sciences	..	Himachal Pradesh propose to train their new officers at Himachal Pradesh Institute of Public Administration	..
13.	Tamil Nadu	(i) Judicial Magistrate II Class (ii) Judicial Magistrate Ist Class (iii) State Judicial Service Officers	..	(i) State Departments (ii) Institute of Criminology and Forensic Sciences (iii) (i & ii)	(i) 39 weeks (ii) 3 weeks	..	Training of judicial officers at Central level not necessary
14.	Uttar Pradesh	Judicial Service Officers	..	Administrative Training Institute, Nainital	6-8 weeks	..	No refresher course organised at present
15.	West Bengal	Junior Judicial Officers	..	With Senior Judicial Officers	Short duration	..	..
Other Centres for Training of Judicial Officers							
16.	Gandhi Labour Institute, Ahmedabad	Labour Judiciary					If the Institute has capacity, can it be used for training other judicial officers also?
17.	Indian Institute of Public Administration New Delhi				Short duration		Offer courses in Administrative Law and Criminal Justice Administration
18.	Institute of Criminology and Forensic Sciences New Delhi.				Short duration		Offer courses in Crime and Justice, Criminology and Forensic Sciences

PROPOSAL FOR SETTING UP AN ACADEMY FOR TRAINING OF JUDICIAL OFFICERS

I. INTRODUCTION

It is absolutely Imperative for improving the quality and efficiency of the Judiciary to set up an Academy for training of Judicial Officers at an All India level. The need for such an Academy was recognised at the Joint Conference of Chief Justices, Chief Ministers and Law Ministers held on 31st August — 1st September, 1985 in New Delhi and a resolution almost to the same effect was passed. The resolution provided that the Academy should be set up by the Central Government with the Chief Justice of India as the Visitor and that the Academy should be under the supervision of a Governing body to be appointed in consultation with the Chief Justice of India. It is therefore proposed to set up such an Academy to be called 'National Academy for Training of Judicial Officers'.

II. OBJECTIVES

Training for the entrants and in-service training of officials for state and union services is now an accepted national priority. The need for such training for Judicial Officers has been nationally neglected so far, with the rather disastrous consequences to development and justice. Any investment made in the training of Judicial Officers is an investment in democracy and national development.

The entrants to judicial services need foundational training in the administration of justice. They must be equipped with skills and competence in their daily tasks; they must, at the same time, stand informed by a wider perspective of national development (including science and technology policy planning); nation-building and national integration.

The in-service training will also be oriented to the development of the wider perspective, along with endowment in competence for justice-system management.

The Academy will also design advanced seminars/colloquia for senior appellate justices. On many issues—especially the role of law in science and technology—advanced symposia will be designed for senior appellate justices to impart to them necessary cognitive competence.

III. VENUE

The National Academy may be set up in Bangalore where fortunately space is available.

IV. GOVERNING BODY

The Governing Body of the National Academy shall consist of the following :

1. Chief Justice of India	Visitor	
2. Retired Chief Justice of India or retired Judge of the Supreme Court nominated by the President of India in consultation with the Visitor.	Chairman	
3. Two Judges of the Supreme Court of India to be nominated by the Chairman in consultation with the Visitor.	Members	2
4. Four Chief Justices of High Courts to be nominated by the Chairman in consultation with the Visitor.	Members	4
5. Minister for Law and Justice of the Government of India.	Member	1
6. Minister Incharge of Department of Personnel and Administration	Member	1
7. Minister of State for Law and Justice of the Government of India	Member	1
8. Chairman of the Law Commission of India.	Member	1
9. Two Ministers of Law from the States to be nominated by the Govt. of India in consultation with the Visitor.	Members	2
10. Law Secretary of the Government of India.	Member	1
11. Attorney General of India	Member	1
12. Director, The Indian Law Institute	Member	1
13. Director, The National Law School of India.	Member	1
14. Three Law Academics to be nominated by the Chairman in Consultation with the visitor	Members	3
15. The Director	Member	1
	TOTAL	20

V. FINANCES

The National Academy will be financed by the Government of India but the costs of lodging and boarding of the Judicial Officers who come from the States will have to be borne by the respective State Governments and the Government of India may, if possible, arrive at a mutually acceptable arrangement by which the State Governments may be persuaded to bear some part of the cost of running of the National Academy since the Judicial Officers of the States will be getting the benefit.

VI. FACULTY

The National Academy will have broadly the following staff:—

1. **Director** who may be a retired High Court Judge taken on tenure basis or a senior Judicial Officer, to be nominated by the Chairman in consultation with the Visitor.
2. **Additional Director** who shall be a Law Academic to be nominated by the Chairman in consultation with the Visitor.
3. **Five Members of the Faculty** to be selected by a Selection Committee to be appointed by the Governing Council.
4. **Administrative Officer** to be appointed by the Governing Council and the supportive staff.

The proposal in regard to the staff is not comprehensive or exhaustive and it may become necessary to have additional staff as the Academy progresses.

VII CONTENT AND DURATION

The Courses will be of three types :

- (a) Foundation Courses for new entrants ;
- (b) In-service refresher courses ;
- (c) Seminars and symposia for appellate judges.

DURATION

Course (a) :	For direct recruits to District Judges and other Judges 12 weeks for District Judges; 18 weeks for other Judges.
Course (b) :	10 Weeks.
Course (c) :	3-4 Weeks.

CONTENTS FOR THE THREE TYPES OF COURSES (TO BE SUITABLY ADOPTED).

A. Court Management

- A. 1 Docket Management (Arrears)
- A. 2 Record Systems.
- A. 3 Discipline over staff.
- A. 4 Computerized Management and Information Retrieval to the extent applicable.
- A. 5 Management of Ex-parte Stay, Interim Orders.
- A. 6 Management of Adjournment Motions.
- A. 7 Library Management.
- A. 8 Monitoring Judicial Performance.
- A. 9 Patterns of Feedback to High Courts.
- A.10 Management of Legal Aid including Lok Adalats.

B. Training in systems Management

- B. 1 Understanding of the law as a mutually intricating cultural, institutional, normative behavioural system
- B. 2 Systemic interrelations :
 - (a) Jail
 - (b) Police
 - (c) Bar
 - (d) Legal/social activists.
 - (e) Law colleges/departments.
 - (f) High Court.

C. Law and Legal Principles

- C. 1 Fundamental principles of procedural jurisprudence.
- C. 2 Constitutional Law, Administrative Law and other important All India legislation.
- C. 3 Forensic science and criminology.
- C. 4 Broad principles of law of evidence, evidenciary problems in trial courts, etc.
- C. 5 Procedural laws : proper use of procedural laws and preventing their misuse or abuse.
- C. 6 Principles governing exercise of judicial discretion.
- C. 7 Eliminating causes of delay.
- C. 8 Art of judgement writing-civil and criminal.
- C. 9 Maintenance of decency and decorum in courts including certain aspects of work of Judicial Officers, court-craft, code of conduct and ethics.
- C.10 Accounts and financial matters.

D. Substantive Law developments

- D.1 Methods of keeping abreast with the decisional law of High Courts and the Supreme Court.
- D.2 Orientation to the nature of Judicial process.
- D.3 Problems of the Scheduled Castes/Tribes, Women, Children and Weaker Sections of Society, problems of rural poverty, exploitation and injustice.
- D.4 Awareness of legislative developments.
- D.5 Awareness of plans and policies designed to fulfil the Directive Principles of State Policy.

E. Sentencing Discretion.

- E.1 Patterns of Sentencing Discretion.
- E.2 Probations of Offenders.
- E.3 Socio-economic Offences.
- E.4 Crimes against weaker sections of society—problems of sentencing discretion.
- E.5 Crimes against the State—sentencing policies and patterns.
- E.6 Constitutionality of sentencing discretion.
- E.7 Feedback from the Supreme Court and High Courts on sentencing discretion.

F. Related Matters of Judicial Policy.

- F.1 Awarding of costs.
- F.2 Compensating for violation of fundamental rights.
- F.3 Human rights in the administration of civil and criminal justice.
- F.4 Science and technology developments in relation to the law.
- F.5 National development and Integration through the law.
- F.6 Interaction between legislative policies and the judicial process.
- F.7 Interaction between executive policies and the judicial process.

G. General Orientation

- G.1 Cultural and socio-economic conditions and their impact on legal and judicial administration.
- G.2 Creating awareness of new judicial thinking and using law as an instrument of socio-economic change and a vehicle for delivery of social justice : combating exploitation and injustice through the process of law
- G.3 Visit to rural areas : discussions with interested groups, pressure groups and victim groups.
- G.4 Legal Aid in all its aspects and dimensions.
- G.5 Lok Adalats.

The subjects mentioned above at Items A to G shall form part of the courses for both types of courses at (a) and (b) but so far as seminars and symposiums mentioned in (c) are concerned, the subjects at items D, F and G shall form the subject-matter of such seminars and symposiums.

Practical Training

The trainee Judges who are new entrants and who are doing foundation course mentioned in (a) shall also be given practical training as part of the foundation courses. The practical training will include sitting with

senior presiding officers of the civil, criminal and revenue courts and they will also be instructed in regard to procedural matters such as—

I CIVIL

- (a) Daily cause list.
- (b) Calling out of cases and the situation arising on the lawyers or the party not attending ; control of court proceedings.
- (c) Issue of notices and scrutiny of service reports and the orders and procedure for ex parte proceedings
- (d) Court decorum and ethics.
- (e) Examination of parties before issues under Order X CPC.
- (f) Framing of issues.
- (g) Maintenance of diary and fixing dates for evidence.
- (h) Recording of evidence and problems arising therein.
- (i) Questions of relevancy and admissibility and dealing with objections re : want of stamp and registration of document.
- (j) Closing of evidence.
- (k) Arguments.
- (l) Cutting down of delays : preventing abuse or misuse of procedural laws.
- (m) Delivery of judgements.
- (n) Court registers-their maintenance and scrutiny.
- (o) Functioning of revenue department, police department and other government department.

II. CRIMINAL

- (a) Putting in of challans/filing of private complaints and their registration.
- (b) Bail/Remand work.
- (c) Procedure of issuing notices, summons and warrants, their services on the accused/respondent and the agency responsible for service.
- (d) Framing of charge, essentials therefor and the necessity for hearing both the sides for the purpose.
- (e) Recording of plea of guilty/non-guilty.
- (f) Maintenance of diary and finding cases for evidence.
- (g) Prosecution/complainant's evidence.
- (h) Examination of the accused under section 313 of the Cr. P.C. its significance and mode.
- (i) Defence List, its scrutiny and recording of defence.
- (j) The need/necessity of summoning and the procedure for recording evidence of court witnesses where necessary in particular cases.
- (k) Avoidance of avoidable adjournments in hearing of cases and arguments and the practical method for securing attendance of witnesses.
- (l) Cutting down of delays and preventing misuse or abuse of procedural laws.
- (m) Hearing arguments.
- (n) Judgement.
- (o) Court Registers—their maintenance and scrutiny.

Regional Academy.

The foundation course outlined above must be followed by a course of training at the State level for a period of at least two to three months so that the trainee Judge should acquire sufficient familiarity with local laws and legal practices as also with the local socio-economic conditions and local problems and difficulties. This can be done best by setting up in the first instance regional academies and subsequently State academies, but since the setting up of regional academies and State academies may take some time and moreover it would require a large outlay of expenditure, it is suggested that there should be a core visiting faculty provided by National Academy which can visit every State capital for giving legal training to the trainee Judges after the foundation course. This faculty can be assisted by local faculty provided by the State Government. This may require additional teaching staff at the National Academy but it would be worthwhile to have more staff at the National Academy for providing the visiting faculty than to immediately set up regional and State academies. The ultimate goal should however be that every State should set up a State-level academy for providing training to trainee Judges following upon the foundation course. It would be useful for the trainee Judges who are entrants to watch the conduct of cases in the concerned High Court for about a week after the completion of the foundation course consisting of theoretical and practical training, mentioned above, so that they may imbibe the judicial culture, broaden the horizon of their knowledge and acquire familiarity with the judicial process.