

# **THE ROLE OF TRAINING IN IMPROVING THE QUALITY OF JUDICIAL DISPENSATION**

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## **INTRODUCTION**

The topic suggests, not as much the achievement of training in improving the quality of judicial dispensation as what can possibly be achieved. This approach certainly enlarges the scope of discussion on the subject. The word training, if understood with reference to and in the light of its ultimate goal would connote training for acquisition of judicial skills, necessary for fair and effective administration of justice. To provide the subject with a philosophical perspective, it should be said that the importance and significance of judicial training is commensurate with the role of effective judicial dispensation in the evolution of a progressive, prosperous and truly democratic society, fully alive to its rights and obligations, not only within its own sphere, but also in relation to other such global entities.

## **JUDICIAL DISPENSATION**

The importance of fair and speedy administration of justice has been given high priority emphasis at various places not only in the Holy Qur'an, but also in all theologies of the world, obviously in recognition of the fact that there can be no peace without justice and its absence results in total disintegration of the social structure. These Quranic injunctions, as I understand, lead us to four definite conclusions: First, the doing of justice is an attribute of God Almighty. Second, the commandment to do justice and settle disputes between people emanates from and is the necessary incident of the appointment of prophets as Deputies of God. The third is that even the slightest deviation from what has been ordained will result in beguiling from the way of Allah. The last, but by no means the least, is that it is the bounden duty of the State, to establish an effective system of administration of justice, as one of its foremost and fundamental religious obligations for the creation of a just and civilized society.

Administration of justice is thus universally recognised as one of the most basic obligations of a state. In the South Asian jurisdictions where the civil societies are in the process of development, it should be regarded as a religious imperative, for there can be no civil society without an effective system of justice. It hardly requires an emphasis that, with reference to the prevalent socio-political and economic situation in the SAARC countries, our survival as successful nations can be possible only with the establishment of a system where the merit rules the roost and that can ensure fair, efficient and speedy administration of vertical, horizontal and all embracing justice; as would annihilate, tyranny, oppression and victimization.

## **PRECEPT OF INDEPENDENCE**

Independence is a precept for any judiciary operating within the parliamentary system of government. It is the capacity of courts to perform their constitutional functions free from any interference, actual or apparent. Judicial independence is an essential element of a free, democratic society. Under the parliamentary system, the separation of powers doctrine provides

a system of mutual checks and balances, between the executive, legislature and judicial organs of the State, so that one branch is incapable of arrogating all powers at the expense of other two organs. It is within the context of these considerations that the jurists visualized the need for independent judiciary to act as impartial arbiter of disputes between citizens and the state. A confidence inspiring independent judiciary is undoubtedly a source of great relief for the oppressed people, for it makes them conscious of the fact that they have got a place to go to, for the redress of their grievances.

Much has been said during the last fifty years about independence of judiciary; but it is still not enough to underscore its importance. The concept of independence owes its origin and sacrosance to the fundamental rights. It is essential and indispensable for just and fair resolution of disputes. There can be no peace without this independence. The curtailment or erosion of this independence would cause frustration, forcing people to throw up their hands in wail to God.

### **JUDICIAL EDUCATION**

This can be achieved only by a proficient judiciary, composed of professionally competent judges, capable of administering fair, speedy and quality justice. Continuing judicial education has, therefore, to be regarded as an accepted part of judicial life, for growth of the mental qualities of the judges, necessary for sustenance of judicial independence. Its basic requirement is that the judiciary should be accountable for its competency. It is a recognized proposition within the judiciary that judges should participate in continuing education, because this, amongst other reasons is an appropriate means to increase accountability, which, in turn, consolidates judicial independence in a democratic state.

For any proper understanding of the introduction of continuing judicial education, and its significance to the judiciary, it is necessary to recognize the overarching importance of the process of professionalization, and the significance of two themes in that process, namely the pursuit of competence and the provision of accountability. It will be seen that there is a need for the judiciary to formalize a means to enhance its performance in the light of public criticism, and to demonstrate its concern for improved performance to the community in an appropriate way.

### **PROFESSIONALIZATION**

This is a period of intense critical public scrutiny of the judiciary. There is nothing either unusual or incidental about this scrutiny; rather, it is a predictable part of refining the role of the judiciary in society. Professionalization is an essential element of this evolving relationship, and provides the judiciary with an important means to demonstrate its competence while preserving the integrity of its independence.

The process of professionalization describes the response of professions to recent and continuing public criticism generally, and to increasingly vociferous demands for accountability. For the judiciary, this criticism centered, for the most part, not on ignorance of the law, technical deficiency, ethical misconduct or individual behaviour, but on the performance of the judicial system at large and on a perceived failure of the judiciary to reflect the society over which it was

seen to preside. As I see this criticism has imposed a pressure on the judiciary to improve its service, performing its functions at the highest possible standard of competency.

It was in the backdrop of these considerations that the concept of systemized continuing judicial education was evolved, for a linkage of professional performance with judicial training. With the passage of time, it became seen increasingly to be a means for improvement in its performance by the judiciary. I would say that the establishment of academies in common law countries for judicial training, became an integral part of this institutional response to public criticism. "From the profession's perspective, these education services provided a means of implementing progressive and preventative measures to redress any public criticism of professional incompetence and to visibly demonstrate measures of self-help as a disincentive to external regulation by government. Continuing professional development thus became recognized as an important response to establishing patterns of growth within the professions, and a means of managing both personal and systemic change". It should be said that the acquisition of judicial skills is certainly more appropriate than the spectre of intervention by the Executive.

### **JUDICIAL COMPETENCE**

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

"The purpose of any program of continuing judicial education is to provide a process, which is more or less formalised, to promote the continuing learning of judges. It will be argued that the mission of judicial education is distinctive from other forms of occupational training or professional development in the extent to which it should promote learning and the pursuit of professional excellence which lie beyond the domain of technical competence. Ultimately, the purpose of this learning is to improve judicial performance and, thereby, the quality of justice".

### **TRAINING OF TRAINERS**

In the context of what has been said above, the mission of any continuing judicial education is to improve the quality of judicial performance by helping judges to acquire the tools for professional competence. The concept of competence illuminates the issue of what makes a good judge. It includes mastery of theoretical knowledge, developing problem solving capacity and collegiate identity, relating to allied professionals, conceptualizing the judicial mission, maintaining an ethical practice and self enhancement. At an operational level, the goals and objectives of judicial education are to meet the education, training and development needs of judicial officers. What follows as rationale to invest in judicial education and training is to develop the professional competence of the judiciary to perform its functions in an efficient manner and thereby improve judicial service. The underlying idea dictates that the judiciary must invest in training of trainers to develop its own capacity to manage judicial competence and standards in a sustainable manner.

This sustainability in developing competence is attained through the independence and delivery of technically sound training services which address identified shortcomings in judicial knowledge, skills and disposition for improvement in performance. Commonly these include a need for information on specific aspects of law or updates on recent new laws on legislative amendments, training in the skills of judging, such as judicial decision making, legal research, case management techniques; and the development of judicial disposition, attitudes and values relating to judicial leadership, conduct and ethics and the principles of fair trial. The quality and utility of these training services is directed through the process of developing an educational curriculum, and their effectiveness is measurable. The purpose of this training is to equip participants of the training programmes to recognize, understand and meet these needs at an institutional as well as technical level.

## **LEGAL EDUCATION**

It goes without saying that the collegial knowledge of substantive laws constitutes a foundation for building of a proficient justice system to come up to the community's expectations. I would venture to say that the quality of legal education dished out to the students of law is certainly not enough to enable them to go into the legal profession for a useful contribution towards the standard and quality of judicial business. This is an urgent and serious problem, requiring collective efforts of those professionally concerned with legal education. I would suggest that a few workshops may be held, with Principals of law colleges as participants to examine the possibility of establishing a Legal Education Commission or any networking of the kind, as a strong, independent body to set standards for legal education throughout the country and support reform measures and establish centres of excellence in legal education. It may also recommend urgent steps to replace the existing outmoded, corrupt examination system.

## **ESTABLISHMENT OF JUDICIAL ACADEMIES**

The ultimate goal of fair and effective administration of justice can be achieved only by establishing judicial academies at the federal and provincial level, with a charter to provide for the proper training of judicial officers and court personnel, in order to improve the professional competence of judges and the quality of justice administered in the courts. This charter can give us an idea of the scope and gamut of various activities of these institutions. However, the importance and relevance of their functions and the impact of their performance, in terms of social development, the establishment of a civilized society and overall national prosperity can be appreciated only in the context of what they purport to achieve. The significance and indispensibility of training in improving efficiency and performance can hardly be over emphasized for human resource development. There is dire need to develop, "a distinctive model of judicial education which is designed to address the specific learning requirements of judges". The tradition of on the job learning has indisputably been slow and cumbersome and we urgently require institutionalisation of the training and education of judges. The object in view is the creation of an environment, not only viable for the legal and judicial reform process, but also conducive for the development of centres of judicial excellence.

For improvement in the quality of instructions, it is of utmost importance to provide these academies with core teams of competent faculty members that can be done by making the terms

and conditions of their service more attractive and giving due priority to training. Sincere and strenuous efforts should then be made, to create in the heartware of these academies, the kind of commitment and passion, required for the achievement of organisational efficiency, as would make them institutions "PRIMUS INTER PARES" (first amongst equals), to serve as rims of judicial dispensation, and be able to contribute towards modernisation of our legal and judicial skills. We must remember that no ham handed approach can make it possible and that judicial training is absolutely necessary for achievement of the ultimate goal.

## **CONCLUSION**

In the background of above discussion, I sincerely hold that meaningful and effective judicial training can bring about, by improvement in the quality of justice, a social order geared to meet the challenge of paradigm shifts in values, attitudes and outlook; and that of growing public criticism, and to avert an imminent danger of the collapse of environment necessary and viable for peaceful, prosperous and respectable living.

While concluding, I can do no better than making a reference to what was said by Mr. Livingston Armytage in his work "Educating Judges" "The challenge of Judicial education is to devise and provide a means to promote the continuing improvement of judicial competence. Once the formalizing requirements of professionalization have been met, it remains the task of educators to facilitate a process of meaningful learning. In essence, this is the challenge to promote and develop a process of continuing learning for those who are already the most expert and able in their field, who are charged by reason of this expertise and ability to both lead and reflect the community's values and yet retain their independence. Developing a more or less formalized process which retains these elements in harmony is the task ahead".

## **RECOMMENDATIONS**

To enable the training programmes to achieve the avowed goal of improvement in the judicial dispensation, it is recommended that:

- We should establish, at the federal as also provincial level, judicial academies or strengthen the institutional capacity of academies already in existence, for pre-service and in-service training of judges, law officers and court personnel.
- Amendments should be made in the service rules to make pre-service training compulsory, for a duration of time suitable to the jurisdictions concerned;
- We may consider the creation and development of formal carrier path for those who are to be entrusted with the job of imparting instructions to the judicial officers, law officers and court personnel;
- Steps should be taken to ensure that the judicial academies have the services of a core team of permanent competent faculty members to attain the highest possible standard of instructions;
- At least once in a year, every judicial academy should arrange seminars and workshops for training of trainers, absolutely necessary for judicial resource development;
- We should put in place a system of evaluation that will make it possible to assess whether any and what difference has been made by the training programmes.

- There should be frequent needs assessment exercises for development of curricula to give the academies a direction for pragmatic approach to the training programmes.
- Steps should be taken to create a general awareness that training for transfer of judicial skills is indispensable for improvement in the quality of judicial work. The academies should assist the judicial leadership to develop a series of seminars designed to build the capacity of the system for improvement in the judicial business.
- In collaboration with the judicial academies, the judiciaries of SAARC countries should plan and develop seminars for training in project management, planning, management of change process and research for legal innovations.
- Then, and here again in collaboration with the judicial academies, the judiciaries should arrange seminars on (a) introduction of change into legal system, (b) awareness of social issues and paradigm shifts in philosophical perspective of law (c) role of courts in improving the existing social orders and building a true democracy and finally (d) improving operational performance, with a focus on topics such as human resources, case flow management, court automation applications and effective management of trial process. These training programmes will result in the emergence of a class of judicial officers, at the basic level in particular, with a sense of direction and a passion to manage speedy disposal of judicial business with quality and reduce the backlogs. They will hopefully contribute towards building of confidence and the acquisition of judicial skills necessary for an ambitious reform process.
- The Academies should hold or arrange seminars and workshops on topics such as human rights and gender sensitization.
- Those concerned with the management and operation of the Academies must constantly bear in mind that topics such as judicial ethics, character building, self management, awareness of contemporary social issues; disadvantaged groups and relationship with the Bar deserve special focus.

Finally, we may consider the desirability of the establishing a research and information centre with its secretariat at an agreed place, to arrange and monitor collaboration between the judicial academies of SAARC countries - (a) to foster inter action and cooperation amongst the institutions responsible for judicial training activities and (b) encourage transfer of information and research to explore possibilities for improving the perception of administration of justice.