

## **GLOBALIZATION OF JUDICIAL TRAINING (= JT)**

### I. What is meant by JT?

Training of judges and judicial support staff as to –

- A. Substantive and procedural law (*e.g.* general subjects, subjects relating to specialized duties, new laws)
- B. Judicial process (*e.g.* case management, alternative dispute resolution, pre-trial proceedings, enforcement of judgments)
- C. Judging Skills (*e.g.* use of technology, evaluating evidence, delivering oral opinions, preparing written opinions, settlement techniques)
- D. Attitudes (*e.g.* judicial independence, commitment to due process and equal justice, diligence, courtesy to litigants, ethics)

### II. Why is JT necessary?

- A. Sandra Oxner, National Judicial Institute (Canada): In order to improve the delivery of judicial services, judges should be trained to be –
  - 1. Impartial
  - 2. Competent
  - 3. Efficient
  - 4. Effective
- B. Basic performance standards of U.S. state trial courts

1. Access to justice (Are courts open and accessible?)
2. Timeliness and expedition (Are court actions timely, not delayed?)
3. Equality, fairness, and integrity
4. Independence and accountability
5. Public trust and confidence

### III. JT in the context of civil law and common law systems

#### A. Civil law system

1. Careerist
2. JT prepares new judges and experienced judges, but may also prepare aspirants to judicial career
3. Mandatory participation
4. Fixed, comprehensive curriculum (possibly with mentoring component)
5. Several months (possibly up to a few years) in duration
6. Faculty may be permanent
7. Lectures devote considerable time to theory; often follow traditional law school educational model

#### B. Common law system

1. Judges selected later in life (ages 40 to 50), after careers as practicing attorneys, prosecutors, academics
2. JT prepares only new judges and experienced jurists, not aspirants
3. Usually voluntary participation

4. Usually no standardized curriculum. Topics are on varying, select subjects
5. Almost always short-term – 1 or 2 days to 1 or 2 weeks
6. Faculty almost always brought in ad hoc; small administrative staffs
7. Emphasis on practical problem-solving. How-to-do it study of specific problems. Peer group educational model of continuing legal education

#### IV. Universality and Globalization of JT

##### A. National programs abound

##### 1. Latin America

a) Peru-Academia de la Magistratura (1993)

b) Argentina (1973), Bolivia (1994), Brazil (1970's), Chile (1994), Colombia (1996), Costa Rica (1971), Ecuador (2003), El Salvador (1991), Guatemala (1998), Honduras (1989), Mexico (1994), Nicaragua (1993), Paraguay (1998), Dominican Republic (1998), Uruguay (1996), Venezuela (2000)

##### 2. North America

a) United States

i - Federal Judicial Center (1967) (federal courts)

ii - State Courts

\* • National Association of State Judicial Educators (NASJE) (1975) (non-profit clearing house for state judicial educators)

website: <<http://nasje.org>>

• National Center for State Courts, Williamsburg, Virginia (1971)

website: <<http://www.nscconline.org>>

- National Judicial College, Reno, Nevada (1963)

website: <<http://www.judges.org>>

- Many individual statewide JT programs, *e.g.* California, New York, Michigan, Florida, Texas
- Law school programs, such as at Levin College of Law of the University of Florida

website: <<http://www.law.ufl.edu>>

b) Canada

- \* i - National Judicial Institute (1988)

website: <<http://www.nji.ca/Public/NJ1.html>>

ii - Western Judicial Educational Centre (1985)

3. Western Europe

- a) England - Judicial Studies Board (1979)
- b) France - L'Ecole Nationale de la Magistrature (1958)
- c) Germany - Academy of European Law (Trier)
- d) Spain - Escuela Judicial Consejo General del Poder Judicial
- e) Portugal - Centro de Estudos Judiciários

4. Australia

- a) Institute of Judicial Administration (1987)

5. Central and Eastern Europe

- \* a) Many countries have been assisted by the Central and Eastern Law Initiative (CEELI) program, sponsored by the American Bar Association (ABA), funded by the United States Agency for International Development (USAID)

website: <[www.abanet.org/ceeli/specialprojects/jtc/home.html](http://www.abanet.org/ceeli/specialprojects/jtc/home.html)>

(e.g. CEELI has assisted JT programs in Ukraine, Croatia, Moldova, Bosnia and Herzegovina, Lithuania, Romania)

## 6. Africa

- a) Egypt - National Centre for Judicial Studies
- b) Nigeria
- c) South Africa - South African Justice College (Pretoria)
- d) Zimbabwe - Judicial College of Zimbabwe

## 7. Asia

- a) Japan - Legal Training & Research Institute (Suprema Court of Japan has Overseas Training and Research Program for its judges)
- b) China - National Judges College and Supreme Peoples Court Spare-Time University (Beijing)
- a) Philippines - Philippine Judicial Academy
- b) Pacific Judicial Education Program (Fiji and several Pacific Island jurisdictions)
- c) Mekong Delta Judicial Training Institute (Laos, Cambodia, Vietnam and Thailand)

## 8. Russia - Russian Academy of Justice (1998)

9. India - National Judicial Academy (2002)

10. Pakistan (1987)

G. Regional and international programs

1. Regional

\* a) Justice Studies Center of the Americas (CEJA)

website: <<http://www.cejamericas.org>>

b) Andean Commission of Jurists

c) European Judicial Training Network (EU)

d) Australasian Judicial Educators Forum

2. International

\* a) International Organization for Judicial Training (IOJT)  
(sponsors world-wide conferences on JT; last one held in November, 2004 in Ottawa, Manitoba, Canada)

website:

(A number of excellent papers on JT can be down-loaded from IOJT's website.)

b) World Bank

c) United Nations Development Program (UNDP)

d) Inter-American Development Bank

e) Asian Development Bank

f) International Development Law Organization (Rome)

V. Conclusions drawn from various JT programs

- A. Program should be governed and controlled by the Judiciary (*e.g.* Supreme Court, National Magistrates Council) rather than by Executive (*e.g.* Ministry of Justice) or Legislative branches
- B. Program should have advisory or governing Board responsible for overall policy and strategy. Board should be comprised of representatives of relevant legal community. Need for long-range plan
- C. Programs should be more practical in nature, less theoretical. Should emphasize specific problem-solving, use of forms, scripts, etc.
- D. Programs should be continuously evaluated as to outputs and outcomes:
  - 1. Outputs
 

*E.g.* number of judges and judicial support personnel trained annually, number of courses offered, number of hours spent on JT by each judge, nature and number of educational materials produced
  - 2. Outcomes
 

*E.g.* changes in behavior, skills, and attitudes (faster processing of cases, better explanations of decisions, more respectful treatment of litigants)
- E. Planning should be based on realistically available funding. Funding by foreign donors should be a temporary measure and should not be relied upon for long-term sustainability.

## VI. Common challenges of JT programs

- A. Defining the “student body”
  - 1. Core: First instance judges, special court judges (*e.g.* juvenile, family, small claims), appellate court judges, supreme or constitutional court judges, judicial support staff
  - 2. Other: Aspirants to judicial career, members of the bar, executive or legislative officials, media, community at large

- B. Obtaining adequate funding; being able to work with limited resources
  - C. Defining objectives of the JT program
  - D. Establishing the curriculum. Determining how much JT will be required of judges, if any.
  - E. Engaging qualified, committed faculty
  - F. Arranging for adequate facilities (building, printed materials, computers)
  - G. Providing for continuing evaluation of programs
- VII. A few final suggestions
- A. Use the Internet to access information and articles on JT. Good places to start would be IOJT, CEJA, ABA/CEELI (USA), NASJE (USA), and NJI (Canada)
  - B. Try to attend the Conferences of IOJT or courses on specific topics offered by NJC (USA), NJI (Canada), etc.