



JAPANESE LEGAL TRAINING AND RESEARCH INSTITUTE

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I

It is a great honor and a pleasure for me to be able to address this gathering. Last spring I had the good fortune to meet Dr. Munshi in Tokyo. Since then I have read some pamphlets about the Indian Law Institute and have become very much interested in its objects and activities. As a judge of Tokyo High Court, I now regularly sit on the bench. But until last September I was President of an Institute, the Legal Training and Research Institute, whose principal objects consisted of promoting advanced study and research in law and the training of those who wish to become judges, public prosecutors and practising lawyers. It may be that our Institute in some sense resembles the Indian Law Institute, of this I am not sure. I will, therefore, speak about legal education in Japan referring particularly to the Institute. Perhaps after I conclude my remarks we may discuss points of resemblance and possible dissimilarities.

In the beginning I will briefly touch upon the educational system in Japan. At first there are 6 years of elementary school. This is followed by 3 years of middle school, and after that there is a 3 year high school course. It is important to note that elementary and middle school are compulsory. Approximately 99.5% of the populace is literate.

There are about 500 colleges and Universities including two years junior colleges. Of approximately 230 four years colleges about 30 have faculties of law. The chief object of the faculties of law is to teach basic principles of law from the theoretical point of view. In other words, the faculty of law, contrary to its name, does not aim to provide professional education for legal practice. The overwhelming majority of the graduates of the faculties of law enter civil service or become employees of private business firms. Some of those who enter civil service or become employees of private business firms actually perform lawyer-function without having professional training or practice. The Legal Training and Research Institute,

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which I have mentioned before, is the sole center of professional training for the practice of law in Japan.

II

(1) Any person who wishes to be a judge, public prosecutor, or practising lawyer must pass the National Law Examination, which is given once a year. Most of the applicants are graduates of the universities or under-graduate students. However, the door is open to non-university people, who have passed a preliminary examination. It is interesting to note that only about 2-3% of the students who enter the Institute come from the non-university group.

The National Law Examination is very difficult. Every year there are more than 6,000 applicants, out of whom only 300 or 350 are successful. Those who pass the examination are entitled to enter the Institute and become students. The students of the Institute are called legal apprentices, whose average age at the time they enter the Institute is about 26. In recent years about ten women per year have become legal apprentices. The term of training is two years.

(2) The Institute was established in its present form immediately after the end of the Second World War. We were motivated to establish it, because we wished to unify professional legal training. Before the war those who were going to become judges and public prosecutors received special training which was not given to those who were to become practising lawyers. The development was entirely a Japanese one, uninfluenced by the occupation.

The Institute is attached to the Supreme Court and is financed entirely from the national Government budget. Legal apprentices receive monthly stipends plus family allowances. The stipend exceeds the salary of administrative officials of comparable length of service. Needless to say, legal apprentices do not pay tuition fee.

(3) The Institute teaching staff consists of a President and 30 instructors, 12 of whom are judges, 6 of whom are public prosecutors and 12 of whom are practising lawyers. They are all appointed by the Supreme Court.

They instruct the legal apprentices respectively from the standpoint of their profession and speciality. The chief subjects of training are fact-finding and legal drafting and so on. Certain hours are allotted to cultural education such as art and inspection tours to securities exchanges, clearing house, prison, mental institutions and large factories.

It shall be emphasized that several months are spent in field training. The President of the Institute assigns all legal apprentices



to the district courts, District Public Prosecutor's Office or the Prefectural Lawyers' Associations, and he entrusts the instruction to judges, public prosecutors or practising lawyers in their respective fields. The meaning of legal study seems quite simple at first sight. But there is a difference between academic study and that of those who are dealing with practice. For the former, the research itself is the object, and for the latter application is important. But by these methods mentioned above the legal apprentices are taught practically and at the same time theoretically. Though it is a difficult problem how to bridge the gap between practice and theory, this problem is being solved at the Institute. This is a striking contrast to the legal education of the Faculty of Law of the University, where the basic principles of law are taught with relatively little concern for problems of practice.

(4) At the end of the two years there is another examination. Those who passed the examination are qualified to become assistant judges, public prosecutors or practising lawyers. Which branch of the profession he will enter is left to the individual choice. The number of graduates of the post war Institute to-date is approximately 2,500 at the present time and this is about one-fourth the total of the Japanese legal profession.

(5) Besides training of the legal apprentices, the Institute is in charge of training and re-educating of assistant judges and judges of summary courts, the lowest courts in our judicial system. Many judges of summary courts are lawyers.

III

Another important function of the Institute is research conducted by judges.

There are two kinds of research programmes.

(a) First there are so-called conferences of judges to discuss important contemporary problems in all fields of law. Labor, corporate, and administrative problems come frequently into question. In such conferences the judges bring up the problems and discuss them among the group. Such discussion is very helpful and useful not only because it enables them to handle actual cases better, but also because it can have some influence on the legislation through the developing of the opinions of the Judiciary as to the merit or demerit of the present law.

(b) The other type of programme is called judicial research. Every year more than ten judges, including assistant judges, undertake research projects. The judges who are engaged in it are freed



from case assignments in order to devote themselves exclusively to research. A characteristic of this research is that it is more practically oriented, being based on the participant's own experience. The results of their research are published and printed copies are distributed to all judges, assistant judges and judges of summary courts.

IV

I should like to call your attention the fact that the total number of members of the profession in Japan is less than ten thousand, excluding judges of summary courts who are laymen. This total is made up of about 1,100 judges, 680 assistant judges, 970 public prosecutors and 6,100 practising lawyers. The total is extremely small in comparison with that of other developed countries. The faculties of law of the universities handle legal problems in Government ministries and agencies and in private firms. Secondly, Japanese people are not litigious and tend to settle disputes by informal compromise.

Next, I will state briefly the social position of law practitioners in Japan. As a matter of fact, most of the judges have been bound only by laws, and were independent from the Executive, even during the Second World War. They gained high esteem. Under the new Constitution, the legal profession as a whole is getting more esteem than before, although even to-day the social status of the ordinary practitioners is not very high.

V

The Institute has ceaselessly endeavoured during the last ten years to train the legal apprentices to promote advanced study, and to create a new spirit in the legal profession. The characteristics of the Institute have come to the attention of many foreign scholars practitioners. Guests from many countries visit the Institute. I remember the all-too-short but very pleasant time I had with Dr. & Mrs. Munshi when they came to our Institute.

Finishing my speech, I am very much pleased to refer to the close relation between India and Japan in the past. Indian religion, art and ways of thought have exercised a considerable influence on Japan. I hope that relation between the two countries, especially between our jurists, will become closer and closer.