



SOUTHERN AFRICAN CHIEF JUSTICES FORUM

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CHALLENGES IN THE ESTABLISHMENT OF A JUDICIAL TRAINING INSTITUTION: D. K. WANGUTUSI

Judiciary attaches a lot of importance on continuing judicial education. The training function is overseen by the Judicial Training committee which is headed by a Justice of the Supreme Court. Until recently the committee whose Secretary was a Registrar of Research and Training handled the training without an Institute.

Before the Training Programme came into being, the Judiciary was visited by Professor Read who was sponsored by the Danish Agency for International Development (DANIDA). He studied our structures in two months, April and May 1991. He recommended the following:

1. An annual training Course for Magistrates.
 - b) A promotional training course for senior Magistrates
 - c) A programme of continuing Judicial Education.

Professor Read suggested that a Judicial Studies Committee be put in place to oversee the training. He recommended the revival of the defunct body of Magistrates – the Magistrates Association of Uganda. The training was to be domestic and overseas.

The "Read Report" having been accepted, the Chief Justice on the 5th March 1992 established a Judicial Training committee. The Committee

sought Donor Support with success and several judicial and non judicial staff have since undergone training both within and outside Uganda.

The training was not only on the law but also training of trainers of Judicial Educators. A lot of thanks go to the Common Wealth Judicial Education Institute CJEEI under the undisputedly wise and able leadership of Judge Sandra E. Oxner, then a Judicial Specialist for the World Bank and President of CJEI. Similar thanks go to Danida which has picked the cheques on most occasions.

The training of Judges, Registrars and Magistrates in CJEI and other institutes like RIPA (now CAPITA), East and South African Management Institute ESAMI and Kenya Modern Commercial has been able to put in place a Judicial Education Programme Faculty which is called upon from time to time to provide resource persons.

The programme has never gone backward since its inception. It has expanded in numbers of participants, both judicial and otherwise. Because of that the training activities have multiplied.

The political, economic and social conditions in the country have been very vibrant and continuous changes in the laws and need for speedy and quality disposal of cases has increased the need to train more and continuously.

Establishing a Judicial Training College

The report on training strategy reiterated the concerns expressed in earlier reports that professional legal education in Uganda did not adequately prepare people aspiring to pursue a career as a Magistrate or Judge. It was in recognition of this shortcoming that, during the 1960s and early 1970s, the Judicial Service Commission made it a requirement that graduate lawyers considering a judicial career could only be considered if they had acquired a minimum of three years professional practice. However, this condition was dropped in the years of turmoil that followed.

Those appointed to Magistrate Grade I positions were only required to undergo a two-week induction programme. It was generally accepted within

the profession that this programme was not an adequate preparation for managing complex court processes of decision-making.

The report argued that there was a need for a more focused and structured approach to the professional development of judicial officers. This was emphasized by the current Chief Justice Benjamin Joseph Odoki in a report on legal education and accreditation [1][1]. In particular, the 2001 report reasserted the need to establish the 'Uganda Judicial Certification Institute', or Judicial Training College, as a statutory and autonomous professional body devoted to improving the performance of the Judiciary through a relevant and rigorous education and training programme. The report noted that such an institute did not require much capital. What was needed was a secretariat, a committed leadership and an active membership. The actual delivery of education and training programmes could be by existing and selected legal training and academic institutions.

At the end of it all, the Judiciary came up with the following action points with regard to developing effective personnel for the Judiciary, the following activities would be undertaken during the Strategic Plan period, 2002/3 to 2007/8:

1. Completion of job evaluation for all positions within all court stations.
2. Recruitment of new staff according to agreed establishment.
3. Consideration of study on possibilities for redeploying lay Grade II Magistrates in paralegal, administrative positions.
4. Review of terms and conditions of service of Judges, Magistrates and other Judiciary staff.
5. Review of Judiciary's organisational structure.
6. Training of staff on CCAS and MIS.
7. *Training Needs Analysis* conducted related to the Judiciary's organisational structure, and staff competencies.

8. Training strategy developed related to both induction training and continuing professional education for judicial officers.

9. Situation analysis on judicial education carried out, comprising a competency analysis and a review of current and relevant degree, diploma and certificate courses and identifying priority training needs for the induction and continuing education of judicial officers.

10. Curricula developed and implemented for both induction and continuing professional education for judicial officers.

11. Setting up of a Judicial Training College.

It is this background that necessitated the Judiciary to establish an Institute. Thus on the 5th January 2004 the Uganda Judiciary established a training institute and named it “The Judicial Studies Institute”. The structure of the Institute is attached.

The Institute is however still lacking in office buildings and what could work as classrooms. It is however enjoined to do the following:

1. Offer courses to Judicial Officers
2. Offer courses to non Judicial, judiciary staff
3. Offer course to non Judiciary staff like advocates, State Prosecutors, Police, Prisons and other agencies connected to the administration of justice.

The last category would be trained at a fee.

The Institute would also issue Certificates, Develop a Faculty, Develop a Curriculum, teaching tools, teaching plans and self study kits.

It is also required to assemble and catalogue Judicial Educations Materials and Publications.

It is involved in Research and gathering data.

Evaluation of Seminars and Workshops.

Establish linkages, partnerships and network with other institutions.

Lastly and most difficult it is expected to fundraise.

The judiciary realised the problem a judicial officer went through on appointment. In some cases it would be the first time he/she had entered court. He/she would not in many instances know what to do. This even applied to some people previously on the bar. The Uganda Judiciary therefore as a policy, subjects all the new judicial officers to an induction of two weeks.

In this induction, the new judges are made aware of the judiciary's mission. How the judiciary functions, the chain of command. And they get to know each other.

The other topics covered during the induction course are:

1. Judicial independence, accountability and decorum.
2. Effective case flow management. Computerised and otherwise.
3. Trials in civil and criminal matters with emphasis on pre trial conferencing and procedure thereof.
4. Judgement writing
5. Sentencing
6. Managing the social transition to Judgeship.
7. Human Rights
8. Stress Management.

After the induction the Judges are supervised by the Hon. Chief Justice, and the Hon. Principal Judge. The computerised case management system enables Chief Justice and Principal Judge to see the out put of the new judges. They from time to time talk to those who falter. The training body also from time to time holds workshops and specifically includes problem areas.

Other workshops dealing with matters of gender termed jurisprudence of Equality are attended to by the new Judges as they join the department. The other sermons they go through are on Environment, Human Rights and Refugee issues. The methodology used is the lecture method in most

cases. Participatory and visual methods are encouraged especially when the trainer has undergone a Training of Trainers Course.

In conclusion, the Judges who join go through an induction course and then called upon from time to time to attend the workshops I have mentioned above. It's not common to have long courses. Most of the sessions are one to two weeks.

The Judges also attend an annual review every January. In this, the Judges review the previous year's work and tackle problem areas.

CHALLENGES:

The establishment of the institute is however not a bed of roses. It faces many challenges.

i. Faculty:

For the institute to have any impact, it must have well trained staff and or resource persons. The institute in most cases calls upon our own senior judicial persons mentioned earlier in this paper. They are well trained and equipped. The problem however is that they are not available easily because they have their own core schedule in the courts as judicial officers. This is made more complicated in a judiciary with very limited numbers. The few judges and justices are so heavily loaded that you can only pull them away from their desks on limited occasions. The fact that they are few in number also means you cannot hold them in a training session for long.

ii. Funding:

The institute is not autonomous. It depends for all its funding on the Judiciary budget. With the persistent budgetary cuts and hence shortage of funds, the Judiciary has spared very little of its funds to operationalise the institute. The only solution seems to plunge the institute into a fund- raising marathon from external sources.

The Judiciary has up to now jealously guarded its independence. In this independence it has delivered the most impartial decisions.

Fundraising done badly could be a danger to that independence. As we all know “He who has the gold makes the Rules”. The donors must therefore be those who promote good governance and will not insist on drawing and imposing a curriculum on the institute to be passed down to the judicial staff even where it unsheathes the judiciary of its much cherished independence.

iii. **Legal Personality:**

As a section in the Judiciary, the Institute may find a lot of difficulty in attracting donor support. Some people have argued that its legitimacy would only be recognised by its acquisition of legal personality. This, they say, would help attract donor funding. Others say that if it acquired legal personality and broke away from the protective arms of mother Judiciary, it would expose itself to manipulation and control of its curriculum by funds being dangled as the bait. The balancing of this situation is a real challenge.

For the Institute to flourish, the executive branch of the government which has the overall responsibility to fund the Judiciary, must appreciate the necessity of the institute in the promotion of speedy and quality justice arising out of training.

Over dependency may also lead to the training process being hijacked. It is therefore important that the institute generates income to meet some of the costs. To do this the Judicial Studies Institute intends to offer courses to legal practitioners like advocates, state prosecutors and other legal personnel in ministries that hold a stake in the administration of justice like Police, Prisons, Probation and Child welfare.

It means the Institute’s administration must lobby advocates, training officers in those departments and ministries in order to win their confidence and trust. It calls for networking. It also calls for publications and public relations strategy. All these need resources which are not easily forthcoming.

iv. **A Home:**

The Institute at the moment has no home. For it to do any training, we have to move to hotels, where we hire conference rooms and boarding rooms for the participants. This is very expensive. Since the bills are on a day to day basis, we are forced to rush through the topics to cut the costs. The danger here is that we cut what should be imparted to the participants. The Institute therefore needs its own home. We are yet to come across a helping hand in that connection.

v. **Distance Learning:**

In an Institute it is very helpful to develop a “Distance Learning” strategy. This will overcome travelling long distances and other geographical impediments that would bar easy accessibility. To succeed in long distance training, there must be a wide area network loaded with publications, bench books and manuals. There should also be a newsletter on important and current issues on law and new methods of practice.

To do the above you would need to computerise up-country and online. A third world country that cannot easily equip its up-country stations with computers may not succeed. In any case, the electricity grid is in only limited areas and in these areas it is not always there due to shortages.

Distance learning is therefore hampered.

vi. **Attendance:**

On participants, this seems to vary from country to country. In some countries participation is voluntary. It therefore leaves the judges free to choose whether to attend or not. In most Judiciaries Judges used to believe they had read and understood all of it. With that background, it would be culturally appropriate for a beginning Institute to operate in an environment where participation is mandated.

The targeted groups must also be sensitised on the need and usefulness for continuing education. That education must be shown to be led by the Judiciary itself. Where you are handling practical

subjects the trainees would like to get it from the Judges because they perceive them as authentic and practitioners and not theorists.

The challenge presented here therefore, is that the Judges who come in as resource persons must also undergo training in presentation skills and Training of Trainers courses.

vii. Needs Assessment:

You do needs assessment so as to find out the knowledge, skills and disposition required for Judges to perform their duties effectively. One of the things is to have a Judiciary which satisfied community values. The Judges must therefore take steps, through training, to get back in touch with prevailing social values. To know what the people want, one has to have face to face interviews with the court users.

You do that because a Judge should have a good solid understanding of their community. Indeed as Dean Lynn Smith said, “ A Judge’s mind does not need to be empty to be open”. Judicial decisions based on the law spiced with contextual education is desirable.

In this way the Institute must make this social context an integral element in Judicial Education.

In an education setting such as ours there are so many tribes with so much disparity in their social norms and values that to come out with a balanced assessment of what to include in the curriculum poses a big challenge.

Leadership:

An Institute such as ours, requires leadership, support and to direct the process of its on going training, education and development. While many other things have been in short supply, continuing judicial education has not lacked the support and commitment of the Chief Justices both the present and his predecessor.

A lot of interest and commitment has been exhibited by the Chief Justice that one can safely say that it's what has enabled it to stay on even in its bleakest time. He attends workshops and writes papers when asked to do so.

In one International conference the Head of training in one of the African countries said his Chief Justice had bluntly told him that judicial education was a waste of judicial time. In such a situation the institute is put to halt.

D. K. WANGUTUSI

JUDGE/EXECUTIVE DIRECTOR JUDICIAL STUDIES INSTITUTE

[1][1] Committee on Legal Education and Accreditation: Final Report, Justice Benjamin Joseph Odoki, September 1995.