



# JUDICIAL TRAINING Guidelines for Practice



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# CHALLENGE

***Lawyers don't become  
good judges by the wave  
of a magic wand  
- not even the best  
lawyers ...***

DW Catlin, 1986

# GUIDELINES FOR PRACTICE

- Context
- Governance
- Mission and objectives
- Program management
- Needs
- Training inventory
- Curriculum planning
- Faculty development
- Judges as learners
- Trainers' Handbook

# CONTEXT

- Continental – careerist system
  - Common law – appointive system
- Implications for objectives of training

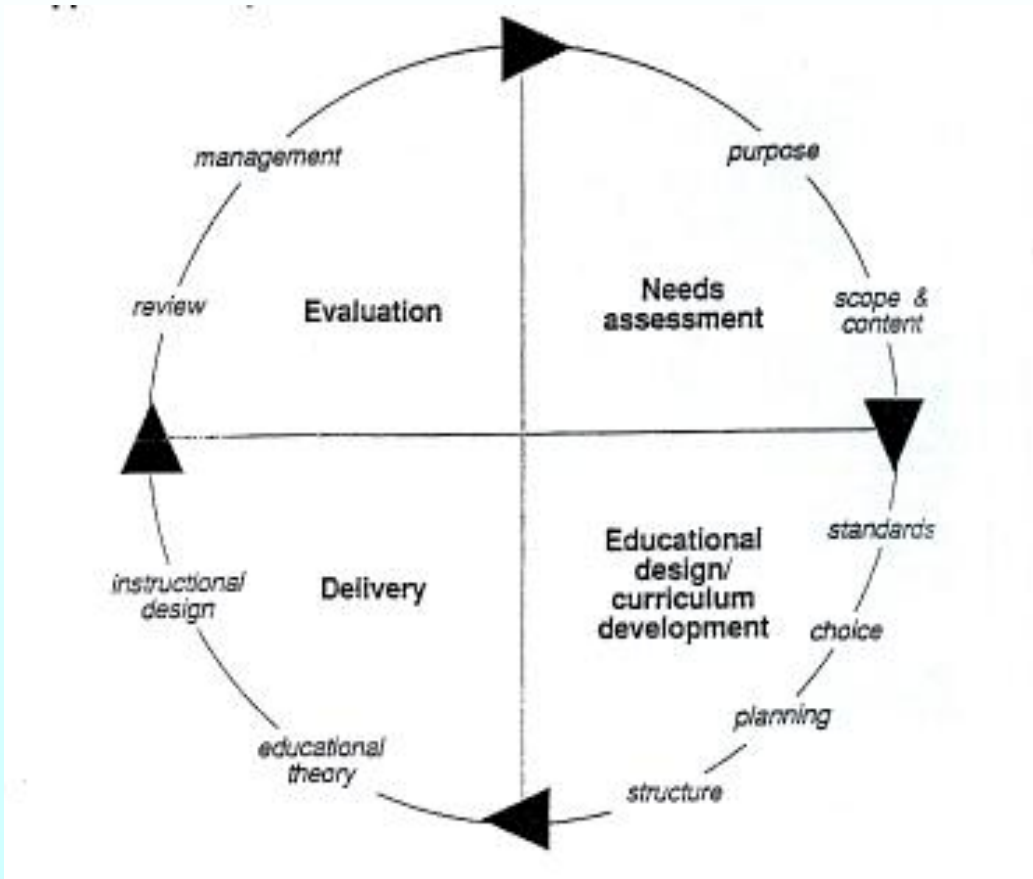
# GOVERNANCE

- Leadership: *'judge-led'*
- Ownership: *'court-owned'*
- Mechanisms and procedures
  - Policies, program committees, needs assessments, training faculty, M&E

# MISSION & OBJECTIVES

1. Identity, capacity and independence
2. Professional competence
3. Service delivery and performance
  - Knowledge, skills, attitudes

# PROGRAM MANAGEMENT



- **Strategy**
- **Needs**
- **Services**
- **Curriculum**
- **Faculty**
- **Evaluation**



# NEEDS

- ‘Wants’ versus ‘needs’
- Assessment methodologies - participatory
- Voices of stakeholders
- Training inventory

# TRAINING INVENTORY

- ***Substantive law and court procedure***
  - To be assessed depending on the prior training, experience and duties of judges
  - Criminal law and procedure
  - Civil law and procedure
- ***Judicial skills***
  - how to conduct a hearing trial
  - control of courtroom
  - note-taking
  - legal research
  - admitting evidence
  - statutory interpretation
  - judgment writing and giving reasons
  - principled and uniform sentencing
  - administering natural justice, due process and fair trial
  - protecting human rights and civil liberties
  - resolving disputes and alternative dispute resolution (ADR)
- ***Generic skills***
  - Communication skills – written and oral
  - Time management
  - Computer skills
  - Coaching and mentoring
- ***Judicial management***
  - case management
  - administering courts: filings, fixtures, hearing lists
  - record management
  - registry management and practice
  - team leadership between judicial and court officers
  - judicial information technology and computer skills
  - managing complex litigation and commercial disputes
- ***Judicial disposition – social context - outlook, attitude and values***
  - judicial role, powers and responsibilities
  - judicial independence, impartiality, integrity and outlook
  - judicial review
  - judicial conduct and ethics
  - gender/race equality
- ***Inter-disciplinary***
  - To be assessed depending on the prior training, experience and duties of judges
  - Forensic scientific evidence: psychiatry and pathology – in criminal prosecutions
  - Financial accounting – in complex commercial disputes
  - Medico-legal fundamentals – in injury cases.

# CURRICULUM PLANNING

<b>CONTENT PITCH</b>	<b>SUBSTANTIVE LAW</b>	<b>COURT PROCEDURE</b>	<b>JUDICIAL SKILLS</b>	<b>ETHICS &amp; CONDUCT</b>	<b>JUDICIAL MANAGEMENT</b>	<b>INTER DISCIPLINARY</b>
<i><b>INDUCTION ORIENTATION</b></i>						
<i><b>IN-SERVICE UPDATE</b></i>						
<b>NETWORKING PROBLEM SOLVING</b>						
<b>SPECIALIST ADVANCED</b>						
<b>REFRESHER</b>						

# FACULTY DEVELOPMENT

***Generally speaking, judges are autonomous, entirely self-directed, and exhibit an intensely short-term problem-solving orientation in preferred learning practices.***

# JUDGES AS LEARNERS

- Principles of *adult* learning form the foundations for any program of continuing judicial education
- Judges are *professionals* by training, career practice, and self-image
- Learning needs, practices, preferences and context of *judges* are distinctive

# JUDGES AS ADULT LEARNERS

- **Judges epitomise adult learners**
  - Self-directed
  - Problem-orientation
  - Purposive – immediacy of application
  - Preference to build on personal experience
  - Practical rather than theoretical
  - Skills rather than information-focused

# JUDGES AS PROFESSIONAL LEARNERS

- **Judges are professionals by training, career practice, and self-image**
  - Defined body of knowledge and practice
  - We know what we want to learn
  - Career-related
  - Functional: to get a job done
  - Specific and highly focused
  - Most active self-managed learners

# JUDGES AS DISTINCTIVE LEARNERS

- **Independence**
- **Societal position and role**
- **Learning preferences and practices**
  - seniority, experience, self-reliance
- **Reasons to participate**
  - competence, collegial interaction, professional perspective
- **Functional needs**
  - legal/judicial knowledge, skills, attitudes/values



# TRAINERS' HANDBOOK

- Learning objectives
- Learning and training theory
- Characteristics of adult learners
- Learning styles
- Learning by doing
- Four steps of learning
- Session planning
- Presentations techniques
- Traditional techniques
- Workshop facilitation techniques
- Large groups methods
- Small groups
- Papers, handouts and materials
- Some golden rules
- Questions
- Hearing and listening
- Non-verbal communication
- Presentation aids
- Common problems for presenters



# WORKSHOP

- **Judicial reform is substantial**
  - World Bank: 1,400 projects, USD5.9billion (Dañino R, 2005)
  - ADB loan: USD350 million – Pakistan
  - AusAID: PNG – USD100million
- **Standard package includes training**
  - Donors spent 25% on technical assistance including training
  - World Bank: USD720million pa, 90% in projects; inadequate M+E (IEG, 2008)
  - Most participants learned, but only 50% resulted in performance change
  - ‘Less effective than expected’ (WBI, 2006)
- **Reform ‘disappointing’, ‘limited’, ‘qualified’**
  - (Trubek, Carothers, Hammergen, Jensen ...)
  - 37% projects+ ‘partly successful’ (ADB, 2007);
  - improvements required in efficiency, effectiveness, sustainability (ADB, 2009)

# QUESTION

***How have you  
made training  
more effective?***