

Paper 2

Current Status of Environmental Law Training in the Institute of Judicial and Legal Studies (Judicial Training School) in Mauritius

By

Mokshda Pertaub, Director, Institute of Judicial and Legal Studies, Mauritius

1. The Judiciary is very small in number in Mauritius. We have 20 Supreme Court Judges, 1 Master & Registrar, 1 Deputy Master & Registrar and 49 Magistrates[District Courts and Intermediate Court].
2. There is not a specific judicial training school per se in Mauritius. Courses for judges are run through the IJLS and ad hoc training through the Supreme Court.
3. In 1997, a Presidential Commission chaired by Lord Mackay of Clashfern was set up in 1997, with the purpose of examining and reporting on the structure and operation of the judicial system and legal professions of Mauritius. The Commission came up with wide-ranging recommendations as part of what has since been commonly referred to as the “Mackay Report”. Most, if not all, of lord Mackay’s recommendations have been implemented in the wake of instrumental reforms aimed at modernising the judicial and legal systems of Mauritius.
4. The Commission realized that, at that time, there was no formal arrangement for training following the appointment of Judicial Officers in Mauritius. In 2006, Lord Mackay made further recommendations so that consideration would also be given to continuous legal training for law practitioners in general as in the United Kingdom and in other jurisdictions, and for an institution for the continuing training of Judges and Magistrates to be set up.
5. The Mackay Commission had initially recommended that Judicial Studies Board be set up to have the responsibility of organizing suitable induction and continuing training for Judges and Magistrates at various levels. It had further considered that it should be open to the proposed Training Centre to invite resource persons from overseas and that it should also be within the scope of responsibility of the Centre to make arrangements

for Judges and Magistrates to travel overseas from time to time to participate in study conferences.

6. As in other jurisdictions witnessing significant population growth, Mauritius has been a rapid expansion of human resources in its legal services during the last 20 years. There has been a marked increase in the number of qualified professionals as a consequence of easier access to higher education. Litigation has escalated because of a higher number of qualified professionals and a more organized legal profession. Globalisation and improved telecommunications are additional factors which have contributed to greater recourse to litigation. The development of international financial services and the rise of white-collar crime have resulted in the need for legal professionals to respond and adapt to more sophisticated litigation processes in a rapidly changing working environment.
 7. Law is a dynamic subject which keeps evolving over time. It is therefore vital for legal professionals to constantly update their knowledge on new legislations, jurisprudence and practices. Besides, Mauritius has endeavoured to position itself as a model jurisdiction offering professional legal services in the region, and its law practitioners are conscious that they must adhere to international best practices and standards in order to play a key role in the development of the country's economy.
 8. It is with the Mackay Commission's recommendations in mind, while faced with the constraints of a small island nation, that the Institute for Judicial and Legal Studies ('IJLS Act') was passed by the National Assembly in Mauritius on 19 July 2011.
1. Setting up the Institute for Judicial and Legal Studies
 9. The Institute for Judicial and Legal Studies ("Institute") was in effect, set up on 1 October 2011, the date on which the IJLS Act was proclaimed. Section 4 of the IJLS Act provides that the objects of the Institute shall amongst others, be to: (a) promote proficiency and ensure the maintenance of standards in the Judiciary, among law practitioners and legal officers, and generally in the delivery of Court services, (b) foster continuing judicial and legal education; (c) promote international exchanges and co-operation with other jurisdictions in the field of judicial and legal studies. In order to enable the Institute to further these objects, it is vested, under section 5 of the IJLS Act, with the following specific functions:

- (a) conduct or supervise courses, seminars or workshops for the continuing training of judicial and legal officers;
 - (b) devise, organize and conduct Continuing Professional Development (CPD) Programmes, for law practitioners and courses for prospective judicial and legal officers and law practitioners who qualified as such in a state other than Mauritius;
 - (c) identify areas of need and interest where specialized knowledge is required, and promote and co-ordinate research and development in the judicial and legal sectors;
 - (d) establish areas of co-operation and linkages with local, regional and international bodies in the judicial and legal sectors.
10. The Institute is administered and managed by the Judicial and Legal Studies Board. Section 7 (2) of the IJLS Act provides that the Board shall consist of:
- (a) a Chairperson, who shall be a person who holds or has held judicial office, a law practitioner or legal officer of not less than 10 years' standing, or a person who has proven ability and experience in legal education, to be appointed by the Chief Justice after consultation with the Attorney-General;
 - (b) 3 representatives of the Judiciary, to be appointed by the Chief Justice;
 - (c) the Solicitor General or his representative;
 - (d) the Director of Public Prosecutions or his representative;
 - (e) a member of the academic staff of the Faculty of Law of the University of

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- (f) 3 law practitioners (including a barrister, an attorney and a notary), to be appointed by the Attorney-General;
- (g) a member of civil society, to be appointed by the Attorney-General;
- (h) such other persons, not exceeding 3 in number, as the Chief Justice may, after consultation with the Chairperson, co-opt onto the Board wither generally or for any specific purpose.

11. Due to limited resources, the Institute could not be launched with a large staff number or with its own seat. The legislator thus came up with innovative provisions, and except for the post of Director, the Act provides that the Board can, after consultation with the Head of the Civil Service, appoint staff from among public officers as may be necessary for the proper discharge of the functions of the Institute. These public officers are paid an allowance which is determined by the Board.
12. The Institute has, until now, been staffed by personnel from the Judiciary and other Ministries who are paid an allowance for the additional work performed for the Institute. This has enabled the IJLS to operate with experienced personnel at reduced cost during the first year of its operations. Even the Institute's first Director was appointed from among members of the Judicial and Legal Studies Board and was able to assist in setting up the Institute with a nominal allowance from the IJLS until the appointment of a full-time Director.
13. It is also worth noting that section 9 of the IJLS Act provides that the Board may engage such resource persons and consultants as may be necessary to carry out the functions of the Institute. This wide provision enables the appointment of any category of personnel on an ad hoc basis so as to limit costs, depending on the Institute's requirements and financial resources at any given time.
14. Under the Judicial and Legal Studies (Continuing Professional Development Programme) Regulations 2012 made by the Judicial and Legal Studies Board in June 2012, the first academic year for CPD programmes started as from 3 September 2012. Every law practitioner and legal officer in Mauritius is now required to participate in CPD Programmes organized by the Institute for not less than 12 hours during every academic year and to pay to the Institute a yearly fee in that respect. It is worthwhile to point out that, out of the 12 compulsory CPD hours, at least 2 CPD hours should be in respect of Ethics and Professional Responsibility, which is considered to be a crucial topic.
15. As a complementary enactment, the Law Practitioners (Amendment) Act 2011 makes provision for the Institute to devise and organize CPD Programmes for each of the three branches of the legal profession with a view to broadening the knowledge of law practitioners and legal officers, to keep them abreast of developments in the law, and to encourage them to share experiences and enhance their professional skills. Such programmes may include attendance at lectures, workshops or seminars

accredited by the Institute. CPD has thus become compulsory since September 2012 for every law practitioner and legal officer, except if dispensed with by the Chief Justice for reasons such as age or ill-health.

16. Non-compliance with the CPD requirements can have severe repercussions on a law practitioner's or legal officer's continued right to practice. Under section 9B(4) of the Law Practitioner's (Amendment) Act 2011, where a law practitioner or legal officer fails, without reasonable excuse, to follow a CPD Programme, the Institute may:
 - (a) in the case of a legal officer, report the matter to the Judicial and Legal Service Commission; and
 - (b) in the case of a law practitioner, refer the matter to the Chief Justice who may:
 - (i) issue a written warning to him; or
 - (ii) suspend his right to practice for a period not exceeding one year.
17. Section 9C of the Law Practitioners (Amendment) Act 2011 further provides that any person who wishes to be considered for appointment as a Judge, Magistrate or legal officer shall follow a course which shall be approved by the Judicial and Legal Service Commission, and that the Institute shall devise courses to enable such persons to familiarise themselves with the duties which they will be required to perform. The former requirement of having practiced for 2 or 5 years at the Bar to qualify for appointment as Magistrate or Supreme Court Judge, as the case may be, is therefore no longer the only criterion.
18. So far the following courses have been held for Magistrates and Judges (see annex):
19. As it can be seen from the chart hereby annexed, there have been no courses concerning environmental law training in Mauritius so far for judges/magistrates.
20. We believe it is important to educate the judiciary on environmental issues and we want to seize this opportunity to invite UNEP to conduct such training in Mauritius.

