

# Colloquium on Integrating Environmental Law Training in Judiciaries In Africa

Presented by César Jorge Zunguze

Johannesburg, 2/17/2017

Sustainable integration of environmental law in judicial training curricula- Sharing of best practices on steps, processes, challenges and solutions

# Contents

- ▶ 1. Introduction
- ▶ 2. The initial training process on environmental law
  - ▶ 2.1. Study guide for the training
  - ▶ 2.2. The Standard Methodology for the magistrates training (In the theoretical and practical fields)
  - ▶ 2.3. In the traineeship stage
  - ▶ 2.4. Integrated practices in the theoretical and practical context
- ▶ 3. Constraints
- ▶ 4. Challenges
- ▶ 5. Solutions

# 1. Introduction

Mozambique, Angola, Cape Verde, Guinea-Bissau, São Tomé e Príncipe are lusophone countries and adopted romano-Germanic law system based on written law.

The right to a safe and healthy environment for the citizens is enshrined in the constitution of the Republic of each country above mentioned, as well as their obligation and their own states to defend the environment. Therefore, the right to the environment is seen as a fundamental right.

Cape Verde, São Tomé e Príncipe and Guine Bissau don't have magistrates training centres. These countries have judicial cooperation agreements with Portugal and they benefit from trainings in various areas of law through CEJ (Centre for judicial Studies-Portugal) and their magistrates.

Mozambique, Angola have magistrates training centre.

## 2. The initial training process on environmental law

In Mozambique and Angola we have environmental law as one discipline /subject for the initial magistrates training and it has a minimum duration of 12 (twelve) months and a maximum duration of 16(sixteen) months for theoretical and practical training. After that, have a minimum duration of 2 (two) months of a traineeship in courts and prosecutors' Office, where they collect experience on conduct of proceedings evolving environmental cases and other .

In the remaining countries, the initial training periods in environmental law are short and consist of the stages above mentioned.

The complementary trainings on environmental law have a minimum duration of 2 (two) and a maximum of 5 (five) days

## 2.1. Study guide for the training on environmental law.

- ▶ The general plan for the training consists of 2 (two) modules:
- ▶ 1° module: **environmental law and the following chapters approach:**
- ▶ i) The main environmental problems worldwide;
- ▶ ii) The international environmental law;
- ▶ iii) The Constitutional environmental law;
- ▶ iv) The environmental management entities;
- ▶ v) The instruments for preventing the environment;
- ▶ vi) The treatment of environmental principles under the law;
- ▶ vii) The civil, criminal and administrative environmental law;
- ▶ viii) The law and the environmental duties;
- ▶ ix) The cultural heritage law.

- ▶ 2° module: land law will approach the following topics:
- ▶ i) National land policy;
- ▶ ii) Fundamental principles of land tenure and Access regime;
- ▶ iii) Means of acquisition, use and enjoyment of land;
- ▶ iv) Local communities;
- ▶ v) Conflicts resolution;
- ▶ vi) Land use plans;
- ▶ vii) Land transmission and extinction.

## 2.2. The Standard Methodology for the magistrates training on environmental law. (In the theoretical and practical fields)

The distinguishing feature of the standard methodology, starting forthwith, is the setting of the learners places in the classroom in a “U” or arc form, so that they can face each other, with individual identification plates, in order to make them feel active individuals in the training and stimulate their active participation in a training meant to be interactive, sharing their ideas and experiences with the trainers who take the role of learning facilitators

individual and group works to be presented and defended in class, as well as in practical cases resolution and in the preparation of legal briefs such as initial petitions, protests, ordinances and sentences

Judgments simulation, an active pedagogical method component.

## 2.3. In the traineeship stage

The traineeship is coordinated by judge and prosecutors with a wide experience and take place in the workplaces (court and prosecutors offices).

The trainees are put into contact within different kinds of completed and pending cases related to environmental law, of a civil and criminal nature, so that they appreciate them in terms of proceeding manner and the decisions production.

The trainees participate in hearing sessions, the conduct of proceedings, judgments and other proceedings in view of their future duty.



## 2.4. Integrated practices in the theoretical and practical context in the training on environmental law

Still in the context of the theoretical and practical stage, 4 (four) days for Field work are spared on which the trainees move to certain areas where environmental deeds or damages take place with a view to make direct observations, material collection, analysis which will result in a report to be evaluated.

Trips to rural zones are taken in order to collect experiences from the community courts practices in the environmental cases resolution by applying the customary laws.

The trainees' obligation to organize cleaning, preservation, protection and treatment activities in areas where environmental damages take place. Eg: coastal areas, reserves, parks, forests, rivers, lakes, etc.

### 3. Constraints

- ▶ i) Inexistence of judges and prosecutors training policies on environmental law;
- ▶ ii) Short time for the environmental law subject in the judiciary training institutes;
- ▶ iii) Short number or inexistence of specialized trainers on environmental law training;
- ▶ iv) Lack environmental awareness of the judges and prosecutors.
- ▶ vi) Inexistence of financial endowment for training courses on environmental law;
- ▶ vii) Weak or non-existing research activity by the trainers of the judiciary training centres.
- ▶ viii) Lack of systematic organization of environmental laws, since there are so many spread and so many from colonial time and still in force.

## 4. Challenges

- ▶ i) Provide the judiciary training centres trainers with pedagogical competences, since most of them are magistrates, not teachers;
- ▶ ii) Opening the magistrates training on environmental law in sociological paradigms;
- ▶ iii) Adopting permanent training programs on environmental law with primary nature in our judiciary systems;
- ▶ iv) Giving workshops for studying and developing the environmental laws in the training centres;
- ▶ vi) Standardization of the curricula and methodological contents, as well as the sharing of extra-curricular practices used in the training process on environmental law;
- ▶ vii) Provide the judiciary training centres with standardized mechanisms of assessment of the real needs of the magistrates training on environmental laws.

## 5. Solutions

- ▶ i) Bearing in mind the great role that the civil society organizations play in environmental justice claim and Access, we do understand that the judges and prosecutors professional traineeship should involve the environmental organizations as environmental guards;
- ▶ iii) Institutional reinforcement and interchange among the judiciary training centres from different countries;
- ▶ iv) Creating regional centres of judiciary environmental training in every region of Africa, and provide them with institutional capacity to support the national institutes in the magistrates training;
- ▶ v) Creating a database of didactic, jurisprudencial and judicial material of legal cases decided in the courts of certain countries and translating them into the most African spoken languages;
- ▶ v) Hiring expert trainers on environmental law, sociology and pedagogy to provide technical and pedagogical support to the several African judiciary training centres;
- ▶ v) Curricular upgrade and standardization by the judiciary training centres, so that they are all at the same judiciary production level.

**In name of judges and prosecutors of lusophonos countries**

**THANK YOU**

**César Jorge Zunguze**

▶ **[cesyesu@gmail.com](mailto:cesyesu@gmail.com)**