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**Malawi: Judicial Sector
Training Program Report**

Prepared for:

USAID/Malawi,
under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order # 32

Prepared by:

The Honourable Judge Sandra E. Oxner

Associates in Rural Development, Inc. (ARD)
110 Main Street, Fourth Floor
Burlington, Vermont 05401 USA

June 1996

Acknowledgments

Implementation of seven judicial training programs in Malawi was a considerable technical and logistical challenge which required significant resources from ARD, Inc. and the staff and associates of the Commonwealth Judicial Education Institute (CJEI). Additionally, the programs would not have been a success without the support and assistance of many others.

Dr. Andrew Sisson and Mrs. Kathryn English of USAID/Malawi were unfailingly helpful both in the planning and execution of the programs. All who were associated with these activities, including the Malawian participants and the program administrators, are grateful for the significant contribution they made to the success of the programs. By their presence at the program openings and their monitoring visits, they enhanced the importance of the program in the eyes of the participants and supported the administrators in ensuring the maintenance of high standards. Mrs. English also gave valuable assistance in the design of the program content.

The dedication and outstanding effort of the Malawi Judicial Education Committee and the internal faculty over the long period of these sessions should be specifically noted. Particular mention must be made of Chief Justice Banda, who attended and participated in every session, as did the Honourable Mr. Justice Tambala, Chairperson of the Malawi Judicial Education Committee. Mr. R.R. Mzikamanda, Mr. Charles Mkandawire and Mr. Winter Qoto bore particularly arduous burdens throughout the series of seminars.

Finally, all of the programs, except the Court Reporters' program, were administered by M. Geraldine May, MVO. The Court Reporters' program was administered by Dr. Judith Fingard, former Dean of Graduate Studies at Dalhousie University. Both administrators were considered excellent by the Malawi Judicial Education Committee, the internal and external faculty, and participants. Successful administration was key for the program's completion.

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Executive Summary

Seven continuing judicial education programs, funded by USAID/Malawi, were held between December 1995 through May 1996. The programs were managed by ARD, Inc. through the Institutional Development and Development Management Indefinite Quantity Contract, Contract No. AEP-5451-I-00-2049-00. The Honourable Judge Sandra E. Oxner, President of the Commonwealth Judicial Education Institute (CJEI) designed the activities which were implemented by ARD through a collaboration with the staff and associates of CJEI.

This final report provides a summary description of the seven programs. Included for each course is:

- a description of each program;
- the list of participants;
- the list of trainers;
- the program schedule;
- the pedagogy used for each training session;
- the objectives of each program;
- an evaluation of each program from the perspectives of the trainers and the participants;
- the “lessons learned”; and
- recommendations for follow-on training.

Methodology

The methodology of preparing these programs included:

- two meetings by Judge Oxner with the Malawi Judicial Education Committee, meetings with USAID and contact by fax and telephone;
- the preparation and dissemination of a needs analysis to members of the Bench, court reporters, representatives of other participants and the community at large to obtain suggestions for the curriculum;

- the assignment of specific topics to external and internal faculty, both for presentation and preparation of material;
- the assignment of a member of the Judicial Education Committee to be a coordinator for each day of the seminar;
- the encouragement of organizations for court reporters and court administrators to strengthen their professional skills and promote international networking to attain international skill levels;
- the preparation, publication and dissemination of manuals for court reporters and court administrators for course use and as long-term reference books; and
- the examination and promotion of Codes of Professional Ethics for court reporters and court administrators.

Once developed, the following pedagogical techniques and teaching tools were employed as required:

- lectures (to be kept to a minimum),
- videos,
- hypotheticals in syndicates,
- panel discussions,
- drafting Codes of Ethics,
- surveys as a basis for discussion,
- role play,
- preparation of manuals for court reporters and court administrators,
- tutorials,
- written exercises, and
- plenary discussions.

Consistent with the underlying purpose of all the programs to build an internal Malawian faculty in this field, it was determined that responsibility for the preparation and presentation of a considerable part of all the sessions (except “Judgment Writing”) should be done by members of the Malawi Judicial Education Committee.

Training Programs

Program 1: Judgment Writing

The first program on judgment writing was presented to 32 judges and magistrates from December 11-15, 1995, at Ryalls Hotel in Blantyre. It was designed to improve the transparency of the court process by simplifying and clarifying the judgments rendered by the courts. The objective was to make court decisions clearly understandable to the

layperson. Professor James Raymond of the University of Alabama, an expert in the field of judgment writing, was the instructor.

Program 2: Court Reporters

A program for 20 Malawi Court Reporters was presented from April 14-20, 1996, at the Malawi Institute of Management. It was designed to improve the competence and efficiency of the court reporters. It was administered by Dr. Judith Fingard, who also taught some sessions and supervised the overall pedagogy. To allow comparative regional analysis, Mr. Constantine Musango, a Recording Supervisor, presented the Zimbabwe experience in court reporting from which the participants drew ideas to improve court reporting in Malawi. The program was heavily oriented toward computer training. It also included sessions on time management, working to goals, gender bias and the function of the courts as a service to the community.

Programs 3 and 4: Court Administrators/Court Clerks (two programs)

Two programs were presented for 105 Malawi Court Administrators and Court Clerks on April 21-27, 1996 and April 28-May 4, 1996 at the Staff Training College in Mpembe. The objectives of the programs were: (1) to increase the efficiency of the administration of justice; (2) to canvas regional practices, standards and reforms in court administration; (3) to identify bottlenecks and their solutions in the work of the court administrators; (4) to consider case flow management and record keeping techniques; (5) to make uniform forms and procedures after fusion of the traditional and formal courts; and (6) to lay the necessary foundation for a legal faculty incorporating judicial educators as well as educators for court administration. The participation of the following regional experts allowed comparative study of court administration: Mrs. Celestine Kabalu from Zambia, Chief Magistrate Uchena from Zimbabwe, and Dr. Booshan Domah from Mauritius. The comparative regional experience was extremely useful, particularly in regard to the advances which have been made to increase the productivity of the courts by unburdening judicial officers of administrative functions.

Programs 5 and 6: Judges/Magistrates (two programs)

Two programs for 27 Malawi judges and professional magistrates were presented May 2-7, 1996 and May 9-13, 1996 at Club Makokola, Mangochi. The topics included constitutional interpretation, protection of human rights through domestic application of international rights standards and the Constitutional Bill of Rights, sentencing—uniformity and alternatives to imprisonment, gender bias and inequality in the courts, judicial review, judicial ethics, judicial independence, case flow management and modern court technology. Experts in the field of constitutional law, Professor Leon Trakman and Justice Ian Farlam (South Africa); an internationally known expert in the field of court administration, Dr. Booshan Domah (Mauritius); and an expert in the field of sentencing

and judicial review, Professor Bruce Archibald, comprised the external faculty. As before, the program was carried out by Malawian judges and magistrates to strengthen the local judicial education faculty.

Program 7: 1st Grade Magistrates

The last program was presented for 35 Malawi 1st Grade Magistrates from May 13-18, 1996 at the Grace Bandawe Center in Blantyre. The objectives of the program were to increase their competency and efficiency through exposure to the following topics: constitutional law, sentencing, domestic application of international human rights norms, gender bias and inequality in the courts, judicial ethics, judicial independence, case flow management and modern court technology. The external faculty included Justice Farlam, Professor Leon Trakman and Mrs. Nicola Padfield (Fitzwilliam College, Cambridge). Again, to advance the capabilities of the local faculty, the week-long program was carried out mainly by Malawian judges and magistrates.

Lessons and Recommendations

Based on the evaluations received, all program objectives were achieved. The seminars improved the efficiency and competency of the participants; promoted the transparency of the justice system; strengthened components of the justice system by introducing collegial organizations and Codes of Ethical Conduct; and left behind practical resource manuals. The seminars were also very effective as a local faculty-building exercise.

Each of the more detailed summaries that follow include a synopsis of the appraisals received, and a discussion of the lessons learned and recommendations made for follow-on topics. The key lessons and recommendations are as follows.

Lessons Learned

1. Additional administrative support should have been made available to the Malawian jurists who had been assigned the responsibility for the preparation of the manuals. Their heavy court burden and the extra duty given them during this intensive period of court reform made the compilation for publication of their material impossible in time for distribution prior to the program. With admirable diligence and effort, the material was produced in time for publication and dissemination during the programs.
2. The administrator should arrive at the conference site no less than one week prior to the seminar to ensure the collection and printing of materials.
3. A considerable part of the program was carried by the internal faculty. Participants indicated a few of the internal faculty should receive further training before being invited to participate as instructors in subsequent programs. They have been identified

to the Chairman of the Malawian Judicial Education Committee. The other internal faculty members were skilled and thorough in their presentations which were well received.

4. The regional speakers were very popular and the comparative aspect of the program was highly successful. The international speakers were likewise well received and received high praise from all concerned.
5. It would have been useful to allow time for the discussion of local problems for which representatives of other areas might have solutions.
6. Papers should be distributed in advance to the judges and professional magistrates as this is logistically feasible. Furthermore, there is a high chance in this group of the material being used in advance and being brought to the seminar as the judges and magistrates are used to preparing themselves for cases.
7. It is important to have backup programs planned as an alternative to video presentations in the event of technical difficulties.
8. The wisdom of sharing the responsibility among several external faculty members for mutual support and in case of illness or other difficulty was confirmed.

Recommendations for Follow-on Training

1. The comparative regional experience was extremely useful and regional seminars should be pursued.
2. The organization of the Court Administrators' and Court Reporters' Associations initiated at these seminars should be followed up by the local Malawi Judicial Education Committee and supported by USAID.
3. Those Malawian speakers highly recommended by the participants should be sent to judicial educators' training programs abroad to further their development as in-country faculty.
4. As noted by the judges and professional magistrates, an important next step would be to focus further seminars on in-depth consideration of a specific judicial topic. These might be designed as an ongoing or continuing education course.
5. Joint programs with the judges and magistrates on court administration topics such as statistics and case flow management would be beneficial to the efficient administration of justice.

6. Participation in judicial education programs in regional and international jurisdictions should be considered.
7. The need for a “follow on” program on judgment writing was noted by several participants.
8. Court Administrators’ manuals should be provided to each Court Administrator.

Judicial Sector Training Report / Program 1 / Judges #1 / Judicial Writing

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: The Honourable Judge Sandra E. Oxner in consultation with the Malawi Judicial Education Committee and Geraldine May, Administrator

Dates: December 11- 15, 1995

Location: Ryalls Hotel, Blantyre, Malawi

Introduction/brief description:

A continuing judicial education program on "Judgment Writing" took place from December 11-15 inclusive in Blantyre, Malawi. It was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Judicial Education Committee.

The instructor for the program was Professor James Raymond of the University of Alabama, USA, an expert in judgment writing. The activity was designed by Judge Sandra E. Oxner, in discussion with Professor Raymond. The design was submitted to and approved by the Malawi Judicial Education Committee.

List of participants:

The Hon. The Chief Justice R. A. Banda
The Hon. Justice L.E. Unyolo, JA
The Hon. Justice H.M. Mtegha, JA
The Hon. Justice J.B. Kalaile, JA
The Hon. Justice L.A Chatsika, JA
The Hon. Justice J.B. Valliiera, JA
The Hon. Justice D.G. Tambala
The Hon. Justice M.P. Mkandawire
The Hon. Justice I.J. Mtambo
The Hon. Justice Mrs. A.S.E. Msosa
The Hon. Justice R.P. Mbalame
The Hon. Justice D.F. Mwaungulu
The Hon. Justice A.K. Tembo
The Hon. Justice G.M. Chimasula Phiri
The Hon. Justice A.K.C. Nyirenda
The Hon. Justice D.S.L. Kumange

The Hon. Justice E.M. Singini
Mr. E.B. Twea - Registrar
Mr. W. W. Qoto
Mr. B.S.A. Chuidza Banda
Mr. R.R. Chinangwa
Mr. M.C.C. Mkandawire
Mr. H.E. Chombo
Mr. G.K.Z. Nyasulu
Mr. G.J. Mwase
Mr. Gola Mwanza
Mr. H.S.B. Potani
Mr. Richard Paliani
Mr. J.W. Sapwe
Mr. U.G. Sidira
Miss I. Chatha
Mr. R.R. Mzikamanda

List of Trainers:

Trainers

Dr. James Raymond
The Honourable Sandra E. Oxner

Rapporteurs

Mr. J.M. Mtika
Mrs. G.C. Magola

Seminar Administration

Geraldine May
Mr. R.R. Mzikamanda
Mr. H.S. Khombe
Mrs. M.U.L. Panje

Secretarial Services

Mrs. A.O. Kandaya
Mrs S.B. Mwafulirwa

Program Schedule:

MONDAY, DECEMBER 11, 1995

9:00 a.m. - 9:30 a.m.	Formal Opening The Honourable Mr. Justice Duncan G. Tambala, Chairman of the Malawi Judicial Educational Committee Chair: The Honourable Chief Justice Richard A. Banda - "Opening Remarks" Dr. Andrew Sisson, USAID - Malawi The Honourable Judge Sandra E. Oxner, Associates in Rural Development, Inc.
	Reception following Opening
10:15 a.m. - 11:00 a.m.	"Why Can't Lawyers Write Like Katherine Mansfield, Tiyaambe Deleza or Dede Kankondo?" Professor James C. Raymond Chair: Honourable Justice James Kalaile, JA and His Worship R.R. Chinangwa
11:00 a.m. - 12:00 p.m.	Workshops or Syndicates for 4 - 5 participants Private Tutorials
12:30 p.m. - 1:30 p.m.	LUNCH
1:30 p.m. - 3:00 p.m.	Workshops continued Private Tutorials
3:00 p.m. - 3:30 p.m.	BREAK

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3:30 p.m. - 4:30 p.m.

Groups' comments and questions in Plenary Session

Purpose: The purpose of these sessions is to focus on the need to write judgments using language and a style that make the judgment understandable to the layperson.

Objectives: Participants will leave the day's sessions having learned the advantages of a clear writing style. They will have had two workshops in which to try their hand at achieving it.

TUESDAY, DECEMBER 12, 1995

9:00 a.m. - 10:15 a.m.

Lecture: First Page

10:15 a.m. - 10:45 a.m.

B R E A K

10:45 a.m. - 11:45 a.m.

Tutorials, while Judges work privately on Assignment No. 1

11:45 a.m. - 12:00 p.m.

Plenary to collect Assignment No. 1

12:00 p.m. - 1:30 p.m.

L U N C H

1:30 p.m. - 3:00 p.m.

Brief Plenary, followed by Tutorials and individual work on Assignment No. 2

3:00 p.m. - 3:30 p.m.

T E A

3:30 p.m. - 4:30 p.m.

Plenary (Discussion of Rhetoric and Traps)

Purpose: The purpose of these sessions is to explore the proper construction of a first page that would allow the reader quick access to the central argument of the judgment. The lecture will emphasize the importance to the litigants, the media and the community of conveying basic facts and reasons for the decision in a succinct form.

Objectives: Participants will leave the day's sessions having learned the importance to their legal and general community of a summarized presentation of the facts and reasons for decisions. They will have spent two workshops revising first pages of their own judgments to make them more effective.

WEDNESDAY, DECEMBER 13, 1995

9:00 a.m. - 10:15 a.m.

Collect Assignment No. 2
Lecture: Organization

10:15 a.m. - 10:45 a.m.

B R E A K

10:45 a.m. - 11:45 a.m.

Workshop: Discuss Assignment No. 1

11:45 a.m. - 1:00 p.m.

Plenary to check progress/answer questions

1:00 p.m. - 4:30 p.m.

Individual work to revise, catch up, or engage in discussions with Professor Raymond

Purpose: The purpose of these sessions is to order judgments in a logical manner which makes their meaning clear to the lay and professional reader. This session will discuss the possibility of an approved outline to be referred in writing judgments in Malawi.

Objectives: The participants will leave the day's sessions having learned the importance of a logically constructed judgment. They will have had two workshop sessions to put into practice Professor Raymond's suggested outline to help them accomplish this.

THURSDAY, DECEMBER 14, 1995

9:00 a.m. - 10:15 a.m.

Lecture: Style

10:15 a.m. - 10:45 a.m.

B R E A K

10:45 a.m. - 11:45 a.m.	Workshop/Tutorials
11:45 a.m. - 12:00 p.m.	Plenary to check progress/answer questions
12:00 p.m. - 1:30 p.m.	LUNCH
1:30 p.m. - 3:00 p.m.	Workshop: Discuss Assignment No. 2
3:00 p.m. - 3:30 p.m.	BREAK
3:30 p.m. - 4:30 p.m.	Plenary Session (Discussion of CV)

Purpose: The aim of the sessions will be for each participant to develop a clear and concise manner of expressing himself or herself in writing a judgment. The opening lecture will identify problems in style and make suggestions to eliminate or improve style defects. Practical exercises will be used in the two workshops and plenary session.

Objectives: The participants will leave the day's sessions having focused on the essential elements of a clearly understandable style. They will have used two workshop sessions and the plenary session to practice developing a personal style that will improve their oral and written judgments.

FRIDAY, DECEMBER 15, 1995

9:00 a.m. - 10:15 a.m.	Lecture: Correctness
10:15 a.m. - 10:45 a.m.	BREAK
10:45 a.m. - 11:15 a.m.	Workshop: Examine any remaining judgments. Prepare additional commandments, advice, resolutions.
11:45 a.m. - 12:15 p.m.	Plenary: Reports from groups

12:15 p.m. - 1:00 p.m.

Evaluation: The Honourable Chief Justice
or The Honourable Justice Tambala

Purpose: The purpose of these sessions is to identify common grammatical errors in judgment writing that tend to cause ambiguity. Reference materials and manuals will be referred to and recommended.

Objectives: The participants will leave the workshops having learned common errors and having used the workshops and plenary sessions as practice sessions in writing to avoid the identified problems.

Pedagogy:

Prior to the program, Professor Raymond critically reviewed a judgment written by each participant. These judgments were reviewed with the writer in a private tutorial during the program, with Professor Raymond making suggestions for improvements to assist the writer in achieving program objectives.

Each session began with a lecture by Professor Raymond that developed the theme and purpose of the day's designated work. Following the lecture, participants worked in small groups revising or writing in accordance with the principles set forth in the morning lecture. Supplementary lectures were given by Professor Raymond when the need was indicated in the plenary session held following the workshops.

The plenary sessions were co-chaired by a Malawian judge and a Malawian magistrate. Mr. R.R. Mzikamanda and Mr. Charles Mkandawire, both graduates of the Commonwealth Judicial Education Institute (CJEI) Judicial Educators' Program, were assigned as special assistants to Professor Raymond--an important aspect of faculty development.

Important to the success of the pedagogy was the provision by the administrative support team of adequate typists and word processors on site to provide the daily typed revisions necessary after the workshops. The heavy daily photocopying requirements of the program were also successfully met by the administrative support team. Without this administrative service, the program would have foundered.

The teaching tools used by Professor Raymond included:

- a style manual;
- a background scholarly article;
- the development during the program of a reference framework for judgment writing; and
- a list of suggested reference texts.

Objectives:

The purpose of the seminar was to encourage delivery of judgments that would make the reasons for judgments clear to the average Malawian. By this means, the judges sought to give the judicial process the transparency required for a durable democracy, including:

- to emphasize the importance to the litigants, the media, and the community of conveying basic facts and reasons for the decision in a succinct form;
- to focus on the need to write judgments using language and style that make the judgment understandable to the layperson, to make the judicial process "transparent";
- to explore the proper construction of a judgment's first page that would allow the reader quick access to its meaning;
- to order judgments in a logical manner which makes their meaning clear to the lay and professional reader;
- to encourage and assist each participant to develop a clear and concise manner of expressing him or herself in writing a judgment;
- to identify problems in style and make suggestions to eliminate or improve style defects;
- to identify common grammatical errors in judgment writing that tend to cause ambiguity;
- to develop an agreed-upon outline to be referred to in writing judgments in Malawi; and
- to provide reference materials and a style manual.

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Evaluation:

by trainer

Based on discussions with the Chief Justice, Justice Tambala, Professor Raymond, Ms. English and various participants, and review of the participants' appraisal forms, the seminar appears to have been useful and successful and to have achieved its set objectives.

Professor Raymond was very popular with and well received by the participants. They recognized immediately that he combined outstanding teaching skills with sensitivity and concern for his audience. They admired his obvious depth of knowledge of legal writing and skill in the use of the English language. It would be fair to say that all participants would like him to return and many, including Chief Justice Banda, suggested a date be set for a future seminar to review the quality of judgment writing at that time.

Professor Raymond is pleased with the success of the program in achieving its objectives. He felt that the usefulness of it could best be shown by the comparison of the "before" and "after" judgments written by the participants.

by participants

Twenty-four written appraisals were received from the participants. Nine of these categorized the usefulness of the seminar as "excellent"; the other 15 participants categorized the usefulness as "good." None of the participants categorized the usefulness of the seminar as "satisfactory" or "poor."

Summary of Participants' Appraisal Forms

**Future Topics
(in order of popularity)**

1. The Judiciary and the Media (6)
2. Sentencing Persons (5)
3. Doctrine of Precedent (5)
4. Refresher course on Judgment Writing (5)
5. Paragraphing (judgment writing) (3)
6. Citing Legal Authorities (2)
7. Logic (2)
8. Legal Research (1)
9. Oral Judgments (1)
10. Human Rights (1)

Suggested Program Changes

1. More participatory
2. More resource persons
3. More local resource
4. Held away from duty station
5. Include lay magistrates
6. Attachment of judges to foreign jurisdictions

B

The figure in brackets represents the number of participants recommending the topic.

Lessons learned:

The following items must be taken into consideration when designing and delivering subsequent training programs in this series.

- All involved agreed that more than one instructor was required for such a lengthy program. While no one could have done a better job than Professor Raymond (or indeed as good a job), the burden on one instructor who was at once a daily lecturer, a discussion group leader and a private tutor was physically over-demanding for a five-day program. Furthermore, the program would have foundered had he been taken ill. The burden on him could have been lessened by shortening the program to three days and having a follow-up seminar in six months either in Malawi or by mail.
- It was learned that local and regional judicial support "faculty" on this topic were available and, with a short training session a day or so before the program, could have been very useful. While the program was effective in developing faculty for future local and regional programs on the topic, it would have lessened the burden on Professor Raymond to have trained local support "faculty" for use in this program.
- The tutorials were the most popular part of the program and should be maintained. As mentioned above, now that the initial personal contact has been made, it may be possible to do subsequent tutorials by e-mail or regular mail as a follow-up to this program. The positive personal relationship that Professor Raymond forged with the Malawi Judiciary is an important component in the success of the tutorials.
- Several participants mentioned that they would have found it useful if the written background material (i.e., the style manual) had been made available to them prior to the training.
- Several of the participants regretted that the Grade One lay magistrates did not have the opportunity to attend the training.
- The administrative support of every judicial education program is of enormous importance. Without the smooth functioning of the organizational side of the program, the valuable judge time off the Bench and the cost of presenting the program are wasted. Furthermore, it is essential that the teaching aids and support services such as typing and photocopying are available and working in the background during teaching sessions.

- Nearly all the participants expressed that the program should have been held away from Blantyre where the jurists would have been able to focus completely on the program.
- There was some concern expressed that, given the heavy backlog of cases, the less court time used for judicial education the better. For this reason, programs running from Friday to Monday would be helpful.
- The "Culture and Rhetoric" Evening Session was a very successful event, providing a high point in this arduous and demanding program and making an important contribution to the building of judicial collegiality and self-support.

Recommendations for follow-on training:

- A refresher course of 2 1/2 days should be given by Professor Raymond. If a Malawi program is not possible, then a refresher course by Professor Raymond by mail.
- A 2 1/2 day program on judgment writing for lay magistrates. This could immediately precede or follow a refresher course for judges. Again, the recommendation is to engage Professor Raymond, both for his strong teaching skills and knowledge of the subject, and to build on the rapport he has established with the Malawi Judiciary.

Judicial Sector Training Report / Program 2 / Court Reporters

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: Dr. Judith Fingard

Dates: April 14-20, 1996

Location: Malawi Institute of Management

Introduction/brief description:

A continuing judicial education program for Court Reporters took place from April 14-20, 1996 at the Malawi Institute of Management. It was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Judicial Education Committee.

List of participants:

Reporters

Sophie M.G. Chimaliro (High Court, Lilongwe)
John Solomon Chimbayo (High Court, Lilongwe)
Lilian M. Chingota (High Court, Blantyre)
Lyson W. Chisulo (High Court, Blantyre)
Catherine B. Corner (High Court, Blantyre)
George T. Longwe (High Court, Mzuzu)
George A. Makina (High Court, Lilongwe)
Titus Z. Nyirenda (High Court, Blantyre)
Martha C. Pindani (High Court, Blantyre)
Grace P. Sinalo (High Court, Blantyre)

Trainees

Chrissie S. Jere
Joan L. Katemana
Gabriel P. Kuchombo
Sophie A. Mbewe
Elia Stephen Mlenga
Ivy S. Namagonya
Tabman N.C. Nyirenda
Besta C. Phiri

Rex Malinga Phiri
Sangwani H. Phiri

List of Trainers:

Robert Mzikamanda
Aggripah Phiri
Dr. Judith Fingard
Mr. W. Qoto
The Honourable Chief Justice Richard Banda
The Honourable Mr. Justice Duncan Timbala
Dr. Benson Kandoole
Wilfred Kadam'manja
Mrs. G. Magola
Charles Mkandawire
George Kazembe
Constantine Musango
Mr. Khombe
Mr. G. Mwase

Program Schedule:

SUNDAY, APRIL 14, 1996

6:00 p.m.	Registration and Distribution of Material
7:00 p.m. - 8:00 p.m.	DINNER
8:00 p.m. - 9:00 p.m.	Orientation Robert Mzikamanda (High Court, Lilongwe) Aggripah Phiri (MIM), Judith Fingard (ARD)

MONDAY, APRIL 15, 1996

7:00 a.m. - 8:00 a.m.	BREAKFAST
9:00 a.m. - 10:00 a.m.	Formal Opening The Honourable Chief Justice Richard Banda, Chief Justice of Malawi The Honourable Mr. Justice Duncan Tambala, Chair, Malawi Judicial Education Committee Dr. Benson Kandoole, Director, Malawi Institute of Management Dr. Judith Fingard, ARD

Keynote Address
The Honourable Chief Justice Banda

10:00 a.m. - 10:30 a.m. **TEA**

10:30 a.m. - 12:30 p.m. Computer Skills Assessment
Wilfred Kadam'manja, MIM

12:30 p.m. - 1:30 p.m. **LUNCH**

1:30 p.m. - 2:30 p.m. Court Structure: Lecture and Discussion
The Honourable Mr. Justice Duncan Tambala, MJEC

2:30 p.m. - 3:30 p.m. Computer Lab

3:00 p.m. - 3:30 p.m. **TEA**

3:30 p.m. - 5:00 p.m. Computer Lab

5:00 p.m. - 6:30 p.m. Screening of Court Related Videos and Discussion
"One Customer at a Time"
"Delay: Case Flow Management"
Judith Fingard, ARD

7:00 p.m. - 8:00 p.m. **DINNER**

TUESDAY, APRIL 16, 1996

7:00 a.m. - 8:00 a.m. **BREAKFAST**

8:30 a.m. - 10:00 a.m. Basic Legal Concepts and Legal Terminology
Winter Qoto, MJEC

10:00 a.m. - 10:30 a.m. **TEA**

10:30 a.m. - 12:30 p.m. Computer Training
Wilfred Kadam'manja, MIM

12:30 p.m. - 1:30 p.m. **LUNCH**

1:30 p.m. - 2:00 p.m. Assembling Records for Appeal Books
Chigaru paper presented by Mr. W. Qoto, MJEC

2:00 p.m. - 3:00 p.m. Computer Lab

3:00 p.m. - 3:30 p.m. **TEA**

3:30 p.m. - 6:30 p.m. Computer Lab

7:00 p.m. - 8:00 p.m. **DINNER**

8:00 p.m. - 10:00 p.m. Computer Lab

WEDNESDAY, APRIL 17, 1996

7:00 a.m. - 8:00 a.m. **BREAKFAST**

8:30 a.m. - 10:00 a.m. Court procedure and Decorum
Charles Mkandawire, MJEC

10:00 a.m. - 10:30 a.m. **TEA**

10:30 a.m. - 12:30 p.m. Computer Training
Wilfred Kadam'manja, MIM

12:30 p.m. - 1:30 p.m. **LUNCH**

1:30 p.m. - 3:00 p.m. Legal Research: How to find statutes and cases
Robert Mzikamanda, MJEC

3:00 p.m. - 3:30 p.m. **TEA**

3:30 p.m. - 5:00 p.m. Legal Research (continued)

5:00 p.m. - 7:30 p.m. Time Management
George Kazembe, MIM

7:30 p.m. - 8:00 p.m. **DINNER**

8:00 p.m. - 11:00 p.m. Screening of "The Accused," followed by discussion
Judith Fingard, ARD

THURSDAY, APRIL 18, 1996

7:00 a.m. - 8:00 a.m. **BREAKFAST**

8:30 a.m. - 10:00 a.m. Court Reporters' Ethics
Charles Mkandawire, MJEC

10:00 a.m. - 10:30 a.m. **TEA**

10:30 a.m. - 12:30 p.m.	Comparative Court Reporting Practices Constantine Musango, Transcribers' Supervisor Zimbabwe
12:30 p.m. - 1:30 p.m.	LUNCH
1:30 p.m. - 3:00 p.m.	Computer Project Wilfred Kadam'manja, MIM
3:00 p.m. - 3:30 p.m.	TEA
3:30 p.m. - 4:00 p.m.	Computer project (continued)
4:00 p.m. - 5:00 p.m.	Job Description and Professional Expectations of a Court Reporter Khombe and Mwase, MJEC
5:00 p.m. - 6:30 p.m.	Screening of "Melissa," followed by discussion Judith Fingard, ARD
7:00 p.m. - 11:00 p.m.	DINNER AND RECEPTION

FRIDAY, APRIL 19, 1996

7:00 a.m. - 8:00 a.m.	BREAKFAST
8:30 a.m. - 10:30 a.m.	Goal Setting Agrippah Phiri, MIM
10:30 a.m. - 11:00 a.m.	TEA
11:00 a.m. - 12:30 p.m.	Meeting to organize Court Reporters' Association
12:30 p.m. - 1:30 p.m.	LUNCH
1:30 p.m. - 2:30 p.m.	Legal Citation Robert Mzikamanda, MJEC
2:30 p.m. - 3:00 p.m.	Advances on Computing Wilfred Kadam'manja, MIM
3:00 p.m. - 3:30 p.m.	TEA
3:30 p.m. - 5:00 p.m.	Computer Lab

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- 5:00 p.m. - 7:30 p.m. Communication Skills
George Kazembe, MIM
- 7:30 p.m. - 8:00 p.m. **DINNER**
- 8:00 p.m. - 10:00 p.m. Evaluation and Formal Closing
Robert Mzikamanda, MJEC
Judith Fingard, ARD

SATURDAY, APRIL 20, 1996

6:00 a.m. - 11:00 a.m. **DEPARTURE**

Note: With the concurrence of the members of the Malawi Judicial Education Committee and Andrew Sisson of USAID, the program used Friday night instead of Saturday morning for evaluation and closing. We also held sessions on Tuesday and Wednesday evenings. The main reason for the alteration on Saturday was the cost of board for participants for Saturday night which had not been included in the budget.

Pedagogy:

The sessions consisted of lecture and discussion, video presentations and discussion, and work in the computer laboratory. It was not necessary to divide this relatively small group into smaller units in order to achieve lively and production discussion. Virtually all the participants were fully engaged and spoke forcefully and articulately about their concerns and the issues raised in the presentations by the instructors.

Objectives:

The objectives of the program are:

- to instill among Court Reporters a sense of purpose and professionalism;
- to adopt a permanent association of court reporters as the appropriate vehicle for assessing their needs and presenting proposals for future workshops.

Evaluation:

by trainer

This was the first time Dr. Fingard served as administrator and instructor for a Malawian program. Her impressions were formed as much by her subsequent involvement in three programs administered largely by Geraldine May as by this first experience. Clearly the location of this program at the Malawi Institute of Management was an advantage for the participants and eliminated some of the logistical problems which, for example, arose

later at the Staff Training College (STC) at Mpmembe. Also, the size of the group was appropriate. (The groups of court administrators at STC averaged 50. It was virtually impossible to get to know many of the participants and understand their needs, especially when living off-site and having to cope with photocopying and banking in Blantyre.)

Most of the frustrations encountered at STC were avoided in the Court Reporters' program which was a positive experience for all the participants and instructors. The training needs of court reporters can be fairly narrowly defined as technical and legal and are not as wide-ranging as those of the court administrators and clerks. The program would have benefitted from knowledge of what happens in other jurisdictions.

The addresses made by the Chief Justice formally, Dr. Sisson informally, and MJEC Secretary Mr. Mzikamanda at the closing created a lasting impression. Chief Justice Banda stressed the need for improved productivity, accuracy and professional awareness; Dr. Sisson referred to the four "i's" appropriate to the court reporters: integrity, impartiality, ideals and image. Mr. Mzikamanda suggested that improved productivity must come first; incentives later.

by participants

Unfortunately, the participants were not asked to identify themselves as reporters or trainee reporters on the evaluation forms. Nonetheless, the responses indicated that 19 out of the 20 rated the program as excellent. It appears that their expectations in respect to computer training were met since 17 of the 20 rated those sessions as excellent, the highest marks given for any one aspect of the program. The other highly rated sessions included court procedure and decorum, time management, ethics, goal setting and legal citation. The most widely expressed comments centered on the "tight" timeframe of the program and inability to absorb written materials during the week (they wanted an 8-hour day), the need for more computer training and practice in legal research and editing, a change to improve shorthand and typing speed, and better knowledge of public relations.

Lessons learned/ Recommendations for follow-on training:

- Participants should be consulted about their needs and expectations in advance of devising the program. In this case, consultation occurred, but communication apparently broke down somewhere.
- Some participants indicated they would have preferred to have received written background materials in advance. (Given the logistical difficulties, this is not possible in Malawi. Experience also shows that material distributed in advance is often not read or brought to the seminar and that it is preferable to distribute the material at the time of registration for it to be used during the seminar and as a subsequent resource.)

- Written materials must be better edited for distribution to a literate group like this. The court reporters are experienced editors and were offended by papers riddled with typographical errors and spelling mistakes.
- To promote greater unity of purpose in the courts, workshops that include a cross-section of court users, or at the very least all the government employees, should be tried. By understanding each other's jobs and responsibilities, a greater mutual respect would be promoted.
- Teaching by example is an important method and there is scope in a group like this to bring in a well assembled case record for study or to encourage understanding and productivity by holding a mock trial. Naturally such matters require considerable planning.

To edit materials for manuals and produce an attractive product, better equipment needs to be readily available to the administrators. One whole working day was spent trying to find a printer to run off material on a disk, and then the quality of the print was substandard.

Judicial Sector Training Report / Program 3 / Court Administrators #1

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: The Honourable Judge Sandra E. Oxner in consultation with the Malawi Judicial Education Committee and Geraldine May, Administrator

Dates: April 21-27, 1996

Location: Staff Training College, Mpembe, Blantyre, Malawi

Introduction/brief description:

The first of two continuing education programs for Court Administrators took place at the Staff Training College at Blantyre Malawi from April 21-27, 1996. It was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Education Judicial Education Committee.

List of participants:

Mr. Stone E. Kwada Mweziunyenga	MR. D.K. Mphepo
Mr. S.B. Msukunika	Mr. G.S. Chirombo
Mr. E.E. Chifulemba	Mr. M.D.H. Mangisoni
Mrs. G. Magola	Mr. E.F. Singano
Mrs. V.W. Ngulube	Mr. B.D. Msiska
Mrs. M. Kachule	Mrs. L.J. Kadulira
Mr. S.N. Chifomboti	Mrs. R.W. Honde
Mr. B.A. Masala	Mr. M.E. Kachingwe
Mr. J.I. Adam	Mrs. J. Tizifa
Mr. G.D.G. Chimbamba	Mr. F.E. Kumwenda
Mr. I.R. Chibambo	Mr. S.A. Mwambo
Mr. E.J.D. Mhango	Mr. P.M.C. Kamagunda
Mr. B.H. Kumwenda	Mr. L.F. Mamba
Mr. D. Mapanga	Mr. H. Phukaphuka
Mr. L.J. Chitanje	Mr. P.G. Masula
Mr. C.G.D. Nyasulu	Mr. B.B. Kamphonda
Mr. J.W. Nthara	Mr. A.M.V. Likwanya
Mrs. S.Z. Beza	Mr. B.J. Bisalomo
Mr. D.E. Ganya	Miss G.T. Nyirenda
Mrs. N.C.A. Mkangala	Mr. F.E. Mandala

Mrs. B.B. Ngoma
Mr. L.A. Malunjika
Mr. E.J. Chingoni
Mr. M.D. Banda
Mr. D.D.N.C. Banda
Mr. P.B. Malunga

Mr. E.F. Chidima Phiri
Mr. B.P. Nkhoma
Mr. C.A.Y. Manthalu
Mr. R.B. Meja
Mr. D.P. Kaundama
Mr. S. Zimba

List of Trainers:

Dr. Booshan Domah, Mauritius
Mr. Charles Mkandawire, Malawi
Mr. Robert R. Mzikamanada, Malawi
The Honourable Mr. Justice Duncan Tambala, Malawi
Mr. Watson Mankhanamba, Malawi
Mr. G.Mswse, Malawi
Mr. W.W. Qoto
Mrs. M. Phiri
Mr. J.W. Chimbalinga, Malawi
Mr. H.R. Chigaru
Mr. H. Khombe
Mrs. Celestine Kabalu, Zambia
Mr. E. Twea, Malawi
Mr. E. Thindwa, Malawi
Mrs. G. Magola, Malawi
Mr. S.M. Mtika, Malawi
Chief Magistrate Uohena, Zimbabwe
Dr. Judith Fingard, Canada

Program Schedule:

SUNDAY, APRIL 21, 1996

4:00 p.m. - 6:00 p.m. Registration and Dissemination of Material

6:00 p.m. - 7:00 p.m. **DINNER**

7:00 p.m. - 8:00 p.m. “Case Flow Management”
Address: Dr. Booshan Domah, Vice President,
 Commonwealth Magistrates’ and Judges’
 Association

MONDAY, APRIL 22, 1996

9:00 a.m. - 10:00 a.m. “Courtroom Decorum”
 Hypotheticals in Syndicates
Chair: Mr. Charles Mkandawire, Chief Resident
 Magistrate

Leaders: Dr. Booshan Domah
Mr. Charles Mkandawire
Mr. R.R. Mzikamanda

10:00 a.m. - 10:30 a.m.

BREAK

10:30 a.m. - 12:00 p.m.

“Case Flow Management”

Address: Dr. Booshan Domah, Vice President,
Commonwealth Magistrates’ and Judges’
Association

12:00 p.m. - 1:00 p.m.

LUNCH

1:00 p.m. - 2:00 p.m.

“Court Structure and Legal Terminology and Basic Legal
Concepts”

Address: Honourable Mr. Justice Duncan Tambala,
Chairman, Malawi Judicial Education
Committee

2:00 p.m. - 3:00 p.m.

Formal Opening

The Honourable Chief Justice Richard Banda,
Chief Justice of Malawi

The Honourable Mr. Justice Duncan Tambala,
Chairman, Malawi Judicial Education Committee

Dr. Booshan Domah, Representative
Geraldine May, Administrator, ADR

Keynote Address - “Judicial Independence”

The Honourable Chief Justice Richard Banda

3:00 p.m. - 3:30 p.m.

BREAK

3:30 p.m. - 4:30 p.m.

“Courtroom Procedure” - Role Play

Mr. Charles Mkandawire, Chief Resident

4:30 p.m. - 5:00 p.m.

Plenary Discussion

7:00 p.m.

Video - “Time Management”

Mr. Watson Mankhanamba

Vice Principal Staff Training College

TUESDAY, APRIL 23, 1996

9:00 a.m. - 10:00 a.m.

Organizational Meeting for Court Administrators and
Introduction to a Draft Code of Judicial Ethics for Court
Administrators

Malawian Professional Magistrate Mr. G. Mwse

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. Forms - Criminal
Workshops
Mr. Winter Qoto

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 2:00 p.m. “Job Description and Organizational Chart”
Mr. H Khombe

2:00 p.m. - 3:00 p.m. “Time Management - Working to Goals”
Mr. Watson Mankhanamba

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 5:00 p.m. Discussion Groups

WEDNESDAY, APRIL 24, 1996

9:00 a.m. - 12:00 p.m. Computer Lab
Mrs. M. Phiri

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 3:00 p.m. “Accounting”
Discussion
Mr. J.W. Chimbalanga

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 5:00 p.m. “Registering Cases”
Mr. H.R. Chigaru

THURSDAY, APRIL 25, 1996

9:00 a.m. - 12:00 p.m. Computer Lab
Mrs. M. Phiri

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 2:30 p.m. Workshops
Court Clerks and Law Clerks/District Officer
and Regional Officers
Mr. H. Khombe

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2:30 p.m. - 3:00 p.m. **BREAK**
3:00 p.m. - 4:00 p.m. “Enforcing Judgments”
 Mr. R.R. Mzikamanada
4:00 p.m. - 5:00 p.m. Computer Lab
 Mrs. M. Phiri

FRIDAY, APRIL 26, 1996

8:00 a.m. - 10:00 a.m. “Court Statistics”
 Mrs. Celestine Kabalu, Chief Administrator,
 Zambia

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. Court Statistics” Continuation
 Mrs. Celestine Kabalu, Chief Administrator,
 Zambia

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 2:00 p.m. “Ethics”
 Mr. E. Twea, Registrar

2:00 p.m. - 3:00 p.m. “Management Skills”
 Mr. E. Thindwa
 Staff Training College

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 4:30 p.m. “Management Skills” Continuation

4:30 p.m. - 5:30 p.m. “Time Management - Goal Oriented Work Patterns”
 Mr. Watson Mankhanamba

7:00 p.m. Video

SATURDAY, APRIL 27, 1996

8:00 a.m. - 9:00 a.m. Forms - Civil, Mrs. G. Magola
 Workshop, Mr. Mtika
 Completing Monthly, Quarterly, etc. returns

- 9:00 a.m. - 10:00 a.m. “Comparative Court Administration - Zimbabwe and Zambia”
Mr. Uohena, Chief Magistrate, Zimbabwe
Mrs. Celestine Kabalu, Chief Administrator, Zambia
- 10:00 a.m. - 10:30 a.m. **BREAK**
- 10:30 a.m. - 11:30 a.m. Continuation of Morning Session
- 11:30 a.m. - 12:00 p.m. Evaluation and Closing
- 12:00 p.m. - 1:00 p.m. **LUNCH**

Pedagogy:

An organizational meeting was held February 3-4, 1996 in Lilongwe, Malawi, attended by Judge Sandra Oxner, the Malawi Judicial Education Committee and a Judicial Training Officer from Zambia. At this time:

- A member of the Malawi Judicial Education Committee was assigned responsibility for the preparation and conduct for a specific day of each of the programs.
- Members of the Malawi Judicial Education Committee and others nominated were assigned the duty of preparing specific sections of the “Manual for Court Reporters” and the “Manual for Court Administrators.”
- Mr. Charles Mkandawire agreed to write a script for a play that would illustrate the points he wished to make on court room procedure.
- Videos were also chosen to be used for the topics “Time Management”, “Working to Goals”, “Accountability to the Public” and “Case Flow Management.” Printed exercises were chosen for the topics “Gender Bias” and “Case Flow Management” and the American Bar Association video “One Customer at a Time” was used (and well received by the Magistrates).

External and internal faculty were charged with the responsibility of preparing hypothetical fact situations to be used for 12 to 14 person syndicates to illustrate the points raised in the introductory lectures. Except for the keynote addresses each session began with a short lecture that developed the theme and purpose of the session. Following the lecture, participants worked in small groups - working out the responses to hypothetical fact situations distributed in print form. This was followed by plenary discussion of the small group responses. Each session was chaired by a member of the Malawi Judicial Education Committee. Out of the 18 speakers, 3 were from the greater Southern African region. Dr. Boshan Domah, of Mauritius, spoke on the Mauritius

experience in case flow management; Mrs. Celestine Kabalu, Chief Administrator of the Courts of Zambia, spoke on the leadership of Zambia in unburdening Judges and Magistrates of administrative responsibilities, and on the importance of court statistics. Chief Magistrate Uchena of Zimbabwe spoke on court administration in Zimbabwe. All were chosen as spokespersons of the best regional practices in the administration of justice.

An important aspect of faculty development was the use of the Malawian judges and administrators as teachers and organizers. Three members of the Malawian Judicial Education Committee, namely, The Honourable Mr. Justice Duncan Tambala, Mr. Charles Mkandawire and Mr. Robert R. Mzikamanda, are graduates of the Commonwealth Judicial Education Institute's Educator's Program and took leadership roles.

The following pedagogy techniques and teaching tools were employed:

- lectures;
- videos;
- hypotheticals in syndicates;
- role play;
- organizational meeting for court administrators;
- the exercise of drafting a code of ethics for court administrators;
- completion, under supervision, of court forms;
- use of flip charts and blackboard diagrams.

The administrative support of every judicial education program is of enormous importance. Without the smooth functioning of the organizational side of the program, the valuable time out of court and the costs of presenting the program are wasted. Furthermore, it is essential that the teaching aids and support services such as typing and photocopying are available and working in the background during teaching sessions.

Objectives:

The objectives of the program were:

- to increase the efficiency of the administration of justice;
- to canvas regional practices, standards and reforms in court administration;
- to identify bottlenecks and their solutions in the work of the court administrators;
- to consider case flow management and record keeping techniques;
- to make use of forms and procedure which are uniform after fusion of the traditional and formal courts; and
- to lay the necessary foundation for a faculty incorporating judicial educators as well as educators for court administration.

Evaluation:

by trainer

The trainers were pleased with the motivation and enthusiasm of the participants for what they recognized was an intensive and strenuous program. All felt they required more time for in-depth discussion of their topics.

The computer equipment was of a good standard although there was not a computer for each participant. The video presentation worked well although videos and computer lab work were interrupted by power outages.

The Malawi faculty had been charged with preparation of written material to support their teaching session for inclusion in a manual to be given to the participants as a textbook. This manual would then be placed in every court office for future reference. However, the pressure of their daily work and the extra burdens imposed on them by the reform of the justice system prevented the preparation of some of the manual components in advance of the workshop. This placed some pressure on some of the faculty members to complete their written contributions during the seminar. All were received in time for distribution to the court houses by the end of the seminar.

Based on discussions with the Chief Justice, Justice Tambala, Ms. May, the faculty and the participants, and a review of the participants' appraisal forms, the seminar appears to have been useful, successful and to have achieved its set objectives.

The three regional faculty members found the seminar to be of high quality and were pleased with the participation in their sessions.

The seminar should have been held at a location which provided better residential accommodation and meals. Other seminars in this series were held at superior locations.

The hypotheticals were a very effective teaching technique and were much enjoyed by the participants.

(Note: The time and effort put forward by the Malawian Judicial Education Committee was key to achieving the success of the complex and sophisticated program.)

by participants

One hundred (100) appraisal forms were received from the participants. Eighty-five (85) percent rated the program excellent, 10 percent rated it as good, 3 percent as satisfactory and 2 percent as unsatisfactory (one of these indicated that he resented being in class with and lectured to by persons of inferior rank).

The following is a summary of participants' prioritized topics of choice: management skills, case flow management, comparative court administration, time management, court room decorum, computers, enforcing judgments, ethics, court structure and job description.

Suggested program improvements:

- extended number of days - longer seminar time;
- change of hours to 8:00 a.m. to 4:30 p.m.;
- separate seminars for clerks and administrators to allow streaming of topics;
- seminars that include a cross section of court staff including judges and magistrates;
- foreign study tours;
- some participants indicated they would have preferred to have received written background materials in advance. (Given the logistical difficulties, this is not possible in Malawi. Experience also shows that material distributed in advance is often not read or brought to the seminar and that it is preferable to distribute the material at the time of registration for it to be used during the seminar and as a subsequent resource.)

Lessons learned:

- More administrative support needs to be given to ensure faculty are able to prepare written contributions in advance of the seminar.
- The administrator should arrive at the conference site no less than one week prior to the seminar to ensure the collection and printing of materials.
- The majority of the program was carried by the internal faculty. Participants indicated a few of the internal faculty should receive further training before being invited to participate as instructors in subsequent programs. They have been identified to the Chairman of the Malawi Judicial Education Committee. The other internal faculty members were skilled and thorough in their presentations, which were well received.
- The regional speakers were very popular and the comparative aspect of the program highly successful.
- It would have been useful to allow time for the discussion of local problems for which representatives of other areas might have solutions.

Recommendations for follow-on training:

- The participants generally found the seminar useful and requested further similar seminars.
- Comparative regional experience was extremely useful and should be pursued.
- The organization of the Court Administrators Association initiated at this conference should be followed up by the local Malawi Judicial Education Committee.
- Those Malawian speakers highly recommended by the participants should be sent to judicial education court administrators training programs abroad to further their development as in-country faculty.

The presentation (by Dr. Judith Fingard) on gender bias was unusually well received.

- Joint programs with the judges and magistrates on court administration topics such as statistics and case flow management would be beneficial to the efficient administration of justice.

Judicial Sector Training Report / Program 4 / Court Administrators #2

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: The Honourable Judge Sandra E. Oxner in consultation with the Malawi Judicial Education Committee and Geraldine May, Administrator

Dates: April 28-May 4, 1996

Location: Staff Training College, Mpembe, Blantyre, Malawi

Introduction/brief description:

A second continuing education training program for Court Administrators took place at the Staff Training College at Blantyre, Malawi from April 28, 1996 through May 4, 1996. The program was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Education Judicial Education Committee.

List of participants:

Mrs. R.D. Liyao	- Eastern Region
Mrs. A. Chimwala (Annie)	- Eastern Region
Mrs. T.M. Muntbali	- Eastern Region
Mr. L.J. Chibwana	- Eastern Region
Mr. A.B. Malipa	- Eastern Region
Mr. M.F. Nthondo	- Eastern Region
Mr. J.M. Tambula	- Eastern Region
Mrs. M.M. Ndanga	- Eastern Region
Mr. J. Kalambo	- Eastern Region
Mr. J. Kalambo	- Northern Region
Mr. E.P. Phiri (Edward)	- Northern Region
Mrs. A. Namponya	- Northern Region
Mr. T.M. Kayange	- Northern Region
Mr. Mkandawire (H.E.)	- Northern Region
Mrs. L.O. Mhone	- Northern Region
Mr. Ngulube (H.L.Y.M.)	- Northern Region
Miss C. Msowoya	- Northern Region
Mr. J. Mhango	- Northern Region
Mr. F.J. Wanyetta	- Southern Region
Miss McKunke	- Southern Region

Mrs. Sumbuleta (R.T.)	- Southern Region
Mr. Mayeso (A.S.)	- Southern Region
Mrs. M.B. Mwesi	- Southern Region
Mr. D.G. Patel	- Southern Region
Mr. Y.A. Nantunga	- Southern Region
Mr. Kamole (D.T.)	- Southern Region
Mrs. R. Ndekba	- Southern Region
Mr. Gomani (R.D.)	- LL/District Registry
Mr. Kafotokoza (E.B.)	- LL/District Registry
Mr. C.C. Longwe	- Central Region
Mr. Phiri (B.A.M.)	- Central Region
Mrs. Chimphezdu (M)	- Central Region
Mr. C.C. Nkhosa	- Central Region
Mr. B.K. Kasanje	- Central Region
Mrs. Tembenu (E.E.)	- Central Region
Mrs. Mzumara (Mary)	- Central Region
Mrs. Nkhata (A)	- Central Region
Mrs. Mkoka (L.L.)	- Central Region
Mrs. Katunga (M)	- High Court
Mrs. Daud (C.H.)	- High Court
Mrs. A.S. Ndoui	- High Court
Mr. Ngwata (S.N.)	- High Court
Mr. Kuseke (Derek)	- High Court
James C. Milango	- High Court
C.J. Chisoni	- High Court
Mr. Lora (E.G.)	- High Court
Mrs. Sarenda (A)	- High Court
D.M. Mwanyama	
R. Bello	
M.M. Manyamba	
W.S.M. Thewethe	
M. Kadze M'Mawe	

List of Trainers:

Chief Justice Richard Banda, Malawi
 Chief Justice Duncan Tambala, Malawi
 Chief Magistrate Uchena
 Mrs. Celestine Kabalu, Zambia
 Chief Resident Magistrate Charles Mkandawire, Malawi
 Mrs. Pillay
 Dr. Judith Fingard, Canada
 Mr. Twea, Malawi
 Mr. G. Mwase, Malawi
 Mr. H.R. Chigaru
 Mr. J.W. Chinbalanga, Malawi

Mr. Robert R. Mzikamanda, Malawi
Mr. J. Mtika, Malawi
Mr. Khombe
Mr. W.W. Qoto
Dr. Booshan Domah, Mauritius
Mrs. G. Magola, Malawi

Program Schedule:

SUNDAY, APRIL 28, 1996

4:00 p.m. - 6:00 p.m. Registration and Dissemination of Material
6:00 p.m. - 7:00 p.m. **DINNER**
7:00 p.m. Video with Plenary Discussion

MONDAY, APRIL 29, 1996

9:00 a.m. - 10:00 a.m. Formal Opening
The Honourable Chief Justice Richard Banda
Chief Justice of Malawi

The Honourable Mr. Justice Duncan Tambala,
Chairman, Malawi Judicial Education Committee
Geraldine May, Administrator, ADR

Keynote address - "Judicial Independence"
The Honourable Chief Justice Richard Banda

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. "Comparative Court Administration - Zimbabwe
and Zambia"
Mr. Uchena, Chief Magistrate, Zimbabwe
Mrs. Celestine Kabalu, Chief Administrator,
Zambia

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 2:00 p.m. "Court Structure and Legal Terminology at
Basic Legal Concepts"
The Honourable Mr. Justice Duncan Tambala,
Chairman, Malawi Judicial Education Committee

2:00 p.m. - 3:00 p.m. “Courtroom Decorum”
Hypotheticals in Syndicates
Chair: Mr. Charles Mkandawire, Chief Resident
 Magistrate
Leaders: Mr. Charles Mkandawire
 The Honourable Mr. Justice Duncan
 Tambala or his nominee

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 4:30 p.m. “Courtroom Procedure” - Role Play
Mr. Charles Mkandawire, Chief Resident
Magistrate

4:30 p.m. - 5:00 p.m. Plenary Discussion

7:00 p.m. Video - “The Accused”

TUESDAY, APRIL 30, 1996

8:00 a.m. - 9:00 a.m. Gender Bias - Mrs. Pillay, Dr. Judith Fingard

9:00 a.m. - 10:00 a.m. “Court Statistics”
Mrs. Celestine Kabalu, Chief Administrator,
Zambia

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. “Court Statistics” Continued

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 2:00 p.m. “Ethics”
Mr. Twea, Registrar

2:00 p.m. - 3:00 p.m. “Time Management - Working to Goals”

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 5:00 p.m. Organizational Meeting for Court
Administrators and Introduction to a Draft
Code of Judicial Ethics for Court
Administrators
Malawian Professional Magistrate Mr. G. Mwase

7:00 p.m. Video - “Time Management”

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WEDNESDAY, MAY 1, 1996

8:00 a.m. - 12:00 p.m. Computer Lab

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 3:00 p.m. “Accounting”
Discussion - Mr. H.R. Chigaru

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 5:00 p.m. “Registering Cases” - Mr. Chinbalanga

7:00 p.m. Video - “Time Management”

THURSDAY, MAY 2, 1996

9:00 a.m. - 12:00 p.m. Computer Lab

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 3:00 p.m. “Enforcing Judgments”
Mr. R. R. Mzikamanda

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 4:30 p.m. Workshops
Court Clerks and Law Clerks/District Officers
and Regional Officers

4:30 p.m. - 5:30 p.m. Computer Lab

7:00 p.m. - 8:00 p.m. Video - “Trial at Fortitude Bay”

FRIDAY, MAY 3, 1996

8:00 a.m. - 10:00 a.m. “Management Skills”

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. Forms - Civil, Mrs. G. Magola
Workshop, Mr. J. Mtika
Completing Monthly, Quarterly, etc. returns

12:00 p.m. - 1:00 p.m. **LUNCH**

- 1:00 p.m. - 2:00 p.m. "Job Description and Organizational Chart"
Mr. Khombe
- 2:00 p.m. - 3:00 p.m. "Time Management - Goal Oriented Work Patterns"
- 3:00 p.m. - 3:30 p.m. **BREAK**
- 3:30 p.m. - 5:00 p.m. "Forms - Criminal" - Mr. W.W. Qoto
Workshops
- 7:00 p.m. Video

SATURDAY, MAY 4, 1996

- 8:00 a.m. - 10:00 a.m. "Case Flow Management"
Dr. Booshan Domah, Vice President, Commonwealth
Magistrates' and Judges' Association
- 10:00 a.m. - 10:30 a.m. **BREAK**
- 10:30 a.m. - 11:30 a.m. Continuation of Morning Session
- 11:30 a.m. - 12:00 p.m. Evaluation and Closing - Mr. W.W. Qoto
- Mrs. G. Magola
- 12:00 p.m. - 1:00 p.m. **LUNCH**

Pedagogy:

An organizational meeting was held February 3-4, 1996 in Lilongwe, Malawi, attended by Judge Sandra Oxner, the Malawi Judicial Education Committee and a Judicial Training Officer from Zambia. At this time:

- A member of the Malawi Judicial Education Committee was assigned responsibility for the preparation and conduct for a specific day of each of the programs.
- Members of the Malawi Judicial Education Committee and others nominated were assigned the duty of preparing specific sections of the "Manual for Court Reporters" and the "Manual for Court Administrators."
- Mr. Charles Mkandawire agreed to write a script for a play that would illustrate the points he wished to make on court room procedure.

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- Videos were also chosen to be used for the topics “Time Management”, “Working to Goals”, “Accountability to the Public” and “Case Flow Management.” Printed exercises were chosen for the topics “Gender Bias” and “Case Flow Management” and the American Bar Association video “One Customer at a Time” was well used (and was well received by the Magistrates).

External and internal faculty were charged with the responsibility of preparing hypothetical fact situations to be used for 12 to 14 person syndicates to illustrate the points raised in the introductory lectures. Except for the keynote addresses each session began with a short lecture that developed the theme and purpose of the session. Following the lecture, participants worked in small groups - working out the responses to hypothetical fact situations distributed in print form. This was followed by plenary discussion of the small group responses. Each session was chaired by a member of the Malawi Judicial Education Committee. Out of the 18 speakers, 3 were from the greater Southern African region. Dr. Boshan Domah, of Mauritius, spoke on the Mauritius experience in case flow management; Mrs. Celestine Kabalu, Chief Administrator of the Courts of Zambia, spoke on the leadership of Zambia in unburdening Judges and Magistrates of administrative responsibilities; and the importance of court statistics. Chief Magistrate Uchena of Zimbabwe spoke on court administration in Zimbabwe. All were chosen as spokespersons of the best regional practices in the administration of justice.

An important aspect of faculty development was the use of the Malawian judges and administrators as teachers and organizers. Three members of the Malawian Judicial Education Committee, namely, The Honourable Mr. Justice Duncan Tambala, Mr. Charles Mkandawire and Mr. Robert R. Mzikamanda, are graduates of the Commonwealth Judicial Education Institute’s Educator’s Program and took leadership roles.

The following pedagogy techniques and teaching tools were employed:

- lectures;
- videos;
- hypotheticals in syndicates;
- role play;
- organizational meeting for court administrators;
- the exercise of drafting a code of ethics for court administrators;

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- completion, under supervision, of court forms;
- use of flip charts and blackboard diagrams.

The administrative support of every judicial education program is of enormous importance. Without the smooth functioning of the organizational side of the program, the valuable time out of court and the costs of presenting the program are wasted. Furthermore, it is essential that the teaching aids and support services such as typing and photocopying are available and working in the background during teaching sessions.

Objectives:

The objectives of the program were:

- to increase the efficiency of the administration of justice;
- to canvas regional practices, standards and reforms in court administration;
- to identify bottlenecks and their solutions in the work of the court administrators;
- to consider case flow management and record keeping techniques;
- to make use of forms and procedure which are uniform after fusion of the traditional and formal courts; and
- to lay the necessary foundation for a faculty incorporating judicial educators as well as educators for court administration.

Evaluation:

by trainer

The trainers were pleased with the motivation and enthusiasm of the participants for what they recognized was an intensive and strenuous program. All felt they required more time for in-depth discussion of their topics.

The computer equipment was of a good standard although there was not a computer for each participant. The video presentation worked well although videos and computer lab work were interrupted by power outages.

The Malawi faculty had been charged with preparation of written material to support their teaching session for inclusion in a manual to be given to the participants as a textbook. This manual would then be placed in every court office for future reference. However, the pressure of their daily work and the extra burdens imposed on them by the reform of the justice system prevented the preparation of some of the manual components in advance of

the workshop. This placed some pressure on some of the faculty members to complete their written contributions during the seminar. All were received in time for distribution to the court houses by the end of the seminar.

Based on discussions with the Chief Justice, Justice Tambala, Ms. May, the faculty and the participants, and a review of the participants' appraisal forms, the seminar appears to have been useful, successful and to have achieved its set objectives.

The three regional faculty members found the seminar to be of high quality and were pleased with the participation in their sessions.

The seminar should have been held at a location which provided better residential accommodation and meals. Other seminars in this series were held at superior locations.

The hypotheticals were a very effective teaching technique and were much enjoyed by the participants.

(Note: The time and effort put forward by the Malawian Judicial Education Committee was key to achieving the success of the complex and sophisticated program.)

by participants

One hundred appraisal forms were received from the participants. Eighty-five (85) percent rated the program excellent, 10 percent rated it as good, 3 percent as satisfactory and 2 percent as unsatisfactory.

The following is a summary of participants' prioritized topics of choice: management skills, case flow management, comparative court administration, time management, court room decorum, computers, enforcing judgments, ethics, court structure and job description.

Suggested program improvements:

- extended number of days - longer seminar time;
- change of hours to 8:00 a.m. to 4:30 p.m.;
- separate seminars for clerks and administrators to allow streaming of topics;
- seminars that include a cross section of court staff including judges and magistrates;
- foreign study tours;

- some participants indicated they would have preferred to have received written background materials in advance. (Given the logistical difficulties, this is not possible in Malawi. Experience also shows that material distributed in advance is often not read or brought to the seminar and that it is preferable to distribute the material at the time of registration for it to be used during the seminar and as a subsequent resource.)

Lessons learned:

- More administrative support needs to be given to ensure faculty are able to prepare written contributions in advance of the seminar.
- The administrator should arrive at the conference site no less than one week prior to the seminar to ensure the collection and printing of materials.
- The majority of the program was carried by the internal faculty. Participants indicated a few of the internal faculty should receive further training before being invited to participate as instructors in subsequent programs. They have been identified to the Chairman of the Malawi Judicial Education Committee. The other internal faculty members were skilled and thorough in their presentations, which were well received.
- The regional speakers were very popular and the comparative aspect of the program highly successful.
- It would have been useful to allow time for the discussion of local problems for which representatives of other areas might have solutions. The local committee might have had better arrangements for meeting participants who had come from a distance.

Recommendations for follow-on training:

- The participants generally found the seminar useful and requested further similar seminars.
- Comparative regional experience was extremely useful and should be pursued.
- The organization of the Court Administrators Association initiated at this conference should be followed up by the local Malawi Judicial Education Committee.
- Those Malawian speakers highly recommended by the participants should be sent to judicial education court administrators training programs abroad to further their development as in-country faculty.

- The presentation by Dr. Judith Fingard on gender bias was unusually well received.
- Joint programs with the judges and magistrates on court administration topics such as statistics and case flow management would be beneficial to the efficient administration of justice.

Judicial Sector Training Report / Program 5 / Judges #2

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: The Honourable Judge Sandra E. Oxner in consultation with the Malawi Judicial Education Committee and Geraldine May, Administrator

Dates: May 2-6, 1996

Location: Club Makokola, Mangochi, Malawi

Introduction/brief description:

The first of two continuing judicial education programs for Judges and Professional Magistrates took place at Club Makokola in Mangochi, Malawi, May 2-6, 1996. The program was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Judicial Education Committee.

List of participants:

The Honourable Chief Justice Riachard A. Banda, S.C.
The Honourable Justice L.E. Unyolo, S.C.
The Honourable Justice H.M. Mtega, S.C.
The Honourable Justice A.K. Tembo
The Honourable Justice D.S. Tambala
The Honourable Justice I.J. Mtambo
The Honourable Justice Mrs. A.S.E. Msosa
The Honourable Justice R.B. Mbalame
The Honourable Justice A.K.C. Nyirenda
Mr. E.B. Twea
Mr. R.R. Mzikamanda
Mr. U.G. Sidira
Mr. G.J. Mwase
Mrs. I. Chatha Kamanga
The Honourable Justice Eric Kwmitsonyo

List of Trainers:

Dr. Judith Fingard, Canada
Mrs. E. Chanika, Malawi
The Hon. Justice Duncan Tambala, Malawi

Dr. Booshan Domah, Mauritius
Professor Bruce Archibald, Canada
Professor Leon Trakman, Canada
The Hon. Justice J.B. Kalaile, Malawi
The Hon. Justice A.S.E. Msosa, Malawi
Mr. R.R. Mzikamanda, Malawi
Mr. Charles Mkandawire, Malawi
The Hon. Justice Unyolo, Malawi
The Hon. Justice Mwangulu, Malawi
Mr. W.W. Qoto, Malawi
The Hon. Justice Ian Farlam, South Africa
Mrs. Nicola Padfield, England

Program Schedule:

THURSDAY, MAY 2, 1996

6:00 p.m. **DINNER**

7:30 p.m. Video and Panel Discussion
 "Gender Bias in the Justice System"
 "The Accused"
 Mrs. Chanika, Malawi
 Dr. Judith Fingard, Canada

FRIDAY, MAY 3, 1996

9:00 a.m. - 9:30 a.m. Formal Opening
 The Honourable Chief Justice Richard Banda,
 Chief Justice of Malawi
 The Honourable Mr. Justice Duncan Tambala
 Chairman, Malawi Judicial Education Committee
 USAID Representative
 CJEI Representative

 Keynote Address - "Judicial Independence"
 The Honourable Chief Justice Richard Banda

9:30 a.m.- 10:15 a.m. Judicial Independence Survey and Discussion
 The Honourable Mr. Justice Duncan Tambala

10:15 a.m. - 10:30 a.m. **BREAK**

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- 10:30 a.m. - 12:00 p.m. “Court Administration - Case Flow Management and Statistics”
Dr. Booshan Domah, Vice President,
Commonwealth Magistrates’ and Judges’ Association
- 12:00 p.m. - 1:00 p.m. **LUNCH**
- 1:00 p.m. - 2:30 p.m. “The Media and the Judiciary - Two Pillars of Democracy”
Panel Discussion based on Professor Archibald Kaiser’s
Paper
The Honourable Mr. Justice J.B. Kalaile
Dr. Booshan Domah
- 2:30 p.m. - 3:00 p.m. **BREAK**
- 3:00 p.m. - 4:30 p.m. “Melissa”, work paper and discussion
Panel Discussion on Family Violence
The Honourable Justice Mrs. A.S.E. Msosa
Mr. R.R. Mzikamanda
- 6:00 p.m. **DINNER**

SATURDAY, MAY 4, 1996

- 9:00 a.m. - 10:30 a.m. Consideration of a Draft Code of Judicial Ethics
Plenary Discussion in Syndicates
The Honourable Mr. Justice Unyolo
- 10:30 a.m. - 11:00 a.m. **BREAK**
- 11:00 a.m. - 12.30 p.m. Discussion on Judicial Code of Ethics
- 12:30 p.m. - 1:30 p.m. **LUNCH**
- 1:30 p.m. - 2:00 p.m. “Modern Court Technology - Video
- 2:00 p.m. - 3:30 p.m. Evidentiary Issues
The Honourable Mr. Justice Duncan Tamabala
- 3:30 p.m. - 6:30 p.m. **BREAK**
- 7:00 p.m. **DINNER**

SUNDAY, MAY 5, 1996

- 9:00 a.m. - 10:00 a.m. “Constitutional Interpretation”

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Professor Leon Trakman
Dalhousie Law School, Canada

10:00 a.m. - 10:30 a.m.

BREAK

10:30 a.m. - 12:30 p.m.

Hypothetical and Workshop Discussion

12:30 p.m. - 1:30 p.m.

LUNCH

1:30 p.m. - 3:00 p.m.

“Sentencing”

Professor Bruce Archibald
Dalhousie Law School, Canada

3:00 p.m. - 3:30 p.m.

BREAK

3:30 p.m. - 6:30 p.m.

Sentencing Hypotheticals in Syndicates

MONDAY, MAY 6, 1996

9:00 a.m. - 10:15 a.m.

“Domestic Application of International Human Rights
Norms”

Professor Leon Trakman

10:15 a.m. - 10:30 a.m.

BREAK

10:30 a.m. - 12:00 p.m.

“Judicial Review” (Administrative Law)

Professor Bruce Archibald
Dalhousie Law School, Canada

12:00 p.m. - 12:30 p.m.

Plenary, Evaluation and Closing

Pedagogy:

An organizational meeting was held February 3-4, 1996 in Lilongwe, Malawi by The Honourable Judge Sandra E. Oxner and the Malawi Judicial Education Committee. At this time:

- A member of the Malawi Judicial Education Committee was assigned responsibility for the preparation and conduct of a specific component of the programs.
- It was decided to invite the Chief Justice to make the keynote address on the topic “Judicial Independence.” External faculty members were identified. Judge Oxner was asked to invite Professor Bruce Archibald to lead the components on “Sentencing” and “Judicial Review” and The Honourable Mr. Justice Ian Farlam (South Africa) and Professor Leon Trakman (South Africa and Canada) to lead

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the components on “Constitutional Protection of Human Rights” and “Domestic Application of International Human Rights Standards.” It was decided to include the topic of “Court Administration.” Dr. Booshan Domah of Mauritius was later identified as the chosen speaker. Dr. Domah was also identified at this point to work with Justice Kalaile on a discussion of Professor Archibald Kaiser’s paper “The Media and the Judiciary - Two Pillars of Democracy.” Justice Farlam and Justice Tambala were identified as joint leaders of session of comparative evidentiary issues.

- The Honourable Mr. Justice Unyolo was invited to be the leader for a discussion of the Malawi draft Code of Judicial Ethics. Other members of the Malawian Judiciary were invited to lead the topics “Evidentiary Issues” and “Family Violence.” A Malawian jurist was assigned to each topic presented by an external faculty member.
- Videos were chosen to be used for the topics “Family Violence” and “Modern Court Technology.”

External and internal faculty were charged with the responsibility of preparing hypothetical fact situations to be used for small group syndicates to illustrate the points raised in the introductory lectures. Except for the keynote addresses, each session began with a short lecture that developed the theme and purpose of the session. Following the lecture, participants worked in small groups - working out the responses to hypothetical fact situations distributed in print form. This was followed by plenary discussion of the small group responses. Each session was chaired by a member of the Malawi Judicial Education Committee.

An important aspect of faculty development was the use of the Malawian judges and administrators as teachers and organizers. Three members of the Malawi Judicial Education Committee, namely, The Honourable Mr. Justice Duncan Tambala, Mr. Charles Mkandawire and Mr. Robert R. Mzikamanda, are graduates of the Commonwealth Judicial Education Institute’s Educators’ Program and took leadership roles.

The following pedagogy techniques and teaching tools were employed:

- lectures;
- videos (we experienced technical difficulties and substituted panel discussions);
- hypotheticals in syndicates; and
- a survey for each participant to be completed on Judicial Independence.

The administrative support of every judicial education program is of enormous importance. Without the smooth functioning of the organizational side of the program, the valuable time out of court and the costs of presenting the program are wasted. Furthermore, it is essential that the teaching aids and support services such as typing and photocopying are available and working in the background during teaching sessions.

Four hundred pages of background reference material were supplied to each participant by the faculty. A copy of this teaching and reference material was left with USAID/Malawi.

Objectives:

The objectives of the program were:

- to expose the judges and magistrates of Malawi to international judicial techniques in interpreting Constitutions similar to the new Malawi Constitution;
- to expose the judges and magistrates of Malawi to the jurisprudential philosophy of judicial activism;
- to discuss with the judges and magistrates the techniques of African and other courts in making domestic application of international human rights norms;
- to promote uniformity of sentencing through the use of sentencing hypotheticals;
- to discuss the Unyolo report on "Sentencing" and alternative sentences to incarceration;
- to discuss issues of family violence from the perspective of gender bias;
- to be exposed to modern court technology in use in Singapore - computer aided transcription machines, the taking of evidence by teleconferencing, etc.;
- to provide an opportunity to discuss and assess the Malawian draft Code of Judicial Ethics; and
- to comparatively discuss the evidentiary issues of the hearsay rule, corroboration in sexual offenses and child witnesses.

Evaluation:

Based on discussions with the Chief Justice, Justice Tambala, Ms. May, the faculty and the participants, and a review of the participants' appraisal forms, the seminar appears to have been useful, successful and to have achieved its set objectives.

The time and effort put forward by the Malawian Judicial Education Committee was crucial to the success of this program. The program achieved great success in faculty development.

by trainer

The trainers were pleased with the motivation and enthusiasm of the participants for what they recognized was an intensive and strenuous program. All felt they required more time for in-depth discussion of their topics.

The hypotheticals were a very effective teaching technique and were much enjoyed by the participants.

The program was said to be well organized, ARD procedures were clear, CJEI assistance was efficient, and the organizational support on the ground in Malawi was "absolutely superb." Participants in the sessions seemed very interested in the proposed judicial restatement of sentencing principles.

In general, the program was helpful to all concerned, but it might have been better to deal with fewer topics in greater detail. The jurists who attended were intelligent and experienced professionals. They could not be satisfied by quick generalities, but were searching for sophisticated and careful solutions to precise problems. The more time one has available to work through the issues the more successful the program is likely to be.

The judges and magistrates responded very well to the experience. They were clearly interested in the exchange and had a great many ideas to contribute. Their responses demonstrated their concern for the development of their legal system, the legitimate application of their Constitution and the protection of human rights under it. The audience, at all times, was sophisticated and productive. The assignments were completed very thoughtfully and fully by seminar participants.

by participants

Eleven of the seventeen appraisals received graded the program as excellent, four responses rated the program good, and two responses rated it satisfactory. Regrettably, the other ten evaluations were not received by the administrator.

The following is a summary of the participants' prioritized topics of choice:

1. Sentencing and Judicial Independence
2. Constitutional Interpretation
3. Judicial Code of Ethics
4. Case Flow Management
5. Media and the Judiciary

Topics requested for subsequent programs were:

Time Management
Judicial Ethics
Constitutional Interpretation
Judicial Independence
Judicial Review

Suggested program improvements:

- seminars for the entire magistracy and judiciary at one time;
- provision of background material in advance of the seminar;
- more time in the program for relaxation and informal discussion;
- preference given to more time for specific topics over the inclusion of varied topics; and
- the use of local academics as members of faculty.

Lessons learned:

- Papers should be distributed in advance to this group as this is logistically feasible. Furthermore, there is a high chance in this group of the material being used in advance and being brought to the seminar as the judges and magistrates are used to preparing themselves for cases.
- The administrator should take further steps to ensure the participants hand in their evaluation forms.
- Our experience was confirmed that it is necessary to have backup programs planned as an alternative to video presentations in the event of technical difficulties.

Recommendations for follow-on training:

- The participants requested further similar seminars.
- The participants requested the establishment of seminars on a regular basis and of longer duration.
- The participants are eager to attend judicial education programs in regional and international jurisdictions.

Judicial Sector Training Report / Program 6 / Judges #3

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: The Honourable Judge Sandra E. Oxner in consultation with the Malawi Judicial Education Committee and Geraldine May, Administrator

Dates: May 9-13, 1996

Location: Club Makokola, Mangochi, Malawi

Introduction/brief description:

The second continuing judicial education program for Judges and Professional Magistrates took place at Club Makokola in Mangochi, Malawi, May 9-13, 1996. The program was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Judicial Education Committee.

List of participants:

The Honourable Justice J.B. Kalaile, S.C.
The Honourable Justice D.F. Mwaungul
The Honourable Justice M.P. Mkandawire
The Honourable Justice D.S. L. Kumange
The Honourable Justice Chimasula Phiri
The Honourable Justice Chiudza Banda
The Honourable Justice Leslie Ndovie
Mr. W.W. Qoto
Mr. R.R. Chinangwa
Mr. M.C.C. Mkandawire
Mr. H.S. B. Potani
Mr. G.K.Z. Nyasulu - 1 day only (two nights)

List of Trainers:

Dr. Judith Fingard, Canada
Mrs. E. Chanika, Malawi
The Hon. Justice Duncan Tambala, Malawi
Dr. Booshan Domah, Mauritius
Professor Bruce Archibald, Canada

Professor Leon Trakman, Canada
The Hon. Justice J.B. Kalaile, Malawi
The Hon. Justice A.S.E. Msosa, Malawi
Mr. R.R. Mzikamanda, Malawi
Mr. Charles Mkandawire, Malawi
The Hon. Justice Unyolo, Malawi
The Hon. Justice Mwangulu, Malawi
Mr. W.W. Qoto, Malawi
The Hon. Justice Ian Farlam, South Africa
Mrs. Nicola Padfield, England

Program Schedule:

THURSDAY, MAY 9, 1996

6:00 p.m. - 7:00 p.m. “Modern Court technology”
Professor Leon Trakman
Professor Bruce Archibald
Chair: The Honourable Mr. Justice Tambala

7:00 p.m. **DINNER**

FRIDAY, May 10, 1996

9:00 a.m. - 9:30 a.m. Formal Opening
The Honourable Chief Justice Richard Banda,
Chief Justice of Malawi
The Honourable Mr. Justice Duncan Tambala,
Chairman, Malawi Judicial Educaiton Committee
USAID Representative

Keynote Address - “Judicial Independence”
The Honourable Chief Justice Richard Banda

9:30 a.m. - 10:15 a.m. Plenary Discussion and Judicial Independence Survey
Chair: The Honourable Mr. Justice Tambala
Professor Leon Trakman to collect the Survey

10:15 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. “Sentencing”
Professor Bruce Archibald, Dalhousie Law School, Canada
Chair: The Honourable Mr. Justice Unyolo

12:00 p.m. - 3:00 p.m. Sentencing Hypotheticals in Syndicates
Chair: Professor Bruce Archibald

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- 3:00 p.m. - 3:30 p.m. **BREAK**
- 3:30 p.m. - 5:00 p.m. Panel Discussion, Family Violence
Panel: Malawi Judicial Education Committee
Chair: Mr. R.R. Mzikamanda

SATURDAY, MAY 11, 1996

- 9:00 a.m. - 10:00 a.m. “Judicial Review” (Administrative Law)
Professor Bruce Archibald
Chair: The Honourable Mr. Justice Mwaungulu
- 10:00 a.m. - 10:30 a.m. **BREAK**
- 10:30 a.m. - 12:00 p.m. “Evidentiary Issues - Hearsay Rule, Corroboration in
Sexual Offenses and Child Witnesses”
The Honourable Mr. Justice Ian Farlam
The Honourable Mr. Justice Duncan Tambala
Chair: Mr. Qoto
- 12:00 p.m. - 1:00 p.m. **LUNCH**
- 1:00 p.m. - 3:00 p.m. Consideration of a Draft Code of Judicial Ethics
Plenary Discussion of Hypotheticals in Syndicates
The Honourable Mr. Justice Unyolo
Chair: Mr. Charles Mkandawire
- 3:00 p.m. - 3:30 p.m. **BREAK**
- 3:30 p.m. - 5:30 p.m. Draft Code of Judicial Ethics

MONDAY, MAY 13, 1996

- 8:30 a.m. - 10:15 a.m. Panel Discussion “Gender Bias in the Justice System -
Law, Race and Gender Project
Ms. Pillay
Mrs. Chanika - Malawian Woman Activist
Malawi Judicial Education Committee Member
Chair: Mrs. Nicola Padfield, Fitzwilliam College,
Cambridge University
- 10:15 a.m. - 10:30 a.m. **BREAK**

- 10:30 a.m. - 11:00 a.m. “The Media and the Judiciary - Two Pillars of Democracy”
 Panel Discussion based on Professor Archibald Kaiser’s
 Paper
 Panel: Mrs. Nicola Padfield
 Malawi Judicial Education Committee
 Chair: The Honourable Mr. Justice Kalaile
- 11:00 a.m. - 12:00 p.m. Syndicate Groups using Hypotheticals
 Malawi Judge and Magistrate
 Chair: The Honourable Mr. Justice Kalaile
- 12:00 p.m. - 12:30 p.m. Plenary, Evaluation and Closing

Pedagogy:

An organizational meeting was held February 3-4, 1996 in Lilongwe, Malawi by The Honourable Judge Sandra E. Oxner and the Malawi Judicial Education Committee. At this time:

- A member of the Malawi Judicial Education Committee was assigned responsibility for the preparation and conduct of a specific component of the programs.
- It was decided to invite the Chief Justice to make the keynote address on the topic “Judicial Independence.” External faculty members were identified. Judge Oxner was asked to invite Professor Bruce Archibald to lead the components on “Sentencing” and “Judicial Review” and The Honourable Mr. Justice Ian Farlam (South Africa) and Professor Leon Trakman (South Africa and Canada) to lead the components on “Constitutional Protection of Human Rights” and “Domestic Application of International Human Rights Standards.” It was decided to include the topic of “Court Administration.” Dr. Booshan Domah of Mauritius was later identified as the chosen speaker. Dr. Domah was also identified at this point to work with Justice Kalaile on a discussion of Professor Archibald Kaiser’s paper “The Media and the Judiciary - Two Pillars of Democracy.” Justice Farlam and Justice Tambala were identified as joint leaders of session of comparative evidentiary issues.
- The Honourable Mr. Justice Unyolo was invited to be the leader for a discussion of the Malawi draft Code of Judicial Ethics. Other members of the Malawian Judiciary were invited to lead the topics “Evidentiary Issues” and “Family Violence.” A Malawian jurist was assigned to each topic presented by an external faculty member.
- Videos were chosen to be used for the topics “Family Violence” and “Modern Court Technology.”

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External and internal faculty were charged with the responsibility of preparing hypothetical fact situations to be used for small group syndicates to illustrate the points raised in the introductory lectures. Except for the keynote addresses, each session began with a short lecture that developed the theme and purpose of the session. Following the lecture, participants worked in small groups - working out the responses to hypothetical fact situations distributed in print form. This was followed by plenary discussion of the small group responses. Each session was chaired by a member of the Malawi Judicial Education Committee.

An important aspect of faculty development was the use of the Malawian judges and administrators as teachers and organizers. Three members of the Malawi Judicial Education Committee, namely, The Honourable Mr. Justice Duncan Tambala, Mr. Charles Mkandawire and Mr. Robert R. Mzikamanda, are graduates of the Commonwealth Judicial Education Institute's Educators' Program and took leadership roles.

The following pedagogy techniques and teaching tools were employed:

- lectures;
- videos (we experienced technical difficulties and substituted panel discussions);
- hypotheticals in syndicates; and
- a survey for each participant to be completed on Judicial Independence.

The administrative support of every judicial education program is of enormous importance. Without the smooth functioning of the organizational side of the program, the valuable time out of court and the costs of presenting the program are wasted. Furthermore, it is essential that the teaching aids and support services such as typing and photocopying are available and working in the background during teaching sessions.

Four hundred pages of background reference material were supplied to each participant by the faculty. A copy of this teaching and reference material was left with USAID/Malawi.

Objectives:

The objectives of the program were:

- to expose the judges and magistrates of Malawi to international judicial techniques in interpreting Constitutions similar to the new Malawi Constitution;
- to expose the judges and magistrates of Malawi to the jurisprudential philosophy of judicial activism;

- to discuss with the judges and magistrates the techniques of African and other courts in making domestic application of international human rights norms;
- to promote uniformity of sentencing through the use of sentencing hypotheticals;
- to discuss the Unyolo report on “Sentencing” and alternative sentences to incarceration;
- to discuss issues of family violence from the perspective of gender bias;
- to be exposed to modern court technology in use in Singapore - computer aided transcription machines, the taking of evidence by teleconferencing, etc.;
- to provide an opportunity to discuss and assess the Malawian draft Code of Judicial Ethics; and
- to comparatively discuss the evidentiary issues of the hearsay rule, corroboration in sexual offenses and child witnesses.

Evaluation:

Based on discussions with the Chief Justice, Justice Tambala, Ms. May, the faculty and the participants, and a review of the participants’ appraisal forms, the seminar appears to have been useful, successful and to have achieved its set objectives.

The time and effort put forward by the Malawian Judicial Education Committee was crucial to the success of this program. The program achieved great success in faculty development.

by trainer

The trainers were pleased with the motivation and enthusiasm of the participants for what they recognized was an intensive and strenuous program. All felt they required more time for in-depth discussion of their topics.

The hypotheticals were a very effective teaching technique and were much enjoyed by the participants.

The program was said to be well organized, ARD procedures were clear, CJEI assistance was efficient, and the organizational support on the ground in Malawi was “absolutely superb.” Participants in the sessions seemed very interested in the proposed judicial restatement of sentencing principles.



In general, the program was helpful to all concerned, but it might have been better to deal with fewer topics in greater detail. The jurists who attended were intelligent and experienced professionals. They could not be satisfied by quick generalities, but were searching for sophisticated and careful solutions to precise problems. The more time one has available to work through the issues the more successful the program is likely to be.

The judges and magistrates responded very well to the experience. They were clearly interested in the exchange and had a great many ideas to contribute. Their responses demonstrated their concern for the development of their legal system, the legitimate application of their Constitution and the protection of human rights under it. The audience, at all times, was sophisticated and productive. The assignments were completed very thoughtfully and fully by seminar participants.

by participants

Eleven of the seventeen appraisals received graded the program as excellent, four responses rated the program good, and two responses rated it satisfactory. Regrettably, the other ten evaluations were not received by the administrator.

The following is a summary of the participants' prioritized topics of choice:

1. Sentencing and Judicial Independence
2. Constitutional Interpretation
3. Judicial Code of Ethics
4. Case Flow Management
5. Media and the Judiciary

Topics requested for subsequent programs were:

Time Management
Judicial Ethics
Constitutional Interpretation
Judicial Independence
Judicial Review

Suggested program improvements:

- seminars for the entire magistracy and judiciary at one time;
- provision of background material in advance of the seminar;
- more time in the program for relaxation and informal discussion;

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- preference given to more time for specific topics over the inclusion of varied topics; and
- the use of local academics as members of faculty.

Lessons learned:

- Papers should be distributed in advance to this group as this is logistically feasible. Furthermore, there is a high chance in this group of the material being used in advance and being brought to the seminar as the judges and magistrates are used to preparing themselves for cases.
- The administrator should take further steps to ensure the participants hand in their evaluation forms.
- Our experience was confirmed that it is necessary to have backup programs planned as an alternative to video presentations in the event of technical difficulties.

Recommendations for follow-on training:

- The participants requested further similar seminars.
- The participants requested the establishment of seminars on a regular basis and of longer duration.
- The participants are eager to attend judicial education programs in regional and international jurisdictions.

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Judicial Sector Training Report / Program 7 / 1st Grade Magistrates

Prepared for: USAID/Malawi, under the Institutional Development and Development Management IQC,
Contract No. AEP-5451-I-00-2049-00, Delivery Order #32

Prepared by: The Honourable Judge Sandra E. Oxner in consultation with the Malawi Judicial Education Committee and Geraldine May, Administrator

Dates: May 13-18, 1996

Location: Grace Bandawe Center, Blantyre, Malawi

Introduction/brief description:

A continuing judicial education program for 1st Grade Magistrates took place at Grace Bandawe Center, Blantyre, Malawi, May 13 through May 18, 1996. It was funded by USAID/Malawi and presented by Associates in Rural Development, Inc. (ARD) in collaboration with the Malawi Judicial Education Committee.

List of participants:

Mr. C.B.C. Chilenga - 1st Grade Magistrate (N)
Mr. S.S. Mbingwa - 1st Grade Magistrate (C)
Mr. C.W. Kamvamgugu - 1st Grade Magistrate (E)
Mr. S.M. Mtika - 1st Grade Magistrate (S)
Mr. Wandale Thupuwela - 1st Grade Magistrate (S)
Mr. C.L. Harawa - 1st Grade Magistrate (N)
Mr. G.A.P. Kachama - 1st Grade Magistrate (S)
Mr. Sekani Banda - 1st Grade Magistrate (S)
Mr. J.S. Njikho - 1st Grade Magistrate (S)
A.W. Liwawa - 1st Grade Magistrate (S)
Mr. A.R. Mika - 1st Grade Magistrate (S)
Mr. B.C. Kamankhunza - 1st Grade Magistrate (C)
Mr. N.J. Mhone - 1st Grade Magistrate (N)
Mr. F.S. Nihero - 1st Grade Magistrate (C)
Mr. J.G. Somba - 1st Grade Magistrate (S)
Mr. F.A. Sinoya - 1st Grade Magistrate (C)
Mr. A.K. Kantondo Banda - 1st Grade Magistrate (C)
Mr. B.K. Chiume - 1st Grade Magistrate (N)
Mr. M.M. Makanjila - 1st Grade Magistrate (E)
Mr. G.A. Masangano - 1st Grade Magistrate (S)
Mr. P. Chadza - 1st Grade Magistrate (C)
Mr. M.R. Mfuni - 1st Grade Magistrate (N)

Mr. Chinkhata Kwenda - 1st Grade Magistrate (C)
Mr. R.J.K. M'bwana - 1st Grade Magistrate (E)
Mr. P.G. Kossamu - 1st Grade Magistrate (C)
Mr. R.L. Padambo - 1st Grade Magistrate (E)
Mr. B.K. Hara - 1st Grade Magistrate (N)
Mr. S.L. Chilombo - 1st Grade Magistrate (S)
Mr. S. Chirwa - 1st Grade Magistrate (N)
Mr. W.M. Kumwenda - 1st Grade Magistrate (N)
Mr. O.S. Sibande - 1st Grade Magistrate (N)
MR. J.M. Kabwiko - 1st Grade Magistrate (C)
Mr. Kaferemu Banda - 1st Grade Magistrate (C)
Mr. I. Mpemba - 1st Grade Magistrate (S)
Mr. A.H. Kanzengo - 1st Grade Magistrate (C)

List of Trainers:

Professor Leon Trakman, Canada
The Honourable Mr. Justice Ian Farlam
The Honourable Mr. Justice Duncan Tambala, Malawi
Mr. R.R. Mzikamanda, Malawi
Mrs. Nicola Padfield, England
The Honourable Justice Unyolo, Malawi
Mr. E. Twea, Registrar, Malawi
Mrs. Emmi Chinika, Malawi
Mrs. Valerie G. Quiba, South Africa
Mr. Joe Raulinga, South Africa
Mr. Charles Mkandawire, Malawi
Mr. W.W. Qoto, Malawi

Program Schedule:

SUNDAY, MAY 12, 1996

7:00 p.m. - 8:00 p.m. "Domestic Application of International Human Rights
Norms"
Professor Leon Trakman, Dalhousie Law School, Canada
Chair: The Honourable Mr. Justice Tambala
The Honourable Mr. Justice Ian Farlam also participated
in discussion

MONDAY, MAY 14, 1996

- 9:00 a.m. - 9:30 a.m. Formal Opening
The Honourable Chief Justice Richard Banda,
Chief Justice of Malawi
The Honourable Mr. Justice Tambala, Chairman,
Malawi Judicial Education Committee
USAID Representative Dr. Andrew B. Sisson
- Keynote Address - "Judicial Independence"
The Honourable Chief Justice Richard Banda
- 9:30 a.m. - 10:15 a.m. Plenary Discussion and Judicial Independence Survey
Chair: The Honourable Mr. Justice Tambala
Mr. R.R. Mzikamanda
- 10:15 a.m. - 10:30 a.m. **BREAK**
- 10:30 a.m. - 12:00 p.m. "Constitutional Interpretation of Charters of Rights"
Chair: The Honourable Mr. Justice Ian Farlam,
Judge of the Supreme Court of South Africa
- 12:00 p.m. - 1:00 p.m. **LUNCH**
- 1:30 p.m. - 3:00 p.m. Hypotheticals in Discussion Groups
Chair: The Honourable Mr. Justice Ian Farlam
- 3:00 p.m. - 3:30 p.m. **BREAK**
- 3:30 p.m. - 5:00 p.m. "Evidentiary Issues - Hearsay Rule
Corroboration in Sexual Offenses and Child Witnesses"
The Honourable Mr. Justice Tambala
The Honourable Mr. Justice Ian Farlam
Chair: Mr. R.R. Mzikamanda

TUESDAY, MAY 14, 1996

- 9:00 a.m. - 10:00 a.m. "Sentencing"
Mrs. Nicola Padfield, Fitzwilliam College,
Cambridge University
Chair: Mr. Mkandawire
- 10:00 a.m. - 10:30 a.m. **BREAK**

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10:30 a.m. - 12:00 p.m. Hypotheticals in Syndicates in Plenary Session
Panel: Malawi Judicial Education Committee
Chair: Mrs. Nicola Padfield

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 3:00 p.m. Continuation of Morning Session

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 5:00 p.m. Continuation of Morning Session

WEDNESDAY, MAY 15, 1996

9:00 a.m. - 10:00 a.m. "Judicial Ethics"
The Honourable Mr. Justice Unyolo
Chair: Mr. Mkandawire

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. Discussion of Hypotheticals in Syndicates
Chair: Mr. Mkandawire

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 2:00 p.m. "Melissa" - Video
Chair: Mr. Mzikamanda

2:00 p.m. - 2:30 p.m. **BREAK**

2:30 p.m. - 4:00 p.m. Melissa Workbook Discussion
Chair: Mr. Mzikamanda

7:30 p.m. "The Accused" - Video

THURSDAY, MAY 16, 1996

9:00 a.m. - 10:00 a.m. "Problem Areas in Criminal Law"
Mrs. Nicola Padfield
Malawi Judicial Education Committee
Chair: Mr. E. Twea

10:00 a.m. - 10:30 a.m. **BREAK**

10:30 a.m. - 12:00 p.m. Discussion
Chair: Mrs. Nicola Padfield

12:00 p.m. - 1:00 p.m. **LUNCH**

1:00 p.m. - 3:00 p.m. "Judicial Skills - Chairmanship, Rules of National Justice, Impartiality"
Panel: Malawi Judicial Education Committee
Chair: Mr. Mzikamanda

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 5:30 p.m. Discussion
Mrs. Pillay
Panel Discussion on Women's Issues in the Court
Panel: Malawi Judicial Education Committee,
Mrs. Emmi Chinka, Justice Tambala present
Chair: Mrs. Nicola Padfield

7:30 p.m. "Trial at Fortitude Bay" - Video

FRIDAY, MAY 17, 1996

9:00 a.m. - 10:30 a.m. "Comparative Regional Issues in Court Administration"
Mrs. Valerie G. Quiba, Chief Magistrate, South Africa
Mr. Joe Raulinga, Magistrate, South Africa
Malawi Judicial Education Committee, Mr. C. Mkwandawire
Chair: Mr. R.R. Mzikamanda

10:30 a.m. - 11:00 a.m. **BREAK**

11:00 a.m. - 12:00 p.m. Continued Discussion of Comparative Regional Issues,
Questions and Answers

12:30 p.m. - 1:30 p.m. **LUNCH**

1:30 p.m. - 3:00 p.m. "Criminal and Civil Procedure"

3:00 p.m. - 3:30 p.m. **BREAK**

3:30 p.m. - 4:00 p.m. Criminal Procedure - continued

7:30 p.m. "One Customer at a Time"
and "Bucks County" - Videos

SATURDAY, MAY 18, 1996

- 8:30 a.m. - 10:00 a.m. “Modern Court Technology” - Videos from Singapore
Panel: Mrs. Quiba, Mr. Raulinga, Mrs. Padfield
Plenary Discussion
Chair: Mr. W.W. Qoto, Deputy Registrar, High Court
- 10:00 a.m. - 10:30 a.m. **BREAK**
- 10:30 a.m. - 11:30 a.m. Plenary Evaluation and Closing
The Honourable Mr. Justice Tambala
Chair: Mr. W.W. Qoto
Closing Remarks: Mrs. Valerie Quiba
 Mr. Joe Raulinga
 Mrs. Nicola Padfield
 Ms. Geraldine May

Pedagogy:

At a meeting in February with Mrs. English of USAID in Malawi, ARD was requested to add an additional program in view of the shorter than expected time allocated to the judges and professional magistrates' programs. The shorter program time was necessitated by the heavy workload of the Malawian courts. The judicial education committee determined the greatest use of the program would be a seminar for the 1st Grade Magistrates.

A final organizational meeting was held February 3-4, 1996 in Lilongwe, Malawi, by The Honourable Judge Sandra E. Oxner and the Malawi Judicial Education Committee. At this time:

- A member of the Malawi Judicial Education Committee was assigned responsibility for the preparation and conduct of a specific component of the programs.
- It was decided to invite the Chief Justice to make the keynote address on the topic “Judicial Independence.” External faculty members were identified. Judge Oxner was asked to invite Mrs. Nicola Padfield, Fitzwilliam College, Cambridge, to lead the components on “Sentencing”, “Gender Bias”, “Problem Areas in Criminal Law” and “Modern Court Technology”, and The Honourable Mr. Justice Ian Farlam (South Africa) and Professor Leon Trakman (South Africa and Canada) to lead the components on “Constitutional Protection of Human Rights” and “Domestic Application of International Human Rights Standards.” Justice Farlam and Justice Tambala were identified as joint leaders of a session of comparative evidentiary issues. Chief Magistrate Joe Raulinga and Chief Magistrate Valerie G.

Quiba of South Africa were later identified and invited to discuss comparative regional issues in court administration.

- The Honourable Mr. Justice Unyolo was invited to be the leader for a discussion of the Malawi draft Code of Judicial Ethics. Other members of the Malawian Judiciary were invited to lead the topics “Family Violence” and “Judicial Skills - Chairmanship, Rules of National Justice, Impartiality.” A Malawian jurist was assigned to each topic presented by an external faculty member.
- Videos were chosen to be used for the topics “Family Violence”, “Modern Court Technology”, “Sentencing”, “Time Management”, “Working to Goals” and “The Judiciary as a Service to the Community.” The American Bar Association video “One Customer at a Time” proved very popular.

External and internal faculty were charged with the responsibility of preparing hypothetical fact situations to be used for small group syndicates to illustrate the points raised in the introductory lectures. Except for the keynote addresses, each session began with a short lecture that developed the theme and purpose of the session. Following the lecture, participants worked in small groups - working out the responses to hypothetical fact situations distributed in print form. This was followed by plenary discussion of the small group responses. Each session was chaired by a member of the Malawian Judiciary.

An important aspect of faculty development was the use of the Malawian judges and administrators as teachers and organizers. Three members of the Malawian Judicial Education Committee, namely, The Honourable Mr. Justice Duncan Tambala, Mr. Charles Mkandawire and Mr. Robert R. Mzikamanda, are graduates of the Commonwealth Judicial Education Institute’s Educators’ Program and took leadership roles.

The following pedagogy techniques and teaching tools were employed:

- lectures;
- videos;
- hypotheticals in syndicates; and
- a survey for each participant to be completed on Judicial Independence.

The administrative support of every judicial education program is of enormous importance. Without the smooth functioning of the organizational side of the program, the valuable time out of court and the costs of presenting the program are wasted. Furthermore, it is essential that the teaching aids and support services such as typing and photocopying are available and working in the background during teaching sessions.

Substantial background reference material was supplied to each participant by the faculty. A copy of this teaching and reference material was left with USAID/Malawi.

Objectives:

The objectives of the program were:

- to expose the magistrates of Malawi to international judicial techniques in interpreting Constitutions similar to the new Malawi Constitution;
- to expose the magistrates of Malawi to the jurisprudential philosophy of judicial activism;
- to discuss with the magistrates the techniques of African and other courts in making domestic application of international human rights norms;
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- to be exposed to modern court technology in use in Singapore - computer aided transcription machines, the taking of evidence by teleconferencing, etc.;
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- to comparatively discuss the evidentiary issues of the hearsay rule, corroboration in sexual offenses and child witnesses.

Evaluation:

Based on discussions with the Chief Justice, Justice Tambala, Ms. May, the faculty and the participants, and a review of the participants’ appraisal forms, the seminar appears to have been useful, successful and to have achieved its set objectives.

The time and effort put forward by the Malawian Judicial Education Committee was crucial to the success of this program. The program achieved great success in faculty development.

by trainer

The trainers were pleased with the motivation and enthusiasm of the participants for what they recognized was an intensive and strenuous program. All felt they required more time for in-depth discussion of their topics.

The hypotheticals were a very effective teaching technique and were much enjoyed by the participants.

The seminar was rated as "very good." Use of expatriate teachers was welcomed because they introduced fresh enthusiasm and new ideas, and tended to encourage the participants to participate fully.

The 1st Grade Magistrates' program was said to have worked particularly well. By doing "double acts" with some of the local trainers, the expatriates were able to enhance their confidence and competence as trainers.

The regional faculty members found the seminar to be of high quality and were pleased with the participation in their sessions.

by participants

Thirty-two (32) appraisal forms were received from the 33 participants. Thirty (30) rated the program as excellent; 2 as good.

The following is a summary of the participants' prioritized topics of choice:

1. Sentencing
2. Judicial Independence
3. Judicial Ethics
4. Criminal Law
5. Evidentiary Issues
6. Constitutional Interpretation

Suggested further topics include:

Criminal Law
Criminal Procedure
Judgment Writing
Hearsay Evidence
Enforcement of Court Orders
The Trials of Juveniles
Judicial Administration

Suggested program improvements:

- more time for relaxation and informal discussion;
- extended number of days;
- seminars that include a cross section of those working in the criminal justice field;
- seminars that include the professional magistrates;
- seminars should be scheduled on a regular basis.

Lessons learned:

- This seminar profited by the time spent in country by the administrator and the experience of the faculty in the preceding programs. Teaching techniques improved noticeably.
- The regional speakers were very popular and the comparative aspect of the program was highly successful.

Recommendations for follow on training:

- The participants found the seminar very useful and requested further similar seminars.
- Comparative regional experience was extremely useful and regional seminars should be pursued.
- Joint programs with the judges and magistrates on court administration topics such as statistics and case flow management would be beneficial to the efficient administration of justice.

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