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DEVELOPING BENCH BOOKS FOR TRIBUNALS - *Some Guidelines* -

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DEVELOPING BENCH BOOKS FOR TRIBUNALS

- *Some Guidelines* -

Livingston Armytage¹

The aim of this paper is to survey the range of issues involved in developing a bench books for tribunals.

Bench books, when well researched and written, are likely to become the most useful element of any tribunal's program of continuing professional development. This is certainly the case with courts both here in Australia and around the common law world. They are likely to become a significant tool in building the professional capacity of your tribunal(s).

1 Role purpose and objectives

What is a bench book? It is a practice manual by another name. It's nature and contents will depend on the needs and purpose and, to that extent, each bench book may be different. Broadly speaking, bench books possess some common characteristics. Usually they address what tribunal member may need to know, understand and do on a day-to-day basis. Content focuses on "*what to do*" with practical problems, common practices and procedures, and "*how to do it*". Often, bench books provide a means for inducting new members; but sometimes, they can also serve as a convenient reminder of the basics for more senior members.

What isn't a bench book? It is important to distinguish bench books from primary resources such as statutes and cases, or available secondary resources such as texts or articles. Bench books should not replicate these existing resources, unless they are not readily available for some reason, for example, remoteness. The rationale for the publication is to supplement the existing general literature and provide targeted assistance for the quite particular needs of tribunal officers. Consequently, it should not include lengthy recitals of other materials; it should include pithy extracts from key authorities, references to primary resources, and checklists. In this way, the bench book can become a ready resource, which will provide readily accessible practical guidance on the bench.

As a starting point, the role purpose and objectives of any new bench book should be determined by the needs which the tribunal wants to address. It is useful to define these needs clearly in terms of educational objectives, identifying whether they relate to knowledge, skills or professional outlook. It may be a combination. This articulation of needs should form the purpose for the subsequent work, and be clearly stated in the introduction. At the same point, it will be useful to outline the specific objectives of the book, as this will help guide both writers and readers. It should be recognised that these written materials will be more suitable for some objectives than others. For example, this publication is ideal for informational needs, but is generally not well suited for skills development or outlook. A strategy of related training will be useful in supporting and extending these objectives.

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2 Content

There are certain common elements to most bench books. Opening chapters may be expected to canvas the jurisdiction of the tribunal. They will usefully include some generic chapters such as “Role of tribunal members”, “Rules of procedural fairness”, ‘Conduct of hearings’. Thereafter, they may highlight the framework of major business of the tribunal, and its key legislative provisions. Some publications are designed as companions to the rules and procedures of the court or tribunal, while others are more selective in addressing particular issues. Ultimately, the selection of content will reflect the institutional training needs of the tribunal, whatever these may be, from time to time.

3 Roles and responsibilities

There are a number of key participants in the production of a bench book. First, there is a need for the head of tribunal to assert a leadership role in mandating the publication. Depending on the institution, this may or may not be a committee-based decision. In any event, thereafter there is a need for a publication committee to be established with the responsibility to oversee the publication process. Normally, this will consist of senior members, but it may be instructive to include a new member(s) who can articulate the needs of more junior officers.

An important early role of the publication committee will be to settle the table of contents. Another important role is quality assurance, or editing, which would normally be the responsibility of the publication committee. The production committee should settle all copy from writers prior to publication to ensure its comprehensiveness and its accuracy. For this reason, experienced members should be included on the production committee.

It is useful to distinguish the working roles of writers and editors in the publication process. The writers are clearly responsible for drafting the text within the framework provided by the table of contents. This is a substantial role, requiring many hours of dedicated work. It should not be rushed, and can not afford to be wrong. For this reason, sitting members are usually too busy to assume a major role as writers. Writers will usually be selected either from the ranks of eminent retired members, or consultants.

3 Style

- a. *Accessibility* – it is useful to introduce numerous headings and sub-headings to punctuate and ‘street sign’ the written material. Busy readers often lack the time – or inclination – to read a whole chapter. For this reason, it is helpful to introduce frequent headings which mark and direct their attention to the relevant passages. Moreover, the narrative should consist of short sentences and paragraphs, rather than lengthy passages of theoretical substance.
- b. *Size* - it is important to avoid overwhelming the reader with everything they need to know. Writers should avoid lengthy recitals from statutes and, instead, provide the reader with brief extracts or summaries, supported by references to relevant provisions, cases and texts. The size of the book should not exceed 300 pages, because excessive length will deter many readers – usually, those who most need it.
- c. *Practicality* – Because the purpose of the bench book is not just to inform the reader what s/he should ‘know’ about the law, but what s/he should ‘do’ in any particular case,

it is useful to include a brief definition or statement of principal, step-by-step guidelines, checklists and possibly examples.

4 Production

Management of production is a separate and important element in the publication process. In large part, this involves setting a production schedule with critical dates for the following steps: (a) delivery of draft materials, (b) completion of revisions, (c) finalisation of a “camera ready” manuscript including all preliminary portions such as introduction, foreward, table of contents, table of authorities and full index, (d) supply of binding, (e) delivery and distribution of print-run, linked with (f) launch and (g) supporting training. There are many separate but inter-dependent steps which are best overseen with a calendar of critical events.

Budgeting should be undertaken from the outset. Depending on the nature of appointment of writers, this is likely to be the largest single component, although printing and distribution costs can prove substantial, particularly for tribunals with national memberships. It is generally recommended that loose-leaf methods of binding be selected, as this facilitates cost-effective updating of selected portions of the work without the need for issuing a full new edition.

5 Maintenance

From the outset, the production of tribunal bench books should be seen as an iterative process based on the development and review of experience. In other words, production of the bench book is the first step rather than the last. Once produced, there is a imperative to maintain the currency of its contents, without which it will rapidly become outdated and a danger to members. It is suggested that the publication committee be responsible for updating and maintaining the service, undertaking regular annual reviews to ensure its continuing relevance. As a part of this review process, readers should be invited to submit their comments and suggestions for improvement, by providing a “reader’s suggestions” form with each edition.

6 Samples

Traditionally, bench books were published in hardcopy, often on a confidential basis. More recently, web-based electronic publishing is increasingly the norm. Samples of bench books can now be readily found, for example, at the Judicial Studies Board <<http://www.jsboard.co.uk/tribunals/tribunals.htm>>, and at the Judicial Education Research & Information Technology Transfer Project in the United States <jeritt.msu.edu>. Other examples can be found at the Judicial Commission of New South Wales <judcom.nsw.gov.au>.

Philippines Benchbook *Online* - Table of Contents

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ELECTRONIC BENCHBOOK OF SINGAPORE'S SUBORDINATE COURTS

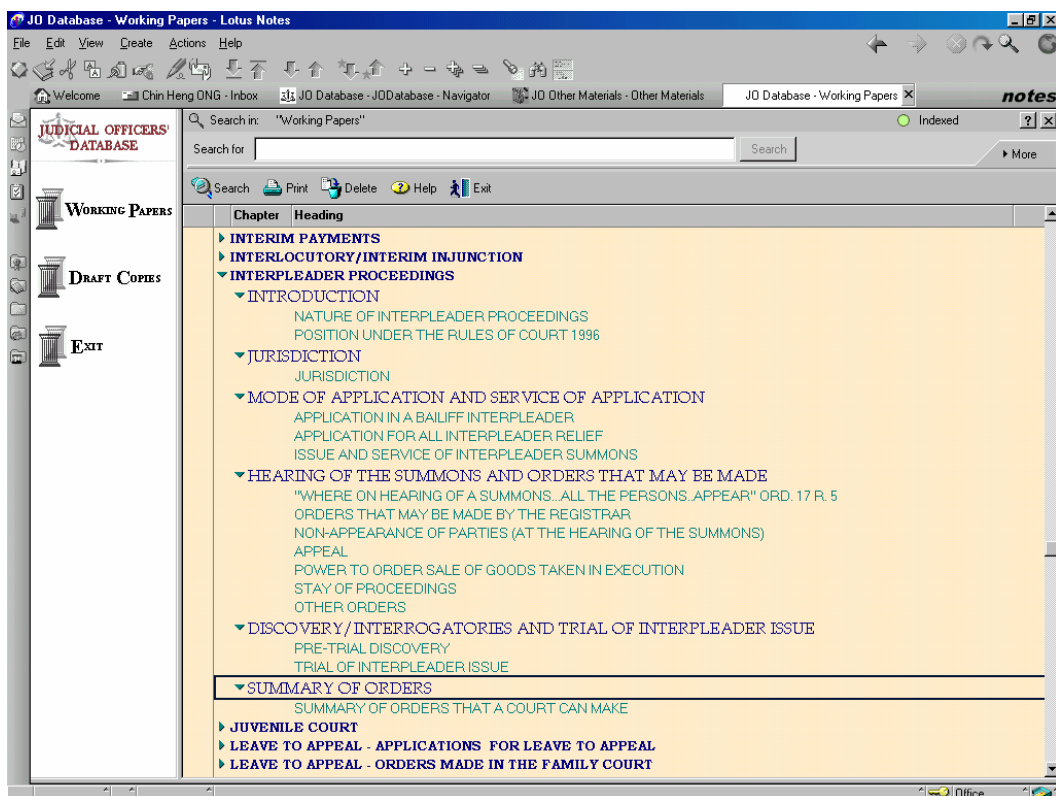
The Singapore Subordinate Courts rely on an 'Electronic Benchbook' called the Judicial Officers' Database (JODB).

2 This is a resource that is accessible by all the District Judges and Magistrates (the Judges) in the Subordinate Courts. It is contributed to, maintained and updated wholly in-house by the Judges themselves. As such it is a continuing project that engenders ownership by all the Judges of the common Institutional Knowledge in our own self-sufficient 'Knowledge Space'.

6 Where the presentation of information is concerned, the materials in the JODB are generally classified under 3 categories:

- (1) Working Papers and Compendiums – papers relating to all manner of substantive and procedural law topics
- (2) Other Materials – conference papers, treatises, speeches and other materials on jurisprudence, the judicial process, judicial administration and trends, as well as professional enrichment and continuing education.
- (3) Sentencing Information Guidelines System (SINGS) – guidelines on sentencing tariffs and benchmarks for all criminal offences, with descriptions on key elements of offences and relevant notes on the Court's jurisdiction to impose particular sentences or combinations of sentences.

Below is a screenshot of the opening page of the JODB, showing the various categories of materials available.



CAMBODIAN BENCH BOOK

OBJECTIVE

This bench book will be produced for judges and prosecutors of the Provincial Courts of Cambodia by the Cambodian Court Training Project. The purpose of the bench book or manual is to assist judges and prosecutors to perform their professional duties by providing a useful practical reference to important law and court procedure which they may require. The bench book will consist of brief summaries of selected laws and procedures, checklists, guidelines to accepted practice and references to cases, circulars and commentaries.

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- script: how to advise

Elements of Crime

- UNTAC
- other laws, eg Traffic Code

Glossary of Pali terms

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List of forms

Copies of important laws

- UNTAC Criminal Law
- Criminal Procedure Code
- Constitution

SELECTED TOPICS

Criminal Section

- Assault - including domestic violence
- Theft
- Defences
- Criminal procedure

Civil Section

- Land
- Contract
- Family
- Enforcement of judgments

General Section

- Appeals and review
- Professional Ethics

BENCH BOOK PRODUCTION SCHEDULE

- Draft # 28 March 2004 -

Function	October	November	December	January	February	March	April	May	June
Policy C'tee	Propose C'tee; Appoint C'tee; Induct C'tee	<u>Mtg#1:</u> Launch C'tee to settle contents, roles, + production schedule	<u>Mtg#2:</u> Convene C'tee to oversee appointment of writers	<u>Mtg#3:</u> Convene C'tee to oversee writing	<u>Mtg#4:</u> Convene C'tee to oversee draft m/s	<u>Mtg#5:</u> Convene C'tee to oversee publication of final m/s + launch + distribution	<u>Mtg#6:</u> Convene C'tee to oversee training workshops	<u>Mtg#7:</u> Convene C'tee to oversee training workshops + completion	Evaluation
EDITOR		Appoint editor; Define role	Appoint and brief writers	Support and follow-up writers; Obtain draft copy	Edit, revise and settle all copy	Print, publish + distribute	Commence training workshops	Complete training workshops	User surveys Observer surveys
WRITERS		Produce writers' guide	<u>Writing M1</u> Appoint and brief writers	<u>Writing M2</u> Draft all chapters	<u>Writing M3</u> Revise and proof all copy				
MANUSCRIPT	Propose table of contents	Finalise table of contents	<u>Writing M1</u> Commence writing	<u>Writing M2</u> Continue writing	<u>Writing M3</u> Complete writing	Finalise manuscript			
PRODUCTION		Budget	Research printing	Select + appoint printer	Finalise print job specifics	Print + bind			
FOLDERS				Select folders	Order folders				
DISTRIBUTION						Launch + distribute all judicial officers			
TRAINING							Commence training w/s	Complete training w/s	