

# INTERNATIONAL BAR ASSOCIATION - JUDGES' FORUM

## EVALUATING JUDICIAL EDUCATION *PERFORMANCE INDICATORS*

### ***The Challenge***

The purpose of judicial education is to enhance judicial competence, the quality of justice and, ultimately, the rule of law. Lofty targets! – Can it be done and, if so, how can we demonstrate it?

I was recently asked if it was possible to design a credible system of performance indicators to monitor the impact of a new bench book in a foreign aid project. The funding body wanted to ensure value for money - It's not easy. After all, educating judges is not like building a bridge – you can't see anything tangible. You can't be sure anything will still be there the next morning. Or, can you?

### ***Measuring the Impact of Judicial Education***

No single indicator can comprehensively measure improvements in “the rule of law” with validity and reliability. For this reason, we need to select a range of indicators to measure the impact of the bench book. These indicators will measure specific project outputs and then “triangulate” an assessment of their outcomes on the rule of law environment. Because qualitative measurements are variable, preference to selection of quantitative indicators will be made wherever possible.

### ***Methodology***

Designing an evaluation process and selecting performance indicators for an education project involves making some pragmatic choices. These choices will determine the best available mix of what we *need* to measure with what we are *able* to measure. In practice, significant constraints limit the availability of methodologies.

Most significant, it is difficult to measure changes in professional competence relating to the knowledge, skills and attitudes that may be attributable to a bench book. Such measurements are best undertaken using formal assessment techniques such as exams and tests, longitudinal observation and studies of performance over periods of years and control-group testing. These techniques are, however, often not feasible. For one reason, the doctrine of judicial independence militates against formal external assessment of the performance of judges other than through analysis of appeal outcomes. Other constraints include a lack of established consensus on indicators of judicial best practice of what makes “a good judge.” Moreover, assessments of public satisfaction with judicial services are unavoidably qualitative and anecdotal. Causality may also be difficult to establish in an environment where many inputs potentially contribute to change. Added to this, pressures of time and cost limit the selection of indicators which can be used for evaluation purposes during the course of this 2-year project.

- Given these constraints, what indicators can measure the contribution of a bench book to enhancing the rule of law with validity, reliability and utility?

I finally came up a two-tiered building-block approach to performance indicators be adopted to assess the project in terms of its process and its impacts.

- a) **“Process Indicators”** – These measure the implementation of a bench book project in terms of its efficiency and effort. These indicators are “internal” to the project and evaluate whether it is doing what it set out to do. Typically, these indicators should include the following:-

The lead indicator relates to central project activity and efficiency, and is *publication* of the bench book on schedule and within budget.

While an integral criterion for success of this project relates to judicial learning and competence, any direct assessment of improvements in the levels of knowledge, understanding, skills and attitudes of individual judges is highly problematical, as has been discussed.

For this reason, it is more appropriate to select secondary indicators relating to judges’ reaction to the bench book and training. Thus, secondary indicators include *judges’ participation* of faculty development training for the team of judges writing and editing the manuscript, and induction training for all other judges in the use of the bench book. Both these indicators are objective, visible, quantitative measures of project effort and efficiency.

While it may be difficult to directly measure increased competence, it is useful to measure (a) *judges’ satisfaction* in terms of whether they perceived that the bench book added to their knowledge, understanding, skills and attitudes, and (b) any existence of *judges’ intentions* to make improvements in judicial service delivery as a result. While these indicators are inferential in measuring qualitative perceptions of the project value, they do enable ongoing refinement and fine-tuning of project effort (formative evaluation). More importantly, they provide the means to measure the will to improve systemic performance, which is essential to improving the rule of law environment (summative evaluation).

- b) **“Impact Indicators”** – These measure the effectiveness of project outputs in terms of their results or outcomes. They are “external” to the project, and describe objectively visible measurables and how they contribute to enhancing the rule of law environment.

Ultimately, the lead impact indicator is the *confidence of civil society* in the integrity of the justice process. It is not, however, easy to select any single indicator of measurement. Interviews and surveys of representatives of civil society (however defined as community representatives, public interest groups and, for that matter, members of the practising bar) should be undertaken to assess satisfaction with judicial services, using appropriate criteria such as protection of human rights, accessibility, openness, efficiency, transparency, understandability and integrity. While data may be qualitative and anecdotal, assessments using standardized instruments to plot aggregated responses in *pre/post* or *internal/external* perceptions can describe measurable differences and changes attributable to the bench book.

A more visible and objective indicator of project impact is *judicial performance*. Key criteria for judicial performance relate to changes in the nature and incidence of judicial caseload and service-delivery. This judicial management information should be regularly collected and available from the Administrative Office of the Courts (AOC) or Department of Justice (DoJ). Indicators include the number of new cases issuing each year, the number of disposals, the average duration of time pending disposal, the number of appeals and the percentage of successful appeals, the number and nature of complaints against the judiciary and their outcomes. This data is fundamental to any framework of indicators, although it may remain inferential to the extent that identified changes may be attributable to a variety of possible causes including the bench book. – Some thought will, however, have to be given to whether rising or falling rates of appeal are an indicator of improvement, bearing in mind that active resort to review may be as much a symptom of public confidence in the

integrity judicial system, as a whole, as it may be of perceived incompetence of one decision, in particular.

Another intermediate indicator of impact relates to the incidence of *judges' use* of the bench book on a regular and ongoing basis. Self-assessment surveys and/or observation of court behaviour can collect this information.

So, in summary, the range of performance indicators of available for assessment of a bench book might include the following:-

1. Publication of the bench book
2. Judges' participation in faculty development
3. Judges' participation in bench book training
4. Judges' satisfaction with the perceived usefulness of the bench book
5. Judges' intentions to improve the quality of judicial service delivery
6. Judges' use of the bench book
7. Confidence of civil society in improvements to the rule of law
8. Improvements in judicial servicing of caseload
9. Reduction in successful appeals against decisions
10. Reduction in complaints upheld against judges

### ***Techniques***

A number of techniques could be used to collect data using these indicators for purposes of evaluating the intervention. These techniques include: -

- Comparative surveys – self, peer and external assessment
- Interviews of key stakeholders and representatives of civil society
- Observation and expert appraisal
- Base-line judicial management data of the Ministry of Justice or Supreme Court.

### ***Conclusion***

On reflection, a variety of performance indicators should be selected with which to “triangulate” measurements of the contribution of judicial education – in this case, a judges' bench book - to enhancing the quality of justice and rule of law. These indicators combine process and impact evaluation techniques, subjective and objective criteria, and quantitative and qualitative data. Between them, they reduce lofty ideals into measurable specifics.

Livingston Armytage,  
Sydney, 23 January 1998.

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### *PERFORMANCE INDICATORS*

#### **A Implementation or “Process” Indicators** – internal measurements of project effort and efficiency:-

<u>Indicator</u>	<u>Criteria</u>	<u>Methodologies</u>	<u>Description</u>
1. <i>Publication of Bench Book</i>	Timeliness and cost % population distribution Productivity of authors	Project records DoJ records Project records	Objective Quantitative Quantitative
2. <i>Participation in Faculty Development Faculty Development Training</i>	Participation of judges Workshops conducted	Project records Project records	Objective Quantitative
3. <i>Participation in Bench Book Training</i>	Workshops conducted Numbers of participants	Project records	Quantitative
4. <i>Satisfaction with Bench Book</i>	Perceived utility knowledge, understanding Skills and attitudes	Survey: self-assessment	Qualitative Subjective
5. <i>Intention to Improve Quality of Service</i>	Judges’ Intentions	Survey: self-assessment	Qualitative Subjective

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#### **B Outcome or “Impact” Indicators** – external measurements of visible project results

<u>Indicator</u>	<u>Criteria</u>	<u>Methodology</u>	<u>Description</u>
6. <i>Use of Bench Book</i>	Incidence of usage	Survey: self-appraisal Observations	Subjective Quantitative Personal
7. <i>Confidence of “civil society” (constituents to be defined)</i>	Accessibility, openness, transparency, integrity perceived efficiency & effectiveness	Survey: external appraisal Selective interviews	Objective Quantitative/ Qualitative Systemic
8. <i>Improvements in judicial servicing</i>	Caseload management: new cases, disposals, duration to trial;	Judicial management data AOC, DoJ	Objective Systemic
9. <i>Reduction in successful appeals</i>	Incidence of appeals Outcome of appeals	Judicial management data AOC, DoJ	Objective Systemic
10. <i>Reduction in complaints against judges</i>	Incidence of complaints outcome of complaints	AOC, DoJ data	Objective Systemic