

the enthusiastic, but unskilled South African contingent propped up the billiard table until the wee hours of Sunday morning.

Lessons

Lessons learnt from participation in this programme include:

- that a “residential” training programme over a period of two or more days at a venue away from home results in the full and proper participation of both trainers and trainees;
- that the success of advocacy training depends as much on the commitment of trainees to prepare properly for training sessions and to maintain that commitment throughout the programme as it does on the commitment of trainers;
- written course material, including extensive instructions to trainers was of a very high standard and set the tone for the standard to be delivered by trainees; and
- the success of the programme further hinged on slick administration and strict adherence to the written programme. Although South African advocacy training has progressed in great strides over the past three years, there is certainly a need to devote greater resources in the form of funds and personnel (in addition to the voluntary participation of trainers) if we are to meet and maintain the standards set by Gray’s Inn.

Developing training


Over the past three years, the English barristers have through the financial assistance of the British Government, the IATC, and Gray’s Inn visited us on several occasions to assist our training programmes. Even more admirable is the fact that on several occasions, they have, totally at their own expense, flown to South Africa to offer this assistance. With the assistance of the GCB and the constituent bars several of our barristers have travelled to the UK at the invitation of Gray’s Inn. Some have also travelled there at their own expense.

This collegiality which has developed has been to the benefit of both South Africa and Gray’s Inn but obviously the vast experience which the members of Gray’s Inn bring to our advocacy training is immeasurable. Our advocacy training programme has developed from a few members to a vast number of committed trainers and trained barristers. Hopefully this development can grow and

flourish with the years to come.

It is now well recognised that pupils and junior advocates stand to benefit enormously from advocacy training. The need is perhaps more acute here due to enormous disparities in educational standards at our schools and universities and as a means of advancing the progress of previously disadvantaged members of the Bar.

In these times of transformation of both the Bar and the Bench, perhaps the time has come for the GCB to adopt a more pro-active and robust approach to advocacy training, by making it compulsory and by funding it properly.

We are immensely grateful to Gray’s Inn and in particular, David Hunt QC, Edmund Lawson QC, Edwin Glasgow QC, James Hunt QC and Sarah Foggitt for their unstinting support for our advocacy training programme and for their friendship and hospitality. 

National Bar Examination Board

The exco of the GCB considered the report of the convenor of the NBE, Archie Findlay SC, at its meeting on 30 January 1999

November 1998

A total of 99 candidates wrote the Bar examination which was the highest intake that there has been for the second half of the year. Fifty two passed (of whom seven passed with sufficiently high marks as to be exempted from oral examination). Of the remaining 45 who passed, 15 had repeated their pupillage. 47 failed, of whom 22 failed outright without being invited to an oral examination two of those who failed were candidates who had repeated their pupillage. This represents an overall pass rate of 52% which is low and of concern to the Board, particularly in respect of some of the smaller Bars.

This examination reflected (as in the past) a wide range of marks, which is tabulated on p 28. As a result of the Board having de-

ecided to make available the marks and, where available, information as to ranking of past pupils when this information is sought by an institution, whether for admission in another country or for bursary or scholarship purposes or entrance to a university, the following tabulation based on ranking of pupils on aggregate of all marks is of interest:

70 - 75%	1st to 6th
65 - 70%	5th to 19th
60 - 65%	20th to 35th
55 - 60%	36th to 45th

Resolutions

The NBE considered various other aspects of the examination. The following recommendations were accepted by the exco of the GCB:

- (a) To send a general circular to all Bars advising them that unless any pupil who repeats pupillage, produces a letter written on behalf of the Board confirming any exemption granted in respect of a prior examination, that pupil will be required to rewrite all subjects;
- (b) to invite its constituent Bars to adopt a uniform practice that at least examiners do not take pupils, nor do they act as lecturers or trainers;
- (c) to circularise all Bars to the effect that either the provincial convenor concerned or a responsible member of any other Bar, as the case may be, advise pupils at the commencement of their pupillage what is required of them in the examination.

The GCB also resolved that in the interim each Bar representative will arrange with his pupillage chairman to send lecture material to the secretariat from where it would be distributed to Bars who need it. Also, that the chairman of the NBE and his committee be asked what course material, similar to the *Motion Court Manual*, should be produced.

The disparity which has arisen in relation to the quality of the LLB degree conferred by certain universities will be investigated by the “Findlay Task Team”.

As an interim measure the GCB unreservedly accepted that a member from AFT may sit in as an observer during the oral examination at the discretion of the chairman of a particular Bar.

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our democracy, but it should not serve to hide abuse." (Sheppard 1964, 301: 337.)


Experience from Finland and Sweden shows that there are many desirable features of this system of supervision of the courts. Some of those are:

- 1 The Ombudsman cannot interfere with the content of judicial decisions, he only reviews

procedural matters.

- 2 He cannot interfere with the independence of the judiciary in making decisions as he has no power to overturn or alter court decisions. This point is often forgotten by opponents of supervision.
- 3 The supervision is by an independent outsider. Ombudsmen are themselves nearly always judges and the judiciary cannot there-

fore accuse them of not being experts on proper judicial procedures. Further, viewed from the point of view of the litigant or citizen the question of covering up or closing ranks never arises.

Only time will tell whether South African jurists will also find the idea of Judicial Ombudsmanship acceptable. 

National Bar Examination Board
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EXAMINATION RESULTS

%	Legal Writing	Motion Court	Ethics	Criminal Procedure	Civil Trials
90-100	-	-	-	2	-
80-98	12	1	-	5	-
70-79	13	1	4	17	6
60-69	32	26	42	34	36
50-59	20	41	41	23	27
40-49	11	9	11	13	14
30-39	1	12	3	11	19
20-29	-	15	5	1	5
10-19	-	4	2	-	-
0-9	-	-	-	-	-

"Juristocracy"

"America used to be a democracy, a government of, by and for the people. Now it has all the earmarks of a *juristocracy*, a government of, by and for the people who have attended law school. Judges have assumed unprecedented authority, usurping the power once delegated to elected lawmakers, based on no solid grounding in the text of either a statute or the Constitution itself." Max Boot *Out of order: arrogance, corruption and incompetence on the Bench* (New York: Basic Books) 1998.

Trevor Foster

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