

December 1999

CJEI Report

Official Newsletter of the Commonwealth Judicial Education Institute



International Conference Centre, Abuja, Nigeria
Photo Courtesy of Wikimedia Commons

HON. JUSTICE OLATAWURA SPEAKS AT 1999 INDUCTION CERE- MONY IN ABUJA

by Ibrahim H. Alakali, Director of Research
National Judicial Institute, Abuja, Nigeria

The annual induction course for newly appointed judges for 1999 took place at the International Conference Centre, Abuja, Nigeria from Monday 19th to Friday, 23rd July, 1999.

The 1999 induction course was attended by over one hundred and fifty newly appointed Judges and Kadis from 24 States of the Federation and the Federal Capital Territory. Out of this total number of Judges who attended the Induction course, thirty-eight (38) were female judges.

The opening ceremony at the International Conference Centre was well-attended by many distinguished guests, including the Chief Justice of Nigeria, Supreme Court Justices, President and Justices of the Court of appeal, Chief Judge of the Federal High Court, Chief Judges of the State High Courts, Grand Kadis of the States Sharia Court of Appeal, Presidents of Customary Court of Appeal, as well as the participants.

In the welcome address he delivered at the occasion, the Administrator of the National Judicial Institute, Honourable Justice Olajide Olatawura, lamented the fact that not all those expected to attend the induction course were present, due to lack of funds for their sponsorship to the induction course by their respective state governments. The Administrator noted that although the National Judicial Institute is supposed to be funded by the Federal and State governments, there has been no direct contribution to the running of the Institute by the State governments. He decried the continuous neglect of the judiciary as the third arm of the government and appealed for redress. The Administrator then urged the newly appointed judges to be courageous, to dispense justice without fear or favour. He also lauded the need for continuing education of judicial officers, and further urged the newly appointed judges to be honest, incorruptible, and transparent both in and out of court.

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News & Notes

The South West Zonal Workshop for Magistrates and Customary Courts Judges of 1 - 5 years past appointment was held from Monday the 5th to Friday the 9th day of July, 1999, at Akure, Ondo State, Nigeria. The Workshop was attended by many participants from the South Western States of the country, including Ekiti, Ogun, Ondo, Osun and Oyo States. The opening ceremony of the workshop took place at the Conference hall of the Owens Motel, Akure, on Monday, the 5th day of July, 1999. It was attended by many distinguished guests, including the Governor of Ondo State, Chief A. Adefarati, and Chief Judges of the South Western States. The Welcome address was delivered by the Administrator of the National Judicial Institute, Honourable Justice Olajide Olatawura.

In his Keynote address at the Zonal Workshop opening ceremony, Chief Adefarati commended the Magistrate and Customary Courts for their contributions to the development of the

country. He stressed the need to find lasting solutions to the problems of corruption and infrastructure in the judiciaries.

The venue of the workshop then shifted to Court 1 of the Ondo State High Court, Akure, where six papers were presented by experienced judicial officers during the five-day workshop. They included Code of Conduct; Discipline and Judicial Ethics; Comportment in Court and Contempt of Court; Civil Procedure Rules in Magistrate and Customary Courts; Fair Hearing and Bail; Judgement Writing and Sentencing; and Criminal Procedure Act and Evidence. There were also General Discussions, Question and Answer Sessions and Comments, by the participants. The workshop ended with the presentation of certificates.

During the workshop the participants took some time off from lectures and went to the famous Ikogosi Warm Spring at Ikogosi, Ekiti State, on Thursday afternoon, July 9th.

Good Governance and Sustainable Development in Africa

The West African Economic Association (WAEA), the Eastern and Southern African Economic Association (ESAEA) and the African Economic Research Consortium (AERC) are jointly organizing this conference which will bring together more than 250 African delegates and experts.

22-24 November 1999, Abidjan, Côte d'Ivoire. No registration fee is required. The deadline for registration is 31 October 1999.

Contact: **Conference Secretariat,**
Phone: 225-44-43-63, 44-67-99 or 44-09-53
Fax: 225-44-08-29
Email: ggovernance@globeaccess.net

JOB ANNOUNCEMENT

DIRECTOR, AFRICA PROGRAM

The International Human Rights Law Group (the Law Group) is a nonprofit organization of human rights and legal professionals engaged in training, technical assistance, advocacy and litigation around the world. Our mission is to empower local advocates and civil society groups to expand the scope of human rights protection for men and women and to promote broad participation in building more effective human rights standards and procedures. The Law Group works together with local organizations worldwide to place human rights, including women's human rights, democracy, rule of law and development on the agenda of the international community.

Job Description: The Law Group's Africa Program Director is based in Washington, DC, and manages the Law Group's rule of law, human rights and civil society projects in Africa. The Law Group's current Africa projects include field programs in Burundi, the Democratic Republic of the Congo, and Nigeria. Under the supervision of the Director of Programs, the Africa Program Director is responsible for all aspects of program design,

implementation and evaluation; organizing/conducting human rights trainings; facilitating international advocacy; report writing; and working with the Development Department to ensure adequate funding for programs.

Qualifications: Advanced university degree in law, international relations or other relevant field. Specialized study of human rights preferred. Substantial experience (minimum 5 years) in human rights and/or development projects in Africa; familiarity with women's human rights issues; strong writing and advocacy skills; ability to administer programs; management skills; foreign language skills (fluency in French is highly desirable). Travel required.

Salary: Commensurate with experience.

Apply: No calls please. Send cover letter and resume by mail or email to: Director, Africa Program Search, International Human Rights Law Group, 1200 18th Street, NW, Suite 602, Washington, DC 20036. Fax: (202) 822-4606 mailto: HumanRights@HRLawGroup.org(no telephone calls please).

The Law Group is an equal opportunity employer

CJEL Intensive Study Programme

fellows will be missed

The Commonwealth Judicial Education Institute was greatly saddened by the loss of two distinguished Fellows – Mrs. Beatrice Rose Donzwa, Registrar of the High Court of Zimbabwe and Mr. Winter Qoto, Registrar of the High Court of Malawi.

Mrs. Donzwa and Mr. Qoto had earned not only the respect but also the deep affection of their colleagues. Their loss diminishes their judiciaries and our Institute. We extend our deepest sympathy to their families, their judi-

ciaries and their many friends throughout our Commonwealth. The Board of Directors of CJEL has asked that books be presented to the judicial libraries of Zimbabwe and Malawi in their memory as a mark of our respect and to record our gratitude for their positive contribution to the work of the Institute in improving the administration of justice throughout the Commonwealth.

– Hon. Judge Sandra E. Oxner
President, CJEL



Beatrice Rose Donzwa

Beatrice Rose Donzwa (1954-1999)

"Beatrice impressed me as one with vision and plan to transform the Judicial Service of Zimbabwe to meet the needs and demands of her country in the new millennium"

– Hon. Mr. Justice
Emmanuel Osadebay
Senior Justice, Supreme Court, Nassau, The Bahamas

"All CJEL Fellows of the 1998 class at Dalhousie Law School will remember Beatrice's pleasant personality and lively manner..[we] join the Zimbabwe judiciary and her family in mourning her untimely death."

– Hon. Mr. Justice
Lameck M.S. Mfalila,
Court of Appeal
Dar es Salaam, Tanzania

In memory of late Beatrice Rose Donzwa for whom the bell tolled.

Beatrice always wore colorful dresses and she was full of life and wit. We developed a friendship. She had a kind of simplicity and innocence like a child which makes one to be with her in a kind of untied attachment. Yet she was so composed and resolute, patient and attentive in all the minute details of judicial activities. Most of the days we took a stroll from the Cambridge Suites to Dalhousie, beneath the maple bough, over the fallen leaves...beside the church, where the bell tolled. Who knows when a green leaf falls too, an echo of...the Victoria Falls which at times she referred to with great ecstasy. Every death diminishes me, but her death diminished me to the point beyond expressible return. May Almighty bestow rest in the heaven.

Hasan Shadeed Ferdous
Director, Judicial Administration Training Institute
Bangladesh

I was deeply saddened to learn of the death of Beatrice Rose Donzwa, Registrar of the High Court of Zimbabwe. During our time together at the CJEL in 1998, I was impressed by her quiet dignity, openness and gentle manner. We both shared the hope to meet each other again sometime. My sincere condolences to her children and her other relatives.

Magistrate Cheryl A.P. Albury
Nassau, Bahamas

In Memoriam

Less than a fortnight after I left Halifax in 1997 and precisely on October 9, 1997 I had occasion to send greetings and best wishes to Winter Qoto in Malawi from Saint Lucia in the Caribbean. I told him then that it had been a distinct pleasure to meet him and the rest of the group at Halifax and that in two short weeks we had blended together so well. My views and sentiments remain exactly the same today.

Winter was one of the live wires of the group. He displayed remarkable knowledge and skill in the workings of the court system and the Republic of Malawi, without doubt,

has lost a very capable Master or Judge. He was also a warm, kind and friendly person.

To his sorrowing relatives and friends I ask to take some comfort from the words of John Greenleaf Whittier:

*"If I long for household voices gone,
For vanished smiles I long;
But God hath led my dear ones on,
An he can do no wrong."*

Hon. Albert J.J. Matthew
Justice of Appeal and Director of Studies,
East Caribbean Judicial Education Institute



Winter Qoto

Winter Qoto

I participated in the Intensive Judicial Education Course of 1997 with Winter Qoto.

I remember that Winter was a very active and humorous participant in all our sessions. He drew our attention to the Malawi experience. He impressed me as a strong believer in undiluted judicial independence. I recall him explaining to me how the late Dr. Hastings Banda, the former President of Malawi had created the Elders Courts upon which he bestowed jurisdiction to try capital offences like murder. Winter passionately told me how every respectable lawyer in Malawi had struggled after Malawian multiparty elections to ensure security of tenure of offices for Judges by getting into the constitution provisions to that effect. I am not quite sure but I think Winter said that the new Judicial Service Commission was independent of the executive and he vowed to fight to ensure independence of the judiciary. So that no judicial officer should ever suffer as a consequence of pronouncing a judgment unfavorable to the Government of the day.

I said that Winter actively participated in our course. This is illustrated by the fact that he played the role of one of the Advocates in the role model video, which was produced when I played the role of a presiding Judge towards the end of our course. I found his role quite educative and full of imagination.

I personally found Winter an amiable and respectful lawyer in the true tradition of the lawyers bred in the common law system.

Lastly, I realized that Winter was a devoted family man. He used to talk about expectations of members of his family upon his return to Malawi. They will miss him immensely.

It is sad to lose such a nice CJEI alumni. May the Almighty God rest his Soul in eternal Peace.

Hon. Justice J.W.N. Tsekooko
Chairman, Uganda & East Africa
Judicial Education Committee
Supreme Court of Uganda

*"an amiable
and
respectful
lawyer in
the true
tradition of
the lawyers
bred in the
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system."*

A Great Loss

I retain very fond memories of Mr. Winter Qoto. His passing is a great loss to the administration of Justice in his nation, and to all of us at CJEI in promoting the development of Judicial Education throughout the Commonwealth.

Hon. Chief Justice Sir Dennis Byron
Eastern Caribbean Supreme Court
Saint Lucia, West Indies

I received news of Mr. Qoto's demise with great shock and sadness. It was indeed most unexpected for a relatively young and vibrant person. Although in the midst of life lies death, the CJEI and the CMJA will be the poorer with the loss of such a charismatic judicial officer.

Hon. O.A.S. Jammeh
Master & Registrar
High Court of the Gambia

Call for Papers

The Canadian Law and Society Association is having its annual meeting for 2000 at the Lake Louise Inn, Lake Louise Village, Banff National Park, Canada, June 1-4, 2000. The CLSA is an interdisciplinary group whose membership includes people in history, economics, justice studies, law, political science, sociology, and women's studies who have inter-

ests in law-related studies. There is a strong contingent of scholars in legal-historical, and criminal justice, fields. The Conference invites papers from all disciplines, and all national and regional areas. Sessions will be 90 minutes, and restricted to two papers per session, with time for discussion both during and between sessions. Panel discussion sessions on

cutting-edge research areas and historiography are also encouraged. Full details on the conference, and registration forms, are on the Association's website: juris.uqam.ca/rcds/Callfor2000.html; or can be obtained by fax or email from the Conference Co-Chair, Dr. Louis Knafla, 403-289-8566, knafla@ucalgary.ca

Judges Release Financial Records

NEW YORK (June 21, 1999) -- The financial disclosure records of the Supreme Court justices and more than 800 other federal judges were delivered to APBnews.com today, ending a nine-month stalemate in which the judiciary had refused to release the public information.

APBnews.com plans to post the documents -- which have been newly redacted for publication on the Internet -- on its Web site, beginning with those of the Supreme Court justices.

The remainder of the 1,600 judge's 1998 disclosure forms are expected to be released in "the near future," according to a spokesman for the Administrative Office of U.S. Courts.

"This is a clear victory for advocates of government openness," said APBnews.com attorney Mark Zaid. "And this is complete furtherance of the objectives of the Ethics in Government Act to allow public access to information regarding the federal judiciary that could affect fairness."

The Ethics in Government Act of 1978 requires many federal officers, including judges, to submit a public financial disclosure each May. The forms list each officeholder's family assets, investments, loans, gifts and free travel. They do not require residential addresses, Social Security numbers, account numbers or the names of family members.

The records are open to the public by written request, and have been routinely released to print and broadcast news organizations.

--APBnews.com

World Bank supports Caribbean Judicial Reform

In April 1999, the World Bank approved funding for a technical assistance grant to finance the services of consultants and training as part of the preparation for the Trinidad and Tobago Judicial Reform Project.

The objective of the project is to assist the Government of Trinidad and Tobago in its efforts to improve access to justice and ensure that justice is delivered both timely and effectively to all income levels and with no gender discrimination. This project will build an empirical base to provide a deeper institutional knowledge of the work procedures and transactions costs of the judiciary. The data is expected to reflect bottlenecks and procedural problems of similar judicial systems in other Caribbean Commonwealth countries.

The Country Management Unit of the World Bank is expecting to use this project and its preparation work in similar future judicial reform projects in the Caribbean. The project will address both institutional and organizational concerns of the judicial reform effort that was initiated by the Chief Justice of Trinidad & Tobago in 1995. More specifically, it will look at the following three broad areas: (i) institutional reforms (rules and regulations), (ii) organizational reforms (agency structures), and (iii) the implementation of the reforms.

The State Of The Judicature address by Hon Chief Justice Murray Gleeson to the Australian Legal Convention, Canberra, 10 October 1999. (excerpt)

National Judicial Associations

Australia has 889 judicial officers (judges and magistrates). Of these, 109 are Federal, 754 are State, and 26 are Territorial. There are three principal national associations concerned with judicial affairs. They are the Council of Chief Justices of Australia and New Zealand, the Australian Institute of Judicial Administration, and the Judicial Conference of Australia.

The Council of Chief Justices of Australia and New Zealand meets twice a year. It is chaired by the Chief Justice of Australia. Its other members are the Chief Justice of New Zealand, the Chief Justices of each Australian State and Territory, and the Chief Justices of the Federal Court and the Family Court. Its secretary is the Chief Executive Officer and Principal Registrar of the High Court. The Council took its present form five years ago. It evolved from what was originally a gathering, every two years, of State and Territory Chief Justices. Its growth in size, and the greater frequency of its meetings, reflects an increasing need for the leaders of the judiciary to exchange ideas and information, and to formulate common policies, where appropriate, on issues of judicial administration and governance, including issues concerning relations between the judicial and executive branches of government.

The Australian Institute of Judicial Administration (AIJA) was established in 1986. It has a membership of 1020, most of whom are judicial officers, but which also includes legal practitioners, court administrators and law teachers. The current President is Justice Catherine Branson, of the Federal Court. The Deputy President is Justice James Wood, the Chief Judge at Common Law of the Supreme Court of New South Wales. The AIJA has a permanent secretariat based in Melbourne. Its Executive Director is Professor Reinhardt. The Institute conducts major conferences concerned with judicial work and administration, such as the 1997 AIJA Asia-Pacific Courts' Conference, the Technology for Justice Conference held in March 1998, which is to be followed up by a similar conference in October 2000, regular Court Administrators' Conferences, a Conference on Reform of Court Rules and Procedures held in July 1998, and a regular Conference of Court Librarians. Its educational programme includes conducting an Annual Judicial Orientation Programme in conjunction with the Judicial Commission of New South Wales. The AIJA has recently published a report of Professor Parker entitled "Courts and the Public", and the results of a comprehensive survey of Australian judges, conducted by Dr Ian Freckleton, on issues associated with the use of expert evidence.

The Judicial Conference of Australia, established in 1993, is a voluntary association of judges and magistrates. Its principal func-

tions are to promote judicial independence, to inform the public about the work of the courts in today's society, to carry out programmes of research and education in relation to matters concerning the administration of justice, and to represent the interests of its members where necessary and appropriate. The present membership of the Conference is 464, which is a little more than half of the number of Australian judicial officers. It has a permanent secretariat based in Victoria. The current Chairman is Mr Justice McPherson of the Queensland Court of Appeal. Acknowledgment should be made of the work of its former Chairman, Justice Lockhart of the Federal Court, who has recently retired from judicial office.

Judicial Education and Training

In the last ten years there has been a developing acceptance of the importance of training and continuing education for judges and magistrates. It is no longer sufficient to assume that most persons appointed to judicial office are professional advocates whose background has provided them with such information and experience as is necessary for the competent performance of judicial duties. There are number of reasons for this. First, it is no longer the case, even in relation to appointments to superior courts, that persons appointed to judicial office can be assumed to have appeared regularly in the jurisdictions to which they are appointed and to be familiar with all the work of those jurisdictions. With increasing specialisation in the legal profession, even experienced advocates often find that, upon appointment to judicial office, they are called upon to deal with matters and issues that are new to them. Furthermore, governments are becoming increasingly willing, and in some cases anxious, to look beyond the practising bar when considering possible candidates for judicial appointment. Secondly, judicial work is becoming more complex and demanding. Thirdly, the rate of legal development and change is such that it cannot reasonably be assumed that judicial officers will keep abreast of it without continuing instruction. Fourthly, some of the skills required of a judge or magistrate are not of a kind that can be acquired as a result of experience as an advocate.

The courts in most Australian jurisdictions have developed programmes of judicial education. The leader in the field of formal judicial training is the Judicial Commission of New South Wales, which has for twelve years provided programmes of orientation and continuing legal education for judges and magistrates. Its work has received international recognition.

In cooperation with the Australian Institute of Judicial Administration, the Judicial Commission of New South Wales conducts annual orientation programmes for newly appointed judges. To date, 144

(Continued on page 7)

Anthony Murray Gleeson was appointed Chief Justice of the High Court of Australia in May 1998. At the time of his appointment he was Chief Justice of the Supreme Court of New South Wales, having been appointed to that office in November 1988.

He graduated in Arts and Law from the University of Sydney and was admitted to the New South Wales Bar in 1963. He was appointed a Queen's Counsel in 1974. He was President of the New South Wales Bar Association during the period 1984-1985. He was Lieutenant Governor of New South Wales from 1989 to 1998, and was appointed a Companion in the General Division of the Order of Australia in 1992. SOURCE: <http://www.hcourt.gov.au/gleesonj.htm>

(Continued from page 6)

judges have attended. Participants have come from most Australian jurisdictions and from Papua New Guinea, the Solomon Islands, Indonesia and Hong Kong. The programme covers a wide range of topics including trial management, decision making, judgment writing and the use of information technology. Issues such as cultural diversity and gender awareness are addressed. In addition, the Judicial Commission conducts an annual orientation programme for magistrates.

There is no national judicial college in Australia of the kind that exists in England (the Judicial Studies Board), Canada (the National Judicial Institute), and New Zealand (the Institute of Judicial Studies). In a recent discussion paper on the federal judicial system the Australian Law Reform Commission recommended the establishment of such a body along the lines of the Judicial Commission of New South Wales. The Council of Chief Justices of Australia and New Zealand has supported the idea of a national judicial college as has the AIJA. I hope that the proposal will be pursued by government.

Two issues to be addressed in connection with such a proposal are control and funding. In the case of most overseas judicial training institutions, as in the case of the Judicial Commission of New South Wales, control is with the judiciary. This is important for reasons both of theory and of practice. As a matter of principle, it is necessary that arrangements for judicial education should not conflict with principles of judicial independence. There are many within the community who would welcome the opportunity to proselytise judicial officers. The dividing line between appropriate training and education, and inappropriate indoctrination, is sometimes blurred. Furthermore, as a practical matter, the experience of the Judicial Commission of New South Wales, and of overseas judicial training bodies, has shown that the success of judicial education programmes depends largely upon the co-operation of judicial officers themselves. The success of the Judicial Commission is largely attributable to its high standing in the estimation of New South Wales judges and magistrates.

Judicial training institutes in other common law countries emphasise the "peer group educational model", as appropriate to adult professionals, rather than the pedagogical model. A primary aim of the curriculum is to help judges develop the practical skills and understanding they need to do their work, and experience has shown that the persons best qualified to do that are experienced serving or former judges. In a paper delivered in September 1999 to the 8th Conference of Chief Justices of Asia and the Pacific at Seoul, Korea, on the topic of "Judicial Education", the Hon J Clifford Wallace, an American expert on the

"My experience is that nothing happens in judicial education without effective leadership. Given the importance of the administrative leadership to the overall success of the education program, the governing organization with the greatest interest in its success should control the program. In this case the judicial branch of government has the greatest interest in effective training. Thus, it is logical to place such control under the judiciary."

As to the matter of funding, the New South Wales Government has supported and been willing to support the work of the Judicial Commission. There should be no reason to doubt that all Australian governments, upon proper terms and conditions, would be willing to follow that example. The funding requirements of the Judicial Commission have been modest, partly because of the extent to which serving and retired judicial officers have been willing to participate in its educational activities.

Geneva-based CIJL issues report on obstructions to justice

In 1999, the Centre for the Independence of Judges and Lawyers (CIJL) of the International Commission of Jurists (ICJ) in Geneva, Switzerland issued the ninth edition of **Attacks on Justice**. The report contained the outcome of its documentation, research, and analysis of the situation of judges and lawyers in 48 countries from March 1997 until February 1999. During this period, the CIJL found that at least 876 judges and lawyers were harassed or prosecuted for carrying out their professional functions. These attacks are perpetrated by government forces, opposition groups, or even sometimes by the business community or land owners. Of the 876 documented cases, 53 jurists were killed, 3 disappeared, 272 were prosecuted, arrested, detained or even tortured, 83 physically attacked, 111 verbally threatened and 354 professionally obstructed and/or sanctioned. The CIJL also received reports of an additional 508 jurists who suffered reprisals in 1997 and 1998 but was unable to conclusively confirm those reports.

DURING a trial, the prosecutor was in the midst of a spirited legal argument when the building was suddenly shaken by an earthquake. After several seconds the vibrations stopped. Without missing a beat, the prosecutor said, "Someone agrees with me, Your Honour." Replied the judge, "Earthquakes emanate from below, don't they?"

COMMONWEALTH JUDICIAL EDUCATION INSTITUTE

in collaboration with the Uganda Judiciary

CONFERENCE ON JUDICIAL REFORM

KAMPALA, UGANDA, 7 - 12 JANUARY 2001

Conference Topics

A. The role and function of the office of the Chief Justice (administrative judge). Outstanding international jurists will analyze the office of the administrative judge from the following perspectives: methods and criteria of appointment, impact on judicial reform, court management, the legal profession and the quality of justice. Presenters will include distinguished judges from all regions of the world.

B. Evaluation of judicial reform from jurisdictions undergoing reform. Topics: streamlining the court process through case flow management; mandatory mediation and ADR techniques; eliminating judicial corruption; specialized courts; contemporary threats to and mechanisms to protect judicial independence; review of appointment, promotion and discipline processes to promote public confidence in the judiciary; legal, judicial and community education to support a well functioning judiciary.

Distinguished international jurists will contribute theme comments for syndicate discussions on these topics. The conference will focus on arriving at recommendations for the way ahead based on the lessons learned from jurisdictions undergoing judicial reform.

Book now! Registration is limited in number. The two-day symposium on the role and function of the office of the Chief Justice is by application. The judicial reform conference is open to all up to the conference quota. Participants will be determined on the basis of registration date.

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