

*Session 9.3*

*Evaluation of Judicial Education Programs*

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- 1 First, let me make a brief disclaimer. All the comments I am going to make are my own, and not representative of the views of the US Department of State, or any of the other funders I have worked for. They also do not reflect the views of the director of the Judicial Development Institute of Iraq.
- 2 Our dear colleague Livingston Armytage describes education evaluation as ‘making informed judgments on the overall value of a learning program, and whether or not the program accomplished what it set out to do’. How many of you evaluate the judicial education programs you do in your home countries? Would you raise your hands? [show of hands] Okay. So, that is the vast majority. Evaluation, I think, is one of the most culturally sensitive tasks that we have in continuing judicial education because the acceptable ways to do it, actually, I have found to vary from country to country. How many of you are familiar with Kirkpatrick’s four levels of evaluation? Okay, then I am going to go over it briefly, just so you know what they are.
- 3 Level One is the most typical kind of evaluation. A typical Kirkpatrick Level One evaluation form records your immediate reaction to the program that you have attended. That is a written form. Sometimes you do a Kirkpatrick evaluation orally, just get oral comments from people. It is very immediate. Usually, such a form includes a place where you can say what additional topics you would like to have on future programs. But it is how you feel right now at the end of a session, at the end of a conference, about how valuable it was.
- 4 Level Two is a test or a post-course evaluation that determines how much you retained after a program. So, by its nature it would be later, usually, to see how much you have kept and retained. That can be very culturally sensitive because, guess what, most adults do not like taking tests. We think we are beyond that, and in some places judges in particular are very offended by the idea of being tested. The advantage of a Kirkpatrick Level Two is that it assesses what more needs to be learned. In all honesty, in judicial education we do not get into the Level Twos very often.
- 5 I did do it in Mongolia. We did massive courses for nearly the entire – not just judiciary but – legal profession in Mongolia, which is a very small country in terms of population, so this was feasible. We did courses on the new civil code, new civil procedure code, new criminal code and new criminal procedure code, in cooperation with the German funding agency GTZ. We did courses in every province of the country and covered almost the entire legal profession and judiciary. Six months later GTZ and my project, which was funded by the US Agency for International Development, did a survey jointly. We did a post-course survey and we were very, very happy with the response rate. All the judges, virtually every judge in the country, responded and about half of the prosecutors. We did less well with the advocates, with the private bar, responding. We were really pleased with the results because they said that they really were using what they had learned in the courses that we had put on.

- 6 The other thing that I found fascinating was that seventy percent of them were still using the course materials on a daily or weekly basis. So, that is an example of a Kirkpatrick Level Two evaluation.
- 7 Level Three assesses behaviour. It sees whether there have been any behavioural changes. You can do that by observation or by interviewing people. That, again, is very difficult with judges because how many of you want somebody coming and sitting in the back of your courtroom watching you and observing you and taking notes about what you are doing? But, again, it can be very valuable because you can assess what more people need to learn.
- 8 In the survey we did in Mongolia, we tried to reach Level Three, changes and behaviour. We asked the judges whether since they had taken the course the prosecutors and the advocates had changed the way they conducted themselves in court. We asked the prosecutors whether the judges had changed the way they did things. We did it triangularly. Again, the answer was yes. Yes, we really did change and are incorporating what we learned in the course in the implementation of these new codes.
- 9 Level Four tries to identify whether there has been a change in the organisation. Is there a long-term effect? To do that you have to have a base to compare things to so, again, that is something we very, very seldom can get into in judicial education. But one way, for instance, that you might see what the impact has been long-term is, what about the cases on appeal? If you ran a course on how to handle a particular type of trial, are the decisions still being overturned or has the rate gone down? For purposes of our discussion this morning we are going to concentrate on Level One, the immediate evaluation of courses.
- 10 I think we all want feedback about the programs that we do, and it can be oral or written. One of the things that I did when I was the Academic Director at the National Judicial College in the United States – people think I am teasing, but part of my job was literally to eat, drink and be merry. Part of my job was to go to the coffee breaks and the tea breaks and mingle and talk to people. It was part of my job to go to the faculty dinner, to the opening reception, to the closing party, and it was part of my job to eat. I was supposed to have lunch every day with the judges when we had classes in session.
- 11 Now, there were two results of that. One, I immediately gained ten pounds, the first year on that job. The other was that I got all sorts of valuable information by chatting with the judges and the faculty members, informally. There were things that they would tell me over a cup of coffee that they were kind of hesitant to put on a written evaluation form. Often, if I was doing my job really well, sometimes if there was a problem or if a course was not meeting their needs, I could hear about that early in the week, on Monday afternoon, and we could fix it before the course ended on Friday morning, so that informal oral feedback, that was spontaneous, was extremely helpful. The other thing about oral feedback: obviously, it is not anonymous. You know who is telling you something critical or something good. It is also very subjective. It does not go into any sophisticated measurement.
- 12 Most Kirkpatrick Level One evaluation is written. I very seldom go to a conference where somebody does not give me one of these forms, that we have got in our packet.

So, it is more formal. It is deliberate. People can think about it. We all got our forms the day we registered, so hopefully we have been thinking about the comments that we are going to give IOJT. It can be anonymous. Usually on forms, signing it is something that people can choose to do or not, and the thing that people like me, who run judicial institutes, love about it is that you can quantify it. You can add things up, and create statistics as to how well-received a course or a topic or a speaker was.

- 13 Monitoring. I am a big fan of monitoring. At the judicial college in Reno the program attorneys who are in charge of each course were encouraged to actually be in the room as much as possible, and listen to the course going on.
- 14 One of the good things about having a monitor in the classroom is that it gives you a context for what goes on. Years ago when I worked for the District of Columbia bar in Washington DC, one of my tasks was to run a monthly mandatory course for people who had just gotten admitted to the DC bar. Almost nobody takes the bar exam in the District of Columbia, including me. I was admitted on motion. So, the court decided that with nobody taking the bar exam, just a couple of hundred people a year taking it, these other several thousand people a year should at least take a one-day course about the practice of law in DC, procedures, our local ethics code for lawyers.
- 15 Well, it was a very hostile audience. They hated having to take this one-day course, even though they could take it any time during their first year after admission. It was only about a hundred dollars, they qualified for continuing legal education credit if they needed credit in some jurisdiction, but they hated it. It was the worst twelve days of the year for me, were the days of that course. We had survived another one and the morning after I went into my office and I found my staff member standing in the corridor clutching an evaluation form, and they were just wild-eyed. They said, 'somebody's going to shoot the Associate Bar Counsel' – who had spoken on the program about the disciplinary system of the District of Columbia. I said, 'what? What do you mean?' And they were waving this in the air, saying, 'yes, somebody's going to take a gun and shoot Gene Shipp'. So I read it, and what it literally said was, 'I'm going to take a gun to bar counsel's office'. Well, one of the things that he had said, that I would not have known if I had not sat in the room for his entire presentation, was 'if somebody's client gives you an illegal firearm, just bring it to our office and we will dispose of it'.
- 16 So, this was really a positive comment, that they now knew how to get rid of illegal firearms, that their criminal defence clients had given them, but I would not have known that and I would have been terrified too if I had just read it, out of context.
- 17 The thing I principally wanted to talk about – and I hope we can get some dialogue going – is cultural attitudes that can change the way people fill out evaluation forms, Kirkpatrick Level Ones in particular. In the United States, freedom of speech is one of the most important parts of our democracy so we Americans think we can pretty much say anything we want on one of these forms. When I was in Reno at the Judicial College we felt perfectly free to be critical of the most senior judges on the program, in writing. We had a seven-point scale and people had no qualms whatsoever about rating other judges who were speaking on the program on the seven-point scale. They had no qualms whatsoever if they were not satisfied with the program, in giving it a low rating. I am proud to say that most of our programs there were extremely well-received, but once in a while we would get criticism.

- 18 For instance, we once had a very senior judge, who had been part of the original faculty in the 1960s, who was still teaching, and one year we just started to get comments, saying, 'please take him off the program, he's just too old and too feeble and he can't keep up anymore'. But in other cultures, like Mongolia, you would never get that comment in Mongolia because of the respect in the Asian culture for elders. They just would not do it, no matter what. They would never put it in writing, or say it. I think, that in Egypt there is so much protocol and manners that, again, it would be very unlikely that on an Egyptian evaluation form you would get a lot of criticism of a senior experienced judge who spoke on the program, simply because of the way that society is organised. Again, in Mongolia they are the most generous people on earth. When you live out on the Steppe, and when you are in a country where the temperature can go to where forty below merges centigrade and Fahrenheit, where it is that cold, hospitality is one of the key things in the culture. If somebody knocks on the door of your yurt, you let them in or they die. That generosity and kindness carries over into all attitudes of Mongolian society.
- 19 Now, I am embarrassed to tell you, in the United States when I started doing continuing legal education programs there was a lot of sex- and race discrimination going on, in the late seventies and the eighties. If a woman or a minority member spoke on a program I would take the written comments on the evaluation form with a grain of salt, because I knew back then that – and I am proud to say it has changed a lot – white males would be hyper-critical of a woman or a minority group member who spoke. I did some work last year in the Republic of Kyrgyz, a post-communist country, for seven-and-a-half weeks. They are still very, very nervous of putting things down in writing. They are scared, that old totalitarian mentality; even after all these years the elder judges in particular are very nervous about being critical of the government. They are just plain scared, still. So, that is another factor that can apply in some cultures.
- 20 Why do you think an audience member would refuse to criticise a program or speaker? Let's hear some ideas.
- 21 Justice McKechnie (Australia): John McKechnie, Western Australia, Supreme Court. One of the things we have found is – and we are a fairly robust country in expressing views – is that if you get a senior judge who presents in a normal talking-heads voice, people seem reluctant to criticise even in a written evaluation. I think it is partly respect and partly, 'well, they're doing it for free, they're doing it for nothing, we really don't want to be too critical of them', and it makes it hard when you are designing programs because it is sort of anti-intuitive. It is not your feeling of how it went; but you have all these good to very good evaluations, and it is a real problem, I think, in designing programs.
- 22 Edwards: Thank you. Yes.
- 23 Chief Justice Shakram (Iraq): Thank you very much for your question. I will mention something about the situation in Iraq, particularly relating to judges. It is perhaps a cultural thing in the Middle East to always be accommodating to someone who gives you something or imparts knowledge to you. I think it will probably be wiser if we stay away from the form, which is formal, and either we ask for it to be completed anonymously or find another indirect way, less confrontational, to ask for opinions.

- 24 I think we are primarily concerned with the learning outcomes and the level of satisfaction attained by the attendees of such training opportunities, and that could actually be gauged through the training itself. Or, perhaps like you suggested, they could discuss the feedback form and then select from among themselves one of the attendees who would actually convey the opinion of the entire group.
- 25 I found this through the numerous training opportunities for judges in Iraq: they all fill the form nicely. It was very nice, it was very good, but later on I found out when we had an informal chat that there were so many things that would have been better had they actually made them clear. Much later actually, I spoke to someone and I asked them, 'why did you say everything went well in the questionnaire form, whereas now you are telling me that things went otherwise?' The answer was very interesting. He told me that he wanted to give the impression that the training opportunity was very good and beneficial, and he was seeking to get another opportunity outside of Iraq. Had he criticised in the first place that would probably put a damper on that program, the entire program, and he would miss out on the opportunity to go abroad.
- 26 Edwards: Thank you Chief Justice Shakran. I think the Chief Justice has just validated my whole theory about why people are hesitant to criticise. I thought up a number of reasons, several of which we have just heard from the floor. Do not worry about writing these down; the PowerPoint presentation should be on your disk, as is the paper I wrote. Sometimes it is just because they do not want to hurt somebody's feelings. Respect for elders. Sometimes when we go to a presentation, if it is not very good and we do not understand it, I know I sit there feeling guilty, that it is my fault, that I am too ignorant to appreciate what this magnificent speaker is talking about, and usually that is certainly not true with judges. Another reason, and this comes up a lot in countries where they pay people to teach continuing judicial education, the audience members are scared that if they are too critical they might lose their jobs, and not get paid anymore. That was a big issue, again, in Mongolia. Before I got there they had started paying a daily honorarium to judges teaching continuing judicial education, and it was more money than they got paid by day as a judge. What was supposed to happen was, they would turn in their judicial salary for the day and get this higher payment for the day. The audience members did not want the judges to lose that extra income.
- 27 Sometimes, and this happens in totalitarian countries, they are scared that it is going to go into somebody's personnel file. Revenge. That would be pretty hard to do at an international conference like this, but if you are in a more localised environment I suppose it could happen. The funder will not refund the program if it is not a success. That can be a big issue in judicial education because if the agency that holds the purse strings is not happy with the results then why would they fund it again next year? Why would they, for instance, send somebody all the way to Reno Nevada to take a course, if they find out that the course was not well-received? A lot of times, if people get scholarships, they are, again, very hesitant because, as it was described to us, they want to go again. They want to get another scholarship, they want to go to another program, they want another opportunity to study abroad, and they are afraid they will not get that if they are critical.
- 28 What about the opposite? Why would somebody be hesitant to praise a course, or give a good evaluation? Does anybody have any ideas on that? This is a little trickier, because usually people enjoy saying nice things.

- 29 Unknown Speaker 1 (Australia): There are two reasons which I have found. One is overexposure. You have just heard the speaker so often, and even though the speaker may be really good, and excellent, you are just overexposed to them and you think, 'oh, another one'.
- 30 Edwards: That is interesting. I had not thought of that.
- 31 Unknown Speaker 1 (Australia): And the other one is just pure human jealousy and envy. But it is the first one in particular that I have encountered.
- 32 Edwards: Any other ideas?
- 33 Unknown Speaker 2 (Australia): It might simply be an uncomfortable course. There are courses that sometimes arise, such as social context- or gender-awareness-type courses, and people are loathe to praise because they do not find it a very agreeable thing to be there, and even if they think it was actually done well they might have a predisposition towards not praising, or they feel that the weight of the audience would be contrary to praising.
- 34 Edwards: Yeah. I agree with you. That was our problem with this mandatory course for new admittees to the DC bar. They were so hostile about being forced to take it that they were really nasty to the entire faculty, no matter how good they were. Also, back in Reno when I was the academic director of the college we found out that we had some judges in our ethics course and in a course that we called *Eliminating Bias from Your Court* who were there as a diversion program. Instead of being given a public reprimand or disciplined, because they had committed, hopefully, a relatively minor form of sexual harassment or other ethical breach, the judicial disciplinary board in our state sent them to Reno to take the course on the understanding that, 'you take the course, we won't go public with this, but don't do it again'.
- 35 They, just as you said, would be embarrassed, I would hope, to be there and would not be in a comfortable position to appreciate the course, no matter how well it was taught. Any other ideas? Yes, Chief Justice, please.
- 36 Chief Justice Shakram (Iraq): But it is also a fact that in some training courses the level of the information passed on to the attendees is actually below their level. It has happened before that I ask people who return to Iraq if the training opportunity added anything new to their existing knowledge. They said, 'no, very little, the only thing that we gained was shopping, and visiting, and having a nice walk in nice streets'.
- 37 Edwards: Yes. I have run some study tours like that. Well, these are some ideas I had, and I think we have covered most of them. Certainly, again, and I am very much against paying judicial education faculties, because you can get into things like this, that people are scared, 'oh, if the speaker is too well-received then the fee will go up and it's going to make it more expensive to do this'. Sometimes, they are scared if it is the kind of course that has a registration fee that the fees will go up in the following year. A lot of times people do not praise the course just because by the time it is over they are exhausted and they want to go home, and they do not have time to fill out the form. Sometimes more junior people are scared to praise a program if they think someone more senior from their court or their law firm did not like it. Jealousy: I think you hit the nail on the head. Sometimes the people are just jealous of the

speaker and sometimes people hope that they will get the opportunity to speak themselves, if the speaker gets fired, and sometimes it is just based on personalities, but I agree completely that if a course is not at a sophisticated enough level for the audience, as the Chief Justice said, it can be perfectly well taught but it is not meeting the audience members' educational needs, so the person will not praise; the person will be critical because it is too simple of a program.

- 38 Some ideas about improving response rates: I will be curious to find out how many of these pink forms are turned into IOJT. So far, in none of the sessions I have been in has anybody from the podium reminded us to fill them out. If you do not get reminded a lot, they tend to fall to the bottom of the satchel and get forgotten about. In fifty percent of the programs I go to myself I find the form in the bottom of my briefcase two weeks later, and by then I am usually too embarrassed to mail it back.
- 39 Just reminding people, if you are going to do a written form, and I agree with Chief Justice Madhat that that might not be the best way to go, especially in some cultures, remind people to fill it out. I think you get a better response rate if it is anonymous, but that is my opinion. Then, use the results. We used the results of our written evaluation forms at the judicial college all the time. We really rely on them for guidance on how to advise the courses and make them better, and meet changing needs, and we also relied on them figuring out which faculty we wanted to invite back, and in checking out new faculties.
- 40 I have talked more than enough. Now we want to hear from all of you about what elements you think should be in a good course evaluation form, or hear more ideas like we have got from Chief Justice Madhat about alternatives to having a written form. I think the idea of having the audience talk among themselves and appoint a delegate to convey their feelings to the management of the course is a really great idea, that I have never heard before. [00:36:44]