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NOTES AND NEWS

The London Conference on the Future of Law in Africa

The fact that this very important Conference had been convened in London from 28th December, 1959 to 8th January, 1960, was noted in the last issue of the Journal. The Conference has now duly met at Church House, Westminster, and was a most successful occasion. Somewhat over 60 delegates from countries in or concerned with Africa and sharing the common law as the basis of their legal systems attended under the chairmanship of Lord Denning. Among the African countries or territories represented were: Sierra Leone, Liberia, Nigeria (which sent a unified delegation, representing the Federation and all three Regions), the Sudan, Kenya, Tanganyika, Uganda, Somaliland, Zanzibar, Northern Rhodesia, Nyasaland and Bechuanaland. Non-Commonwealth territories were thus represented as well as those from the Commonwealth: the presence of strong delegations from the Sudan and Liberia was much appreciated and was of great value to the Conference. Although Ghana was not officially represented, several of the delegates had past professional experience of its laws. There was strong representation from the United Kingdom, not only from government departments but from the judiciary and the universities of London, Southampton, and Cambridge. Two of the delegates came from the U.S.A.

The fact that the delegates shared a similar legal background undoubtedly contributed enormously to the briskness and pertinence of the discussions. The membership of the Conference was a mixed one, which drew on a very wide range of talents—judicial (several Chief Justices and puisne judges from African countries attended); administrative (including native and customary courts advisers); legal (including a number of Attorneys- and Solicitors-General); and academic; among the African members were several who had first hand experience as members of native courts.

The agenda of the Conference involved (i) an examination of the conditions under which African customary law and Islamic law are administered today, of the weaknesses in the present system for ascertaining and applying customary law in the superior courts, and of the conflicts caused by the co-existence and inter-action of general laws of European origin or type with indigenous tribal and religious laws; (ii) a consideration of what should be the objectives of policy in all these matters (should there be a single, unified system of law in each territory; if so, on what law should this be based and how might it be adapted to African conditions; how can the ascertainment of customary law be rendered easier and more

certain; what should be the place of customary law in African legal systems of the future, and can local variations as between one customary law and another be eliminated or reduced?); (iii) the working out of methods to carry the policies as determined into effect.

The discussions of the Conference ranged very widely. Not only was considerable time given to study of the possible evolution of various branches of the law, *e.g.* criminal law, contract and commercial law, torts, land tenure, personal law of marriage, divorce and succession; but there was also a full discussion of the particular problems of legal education and training in and for Africa. The developments in legal education in African countries are noted in this Journal from time to time; but delegates felt that more could be done in the United Kingdom as well in the interests of law students from overseas.

It could not be expected that, in such a short time and with so many wide variations in habitat and problems as between one territory and another, all the members of the Conference should reach agreement on every point. Nevertheless, a surprising measure of agreement was in fact attained; this was largely due to the inspiring and skilful chairmanship of Lord Denning, who presided throughout the Conference. Differences, where they existed, were on the pace and detailed character of possible change, rather than on its direction or necessity. Among the points which found widespread agreement were: that the recording of customary law should be encouraged where desirable and feasible; that there should be a uniform criminal law (though local variations could be allowed if these were written); that the rules of practice and procedure in the African or native courts should be moulded or guided in the direction of those observed in the superior and magistrates' courts; that extreme care should be exercised in interfering with the personal law; that registration of title was desirable in many places to reduce the cost of land litigation and the complexity of land holding and transfer (though it was not needed immediately in a number of territories or parts of territories); and that the eventual aim must be the evolution of a single unified system of law applicable throughout a territory, though complete uniformity of the law on a territorial basis may be impracticable and indeed undesirable for some time to come. It was further decided to constitute a committee that would review the provision of legal education and training for would-be lawyers in and from Africa.

A Record of the Proceedings of the Conference has been prepared by Dr. A. N. Allott by special arrangement with the Journal of African Law, and is now available. This Record gives a full summary of the discussions and conclusions of the Conference. It is also hoped to make arrangements for the publication of some or all of the valuable background and other papers which were circulated to the members of the Conference. The Record of Proceedings is available from Messrs. Butterworth & Co. Ltd., 88 Kingsway, London, W.C.2, price 7s. 6d., postage extra.

It is hoped that a follow-up Conference, which could review progress in different African territories since the London Conference,

carry detailed discussions further, and at the same time bring in experts from the parts of Africa not under the common law, may be held. Such a Conference might be held in Africa under the auspices of the recently-founded International African Law Association.

Legal Education in Nigeria

Federation of Nigeria: *Report of the Committee on the Future of the Nigerian Legal Profession.* Lagos, 1959.

The setting up of this Committee, under the chairmanship of the Attorney-General of the Federation, Mr. E. I. G. Unsworth, C.M.G., Q.C., was reported at [1959] J.A.L. 84. The Committee has now reported.

The recommendations of the Committee may be summarised as follows:

(1) The legal profession in Nigeria should continue to be fused, and practitioners should be entitled to practise both as barristers and solicitors. " At the same time a system of legal education should be organised in a manner that will provide instruction in the work normally performed by a solicitor as well as a barrister."

(2) Nigeria should establish its own system of legal education, and on the establishment of such a system the existing qualifications (*e.g.* call to the English Bar) should no longer by themselves be qualifications for admission to practice in Nigeria, though they should be taken into account for the purpose of exemption from some of the subjects for the Nigerian examinations.

(3) A Faculty of Law should be established at University College, Ibadan, though it is hoped that faculties of law will be established at other Nigerian universities (one will also probably be established at the new University at Nsukka).

(4) The Committee give detailed suggestions for the content of the syllabus for a degree in law (cf. Appendix E of the Report). The course proposed is a three-year one; and, apart from specifically Nigerian subjects such as " Nigerian Constitutional Law ", " Jurisprudence and Application of Nigerian Customary Law ", " The Nigerian Legal System ", other subjects will be taught with special reference to the law of Nigeria.

(5) A law school, to be known as the Nigerian Law School, should be established at Lagos for practical training and examination in certain subjects; a one-year course in book-keeping, conveyancing, procedure, and professional conduct and etiquette, would be given.

(6) The qualification for admission to practise law in Nigeria would be the examinations for a degree in law at any University in Nigeria whose course for that degree was recognised by the Nigerian Council of Legal Education, and the course of practical training and examinations prescribed by the Council.

(7) A Council of Legal Education should be established; this Council should consist of the Chief Justice of the Federation, the Attorneys-General of the Federation and the Regions, the Chairman of the Nigeria Bar Council, the heads of the faculties of law recognised by the Council; the head of the Nigerian Law School; two

members of the Bar nominated by the Nigeria Bar Council; two persons who hold or have held judicial office nominated by the Chief Justice of the Federation.

(8) A student who has taken certain qualifications outside Nigeria (*e.g.* a law degree, the examinations for call to the Bar in England, the Law Society's examinations in England, etc.) may be exempted from subjects which the Council of Legal Education consider have already been adequately covered.

(9) The Chief Justice of the Federation shall admit as a legal practitioner any person who satisfies him:

(a) that he has obtained from the Council of Legal Education in Nigeria a certificate that he has, subject to the recommendations relating to exemptions, passed the necessary qualifying examinations; and

(b) that he is a person of good character.

The Chief Justice should have a discretionary power to admit counsel from other countries to appear in particular cases. As regards reciprocal arrangements the Committee advocated caution, but recommended that there should be a discretionary power to admit to practice in Nigeria legal practitioners of a specified country of not less than five years' standing, on condition that such practitioners take such examinations in Nigerian constitutional and local law as the Council may prescribe and that comparable provisions for the admission of Nigerian practitioners exist in that country.

The Committee also made many recommendations on discipline and codes of professional conduct. A new non-statutory " Nigeria Bar Council " has now been constituted by the Nigeria Bar Association; the Bar Council is elected from the members of the Association. The Committee warmly endorsed this step, and thought that the establishment of such a body was more in keeping with the independence of the profession than a body created by statute which could be amended at any time by the legislature. The Report recommends that a disciplinary committee of the Nigeria Bar Council be established in order to investigate complaints against members of the profession. If the committee thought there was a *prima facie* case, the complaint could be referred for hearing to a disciplinary tribunal composed of judges and practitioners.

Altogether this is an admirable Report, which provides for the emergence and orderly development of a system of legal training in Nigeria (there is none at present). One can only hope that the Report will be speedily implemented.

Legal Education in Ghana

The International Advisory Committee on Legal Education in Ghana has now reported. (The Committee consisted of Professors L. C. B. Gower, University of London; Zelman Cowen, University of Melbourne; Arthur A. Sutherland, Harvard Law School.) The Committee recommended, *inter alia*, that:

(1) Except in special cases a degree in law should be the first essential qualification for admission to the Bar of Ghana. As a

transitional provision, however, the Committee recommended that for three years from December, 1959, the Ghana Law School could admit students to read for a Diploma in Law; a student who has received such a Diploma would be eligible for call to the Bar without the requirement of a law degree, after receiving additional practical training as prescribed. The standard of the Diploma would be roughly comparable with that of the English Bar Examinations. This recommendation was purely temporary to meet the needs of certain mature students who had been prevented by the expense from studying law in England.

(2) The Ghana School of Law, which is at present independent of the University College of Ghana, should become an Institute of the University. Whatever the arrangement made there should be no duplication of instruction.

(3) In addition to a law degree, students would have to undertake a further period of training at the Ghana School of Law and pass examinations in certain professional and practical subjects.

(4) Any applicant for admission to the Bar who has obtained a law degree in a university outside Ghana would have to pass examinations set by the University of Ghana in subjects where the law is essentially different from the law on which the examination for the foreign degree was set.

(5) The length of the LL.B. Degree course should be four years. The curriculum for the Degree course would include special papers on Ghana law; and every subject would be studied with reference to the appropriate parts of the law of Ghana. The Ghana Bar Association felt strongly that Roman Law should be one of the compulsory subjects in the first year, because of its value for a fuller understanding of Ghana customary law. The Committee made no recommendation on this subject.

(6) The question of higher degrees in law was considered. The need for good text books on Ghana law was mentioned.

(7) The Committee made specific proposals for the fifth year practical course. Examinations would be set in such subjects as taxation, company law, conveyancing and legal drafting, professional conduct, office methods; and at the end of the year a certificate of competence from the Director of Legal Education would also be required for admission to the Bar.

(8) The suggestion that a " West African Law Institute " should be established to conduct research into customary law with a view to law reform was mentioned. (Such an Institute, under the direction of Dr. L. Rubin of the Union of South Africa, is now being established at the University College.)

Creation of a " Centre D'Histoire et D'Ethnologie Juridiques "

The Institut de Sociologie Solvay, Belgium, which is concerned with the development of scientific research into the different branches of the social sciences, has just established a " Centre for Legal History and Ethnology " under the direction of Professor J. Gilissen. The aim of this new institution is to promote research

into the general evolution of the law and institutions from antiquity to the present day, and into the customary laws of primitive peoples.

The activities of the Centre will comprise on the one hand the provision of aids to research such as bibliographies, repertories of legal sources, etc., and on the other hand, the organisation of colloquia and seminars on various aspects of legal history. An international colloquium on the methods of recording customary law is at present being organised; the aim is to compare the methods adopted in Europe and America in the past as well as those adopted at the present time in Africa and Asia. (The colloquium will be held during May of this year.) The study of the transformation of customary laws which are in contact with European law will be systematically pursued through field-research in Central Africa.

We wish the Centre every success in its self-appointed task.

Second International African Seminar

The second International African Seminar was held at the University of Lovanium in Léopoldville, Belgian Congo, from 2nd to 12th January, 1960. The Seminar was initiated by the International African Institute thanks to subsidies from the Ford Foundation, and its material and scientific organisation was entrusted to Professor Biebuyck, head of the Department of Anthropology at the University of Lovanium. The participants, about twenty in number, came from different African and European countries; a number of observers also took part in the discussions.

The following individual communications were submitted by the participants:

" Systèmes de tenure fonciere et problèmes fonciers au Congo belge " (D. Biebuyck); " Land, tenure and land tenure " (P. Bohannan); " Land tenure problems in relation to agricultural development in the Northern Region of Nigeria " (K. Baldwin); " Les rapports du système foncier toucouleur et de l'organisation sociale et économique traditionelle, et leur évolution actuelle " (J. L. Boutillier); " Land rights and land use among the valley Tonga of the Rhodesian Federation: the background to the Kariba resettlement program " (E. Colson); " Aspects politiques, sociaux et rituels du système de tenure foncière chez les Lunda septentrionaux " (F. Crine); " Quelques aspects juridiques du problème foncier au Congo belge " (J.-P. Dufour); " The Land Husbandry Act of Southern Rhodesia " (G. K. Garbett); " The three types of Southern Ghanaian cocoa farmer " (P. Hill); " Land consolidation and redistribution of population in the Imenti sub-tribe of the Meru (Kenya) " (F. D. Homan); " Land as an object of gain: a consideration of land tenure among the Bete and the Dida (Ivory Coast, West Africa) " (A. F. J. Köbben); " Some effects of the introduction of individual freehold into Buganda " (A. I. Richards); " La tenure foncière traditionelle chez les Kongo du Nord-Ouest et le rôle des divers facteurs impliqués dans les changements majeurs " (M. Soret); " Facteurs et effects du développement du régime d'appropriation privée des terres de la palmeraie du Sud-Dahomey" (C. Tardits); " Essai sur quelques problèmes relatifs au régime

foncier traditionnel des Diola de Basse-Casamance (Sénégal)" (L. V. Thomas); "Problèmes posés par les nouveaux modes d'usage des terres chez les Azande vungara du Congo belge" (J. Vanderlinden); "Les régimes fonciers ruanda et kuba: une comparaison" (J. Vansina); "Factors determining the contents of African land tenure systems in Northern Rhodesia" (C. M. N. White); "Effects on the Xhosa and Nyakyusa of increases in the value of land" (M. Wilson); "Problèmes sociaux posés par la transplantation des Mossi sur les terres irriguées de l'Office du Niger" (D. Zahan).

Apart from the individual communications (which were duplicated and circulated to all the delegates), each participant also took on the task of introducing one of the working sessions. These sessions were devoted to different aspects of the transformation of traditional systems of land tenure. Thus there came under successive scrutiny the political, historical, social, economic, and legal aspects of the different modes of transformation of traditional systems (introduction of cash crops, of individual property, of "paysannats", of resettlement, etc.). The exchanges of view in the course of the conference were supplemented by observation of different Belgian achievements in the sphere of land tenure: thus there were visits to *le service des Terres du Gouvernement general*, to the African cities of Leopoldville and the zones of marsh-land near to those cities.

The communications will be published by the International African Institute; the volume will be introduced by a broad synthetic study by Professor Biebuyck of the different aspects of the transformation of traditional agrarian systems. The volume should appear at the end of 1960.

[*Communication from J. Vanderlinden*]

INTERNATIONAL AFRICAN LAW ASSOCIATION NEWS

Formation of Belgian Section

On 4th December, 1959, the inaugural meeting of the Belgian section of IALA/AIDA was held at the University Foundation, Brussels, under the chairmanship of MM. Idenburg and Sohier. The objects of the section include the creation in the Belgian Congo and Ruanda-Urundi of local sections consisting of persons who are expert in customary matters—Europeans (magistrates, sociologists, ethnologists, administrators) and Africans (judges of native tribunals, customary notables, graduates). These sections, which could be organised by provinces, would first of all define their programmes in accordance with local circumstances and the materials that are already available. In some places the codification of customary law might be initiated, in other places the recording or collecting