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NOTES AND NEWS

Conferences on African Law

The African legal world is humming with activity. Manifestations of this activity include the setting up and rapid development of law faculties and schools in African countries (which we have already reported on in previous issues of the Journal: Vol. 6, No. 2, and Vol. 7, No. 2). This in its turn has stimulated much academic investigation of African statute and customary laws, and the speedy production of text-books for the use of such faculties; a stream of such books is currently issuing from the leading publishing houses. The recording of customary laws, the drafting of codes, the radical reform of important branches of the law, are other significant aspects of this activity.

But doing is not enough; discussion of the ways in which legal education should be organized and conducted, of methods of developing customary law and incorporating it where desired into the fabric of the statutory law, of establishing new systems of integrated local courts, is also needed. And so a proliferation of conferences on African legal themes has also been a noticeable concomitant of the activity referred to above. Of the recent conferences, the meeting at Oxford of law teachers from Britain and the African countries has already been reported on ([1963] J.A.L. 69); other recent conferences have taken place at Dar es Salaam and Venice, and yet further conferences are planned at various centres on African land tenure, marriage and family law, legal education, etc.

The Conference on Local Courts and Customary Law in Africa, held at Dar es Salaam, Tanganyika, from the 9th to 19th September 1963, was intended to be both a follow-up of the very successful and useful conferences of judicial advisers, held under United Kingdom auspices in 1953 and 1956, and an opportunity for independent African states to compare progress in the development of their judicial and legal systems. The conference was held under the auspices of the Faculty of Law at the University College, Dar es Salaam and the Ministry of Justice in Tanganyika, and it attracted a distinguished participation from a large number of African countries and from overseas. Among those taking part were judges and magistrates, law teachers, administrators and politicians; this diversity of background and interests undoubtedly contributed greatly to the value of the conference discussions. The two main questions which the conference was called upon to consider were (i) the future of the local (including customary and African) courts, and

(ii) the place of customary law in modern African legal systems. The former question involved a scrutiny of present achievements in the reform of the local courts systems, in integrating these courts into the territorial judicial system, and in training their members for the new tasks which they are being required to perform. All African countries, apparently, have already or will shortly integrate their local court systems with the superior and general-law courts; but progress in such integration is uneven, and the process cannot be considered as complete until, for instance, legal practitioners are entitled to appear in local courts on the same terms as they currently appear before courts constituted by professional magistrates or judges. This question of legal representation was one of the more controversial matters before the conference; although majority opinion appeared to be in favour of extending the right to representation as universally and speedily as possible, the view that one must proceed with caution in doing so was also heard.

Another question which provoked considerable discussion was in regard to which authority should exercise ultimate control over the local courts, both in judicial and other matters. The independence of the judiciary in general terms was strongly re-emphasized by the conference; but it was recognized by some of the participants that in the present transitional period, whilst the local courts were being developed, it might be necessary for administrative reasons to leave control of the non-judicial aspects of the local courts' work to a ministry of justice (or its equivalent) and its team of expert local court inspectors.

It is obvious that in the course of a few days no very profound or detailed study can be made of the likely course of development of the customary laws in all their branches—criminal law, contract and tort, property, succession, marriage and family law, and so on. Nevertheless, the discussions of these vital matters were helpful, not least in drawing attention to (i) the fact that today several African governments are contemplating the survival of customary law, not as a set of discrete local systems, but as a single system either unified in itself or even integrated with the statute and common law of the land; and (ii) the special problems posed by the recognition of religious personal laws (notably Islamic law) in the modern world.

One disappointment at the Dar es Salaam conference was the paucity of representation from the civil law world—only the Ivory Coast and Ethiopia were able to send delegates. Now that more and more African legal problems can be considered on a continental basis, and one country can learn from the experiences and difficulties of another, whatever the origins of their legal systems, this was unfortunate. The meeting at Venice, convened by the Fondazione Giorgio Cini and Présence Africaine with the co-operation of UNESCO from 3rd to 6th October 1963, helped to supply this deficiency. The general theme of the conference was the movement "from a traditional to a modern law" in Africa, and the presence of experts from French-speaking African states (such as Senegal, Mali, Cameroun, Mauretania) and from France and Switzerland meant that the special problems and the special solutions of the civil law and "code" countries were fully brought to notice.

It may well be that the era of general conferences on African law and its future is now coming to an end, and that what is principally required in the future is the more detailed study of particular legal problems by small groups of experts; the value of such restricted meetings would be enormously enhanced if they were preceded by the preparation of expert studies of the problems raised, which could form the solid foundation upon which the discussions would be based.

Another requirement which is coming clearly to the fore is that there must be greater co-ordination in the arrangement of such meetings, to avoid clashes of date and subject, and to ensure that the maximum return is achieved from the necessarily costly and time-consuming process of assembling a diversity of experts from different countries inside and outside Africa. The International African Law Association will try to fulfil such a co-ordinating function, but depends for efficient discharge of this task upon sufficiently early advance notification of projected meetings. Those engaged in organising, or considering the organisation, of conferences and meetings are therefore asked to inform the Association without delay of their intentions.

INTERNATIONAL AFRICAN LAW ASSOCIATION NEWS

The formation of an American and Canadian section is announced. Will members and potential members who are resident in, or nationals of, these countries and who are interested in being enrolled in the section, kindly get in touch with Professor A. Arthur Schiller, School of Law, Columbia University, New York, 27, N.Y., U.S.A.?