

NOTES AND NEWS

HUMAN RIGHTS IN AFRICA: THE THIRD BIENNIAL CONFERENCE OF THE AFRICAN BAR ASSOCIATION, FREETOWN, August 1st-5th, 1978

Despite the almost universal incorporation of codes of fundamental rights in the constitutions of Commonwealth African states, one sometimes gets the impression that, with the prevalence of authoritarian and often non-elected governments, such codes are meaningless and ineffectual to safeguard human rights. The news out of Africa is too often about the repression and detention of political opponents, the denial of the rights of free speech and association, and too infrequently about successful challenges in court to such arbitrary actions. But this pessimistic picture, of empty declarations of human rights, subservient judges, and timorous advocates, is by no means a complete or true one; the reality is often more optimistic. The legal profession in both Nigeria and Ghana has been in the forefront in the challenge to the military governments there to protect and enforce fundamental rights and the freedoms taken for granted in democratic societies; and the Nigerian judiciary especially has often not hesitated to rule governmental decrees or actions invalid or contrary to fundamental rights.

There are now greater causes for optimism, with the successful convening of the Third Biennial Conference of the African Bar Association at Freetown, Sierra Leone. The executive of the Association boldly took as its conference theme the topic of "Human rights in Africa"; and the subject was exhaustively discussed in the course of its three days of deliberations. No punches were pulled by the delegates; the old inhibitions, which sometimes seemed to prevent lawyers in Africa (or indeed laymen too) from frankly discussing and highlighting transgressions against human rights when they occurred in black African countries (no such inhibition has ever prevented attack on the denials of human rights in the white-ruled South, of course), did not operate. The "Freetown Declaration" on human rights in Africa, which was the culminating point of the Conference, affirmed the belief of the Association's members in fundamental human rights as enshrined in the Charter of the United Nations; and then went on very significantly to "strongly condemn the flagrant violation of human rights in Africa and in particular in South Africa, Namibia and Zimbabwe *and the ill treatment of political prisoners and opponents in Africa*" [my italics—ANA]. Remembering the current controversies in and about the host country, Sierra Leone, over the detention of political prisoners and the institution of a one-party constitution there, this was bold talk; but the Hon. Francis Minah, the Attorney-General and Minister of Justice in the Sierra Leone cabinet, led the call for the re-affirmation of fundamental rights in this Freetown Declaration.

The African Bar Association is, by its very constitution, firmly committed to the fundamental rights approach and to the notion of lawyers at the service of the community. It is at present restricted in membership to lawyers from Commonwealth countries in Africa, of which seven were represented at the meeting. The other significant aspect of the Conference's work was the important role which the fundamental principles of the common law, transmitted originally from England, play in African legal thinking about human rights; a number of delegates were adamant in refusing to accept the facile argument that Africa was different, or that there was any justification,

either in African cultural and legal traditions, or in contemporary social and economic problems, for the non-recognition in Africa of fundamental rights as universally defined and accepted.

This last point leads one naturally to wonder whether there is some way in which legal ties between African countries and Britain (or more specifically, England) can be reinforced. Many if not most of the delegates had received their legal training in England, at the Bar or at British universities. Now many African countries have rightly developed their own legal educational facilities; but the legal tie is still treasured, and is as valuable to us in Britain as it may be felt to be by lawyers in Africa. How, in these altered circumstances, is it to be maintained and strengthened? There is a need, in the opinion of this writer, for a new, bold and creative initiative which would aid closer legal ties between English and African lawyers. I would hope that serious thought could now begin about the shape that such ties might take. Something more than what may already be possible under the aegis of the Commonwealth Secretariat, or the many other bodies, like the International Commission of Jurists or the Commonwealth Magistrates Association, is called for, valuable though their efforts are.

A.N.A.