ARTICLES

LEGAL EDUCATION IN EAST AFRICA

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The London Conference on the Future of Law in Africa, meeting at Westminster from 28th December, 1959 to 8th January, 1960, and attended by leading judicial and legal representatives from many English-speaking African countries, incidentally examined the problem of legal education in and for Africa (for which see the Conference Record, Chapter 13). The discussions were centred on the problems of East Africa, since it was here that the absence of provision for local training was making itself most felt. Because of the gravity and urgency of the problem, the Conference recommended that a committee should be set up without delay to go into the whole matter.

The terms of reference of such a committee were stated by the Conference as follows (at p. 52 of the Record):

"(a) A committee should be set up without delay to consider, and report as soon as possible, what facilities ought to be made available to provide any additional instruction and training, either in the United Kingdom or elsewhere, which may be required to ensure that those members of local bars in Africa who obtain their legal qualifications in the United Kingdom possess the knowledge and experience required to fit them for practice in the special conditions of the territories in which they are to practise, with special reference to the following:

(i) the acquisition of practical experience in addition to academic qualifications; and

(ii) the giving of instruction in the functions of a solicitor to those who are English barristers or possess similar qualifications, and who practise as members of a fused profession.

(b) Without prejudice to the urgency of the foregoing recommendation, consideration should also be given, by the same or a different committee, to the means to be adopted in the educational sphere to give the territorial authorities assistance which they may require in whatever provision they make for the education in Africa of local inhabitants seeking a legal qualification."

It was announced in the House of Lords by the Earl of Perth on 25th July, 1960, in response to a question from Lord Ogmore, that the Lord Chancellor was setting up a committee, under the chairmanship of Lord Denning, to go into the matters raised by the London Conference, though its exact composition and terms of reference were not given. It was also stated by the Earl of Perth that the university authorities in East Africa were at that moment considering the question of the establishment of a school of law out there.
It would be premature to discuss in detail what could or should be the future shape of the legal education provided in or for East Africa; but it seems clear that one ought to deal separately with the short-term and the long-term policy. The legal needs of the East African territories are so acute that action cannot be postponed until a perfect system can be brought into existence, and it is necessary to make use of existing bodies and facilities as far as possible. To assist in the discussions, the following outline of a possible plan for legal education in East Africa is put forward.

The major purpose of the committee's activities is to develop local legal training in East Africa, as this will simultaneously ensure that training is less costly, and that it is more closely directed to the needs of the local practitioner. In the short term all that can be hoped for, however, is to provide legal instruction at a relatively elementary level. Later on more advanced instruction, particularly that of an academic nature, can be added. Already legal instruction is offered in several centres, at the Royal Technical College, Nairobi, and in Uganda and Tanganyika to local or African courts staff, administrative officers in training, and so on. Instruction at such centres should be developed and integrated, with the objective of providing a course which would enable students to take Part I of the English Bar Examinations (suitably adapted) in Africa. At the same time some practical instruction could be provided.

Several alternatives would be open to those who completed this course successfully. Those who were destined to be administrative officers or otherwise engaged in the civil service could proceed to further specialized training for such posts. Clerks in courts and law offices, members of African courts and so on, might be recruited directly from students who had successfully followed this preliminary law course. Those who were specializing in a legal career could proceed to the United Kingdom for further training, which would include sitting the Bar Finals and a period of practical work in chambers or a solicitor's office.

On return to East Africa, successful students might be required to sit a further qualifying examination in the local law, coupled—where required—with additional practical experience in pupillage (though this is at present difficult to provide in the East African territories, for various reasons). In considering what sort of local law examination is required for future practitioners, it is worth having a look at the administrative officers' law examination, which administrative officers in, for example, Kenya are required to sit. The Kenya examination is a quite stringent test of the officer's knowledge of local legislation that he is likely to meet in the course of his duties; and some African court staff are now being encouraged to sit this examination as well, as part of the effort to improve standards in the African courts. The examination could easily be adapted to serve as a more general qualifying examination in local law, and might be taken, not only by legal practitioners-to-be, and administrative officers, but by the classes of persons mentioned above who did not complete their legal studies in England, viz. clerks, African court staff, etc.
By having a single preliminary course for those eventually destined for the various careers mentioned above, it would be possible to show very substantial economies in money and staff, both of which present a serious problem in the development of local legal training. As a further measure of rationalization and to ensure the harmonization of legal education as between the different East African territories, it is suggested that a body should be set up in East Africa to direct or co-ordinate legal studies there. Such an "East African Law Institute" would have affiliated to it all those institutions which provided legal training locally; it would endeavour to secure uniformity of standards and courses, and might eventually become an examining or certificate-granting body for this purpose. It cannot be emphasized too strongly that it would be most undesirable for legal education in East Africa to be fragmented, since at present there is a good measure of uniformity and interchangeability, for example, in regard to admission to practice. The content of the substantive law of the East African territories has to a certain extent been harmonized or unified; the Court of Appeal for Eastern Africa is undoubtedly a further unifying factor; and the possibility that a federation of the East African territories may be established in the foreseeable future makes the avoidance of divergencies in law and legal practice even more desirable.

The long-term objective is clear: it is to expand legal studies in East Africa, more especially by the creation of a University Faculty of Law. The suggested East African Law Institute would provide a useful nucleus, and indeed stimulant, for such a development.

The role of the United Kingdom in the development of East African legal studies is also clear. Britain has a special responsibility, not merely because these countries are at present her dependencies, but also because their legal systems derive from that of England, and depend for their development to a large extent on the knowledge and experience that those trained in the English common law can provide.

The way is open for an imaginative gesture, by the United Kingdom Government on the one hand, and by the interested academic and professional bodies in this country on the other hand. The U.K. Government might see its way to underwriting the expansion of legal education in and for East Africa, by the grant or loan of the necessary funds for capital expenditure (e.g. on buildings and libraries) or recurrent expenditure (for example, by supplementing the salaries of teachers seconded from the U.K.). The Law Society and the Inns of Court in England, together with the British universities, might underwrite the scheme academically, by undertaking to find the staff necessary to operate a system of legal education in East Africa, and by facilitating the movement of staff and students between East Africa and the United Kingdom.

These are merely the broad outlines of a scheme for East African legal education; but something of this magnitude is urgently required if the vast human and developmental needs of the East African territories in the legal field are to be satisfied.