

# THE LAW DEVELOPMENT CENTRE, KAMPALA, UGANDA

In zwangloser Folge erhalten an dieser Stelle Institutionen, die für die Entwicklungspolitik und Entwicklungsforschung von Bedeutung sind, Gelegenheit zur Selbstdarstellung. Diesmal geben wir dem Law Development Centre, Kampala, Uganda, sowie der Organisationseinheit Internationale Agrarwirtschaft der Gesamthochschule Kassel in Witzenhausen, BRD, das Wort.

## I. INTRODUCTION

The Law Development Centre was set up in 1968 by the Government as a department of the Ministry of Justice. The purpose for setting up this institution was to create a facility to handle those areas among the functions of the Ministry of Justice that could not properly be handled by a busy Ministry. The functions which the Ministry found difficult to fit within the ambit of its day-to-day routine were:

Law Reform, Legal Research, Continuing Legal Education for Senior Government Officers and practitioners: professional legal training and publications of Law Reports, Case Digests and Journals.

The functions referred to above are sometimes carried out by either Law Schools, Law Commissions, or Law Reporting Organisations in the other more developed countries. It will be borne in mind that at the time the Law Development Centre was established the Faculty of Law at Makerere had not yet been established. In these circumstances it was felt that an independent institution, charged with the responsibility of formulating policies and directing development of the areas referred to was necessary in Uganda.

With the establishment of the Law Development Centre, the Nsamizi Law School which had also been set up by the Ministry of Justice to train judicial officers, was absorbed into the Law Development Centre. The Centre began its existence in the offices loaned by the Ministry, but later moved to separate premises two miles from the city Centre. These premises were found ideal not only because they had the necessary facilities for the Institution but also because they are close to Makerere University. The proximity of the Law Development Centre to the University has had two advantages. One, it has brought the relation between the Centre and the Faculty of Law closer by facilitating the actual use of the Library and teaching facilities. Two, closeness of the two institutions has assisted specialisation in the development of the Libraries at every Institution. The Law Development Centre will be in a better position to build a professional/research oriented Library without fear of compromising the need to have academic books. The students at the Centre can more readily find these books in the Library at Makerere.

In 1970, the status of the Law Development Centre was spelt out by Act of Parliament — the Law Development Centre Act (21) of 1970 was passed and brought in force in August of that year. The functions of the Centre were clearly spelt out in the Act and these are:

## Sec. 2

- (1) The Centre shall have the functions of,
  - (a) organising and conducting courses of instruction for the acquisition of legal knowledge, professional skill and experience by persons intending to practice as attorneys in subjects which shall have been determined by the Law Council under the provisions of any law in force;
  - (b) organising and conducting courses in legislative drafting;
  - (c) organising and conducting courses for magistrates and for persons provisionally selected for appointment as such;
  - (d) organising and conducting training courses for officers of the Government and members of the Armed Forces of Uganda with a view to promoting a better understanding of the law;
  - (e) organising and conducting courses for officers and personnel of courts with a view to improving their efficiency;
  - (f) assisting any commissioner who may be appointed in the preparation and publication of a revised edition of the Laws of Uganda;
  - (g) assisting in the preparation of reprints of Acts of Parliament in accordance with any law for the time being in force;
  - (h) assisting the Law Reform Commission in the performance of its functions;
  - (i) undertaking research into any branch of the law;
  - (j) holding seminars and conferences on legal matters and problems;
  - (k) collecting, compiling, analysing and abstracting statistical information on legal and related matters;
  - (l) assisting in the provision of legal aid and advice to indigent litigants and accused persons in accordance with any law for the time being in force;
  - (m) compiling, editing and publishing law reports for Uganda;
  - (n) publishing periodicals, bulletins, digests or other written materials concerned with legal and related matters; and,
  - (o) disseminating and promoting generally a better knowledge of the law.
- (2) The Centre shall have such other functions as the Attorney-General may, from time to time, specify by statutory instrument.

## II. Major Functions of the Centre

The functions of the Centre as spelt out in the Act referred to above are more easily summarised into four major headings. These are:

- (1) Applied Legal Research and Legal Reform.
- (2) Legal education.
- (3) Legal publications.
- (4) Community Legal Assistances.

We will discuss each one of these functions in this paper and appraise the success of the Centre in fulfilling the duties delegated to it by Parliament.

### 1. Applied Legal Research and Law Reform

The Centre's mandate includes working with the Law Reform Commission, researching any area of the law and compiling and analysing statistics on law. These

research and law reform responsibilities are probably the most important area for the Centre's influence on legal development. To date, the Centre's primary activities in research have been in support of outside researchers with grants to study Uganda's legal system. For example, a Makerere University professor carried out research on the administration of justice and a team from Northwestern Law School researched land disputes, compensation for crimes and hire-purchase law. However, the Centre's interest in direct legal research is great and steps are being taken to organize an on-going research department. The Centre plans to hire two full-time lawyers to undertake extensive research projects next year. Hiring staff specifically for research is essential because this year, with organizing two new courses, the teaching requirements have fully utilized all the staff's time. The Centre's staff is very interested in customary law research and the feeling is that until projects, such as in Kenya and Tanzania, to ascertain the various customary laws are completed, we will not have the relevant data on which to base any extensive law reform. The Makerere Law Faculty is also interested in customary law research and steps are being taken to co-ordinate our efforts in this area. As to law reform, in its first year the Centre was able to draft and follow through to adoption several new acts relating to criminal law. However, the Law Reform Commission is now apparently inactive and the Centre has not received any specific requests for new legislation. Thus, it remains for the Centre to actively promote law reform on its own and to assert its interest in being involved in the process of enacting new laws. This it has done by informing all Ministries that the Centre is ready and willing to carry out research and drafting in any area where change in the law is necessary. Further, by publishing the results of its research on customary law and the results of outside researchers, the Centre hopes to stimulate interest in law reform. This publication will take place in "The Uganda Law Focus" discussed below.

## 2. Legal Education

The education function can be divided into the Bar Course and the Certificate of Law Course and miscellaneous conferences on law held from time to time.

### (i) Post-Graduate Bar Course

All law faculty graduates who wish to practice law in Uganda are required to successfully complete this one-year course. Formerly, six months' pupillage with an enrolled advocate was sufficient.

The first Bar Course began March 1972 and is due to be completed early in 1973. It is structured as a practical skills training course opposed to the typical law faculty academic training. In order to give the students a sample of actual legal practice, the first three months of the course were spent in clerkship positions with High Court Judges, Magistrates, criminal prosecutors and practising advocates. In retrospect, starting the course with this practical work proved beneficial because it enabled the students to see major legal institutions functioning and gave them a brief respite from classroom work.

The actual teaching began in July and the 24 students were divided into four firms each with staff advisors in the criminal and civil law fields who had some actual experience in these areas.

On the civil side, it was initially intended that each firm determine what type of entity it was going to choose to operate under and then all problems would then be dealt with in accordance with the agreed upon framework. The first week was spent analysing the possible types of law firm organization and drafting the required agreements. However, it soon became clear that where group work and presentations were required the better students tended to dominate and the other students coasted. As a result the firms were kept for teaching purposes and for arguing the moot trials but more individual work was required on subsequent problems.

The basic method of instruction for civil law problems was to hand out weekly fact situations involving, for example, questions on registration of titles, domestic relations, company law, etc. These fact situations would normally require the students to familiarize themselves with the relevant law and then either interview a member of the staff to find out further facts or to orally advise. Having done this the students were then required to draft the necessary agreements or court papers and prepare, in appropriate cases, for a moot trial with the other firms representing the opposing parties.

At the end of each week, outside practising advocates met with the students on a firm basis to discuss the week's problem, propose how the problem would have been dealt with in practise and then criticize the student's agreements, complaints, etc. and discuss trial strategy. The participation and co-operation of these practising advocates has been one of the best features of the course. It made sure the problems were realistic from a practising advocate's view and it showed the students the actual mechanics and strategies of dealing with clients and day-to-day legal problems.

The participation and enthusiasm of these practitioners has a potentially significant side effect of interesting practising advocates in the problems of legal education and legal development generally. It is hoped that the Centre can capitalize on this potential to improve the overall organization and professional standards of the private Bar and to interest it in the process of law reform. The Centre can enhance its relationship with these practitioners and its potential influence on them through publishing useful legal periodicals and manuals and by offering practical courses by specialists in various fields. It is also hoped that the contact of the staff and outside advisors will educate the staff as to practical legal problems so as to enable the staff to prepare realistic materials covering the law and also the types of agreements and documents that best achieve the solutions of the legal problems presented to the students.

On the criminal side, a similar approach was taken. Actual case files were reviewed each week and charges and summaries of evidence prepared and hearings as to bail and sentencing held. In order to give the students opportunity to stand up and talk and gain some trial experience numerous moot criminal trials were held. Again, outside government lawyers from the Department of Public Prosecutions came in each week for two hours as professional advisors and to criticize the students' work. Also, several staff members had extensive experience as prosecutors and were able to serve as judges for these moots.

In addition to these practical exercises the students also attended weekly lectures on topics such as accounting, taxation, legislative drafting, office management and ballistics and from time to time panel discussions were held utilizing local businessmen, bankers and lawyers to discuss commercial practices. It seems clear that

the Bar Course has been successfully launched and that it will significantly improve the quality of young Ugandan advocates. On successful completion of the course, candidates are awarded a Diploma in Legal Practice.

The second Post-Graduate Bar Course commenced in April, 1973 and already the first term comprising clerkship has been completed. The in-take on this has risen from 24 students in the first course to 30 students on the current course.

(ii) Certificate of Law Course

The Certificate of Law Course was established to cater for the training of Magistrates and other officers to equip them with the rudiment of law so as to improve their efficiency. The first Certificate of Law Course commenced in April 1971 with 20 students consisting of magistrates, army and police officers and other Government officials working in law-related fields. The syllabus for this course is very much similar to the syllabus for the LL.B. course except that a larger field is covered for one year and subjects are taught at less depth than at the Degree level. The second Certificate of Law Course will commence in July 1973 with an enrolment of 37 students.

(iii) Conferences and Seminars

As part of its role in legal education, the Centre also organizes conferences and seminars. These conferences are expected to continue for magistrates on a periodic basis to discuss major problems and developments. A major conference on Law and Development in Africa is also planned for June 1973 to be sponsored by the Centre with the assistance of The Ford Foundation and to include participants from all areas of Africa. As the Bar Course materials are prepared it is hoped that the Centre will be able to disseminate these materials to the local advocates and organize seminars in various practical areas of law for the practitioners.

### 3. Legal Publications

The Centre's major effort in disseminating legal literature to date has been the production of the "High Court Monthly Bulletin", a mimeographed digest of the most important cases of the Uganda High Court. Because of the scarcity of primary legal materials in Uganda, this Bulletin is invaluable to magistrates and practising advocates and its production is now fairly routine by the Centre.

The second major achievement is the publication of the printed "Handbook for Magistrates" — a 375 page book of articles on all phases of criminal and civil procedure, evidence and jurisdiction. Several smaller mimeographed works have also been prepared by the Centre's staff on damages in tort cases, the art of advocacy and digests of Uganda cases on criminal law and criminal and civil procedure. The Centre is also in the process of publishing a practice commentary on the recent changes in the law of succession.

The Centre's newest effort in publication is "The Uganda Law Focus" — a printed quarterly law journal on law reform, current cases and decrees and other legal developments. The first issue has just been released and includes proposals for the reform of the law of self-defence, a practice commentary on the new law of confessions and several critical comments on recent cases and decrees. The "Focus" is intended to be the forum for law reform proposals of all interested

parties, the publication of research results and articles of general interest on law by the Law Faculty, the Centre's staff and other interested persons.

The next area of publications will relate to materials prepared for the Bar Course and Certificate Course. In doing the necessary research and compilation of cases in each area, it is intended to publish these materials for the benefit of magistrates and lawyers.

#### **4. Community Legal Assistance.**

One of the functions of the Centre is to assist in the provision of legal aid to indigenous litigants. The provision of legal aid in Uganda has not been developed yet and therefore work in this area has not commenced. It is planned that legislation will be introduced to start legal aid schemes if the Centre will fully participate.

However, the Centre considers its work in the area of Community Legal Assistance to be broader than the mere provision of Legal Aid for purposes of representing the poor in Court. The Centre has therefore established the Department of Community Legal Assistance charged with the responsibilities of educating the general public in the legal system of Uganda and in the operation of law in society. This work is carried out presently by the provision of lectures to schools, Institutions and also to various organizations. In order to supplement the lectures provided, the Centre is publishing a series of simplified books on law and its administration. The first of the series was published in May 1973 entitled "The Law and its Administration", by F. P. Iya. The second publication in the series will be on "The Responsibilities of Chiefs and the Collection of Graduated Tax" by C.A.P. Okumu.

#### **III. Conclusion.**

The past year has been primarily used by the Centre to get its two major courses off the ground and this has been accomplished. Next year's emphasis can now be in the field of research, reform and publications. These areas will really indicate whether the Centre can have any overall impact on legal development in Uganda. Although results will be slower and less tangible than from establishing courses, enthusiasm is high.

Also contact with private practitioners and government lawyers and members of the Law Faculty is improving and should lead to new ideas and discussion of law reform; an organ for publishing results and ideas is now available. If the success in starting these two new courses and time spent on them can be transferred to research and reform, we will be able to see the validity and future of a comprehensive national centre for law development.

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