

IBA African regional conference

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From 7 to 10 April 1999 I attended an African Regional Conference of the International Bar Association ("IBA") at the request and expense of the IBA. This I did together with a number of other Bar leaders from across the African continent as well as approximately 350 other conference participants. The theme of the conference, which was held at the magnificent International Conference Centre in Accra, was "Practising Law in the Twenty-First Century – Meeting the Challenges".

On 7 April I attended a meeting of African Bar leaders and representatives where issues of mutual interest were discussed with, *inter alia*, the president and vice-president of the IBA. It was clear from the deliberations that the problems of most of the African Bars differ totally from those encountered in South Africa. Save for Zimbabwe and South Africa, there is no divided profession and when reference is made to the African Bars, this is to the fused profession. An instance of the very difficult – if not downright impossible – conditions under which lawyers practise in various parts of Africa, is to be found in the edited address to this meeting by Jenkins Johnston, the acting president of the Sierra Leone Bar, which is to be found in this edition of *Consultus*.

That evening the conference opening ceremony was addressed by a number of dignitaries, with the keynote address being given by Prof JEA Mills, the Vice-President of the Republic of Ghana, and a former dean of the Ghana School of Law and Commissioner of Income Tax.

The subject of professional ethics in a changing world was discussed on the morning of 8 April. The speakers were the immediate past president of the Ghana Bar Association and an executive of the Law Society of Scotland who also chairs the IBA's SLP Committee on Professional Ethics. The chair was the immediate past chair of the Body of Benchers in Nigeria. The

meeting examined the concept of professional ethics and its application to lawyers generally, the duties which are circumscribed by membership of the legal profession and the manner in which those duties should be discharged.

That afternoon the topic for discussion was: Why Continuing Legal Education (CLE) is Different from Law School: How Adults Learn and Teach. The meeting was chaired by the American co-chair of the IBA's general professional programme committee. The speakers were the academic director of the National Judicial College of the United States, Reno, USA, two Ghanaians and Prof David McQuoid-Mason of the University of Natal. The American and South African speakers, who are experienced organisers of CLE, presented illuminating addresses assisted by visual aids. One of the two Ghanaians, the chair of the CLE committee of the Ghana Bar Association, spoke on the role which the Bar should play in CLE. The discussion brought home to me quite clearly the need for CLE at the South African Bar, a question which is to be considered at the GCB's annual general meeting in July.

On 9 April the speakers discussed: Access to Justice; the Delivery of the Rule of Law by the Provision of Legal Services. This topic also covered *pro bono* activities and alternative dispute resolution. The chair was a German lawyer who is involved in the IBA's human rights institute and the speakers a retired chief judge and former chair of the National Law Review Commission of one of the Nigerian states. Two South Africans, David McQuoid-Mason and John Brand of Johannesburg also addressed the audience. Prof McQuoid-Mason dealt with the provision of legal aid services in South Africa, while John Brand gave an interesting address on alternative dispute resolution in our country, with particular emphasis on labour relations.

The afternoon was devoted to law office management – a subject of no real interest to advocates – with a Scottish chair and three speakers, two from Nigeria and one from England.

On the Saturday what was discussed was the fundamentals of international legal business practice, the subjects being:

introduction to international contracts; introduction to international joint ventures; principles of international arbitration; and introduction to letters of credit. These discussions were aimed at the less experienced lawyers who would be doing what we would consider commercial attorneys' work.

On the Saturday I attended a lunch meeting with the president and vice-president of the IBA where the Bar leaders were given an overview of the activities of the IBA's human rights institute. It was clear from this and other meetings that week that a number of African Bars had never been represented at IBA meetings in the past and that it was their intention to do so in the future. Earlier that week Bar leaders had met to confirm the desire of the African Bars that an African forum be formed within the IBA. A steering committee was elected to start the ball rolling in this regard.

I had the good fortune to be entertained on two occasions in the homes of leading Accra attorneys where I met a number of local practitioners and others from other parts of Africa. The week ended with a glittering gala dinner on the Saturday evening.

As stated above, it is clear that the problems facing most of the rest of Africa in practising law, are foreign to South African practitioners. What became abundantly clear was that the South African Bar would be able to be of great assistance to other Bars in the field of advocacy training and I offered to make such services available.

(On my return to South Africa I raised this with Johan Ploos van Amstel SC, the chair of the national advocacy training coordinating committee, and he indicated to me that his committee would willingly and happily assist in this regard.)

In many ways the conference was quite fascinating, particularly as I was able to meet the leaders and members of the Bars of Angola, Benin, Botswana, Cameroon, the East Africa Law Society, Ethiopia, Gambia, Ghana, Kenya, Liberia, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Sierra Leone, Tanzania, Uganda, Zambia and Zimbabwe. Also in attendance during the conference was Dr Willie Seriti, the co-chair of the Law Society of South Africa.

During the conference the GCB was invited to attend the founding meeting of an association of lawyers in the Southern African Development Community countries which is to be held in Maputo, Mozambique, on Saturday, 7 August 1999. At the GCB's executive committee meeting of 17 April it was decided that three GCB representatives be sent to such meeting. 

International Bar Association

Destroying law and order in Sierra Leone

The political upheaval in Sierra Leone received little publicity in the South African media. A former president of the Sierra Leone Bar Association, Mr J B Jenkins-Johnston, issued a statement at the African Regional Conference of the International Bar Association which was held at Accra, Ghana, from 7 to April 1999. The statement highlighted the brutality unleashed on members of both the Bar and the Bench, state law officers and the police, in the anarchy that followed. The statement is a practical illustration of the consequences of a complete breakdown of the Rule of Law as appears from the following:

- The first act of the rebels on entering Freetown was to smash and shoot their way into the maximum security prisons, and to release all 'the treason convicts, as well as hundreds of other hardened and seasoned criminals, who then went about looking for the judges, law officers, lawyers and police officers, who as far as they were concerned were responsible in varying degrees for putting them behind bars "unjustly."
- The Solicitor-General, who had held that office for the past 20 years, was one of the first casualties of the invasion, having been attacked and brutally murdered in his home.
- The homes of two senior judges were burnt down completely, rendering both men and their families homeless.
- As for private practitioners, one of the

members was abducted by the rebels from his home in Freetown, and taken to the hills, but was later rescued unhurt by Civil Defence Forces after the wife of one of the rebel commanders pleaded on his behalf.

- But of all the law enforcement agencies and personnel, by far the worst treatment was reserved for the police force. Reportedly some 240 policemen and women were killed. 

Family courts

Talib Mukadam of the Durban Bar gives an overview of the developments at the Durban Family Court pilot project

In line with the policy of the Department of Justice to have separate family courts, the Department had identified five regions where pilot projects will be established: the regions are Cape Town, Port Elizabeth, Johannesburg, Lebowakgomo and Durban.

In Durban the local magistrates' offices had been identified as the place where the divorce court pilot project will be established. This court will be attached to the North Eastern Divorce Court which is presently housed in the ICL House, Smith Street, Durban. This divorce court will provide the right of access to all sectors of the population. It will be presided over by a family magistrate who will deal with matters relating to divorce, custody and access to minor children, maintenance and other related issues.

In July 1997 a steering committee for the transformation of the magistrates' courts was formed with representatives from various stakeholders from within the public and private sector. A family court subcommittee was entrusted with the task of spearheading the divorce court pilot project.

The family court subcommittee envisaged a family court centre that would encompass all aspects of matters arising out of family disputes. The northern section of the magistrate's court was refurbished and repainted with colour

coded areas for the various sections of the family court centre, which now included the maintenance section, children's courts, adoptions and family violence interdicts as also the new divorce court.

A vital role in the establishment of this family court centre is being played by various non-governmental organisations as well as community based organisations and there are presently offices housing the following:

- (a) The Advice Desk for Abused Women;
- (b) Peacehaven Community Services;
- (c) The Domestic Violence Assistance Programme.

In refurbishing that area of the magistrates' courts particular attention was placed on:

- (a) The physical environment;
- (b) staff; and
- (c) representivity.

With regard to the physical environment the area was repainted and signage put into place that will make the area user friendly and less abusive to traumatised people. With regard to staff training the regional offices of the Department of Justice are offering courses in consultation with various NGOs to the staff manning these areas of the family court.

The success of this project is due to the fact that it is representative of all stakeholders from the public and private sector.

The divorce court in the family court centre became operational on 1 July 1998. However, a new presiding officer, Mrs FG Luvuno, was only appointed from 1 October 1998.

During the periods 1 July to 30 September 1998 before Mrs Luvuno's appointment, a total of 85 divorce cases were heard at the New Divorce Court. During the same period a total of 307 cases were heard at the North Eastern Divorce Court. The presiding officer of the North Eastern Divorce Court, Mr GJ Madern, presided over matters at the New Divorce Court. From Mrs Luvuno's appointment on 1 October 1998 a total number of 48 cases came before the court during the period 1 October to 15 December 1998. During the same period a total of 434 cases were heard