



Editorial

The Justice System and the Law Professional Associations

The legal profession and Rule of law have a pivotal role in countries' economic, political, social as well as cultural development. On top of creating secured and peaceful societal environment, Law and Rule of law are exceedingly important in establishing trust and predictability within a system.

Although governments have their own crucial role in the area under discussion, depending entirely on them might not bring the desired results. The responsibility of lawyers in strengthening rule of law in the society and advancing economic development as a whole is also imperative. Especially in assuring the three most important aspects of human rights i.e. property, life and liberty, the involvement of lawyers is decisive.

In the process of fulfilling their responsibilities, lawyers must be allowed to form their own independent associations to promote their interest as well as the interest of the society at large. In respect to this, the legal as well as the political environment should be conducive. Yet, the right to form professional associations will be realized if it is only done without interference. Otherwise it is very unlikely that the associations protect their interest and to the worst they might end up rules violators themselves.

Currently, lawyers associations are established in almost every nation of the world though there is disparity in their organizational structure and with reference to their role in guaranteeing rule of laws. If we take the situation of some developed countries, there is a big opportunity for lawyers' associations to promote their organizational objectives freely and assist the development of the justice system. In such countries lawyers' associations have their own statutory and regulatory powers concerning the profession and could give significant decisions on their own issues.

On the contrary, the independence of lawyers' associations in many developing countries is not visible. Above and beyond the absence of legislative framework in regulating their profession, they are considered as powerless ordinary associations. We, therefore, call upon all law professionals and any concerned body to work in unison towards the attainment of independence and statutory empowerment. □

The First Regional Forum on Access to Justice Conducted

The Canadian Bar Association (CBA) in collaboration with the Ugandan Law Society has organized a regional forum in Eastern Africa on the issue of Access to Justice, held in Kampala, Uganda from September 2 – 4 2009.

The forum is part of the program on 'Strengthening Access to Justice in Eastern Africa (SAJEA)' being implemented by Bar Associations and Law Societies of Ethiopia, Uganda, Kenya and Tanzania.

Predominantly, the forum focuses on the agenda of improving access to justice within the four Eastern African countries through supporting increased collaboration among key stakeholders in the justice system of each country and all the way through

creating an opportunity for the participants to learn from each other. Likewise, the forum has a paramount importance in introducing the four year program of the CBA

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EBA to Convene AGM

The Ethiopian Bar Association (EBA) will soon convene its Annual General Meeting (AGM).

EBA is one of the oldest civil societies (established 43 years ago) and is a member of International Bar Association (IBA) and Pan African Lawyers Union (PALU).

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Statutes for Bar Associations, Law Societies Demanded

The Pan-African Lawyers Union (PALU) has called upon African states to make expeditious steps to establish their national Bar Associations or Law Societies by statute, and to ensure that they have sufficient regulatory powers.

PALU made this call in a final communiqué released upon the conclusion of its Council Meeting and Triennial General Conference, from 17th to 19th July 2009, at the African Union Commission Headquarters in Addis Ababa, Ethiopia.

PALU appreciated the fact that the majority of African countries now have independent lawyers Associations established by Acts of Parliament bearing in mind the important role that

an independent Bar Association or Law Society plays in the political, economic, social, cultural, scientific, technological and other developments of African countries and called upon the remaining states to follow suit.

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Trials in Kenya violates the right of pirate suspects

The trial of Somalia suspected pirates in Kenya is said to have a negative implication on the protection of their human right and the right to a fair trial, according to Legalbrief Africa, published by the International Bar Association (IBA).

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MEETINGS OF THE ORGANS OF THE PAN AFRICAN LAWYERS' UNION (PALU) HELD IN ADDIS ABABA, ETHIOPIA

17th – 19th JULY 2009

COMMUNIQUE

The members of the Pan African Lawyers' Union held a Council Meeting, followed by the Triennial General Conference, from 17th to 19th July 2009, at the African Union Commission Headquarters, Addis Ababa, and Federal Democratic Republic of Ethiopia.

At the sessions, the members of the Pan African Lawyers Union discussed: -

- The end-of-term activities and the Reports of the outgoing Executive Committee;
- Developments in the African Human Rights System, Peace and Security;
- Developments in the African Union, the Regional Economic Communities (RECs) and other Regional Organizations (ROs);
- The state of the Rule of Law, independence of the judiciary and the legal profession in Africa;
- The degeneration of the Rule of Law in the Republic of Niger, and the acts of the President to illegally put himself a third term in office; violating principles of separation of powers, by defying two decisions of the country's Constitutional Court against the third term, dissolving the Constitutional Court and Parliament, and purporting to rule by decree;
- The possibility of PALU appearing as *amicus curiae* before the ECOWAS court
- The Gambian situation and the President's defiance of the decision of the Court of Justice of the Economic Community of the West African States (ECOWAS Court);

The General Conference acknowledged the presence of Mr. Rodney Gregory Moore (President of the National Bar Association of the United States of America); Mr. Ben Kioko (Legal Counsel to the African Union); Mr. Kalidou Gadio (General Counsel of the African Development Bank); Mr. Giuseppe Bisconti (one of PALU's Honorary Life Presidents and a founding member of PALU); and Dr. Mo Ibrahim (Mo Ibrahim Foundation) - the keynote speaker;

A special video recorded message was sent by HRH Prince El Hassan Bin Talal on the theme of the Conference was projected to the participants;

A special message from HE Barrister Abdoulaye Wade President of Senegal and Honorary Life President of the Pan

African Lawyers Union was read by the Permanent Representative of the Republic of Senegal to the African Union;

The Mr. Kalidou Gadio (General Counsel of the African Development Bank) gave an overview of the African Legal Support Facility (ALSF) put in place to fight vulture fund litigation, help African Countries to acquire skills and build capacity in negotiating complex commercial contracts especially in extractive industries;

The Keynote speech to the General Conference was delivered by Dr. Mo Ibrahim of the Mo Ibrahim Foundation and centered around the importance of good governance for Africa, the importance of Civil Society Organizations and the need for acceleration of the economic integration of the African continent through a strategy based on the strengthening of Regional Economic Communities (RECs)

PALU recognized the special contribution to democracy and good governance by Dr. Mo Ibrahim by conferring upon him a special award;

In his message to PALU, Mr. Rodney Gregory Moore, President of the National Bar Association (NBA) of the United States of America, emphasized the need for increased cooperation between PALU and the NBA. He proceeded to announce the fact that PALU was the laureate of the 2009 NBA Ron Brown Award;

The General Conference also held elections for officers of the Executive Committee for a term of three years.

The General Conference: -

- Adopted the end-of-term reports of the Executive Committee of the Union
- Adopted an amendment to Art 9(6) of its Statutes, making the President of the Bar of the country that hosts the Headquarters an *ex officio* member of the Executive Committee in cases where there is no elected member from the said host Bar;
- Elected the following officers of the Union:

New PALU Executives

1. **President:** Mr. Akere Muna (Cameroun)
2. **Vice President Central Africa:** Mr. Jean Haguma (Rwanda)
3. **Vice President East Africa:** Mr. Hashim Abu Bakr Al Ja'ly (Sudan)
4. **Vice President North Africa:** Mr. Jmour Mohammed (Tunisia)
5. **Vice President Southern Africa:** Mr. Elijah Banda (Zambia)
6. **Vice President West Africa:** Mr. Mame Adama Gueye (Senegal)
7. **Secretary General:** Mr. Akintola Anthony Akinbote (Nigeria)
8. **Treasurer/Financial Secretary:** Mr. Tom Odhiambo Ojienda (Kenya)

Further, the General Conference:

- Bearing in mind the important role that an independent Bar Association or Law Society plays in the political, economic, social, cultural, scientific, technological and other developments of the countries and of the African Union; further appreciating that the majority of African countries now have independent lawyers' associations established by Acts of Parliament; PALU now calls upon any remaining States to take expeditious steps to establish their national Bar Associations or Law Societies by statute, and to ensure that they have sufficient regulatory powers;
- Noted the deteriorating situation in Niger, and called upon the political organs of ECOWAS and the African Union to bring pressure to bear on the President and Government of Niger to comply with the provisions of ECOWAS Treaties and Protocols, the Constitutive Act of the African Union and the African Charter on Human and Peoples' Rights;
- Repeated its earlier call to the Governments of the African Union to expeditiously ratify important Treaties and Protocols that they have already adopted including the Protocols establishing the African Court on Human and Peoples' Rights and the African Court of Justice and Human Rights;

also the African Charter on Elections, Democracy and Governance;

- Urged the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights to expeditiously harmonize their interim Rules of Procedure so that the African Court can begin to finalize its complementary mandate of protecting and promoting the human rights of African citizens;
- In view of the threat posed to African economies and societies by the predatory activities of Vulture Funds, PALU resolved to fully utilize the African Legal Support Facility (ALSF) to help protect African economies. In particular, the PALU Executive Committee will: -
 - Convene a Colloquium of eminent African legal scholars on the issue;
 - Publish the Colloquium's discussions and the consensus thereof;
 - Urge the Members of the Pan African Parliament and the Assembly of Heads of State and Government of the African Union to take appropriate action and ensure implementation;

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The First Regional . . .

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and in sharing the experience of Canadian Justice System in activities associated with access to justice.

Higher officials from the Judiciaries, the Ministry of Justices/ Attorney Generals, Bar Associations and Law Reform Institutions of each country have attended the forum. Senior level representative of the Canadian justice system have also taken part in the forum and provide their peers in the forum with their experiences.

With the facilitation of the Ethiopian Bar Association, eight representative officials from Ethiopia including the vice president of the Federal Supreme Court, president of the Federal High Court, the Ministry of Justice, the director of the Law and Justice Sector Reform Institute, the Ethiopia Bar Association and the Ethiopian Women Lawyers Association were present at the forum.

As an outcome of the forum meeting it was agreed to established a National Working Group (NWG) in which all stakeholders participate. □

EBA to . . .

(Continued from page 1)

Although EBA's Annual General Meeting is usually summoned during the month of December each year, the Executive Committee of the Association has decided to call the meeting in the mid of October in order to pass the necessary decisions on the requirements of registration according to the new Charities and Societies Proclamation No. 621/2009.

EBA is revising its by-laws and restructuring itself as part of the preparation for the coming AGM and eventually for registration. □

Statutes for ... (Continued from page 1)

PALU conference also adopted an amendment to Art. 9/6 of its statute, making the president of the Bar Association of the country that hosts the Headquarters of PALU an *ex officio* member of the Executive Committee in cases where there is no elected member from the said host Bar. Accordingly, Ato Seleshi Ketsela, President of the Ethiopian Bar Association has become a member of PALU's Executive Committee.

The PALU Conference has also elected a new Executive Committee that will serve for the next 3 years (see page 3 for details).

The Conference of PALU, in its concluding remark, has thanked the African Union Commission, specially its Chairperson, H.E. Jean Ping and the Ethiopian Bar Association (EBA) for their support to make the Conference a success. The Pan-African Lawyers Union upon its establishment in Addis Ababa has been registered and certified by the Ministry of Justice and has request the Ministry of Foreign Affairs to sign a headquarters agreement with it and is awaiting decision. □

Trials in . . . (Continued from page 1)

Quoting a body called "Lawyers of the World", the publication stated that it was with the collateral agreement of US, Britain, EU and Denmark Somalian pirate suspects are compelled to be transferred to Kenya for their trial. This, however, has hosted criticism from lawyers and human right defenders.

A Paris based legal aid network, Lawyers of the World, has pronounced the fact that the agreement violates the basic human rights of the suspects. Despite the fact that the network is representing 40 of detainees captured by European navies off the coast of Somalia and handed over to Kenya for prosecution, more than 100 suspected pirates are awaiting their trial in that country denied of their right to be represented and have a fair trial, according to Avi Singh, the representative of Lawyers of the World.

Under the Kenyan domestic law there is no entitlement for legal aid provided by the government unless alleged by a crime that could result to capital punishment. "It means", said Mr. Avi "suspected pirates have no opportunity to have a lawyer".

Mr. Avi held that his organization has already expressed its deep concern about the issue to the UN, EU and Kenyan foreign minister. □

Meetings of the . . . (Continued from page 3)

- Ensure that African lawyers in *diaspora* take advantage of the ALSF in intervening in Vulture Fund litigation in any national or international courts in which they may be filed.

The General Conference also resolved to: -

- Establish its own Registry for monitoring African States' ratifications of key African and international instruments especially those touching on constitutionalism, democracy, good governance and human rights;
- Assist and enable the PALU Special Committee on the situation in Darfur to be able to travel to Sudan and engage the key stakeholders there; and also to engage the African Union Eminent Panel on Darfur (the Mbeki Panel) and the Peace and Security Council of the African Union;
- Establish a PALU annual Rule of Law Index;
- Collaborate with, and input into, the broader Mo Ibrahim Index of African Governance

VOTE OF THANKS

The General Conference:

Sincerely thanks the African Union Commission, especially its Chairperson, H.E. Jean Ping, for their partnership and support to PALU;

Expresses gratitude to its local hosts, The President of the Ethiopian Bar Association (EBA) and the entire EBA, for the hospitality and support towards the success of the meetings and the growth of PALU;

Sincerely thanks the African Development Bank, especially its President Dr Donald Kaberuka, for their partnership and support to PALU;

Specially thanks Dr. Mo Ibrahim for the spontaneity with which he accepted to be the keynote speaker and for his support to the African Civil Society in general;

Sincerely thanks the National Bar Association of the United States of America and its President Mr. Rodney Gregory Moore, for responding to our invitation and surprising the General Conference by conferring on PALU the 2009 Ron Brown Award

Warmly thanks the outgoing Executive Committee of PALU, and extends its best wishes and full support for the newly-elected Executive Committee;

Specifically congratulates the outgoing Executive Committee for the remarkable work thus started in institutionalizing PALU, and making contacts with the African Union, the African Development Bank and other international organizations; □

Done at Addis Ababa, in the Federal Democratic Republic of Ethiopia, this 19th day of July 2009

Law Enforcement Agencies

The following text is part of the series of articles based on the finding of the study under “the justice reform program”.

Prisons

The basis of prison system in Ethiopia is said to be founded on the Proclamation Number 45/1944(E.C), though it is now outdated and is of little importance.

Presently a new proclamation on the establishment of Federal Prisons Commission has been prepared. The Criminal Code of Ethiopia incorporates legal provisions concerning criminal responsibilities, punishment and conditional release. Correspondingly, the Criminal Procedure Code has certain stipulations on the conditions by which accused persons will be handled in between arrest and trial. The responsibility to see over the conditions of the detainees in police stations is of the officer in command of the police station.

The Ministry of Federal Affairs is responsible for federal prisons while the Justice Bureau is answerable at the regional level. The federal police officers are not part of the ordinary police force. Making prisons responsible for different authorities has its own complications in undertaking coordinated tasks. As a matter of principle, the power to control the treatment of the prisoners is vested on the public prosecutors though its practicability is very much limited. Ministry of Federal Affairs has pronounced its plans to change the situation of prisons. An article prepared by the Ministry revealed its determination to build new prisons in Addis Ababa city and to contribute on the strengthening of human resources in prison administration. Among some reform ideas promoted by the Ministry include; electronic registrations of prisoners, preparation of prison administrator’s manual and conduct need assessment of prisoners. The Oromo and Amhara regional governments have also revealed their intention to reform their respective prisons.

Information exchange between prisons, the police and the prosecutor’s offices is not clearly known. Apart from the legal aid service provided by a very limited number of defense councilors, there is few organized legal aid service provided to prisoners.

The draft prison law incorporates rough provisions regarding the treatment and situation of prisoners. Conversely, provisions of the Penal Code on the treatment of juvenile offenders have not been given due attention in the draft law. Similarly, Provisions of the penal code that provide for the separate imprisonment of condemned prisoners and accused persons did not get due attention in the draft proclamation. The proclamation also lacks statements concerning the conditional release of prisoners or the compulsory labor requirement. The remand period is too long and the fate of suspects in remand is to stay too long in prisons.

Among the nine regional states eight of them do not have laws concerning prisons. This has its own negative impact in the treatment and rehabilitation of prisoners. Probably one of the major problems and drawbacks of prisons lay in the absence of proper training system. What’s more, the absence of a lucid law that regulates the relationship between prison staffs and prisoners and the substandard level of rooms in prison and police stations for arrestees are worth mentioning.

There are Prisoners committees that are established to fill the gap created by the poor administrative system of prisons. But they are not legally recognized.

There is no independent body that is in charge of controlling prisons nationally. The budget allocated to prisons is insufficient to handle the day to day activity of the prisons let alone improving their conditions.

Legal Education and Training

In Ethiopia higher education in law was started in the mid 1960’s (E.C) with the opening of the Addis Ababa University College. Ethiopian nationals who held law degrees substitute foreign scholars in the teaching learning process because of the expulsion of the latter following the 1974 revolution.

After 1991(E.C), private law schools have emerged in the country. Equally regional universities were also established. At present there are six government universities and five legally recognized private colleges that provide law courses. The higher education extension programs set by the Ministry of Education also include the expansion of law schools. It does not seem there is one national registration system for law graduates.

It is necessary to make an assessment on the current number of graduates needed in the country. Normally The Ministry of Education in consultation with the universities allocates their budget. Law departments that are made part of other faculties Per se are very much incapable to compete with other similar institutions. It is a well known fact that there are insufficient number of trained judges, public prosecutors, advocates and other law professionals. The importance of providing training for those law professionals who are already employed is an alleged fact though it is difficult to say adequate work has been done in relation to this.

One thing to be noted by the government in relation to the legal education and training is to identify the role of the Ministry of Education, the Ministry of Justice and the Ministry of Capacity Building. The successes of newly emerging law faculties in the universities highly depend on the support from and collaboration with other similar faculties in and out of the country. Under the current circumstance curriculum designing and timely modification are in unsatisfactory amount. Above all these research activities and legal analysis are not well developed in the faculties. □

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