

# UNITED NATIONS ECONOMIC and SOCIAL COUNCIL

Distr.  
GENERAL

E/CN.14/521  
5 July 1971

Original: ENGLISH

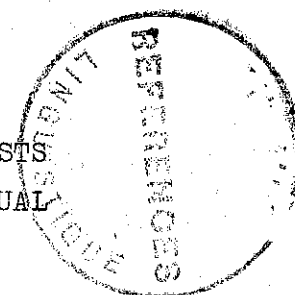


FILE COPY

ECONOMIC COMMISSION FOR AFRICA

## REPORT OF THE CONFERENCE OF AFRICAN JURISTS ON AFRICAN LEGAL PROCESS AND THE INDIVIDUAL

(Addis Ababa, 19-23 April 1971)



### TABLE OF CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
INTRODUCTION . . . . .	1	
<u>Part</u>		
I ORGANIZATION OF THE WORK OF THE CONFERENCE AND PARTICIPATION . . . . .	2 - 11	1
II REPORT ON THE WORK OF THE CONFERENCE . . . . .	12 - 81	4
The judicial process: Access to courts, trial, review, judicial remedies and the Ombudsman . . . . .	12 - 26	4
The process of arrest and detention: Arrest and detention for criminal offenses, arrest and detention for public security, limitations on arrest and detention . . . . .	27 - 42	7
The judicial process: Independence of the judiciary, the executive and the judiciary and international judicial processes . . . . .	43 - 67	11
Provision of legal services to individuals . . . . .	68 - 80	15
Adoption of the report: Conclusions, recommenda- tions and follow-up action . . . . .	81	18
III RESOLUTIONS ADOPTED BY THE CONFERENCE . . . . .		19
<u>ANNEXES</u>		
I AGENDA		
II LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS		
III LIST OF DOCUMENTS		

M71-1637

PART I

ORGANIZATION OF THE WORK OF THE CONFERENCE AND PARTICIPATION

2. H.E. Mr. Nii Amaa Ollennu, Speaker of the National Assembly of Ghana was selected to act as Chairman of the opening session of the Conference.

3. H.E. Ato Akale Work Habte Wold, Minister of Justice in the Imperial Ethiopian Government, formally opened the Conference. In his opening address, he appealed for inter-African co-operation in safeguarding human rights.

4. The Executive Secretary of the Economic Commission for Africa, Mr. Robert K.A. Gardiner, then made his inaugural statement to the Conference. It was, he said, the first time that ECA had organized a Conference to deliberate on legal matters that specifically affected the individual. Its initiative was justified by the fact that the social and economic progress of the individual was closely related to the legal framework within which he lived and worked. His access to inexpensive and ready legal assistance, redress for grievances suffered in the various spheres of his activity, justice as a public service, confidence in the legal profession, judiciary and government, were matters that affected the economic and social well-being of the individual and the community.

5. He stressed the special problems of the developing countries in safeguarding human rights, the greatest being deficiencies in legislation and in particular law observance and enforcement, a widespread disobedience by public officials to rules and directives handed down to them, and often their collusion with powerful persons whose conduct they should regulate. He hoped that the Conference would put forward considerations which would contain solutions.

6. The Chairman of the opening session of the Conference, His Excellency Mr. Nii Amaa Ollennu, Speaker of the National Assembly of Ghana, speaking on behalf of the delegates, thanked the Minister of Justice of Ethiopia for opening the Conference, and the ECA for organizing this important Conference. He expressed the hope that the delegates which included high-ranking legal representatives of African Governments and eminent African jurists participating in their own right, would together lay the foundation for the protection of the rights of the individual in Africa.

7. Mr. Yahia Cherif (Algeria), also replying on behalf of the participants and observers, spoke on the theme "Justice should be at the service of the Government and the Government should be at the service of the individual".

8. Representatives of the following twenty-six member States attended the Conference: Algeria, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Ethiopia, Gabon, Ghana, Ivory Coast, Kenya, Liberia, Libya, Madagascar, Mauritius, Nigeria, Somalia, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, United Arab Republic, Upper Volta and Zambia. A list of participants is contained in Annex II to this report.

9. Sixteen eminent African jurists attended the Conference in their own right. They are included in Annex II to this report.

10. Representatives of the following countries and organizations and other individuals attended the Conference as observers: Canadian Government, Jamaican Government, UNHRD, UNHCR, ILO, UNESCO, Commonwealth Secretariat, Council of Europe, OAU, Baha'i International Community, International Commission of Jurists, International Legal Center, Phelps-Stokes Fund, Pan-African Workers Congress (Ethiopia), Center for African Legal Development (Haile Selassie I University, Addis Ababa, Ethiopia), Faculty of Law (Haile Selassie I University), The Urban Center (Columbia University), The Senegal Committee for Human Rights, Association for Exchange Programmes with Developing Countries (EMCO), Max-Planck Institute for Foreign and International Penal Law, International Institute of Human Rights (Strasbourg), World Federation of World Federalists, and four individuals. A full list is included in Annex II to this report.

11. The Agenda (ECA/HR.1), which appears as Annex I to this report, was presented to the Conference and the following persons were selected to be chairmen of the discussions on the topics of the Agenda as set out opposite their names:

His Excellency  
Mr. Alphonse Boni  
Chief Justice  
of the Ivory Coast

Topic 1 - The process of arrest and detention:

- (a) arrest and detention for criminal offenses;
- (b) arrest and detention for public security;
- (c) limitations on arrest and detention.

The Right Honourable  
Sir Adetokumbo Ademola  
Chief Justice of the  
Federation of Nigeria

Topic 2 paras. (a)-(d) - The judicial process:

- (a) access to courts;
- (b) trial;
- (c) review;
- (d) judicial remedies and the Ombudsman.

Mr. José-Patrick Nimy  
Judge of the Supreme Court  
of Justice of the Democratic  
Republic of Congo

Topic 2 paras. (e)-(g) - The judicial  
process:  
(e) independence of the judiciary;  
(f) the executive and the judiciary;  
(g) international judicial process.

His Excellency  
Mr. Justice Badawi I. Hamouda  
Chairman of the Supreme High  
Court of the United Arab  
Republic

Topic 3 - Provision of legal services  
to the individual

The Honourable  
Ato Amanuel Amdemichael  
Attorney-General of Ethiopia

Topic 4 - Adoption of the report:  
Conclusions, recommendations  
and follow-up action

The Conference, however, decided to discuss the topics of the Agenda  
in the following order:

- (a) Topic 2 - paragraphs (a)-(d);
- (b) Topic 1;
- (c) Topic 2 - paragraphs (e)-(g);
- (d) Topic 3;
- (e) Topic 4.

## PART II

### REPORT ON THE WORK OF THE CONFERENCE

#### The judicial process

Topic 2 / paragraphs (a) to (d) of the agenda /: Access to courts, trial, review, judicial remedies and the Ombudsman

12. The Chief Justice of the Ivory Coast, His Excellency Mr. Alphonse Bondi, introduced his paper on this topic and referred to the economic, social and human factors which caused the enormous difference between the principle of access to the courts and what happened in practice in Africa.

13. Several solutions to this problem were suggested by many delegates. These fall within four classes. Firstly, that the preliminary procedure for bringing an action should be simplified considerably. The Clerk of the Court should, for example, have the authority, under the supervision of a judge, to submit the plaintiff's case free of charge, whenever parties were financially unable to pay a lawyer to do so, or lacked the legal knowledge to conduct their own cases.

14. Secondly, it was suggested that the judge should play a more dynamic role in both civil and criminal courts. He should no longer be the mere arbiter between parties presumed to be capable of defending their rights adequately, but the true director of proceedings. In this way the judge could remedy the obvious deficiencies in the forensic arguments of the parties. This proposal caused some controversy. A number of delegates felt that it was preferable to leave the choice of action to the parties involved. Although a number of African countries do not yet have sufficient numbers of lawyers to put this principle into effect, it was possible to resort to the use of "Ombudsmen" who have a basic legal training, or court officials made available to laymen by the State. Others pointed out that it could be a delicate matter for a judge to assist an individual in the presentation of his case in proceedings brought against the public authorities.

15. Thirdly, a considerable number of delegates argued that the accessibility of courts depended largely on the dissemination of the law. It was therefore necessary to inform the illiterate or inadequately educated sections of the population of the basic legal concepts which would enable them to defend their rights. Various means of achieving this were suggested: the use of the radio, of national gazettes, the establishment of "civic education centres", the use of law students in rural areas, etc.

16. A delegate warned against the teaching of abstract law to the population. It was for jurists to ensure that substantive and procedural law was simple enough to enable all persons, including the illiterate, to obtain justice easily in respect of their individual rights. The judge or magistrate should avoid becoming preoccupied with the technicalities of his profession and instead, become an educator of the people. The use of the local language rather than a strange European language during court proceedings was also recommended as a remedy for the esoteric nature of the law. Finally, as a further step towards bringing justice closer to the individual, it was suggested that the number of courts should be increased and the use of circuit courts extended. One delegate stated that it was preferable to have several judges who were not so learned in the law but who possessed a high degree of professional conscience, than to have too few judges or magistrates of unquestionable technical competence.

17. There was a lively debate on the usefulness of the Ombudsman in Africa. Mr. Justice M.P.K. Kimicha, Chairman of the Permanent Commission of Enquiry in Tanzania, in introducing his paper on the subject, pointed out that the Ombudsman was intended to safeguard the individual against all kinds of administrative abuses, whether of commission or omission. The Ombudsman was above all an agent into those matters over which the ordinary courts had no jurisdiction. Rather than opposing the courts, the Ombudsman played a complementary role, the better to safeguard the rights of the individual. He used persuasion and the weight of public opinion, rather than force. Various delegates spoke in favour of having an Ombudsman in their country. Some thought this was necessary to offset the over-extensive powers of a single party régime and its representatives; the Ombudsman would encourage the individual to air his grievances freely, without fear of repression. Others spoke of the corruption and favouritism often rife in official quarters, against which the Ombudsman would be an effective weapon. Again, he could help put a stop to administrative delays which were in themselves a violation of individual rights. Apparently in Africa, as in other parts of the world, the individual was encountering ever-increasing administrative obstacles resulting in every conceivable form of frustration and vexation. The Ombudsman would help the individual to break the "administrative sound barrier" and, generally speaking, to arrive at an understanding which was too often lacking between the governors and the governed.

18. There were an infinite variety of cases in which the individual risked having his rights more or less seriously infringed, either through ignorance of the legal process or through lack of financial means or, again, because the courts and tribunals to which he might have applied were beyond his reach. A travelling Ombudsman constituted then - the Tanzanian experiment with the Permanent Commission of Enquiry proved it - an effective institution in the field of the protection of the individual's rights. It was in the name of the poor and the illiterate that the creation of the Ombudsman was voiced by several delegates.

19. Finally, as had been shown by the institution of the "Central Bureau for Public Control" in the Sudan, although legal judgements were exempt from modification, the Ombudsman could, nevertheless, intervene to put an end to the delay in the legal process and can also initiate investigations against public officials without waiting for complaints to be made.

20. A true characteristic of the Ombudsman was his accessibility and his flexibility in action. No formalities were required to bring a matter before him and he was not fettered by the rules of common law concerning procedure and the establishment of proof. He acted on request or on his own initiative.

21. Some details were supplied on the Ombudsman in Mauritius concerning the role played by the publicity given to his recommendations. If no action was taken after the publication of a recommendation concerning an infringed right, the Ombudsman could bring the matter to the attention of the minister responsible. If the minister himself took no action, the Ombudsman could in the last resort submit a report to parliament concerning the rights which were infringed.

22. The view was expressed that although certain limitations on the powers of the Ombudsman might be justified for reasons of State security, such limitations should only be in respect of the publicity given to the Ombudsman's recommendations and not in respect of his right to investigate as such. In fact the Ombudsman should be free to get to the root of any matter without the barrier of "raison d'état" being raised by those important persons or government officials who might be involved.

23. A number of delegates, particularly those from the French-speaking African countries, expressed their scepticism regarding the institution of the Ombudsman in their respective countries. The Ombudsman would find no place in a legal regime based on the French system. The existence of an advanced system of administrative justice would render him superfluous, while any intervention in the judicial field would jeopardize the separation of powers.

24. Other delegates opposed the introduction of the Ombudsman into Africa on the grounds that this institution would only work effectively in those countries where it had originated, i.e., where there are well-established democratic traditions, effective separation of powers and real parliamentary control. The African Ombudsman could not in practice effectively oppose the government where it is the only political party. One delegate proposed that, rather than an Ombudsman, there should be an inspecting body of judges which could penalize abuses and the employment of administrative codes, similar to those applied in the socialist democracies in the investigation of administrative abuses, which did not provide for debate.

25. It was far better to examine the "spirit of justice" prevailing in Africa, rather than seek new technical means of protecting the individual. Excellent legal machinery existed in every country. What must be dealt with in Africa is a certain "justice crisis" which existed not at the institutional level, but at the individual level. In order to create a political, moral and psychological climate which would encourage respect for the rights of the individual, a pan-African conference which would bring together not only jurists, but "all the dynamic elements of African society" was proposed by a delegate.

26. Resolution 2 concerning topic 2, paragraphs (a)-(d) was adopted by the Conference (see page 20).

#### The process of arrest and detention

Topic 1 of the Agenda: Arrest and detention for criminal offenses, arrest and detention for public security, limitations on arrest and detention

27. Before commencing discussions on this subject, a committee charged with drafting Conference resolutions was formed, comprising Prof. K. Bentsi-Enchill, Dr. W.S. Marcus-Jones, Dean M.C. Ngula-Ndila and Mr. S. Yahia-Cherif.

28. Mr. Ahmed Ben Sedrine then introduced his paper on the Tunisian criminal procedure code of 1957, and raised the following specific points, which were subsequently debated at length. The general principle of presumption of innocence until guilt is proved, powers of arrest, immunities from arrest, controls over arrest procedures, warrants of arrest, right to counsel, detention and bail, preventive detention, remedies for improper arrests, etc.

29. The discussions that followed moved on two planes, the exposition of current criminal procedure in various jurisdictions and the analysis on a broader scale of common problems and possible common solutions.

30. The first part of the discussions dealt primarily with arrest and detention in normal times, excluding situations of emergency or other extraordinary circumstances under which the normal course of law is interrupted.

31. The criminal procedure codes of most jurisdictions, it appeared, required arraignment or similar review by a court, magistrate or public prosecutor's office within a set time-limit after any arrest - often 24 or 48 hours - with continued detention during investigation depending upon the approval of the reviewing body. Where, during investigation or subsequently, the police fail to follow time-limits set or other formalities, checks are often provided. These include periodic reviews of investigation reports and lists of detainees by judicial or prosecuting authorities, prison and station visits by similar authorities, etc.



32. There was debate over which authority should have the supervisory role in pre-trial criminal procedure. Jurisdictions inspired by the French legal system often have adopted the institution of the "examining magistrate" (juge d'instruction), who intervenes generally at the instance of the public prosecutor to examine and prepare both sides of the subject of controversy. In some cases he may be the supervising authority who ensures that the provisions of the code are strictly applied; in others, the prosecutor fulfils this role. Some French-speaking African countries, however, have recently reconsidered or actually dispensed with the examining magistrate. This generally reflected the practical burdens which the institution of examining magistrates and its corresponding increase in judicial manpower imposed where such resources are often scarce. Moreover, since public prosecutors are often better placed to manage pre-trial investigation, they have come to exercise the examining magistrate's role in fact, if not in theory. The opposing argument was that the examining magistrate, as a member of the judiciary, would protect individual rights better than the prosecutor whose primary task was to act on behalf of the State. The requirement of the prosecutor to undertake two disparate tasks imposed an unrealistic burden upon him. The dilemma was not posed, however, in English-speaking African countries where the prosecutor is responsible for presentation of the State's case, and has no duty to investigate the case for the defense.

33. This issue raised the question of the necessity for the review of detentions by judicial bodies rather than executive organs. The English-speaking African countries have inherited the ancient writ of habeas corpus which guarantees detainees a judicial examination of their detention. If the State failed to prove its right to hold the detainee, immediate release was ordered. In the French-speaking African countries this judicial remedy is less institutionalized. According to delegates it was often the prosecutor, or a member of the executive branch, who reviewed the nature of detentions, subject in some cases to the detainee's right of appeal against adverse decisions, to a judicial panel or grand jury. The role and responsibility of the State prosecutors' office in French-speaking African countries appeared to be much broader than those of their counterparts in English-speaking African countries. Where a judicial organ did not review arrests and detentions, the executive review body must assume quasi-judicial objectivity and responsibility. The public prosecutor in many French-speaking African countries appeared to have been given major supervisory roles in addition to prosecution per se.

34. The right to counsel drew many comments, with controversy centred on at least one stage of the pre-trial procedure. While most delegates asserted the need for counsel after arraignment, some delegates disputed the right to counsel at the time immediately following arrest. On one hand, this was regarded as a time of critical jeopardy to the individual's rights; on the other, a crucial opportunity for the police to obtain necessary evidence. The opinion was advanced that African criminology and police capabilities were not yet equal to international

standards. Where a suspect was advised by counsel, he would be less likely to incriminate himself; by the same token, the police would be correspondingly less likely to collect sufficient evidence to convict guilty suspects. The counter-argument was that the presence of counsel at all stages benefited the police by ensuring that they did not overstep their legal bounds. This point of debate continued unresolved.

35. Immunities from arrest and detention were mentioned in several contexts. As to minors, some objected to any detention whatsoever for suspects below a minimum age - 14 years was twice mentioned. Even above this age level, detention was severely questioned, especially where minor offenses were concerned. Where detention of juveniles was necessary, special institutions and strict time-limits were advocated. In the case of other immunities, detention pending trial was forbidden in some countries where a charge did not entail serious penalties. Executive, parliamentary, diplomatic and family immunities were mentioned in passing.

36. The rules governing the granting or otherwise of bail provoked more elaborate comment. A rule of reason seemed basic to the granting of bail in most jurisdictions, with an apparent presumption in favour of bail in some countries, especially where felonies and offences in flagrante delicto were not involved. The main factors that determined the grant or refusal of bail related to flight beyond the jurisdiction of the court, the commission of further offences, interference with witnesses, the execution of sentences and effective investigation, etc. The granting of bail in accordance with these criteria was sometimes possible at the initial stages, e.g., "station bail" or bail pending trial at the initiative of the prosecutor, examining magistrate or court panel. The requirement of surety in relation to the granting of bail was widely criticized as "undemocratic" and unnecessary where other circumstances permitted bail to be granted. Some judicial systems granted bail only on those who could pay; others allowed pledges of property interests or released suspects or accused persons on their own recognizance. The granting of bail in conditions that favoured the wealthy suspect or accused person was generally condemned.

37. Public security cases entail a special class of procedures in some jurisdictions. Generally in French-speaking African countries, the two cardinal differences between such cases and ordinary criminal cases lay in the definition of the offence and the composition of the review tribunal. Vague catch-all definitions of such offences provided effective legal weapons to the security services but limited individual freedom of action by posing uncertain penal limits. Special tribunals, in normal or extraordinary circumstances, appeared to lack the objectivity of judicial panels since they often comprised representatives of the executive and political authorities who need not be jurists. The proper balance between public security and the individual's freedom of action was a delicate matter. Several delegates urged that ordinary criminal procedures and standards should be applied to offences against public security in normal times; and that special public security procedures be regarded always as exceptions rather than the rule.

38. In some jurisdictions, mainly within the French-speaking African countries, detentions for public security reasons are based on purely administrative decisions. In a number of English-speaking African countries, detentions without trial for public security reasons are purely executive decisions and review tribunals given only on advisory rules. Ghana and Mauritius were among the few of these countries where the review tribunal can order the release of a detainee. While some delegates denied the wisdom of any administrative or executive detentions in normal times, others discussed limitations that could modify its excesses. Review by a judicial panel with a short period - often 2 weeks - with subsequent monthly reviews was mentioned several times in this regard. Publication of detainees' names in an official gazette was also a common proviso. Arguments against publication emphasized the possible prejudice that publication might imply against the detainees or the danger of defamation. Arguments in favour noted the political effectiveness of publication in limiting arbitrary detentions, the critical need for information by the detainee's family, etc., and the irrelevance of prejudice in situations that often did not lead to trial.

39. Extraordinary situations, it was generally agreed, may require special measures in limitation of individual rights. In many jurisdictions, especially those following the French example, the special procedures concerning arrest and detention are dictated by statutory law. However, a formal declaration by high national officials to put them into operation is necessary and periodic review by the legislature or other body is often provided. While recognizing the need for such suspensions of normal rights, several delegates warned that emergency situations tended to become permanent establishments, and urged that they should be restricted in time as well as in scope to the minimum terms possible, with official publication of full particulars.

40. The Conference recognized that written law cannot always represent working reality. Three general solutions emerged from the views expressed by delegates. Firstly, communication in the sense of informing the public of their legal rights and the provision of effective appeal and review procedures by judicial authorities throughout the country when rights were threatened. Secondly, the improvement in the quality of police service, which was often criticized for lack of organization, integrity, legal and technical training, requiring increased national expenditure and other reforms. Thirdly, making administrators at all levels responsible for improprieties committed in the course of arrests and detentions within their jurisdictions. In this regard, both English- and French-speaking African countries already provide possible review procedures, with sanctions ranging from publication of names of officials responsible for improper detentions, the payment of damages, to imprisonment with hard labour.

41. The statement was also made that, without a basic commitment to procedural fairness on the part of the men involved, no legal machinery could be relied upon to ensure fair treatment of individuals. The general suggestions referred to above appeared to be attempts to inject such a commitment into the structure of African legal process.

42. Resolution 1 concerning topic 1 of the Agenda was adopted by the Conference (see page 19).

#### The judicial process

Topic 2 paragraphs (e)-(g) of the Agenda: Independence of the judiciary, the executive and the judiciary and international judicial processes

43. The Honourable Mr. Justice S.D. Adebisi, High Court Judge, Lagos State, Nigeria, introduced his paper on the subject and briefly outlined the concept of judicial review in the English-speaking African countries. There, the tribunals were competent to judge whether laws and decrees were constitutionally binding, and could even refuse to apply them. Experience in his country had shown that the right of judicial review and the independence of the judiciary were respected even in times of national crisis and by military governments.

44. His Excellency Mr. Alphonse Boni, Chief Justice, Ivory Coast, in introducing his paper on the subject, said he was convinced that the independence of the judiciary was a vital factor in the dispensing of impartial justice. The judiciary had to be protected against the risk of unfortunate repercussions as a result of courageous decisions against the interests of political, financial or other authorities. Independence meant that a judge was bound only by the law and by his own conscience; this, however, was not tantamount to complete freedom. The judge was answerable if he failed to discharge his duties, and should be subject to disciplinary action imposed by his peers in respect of his deficiencies. That was the role of the High Judicial Council in the French-speaking African countries.

45. There followed a lively discussion on the independence of the judiciary. Some delegates criticized the classical conception of the independence of the judiciary and the separation of powers. For various reasons, they would prefer the term "judicial authority" rather than "judicial power".

46. Others considered this conception - of Western origin - contrary to traditional African law, which was characterized by the unity of powers. Africa's experience in the traditional system proved that it could not safeguard genuine impartiality in the performance of judicial functions.

47. Other delegates regarded the classical conception as being not only contrary to the African tradition but also present-day realities in Africa. It did not answer the needs of new States in the process of development. What was required was, rather, co-operation on the part of the authorities,

whether legislative, executive or judiciary, in the one and the same State, with a view to strengthening its development policy and avoiding any duplication of effort. It would indeed be prejudicial to the stability and development of a country if its judges or magistrates assumed the right to oppose its leaders' social and economic policy on the pretext of judicial independence.

48. The separation of powers was therefore not the ideal standard and, in any case, did not correspond to what was happening in practice. A profound inter-action was taking place between the powers. It was the Executive which appointed the judges or magistrates and exercised the right of reprieve; it was the Legislature which declared amnesties; and, in the French-speaking African countries, it was the Chief of State who safeguarded the independence of the judiciary. This inter-action was in point of fact healthy, because all the authorities, and not merely the judiciary, helped to safeguard the individual's liberties.

49. In contrast to the views expressed above, most delegates expressed their support for the principle of a really independent judiciary. They expressed great concern for the respect of human rights in a system which did not respect the separation of powers. A judiciary independent not only of the executive but also of the one-party system, was the sole safeguard of an impartial trial for the individual. All political regimes committed errors even if they did so inadvertently. There would necessarily come a time when the people would rise up against these errors. It was important then that political regimes be protected from arbitrary popular reprisals. Only an independent judiciary could ensure this. One-party regimes were multiplying in Africa, the need for independent judiciaries was therefore becoming more urgent. Faced with the concentration of extraordinary powers in the hands of a few men, the existence of impartial judges was absolutely necessary if human rights were to be guaranteed.

50. Some delegates also pointed out that a great deal of abuse could be perpetrated in the name of development.

51. In answer to the criticisms levelled at them by those who supported the classical principle of an independent judiciary, the few partisans of a new concept argued that in their opinion collaboration between the public authorities did not necessarily imply the denial of individual freedoms.

52. A compromise solution was suggested by a few delegates, between absolute independence and total subjugation. Of course, disputes could arise between the executive and the judiciary, but a basic agreement should exist between the two powers on the lines to be followed. The judge would therefore remain the guardian of individual liberty without constituting an obstacle to the executive authorities in the field of development.

53. Other delegates thought that the secret of individual liberty and justice was to be found in the personal integrity of judges more than in the legal machinery, since these were likely to vary. The best amongst them would only serve the ideals of those who drafted the law. They also shared the same ideals. The real test was therefore the honesty of judges and real respect for their office by the political authorities.

54. Others again stressed the importance of information and public opinion in the protection of individual freedoms.

55. A delegate pointed out that the United Nations Commission for Human Rights was studying a draft of principles on equality in the administration of justice in which is affirmed the desirability of the independence of the judiciary.

56. The independence of the Department of Public Prosecution was discussed briefly. This office exercised a quasi-judicial function in deciding when prosecution should take place. It was, therefore, important that it should be protected from undue influence from any quarter. Others observed that the magistrates of the Department of Public Prosecution should not, however, enjoy the same independence in respect of the executive as those of the Bench and pointed out that, in fact, their status was different from that of the judge.

57. A discussion on irremovability then followed. It was considered the sine qua non of the independence and authority of the judiciary by many. Some, however, thought that it was an indefensible principle where countries lacking an adequate number of trained jurists were concerned.

58. Should African States set up a Pan-African judicial institution for the suppression of infringements of human rights on their continent? This question was the subject of a long discussion.

59. A delegate outlined international efforts to date, in the field of the protection of individual freedoms whether in the form of covenants or through the channels of the law, such as those existing within the Council of Europe. The existence of serious infringements of human rights in the world and information concerning them was sufficient justification to expect that, today, States would take concrete steps towards the drafting of an international penal code. An official list could set out all those activities condemned by States, such as torture, for example. This could be followed by an overall study of the most efficient means of controlling such practices. Such practices were often the responsibility of certain individuals and not of States. In such cases, there was no point in condemning a State; redress, however, should be sought and obtained for the victims of the infringement of human rights. This should make it easier for States to accept international judicial processes.

60. A delegate briefly described the international judicial machinery set up in 1950 by the member countries of the Council of Europe, under the European Convention for the Protection of Human Rights and Fundamental

Freedoms. The European Convention permitted persons within the jurisdiction of eleven member countries, who had exhausted all national means of redress, to bring their cases before the European Commission, which endeavoured to achieve a friendly settlement of the matter. If this was not achieved, the Commission sent a report to the Committee of Ministers of the Council of Europe. In certain circumstances the case may be referred to the European Court of Human Rights. The delegate pointed out that the Organization of American States and the Arab League had also set up Regional Commissions. The creation of an Asian Commission for Human Rights was also under consideration.

61. The creation of machinery and processes at regional level was fully in conformity with the idea of international order which was in the minds of the signatories of the United Nations Charter, and with relevant resolutions adopted by the competent United Nations organs.

62. The Seminar on the establishment of Regional Commission of Human Rights with special reference to Africa, organized by the United Nations, which was held in Cairo in 1969, was then discussed. The official representatives of twenty African States had, in their final recommendations, called for the creation of regional African commission for the protection of human rights. This commission was not to exercise judicial powers but to promote human rights in Africa. It should be set up with United Nations assistance, and that of other international and regional organizations. The participants of the Seminar had unanimously taken this decision and had recommended that the report and the recommendations of their Seminar be communicated to the Administrative Secretary-General of the Organization of African Unity and the States Members of that Organization.

63. Although the United Nations General Assembly had noted the recommendations of this Seminar, no official action had as yet been taken by the Organization of African Unity. It was pointed out, however, that the Secretariat of the Organization of African Unity had thought it preferable, in view of the present conditions in Africa and the functions of the Organization, to leave it to Member States to place the recommendations of the Cairo Seminar on the agenda of its Conference of Council of Ministers. Not one State, including those who had sent representatives to the Cairo Seminar had, however, taken this step.

64. A delegate pointed out that the Organization of African Unity was the most appropriate organization to serve as the framework for the establishment of a commission for the protection of human rights. He meant by this that there should be only one commission at the pan-African level, and not a number of commissions to be set up in each of the Member States. He added that the Conference should consider the advisability of setting up such a commission solely from the point of view of the rule of law. It was not for legal specialists to raise difficulties of a political nature. There was therefore nothing to prevent the Conference from recommending the setting up of such a commission to the African Governments and to the Organization of African Unity.

65. Another delegate reminded the Conference of the conclusions of the African Congress in Lagos, held in 1961 under the auspices of the International Commission of Jurists. This Congress had recommended the establishment of a Commission and an African Court for Human Rights on the lines of those set up within the Council of Europe.

66. A delegate expressed the opinion that the creation of an intra-African judicial organ for the trial of violations against human rights would be ahead of its time. States would still be too jealous of their independence to agree to give up a part of their sovereignty. He suggested, alternatively, that a human rights committee should be set up in each country. This body, made up of members of the judiciary, lawyers and teachers of law would receive complaints from individuals, investigate them and report to the authorities concerned. Furthermore, it would inform the public of the fundamental rights and freedoms of the individual by means of all the modern methods of communication.

67. Resolution 3 concerning topic 2 paragraphs (e)--(g) of the Agenda was adopted by the Conference (see page 21).

#### Provision of legal services to individuals

##### Topic 3 of the Agenda

68. Prof. K. Bentsi-Enchill, H.E. Mr. Alphonse Boni, Chief Justice of the Ivory Coast, and H.E. Mr. Mohamed Ben Slama, President of the Court of Appeal of Tunisia, introduced briefly their papers on the subject. Professor Bentsi-Enchill initially noted that legal services were needed by society in a large sense as well as by the individual. Although his paper and the discussion that followed were focussed upon the latter, he argued that the evidence of widespread political pressures upon courts and justice offered jurists a new area of responsibility in working to harness those pressures.

69. As to individual legal services, he noted that equality before the law and related matters were the basis for all guarantees of legal assistance to the individual. He commented that the civil-criminal distinction drawn in many jurisdictions did not necessarily make sense to the population, who cared as much or more, about civil matters - tenancy, inheritance, employment, contracts of purchase, etc. - than about criminal matters of arrest and detention. He also referred to the problem of limited legal resources in most African States and noted that the burden of many current legal aid schemes fell quite heavily upon the bar.

70. His Excellency Mr. Alphonse Boni emphasized the two main arguments of his prepared paper. Firstly, that although developed countries had enough lawyers to support legal assistance programmes, Africa did not. He proposed the establishment of national legal assistance offices where State counsel would provide the required services. Secondly, that even excluding counsel's fees, the cost of obtaining justice could be exorbitant, and ways



had to be found to make justice free of the financial burdens imposed on the parties. The present system of legal aid in the Ivory Coast allowed the State to advance the costs of appeals to indigent parties subject to repayment within an extended period by the losing party; this system could be extended to all causes in the short run. The long-term solution to the problem might be for the State to finance all costs, but this was now impossible having regard to the limited resources of most African countries.

71. His Excellency Mr. Mohamed Ben Slama reviewed the Tunisian legal aid system which offered counsel free of charge in criminal cases both at the investigation stage and pending trial (the former upon request and the latter in every case), and in civil cases. Aid also included exemption from the payment of court fees. Eligibility for legal aid was determined by special committees in each court comprising representatives of the State prosecutor's office, the bar, and the judiciary. Requests for legal aid were considered on two grounds - the financial ability of the applicant to go to law and his interest in the matter.

72. Due to limited resources, only counsel's fees were free in Tunisia. Other costs were advanced by the State. These advances must be repaid by parties who lost their cases in court. This practice tended to encourage corruption and to avoid that danger, the State should, as soon as this could be done, be responsible for all costs of indigent parties.

73. In the discussions that followed, the problem of the poor citizens' access to courts and legal aid was stressed; several delegates, however, noted that there was a need for legal "preventive medicine". If citizens could seek legal advice and information, at any time, later costly litigation might well be forestalled. Despite the need for assistance at trial, general legal advice clinics might provide important cost benefits. Algeria had instituted this practice in weekly free consultations with magistrates. Another proposal advocated arbitration boards to avoid litigation where possible.

74. Most of the existing systems provide for a review body to determine the eligibility for legal aid. Like the Tunisian committees, these usually are made up of representatives of the bar, the public prosecutor's office, and the judiciary, or various combinations of the same.

75. Inability to pay for legal services is the primary but not exclusive criterion for free legal aid. This means tests appear to be standard in all legal aid programmes, whereby aid is given either upon the taking of an oath as to means or after more extensive (and often costly and time consuming) investigation. The level of financial eligibility requires careful definition by the administering authority. Non-financial criteria include examination of the cause of action, a party's real interest in the case, etc. Frivolous litigations at the

expense of the State would be doubly injurious. In Zambia, a further standard of eligibility in its elaborate legal aid programme is that, where in remote areas no counsel are available even for those who can afford their services, the legal aid department must supply counsel. This concept was supported by numerous delegates who emphasized that legal aid must be offered throughout a country, and not merely centred upon courts in the capital cities.

76. With regard to court fees and especially to costs of counsel, limited resources dictate that priorities be fixed for assignment of legal assistance. The highest priority in the existing legal aid schemes is usually limited to the provision of counsel to defendants charged with serious criminal offences. Beyond this point there was less unanimity; some delegates expounded the view that civil litigation was often as important as criminal cases to the average citizen, especially in comparison to minor criminal offences. Others argued that civil litigation involved less awesome (non-governmental) opponents than criminal cases, and the threatened injury to the citizen was somewhat less direct. Thus with the possible exception of labour cases no general system of priorities beyond the minimum standard of assistance in serious criminal cases emerged. (In many jurisdictions labour cases were automatically given legal aid supported by trade union organizations or special national legislation).

77. Many systems are based on the theory that justice must be free to be equal, but court fees often provide a derogation of that principle. Some States absorb all court fees in the case of indigents, others follow the loan system discussed previously. Several delegates noted that in all cases, reduction of court fees was highly desirable. There were some suggestions on and examples of how this could be done or was being achieved. Algeria had removed the "avoué" from its system (a low-level legal technician charged with preparing procedural papers) and required advocates themselves to undertake the avoué's function; court fees had been replaced by a nominal litigation tax on all levels of civil servant "défenseurs de justice"; other methods related to the reduction of paper work, duplicate forms, etc.

78. By far the most involved arguments emerged with regard to the provision of counsel. State defense services existed in some countries and were advocated in others. The provision of counsel by the State avoided the need for voluntary or fee-sacrificing representation by members of the bar, and provided correlative advantages of institutionalized support for the preparation of an indigent person's defense. Some delegates, however, questioned whether citizens would be as frank and trusting with counsel who were civil servants as they would be with private practitioners. Conversely, others noted that State counsel would be more likely to handle unpopular political causes than private members of the bar.

79. The private attorney is, in fact, relied upon by many jurisdictions to support the peoples' right to counsel where government support is unavailable or restricted. This often produced practical and ethical

problems. Pro bono publico lawyers give free services or services at an artificially low rate. They are not usually reimbursed for out-of-pocket expenses, though this was suggested by at least one delegate. They may even have to pay out of their own pockets for essential costs in the preparation of a case. Lawyers' ethics are not sufficient reinforcements of human nature: they tend to pay more attention to their paying clients and lose interests in briefs that bring in little or no fees. Thus while the appointment of counsel often can be non-voluntary - enforced by registration requirements or judicial pressure - there is no simple way to ensure a high professional standard in pro bono publico cases. In cases where much publicity or the possibility of contingency fees are available, volunteers may be found and can be relied upon to perform satisfactorily. In the majority of poor persons' cases, however, these motivations are not present. Thus the bar and bar associations remain the most important existing institutions in ensuring adequate professional representation for the poor by promoting professional ethics and concepts of public service. In the future, the State may create legal defense funds drawn from court fees, etc., to help finance the legal aid work of the bar. But the ultimate reality appeared to be that until the legal manpower and financial resources of African countries were dramatically increased, neither the government nor the bar could be relied upon to supply services sufficient to meet the very great need.

80. Resolution 4 concerning topic 3 of the Agenda was adopted by the Conference (see page 22).

#### Adoption of the report

##### Topic 4 of the Agenda: Conclusions, recommendations and follow-up action

81. Four draft resolutions relating to topic 1, topic 2 paragraphs (a) to (d), topic 2 paragraphs (e) to (g) and topic 3 of the Agenda were presented to the Conference by its Drafting Committee. After lengthy discussions by delegates, these draft resolutions were adopted with amendments and in that form, are embodied in the present report. Delegates expressed their gratitude to the Emperor, Government and people of Ethiopia, and the Minister of Justice of the Imperial Ethiopian Government, extended their congratulations to the Economic Commission for Africa for the timely initiative it had taken to organize such an important Conference of African jurists and thanked the International Legal Center and the Center for African Legal Development for their assistance in connexion with the Conference. Four related resolutions embodied in this report were adopted by the Conference (see pages 19-23).

PART III

RESOLUTIONS ADOPTED BY THE CONFERENCE

RESOLUTION 1

The process of arrest and detention

The Conference of African Jurists on African Legal Process and the Individual,

Concerning the process of arrest and detention,

Affirms the resolutions of the Lagos Conference in this regard,  
and

Deplores and condemns any legislation which permits detention without trial,

Emphasizes the importance of respecting the provisions regarding the conditions of arrest and detention contained in various criminal codes, and

Urges that respect for these provisions be extended as far as possible to all kinds of arrest and detention, and that all places of detention shall be subject to frequent and regular judicial inspection, and that in the recruitment and employment of law enforcement officers attention be paid to their suitability, qualifications, training and that their remuneration be improved,

Recommends to this end, the establishment of an Institute of Comparative Law, under the auspices of the Organization of African Unity, with the co-operation of the United Nations and its competent specialized agencies and of all inter-governmental and non-governmental organizations concerned with the problem, charged with:

- (1) the scientific study and development of law in Africa; and
- (2) the holding at regular intervals (once or twice a year in various African countries in turn) of study and research sessions on African law lasting two or three weeks at a time; and
- (3) the promotion of research into problems of African law and the publication of an African Journal of Comparative Law to be used for the widespread dissemination of the results of research, and of information regarding legal developments.

## RESOLUTION 2

### The judicial process:

Access to courts, trial, review, judicial remedies and the Ombudsman

The Conference of African Jurists on African Legal Process and the Individual,

Reaffirms the resolutions of the United Nations Seminar held at Mexico (1961) stressing that ampare, habeas corpus, mandado de seguranca and other means of defending human rights are enduring and essential juridical institutions for the survival of any civilized community,

Recognizes and recommends that a many-sided approach must be undertaken to overcome the economic, social and human factors which create a gap between the principle that the courts should be readily accessible to all and the actualities of present-day judicial facilities in Africa,

Declares that among the measures that should be undertaken are:

(1) An extensive simplification of the rules of procedure especially in relation to the institution or commencement of legal proceedings by any person in particular, illiterate or needy persons;

(2) A sustained programme of civic education designed to communicate a better knowledge of legal rights and duties and thus promote the awareness of remedies which would enable the ordinary man to defend his rights and in which judges, magistrates, lawyers and law students have a leading role to play;

(3) A determined effort to minimize the cost of judicial proceedings and to bring justice and the individual closer together by increasing the number of courts and extending the use of circuit courts;

(4) A thoughtful Africanization of law and procedure so as to increase their understanding;

(5) The establishment of adequate machinery for the provision of legal aid to persons who otherwise could not afford to prosecute or defend their rights in court;

(6) A scrupulous respect for the basic elements of fair hearing including the enforcement of such safeguards as the protection of witnesses, litigants and counsel; the presumption of innocence; the protection afforded by the principle ne bis in idem and against self-incrimination; the holding of trials in public and the curtailment of delays in disposing of cases;

(7)(a) The settlement of all judicial business in the ordinary courts of the land and the abolition of all exceptional tribunals;

(b) The development of an adequate system for the settlement of administrative problems and of administrative courts with a channel of appeals to the highest courts in the land;

(c) Where appropriate the creation of the office of an Ombudsman; and

(d) The introduction of some code of non-contentious administrative procedure and appropriate machinery for its enforcement.

### RESOLUTION 3

#### The judicial process:

#### Independence of the judiciary, the executive and the judiciary and international judicial processes

#### The Conference of African Jurists on African Legal Process and the Individual,

After considering the important questions regarding the independence of the judiciary, the relations between the judiciary and the executive, and possible international judicial processes,

Affirms the resolutions in this regard of the following Conferences: the Lagos Conference of January 1961, the Rio de Janeiro Conference of 1962, the Bangkok Conference of 1965, and the Dakar Conference of 1967, all held under the auspices of the International Commission of Jurists,

Endorses the recommendations of the United Nations Seminar on the establishment of regional commissions on human rights with special reference to Africa, held in Cairo 1969; and

#### Recommends as follows:

(1) That the independence of the judiciary be guaranteed in order to ensure the impartiality of justice;

(2) That attention be paid to the social and economic factors that promote stability and that jurists should acknowledge the fact that they have a vested interest and a professional or technical commitment to the task of nation-building and that problems of political morality and the prevalence of the spirit of justice within their State are the business of lawyers;

(3) That steps be taken to agree to an early date upon a comprehensive code of judicial ethics, which also takes account of relations between the judiciary and the police; and

(4) That in exercise of political power all authority be subordinated to law and that the protection of human rights should be the primary concern of all the principal organs of the State;

(5) With a view to promoting the better protection of human rights, the Conference recommended further:

(i) that an African Commission on Human Rights be established and charged with the responsibility of collecting and circulating information relating to legislation and decisions concerning human rights in annual reports devoted to the question of civil rights in Africa;

(ii) that an African Convention on Human Rights be concluded;

(iii) that every effort be made to harmonize legislation in the different African countries in this regard;

(iv) that an Advisory Body be established to which recourse may be had for the interpretation of the terms of the African Convention on Human Rights; and

(v) that the various African States be urged to take speedy measures to accede to or ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of all forms of racial discrimination and the OAU Convention governing specific aspects of refugee problems in Africa;

(6) The Conference welcomes the recommendations of the aforesaid United Nations Seminar held in Cairo in 1969 entrusting the Organization of African Unity with the establishment of a Commission for Human Rights for Africa and invites the Organization of African Unity to hasten the implementation of the said recommendations taking account of existing international instruments that have been drafted by the United Nations in this connexion.

#### RESOLUTION 4

##### Provision of legal services to individuals

##### The Conference of African Jurists on African Legal Process and the Individual,

On the question of legal aid, the Conference,

Emphasizes that it is essential to the fair and impartial administration of justice that rich and poor alike should have equal access to the courts and to the assistance of trained legal personnel and that this

consideration imposes an obligation on governments and on the legal profession to devise adequate machinery for ensuring that the ideal of equal justice before the law becomes a living reality that supports the development of a spirit of justice in the society.

RESOLUTION 5

Vote of thanks to the Imperial Ethiopian Government

The Conference of African Jurists on African Legal Process and the Individual,

Desirous of voicing its gratitude to His Imperial Majesty, Haile Selassie I, Emperor of Ethiopia, and the Government and people of Ethiopia for the warm welcome given to all the delegates to the Conference;

Expresses its appreciation and thanks to the Imperial Ethiopian Government.

RESOLUTION 6

Vote of thanks to the Minister of Justice  
of the Imperial Ethiopian Government

The Conference of African Jurists on African Legal Process and the Individual,

Desirous of expressing its gratitude to His Excellency Ato Akale Work Habte Wold, Minister of Justice of the Imperial Ethiopian Government, for officially opening the Conference of African Jurists on African Legal Process and the Individual,

Expresses its appreciation and thanks to His Excellency Ato Akale Work Habte Wold.

RESOLUTION 7

Vote of thanks to the International Legal Center and the  
Center for African Legal Development

The Conference of African Jurists on African Legal Process and the Individual,

Mindful of the assistance rendered by the International Legal Center of New York and the Center for African Legal Development, Faculty of Law, Haile Selassie I University, Addis Ababa, in the realization of the Conference,



Expresses its appreciation and thanks to the International Legal Center and the Center for African Legal Development.

RESOLUTION 8

Congratulations to the secretariat of the  
Economic Commission for Africa

The Conference of African Jurists on African Legal Process and  
the Individual,

Considering the pioneering and significant efforts made by the secretariat of the Economic Commission for Africa in the organization and convening of this Conference and the very satisfactory results achieved by the Conference,

Considering the extensive and useful documentation prepared for the Conference,

Conscious of the magnitude of the task assumed by the secretariat of the Economic Commission for Africa and of the devotion shown by its staff,

Heartily congratulates the Executive Secretary of the Economic Commission for Africa and those members of his staff whose efforts contributed to the conduct and great success of this Conference.

ANNEX I

AGENDA

A. Opening of the Conference

B. Topic 1: The process of arrest and detention:

- arrest and detention for criminal offenses;
- arrest and detention for public security;
- limitations on arrest and detention

Topic 2: The judicial process:

- (a) access to courts;
- (b) trial;
- (c) review;
- (d) judicial remedies and the Ombudsman;
- (e) independence of the judiciary;
- (f) the executive and the judiciary;
- (g) international judicial processes

Topic 3: Provision of legal services to individuals

Topic 4: Adoption of the report: Conclusions, recommendations  
and follow-up action

C. Formal closing

ANNEX II

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

PARTICIPANTS DESIGNATED BY GOVERNMENTS /  
PARTICIPANTS DESIGNÉS PAR LES GOUVERNEMENTS

Algeria / Algérie

M. Yahia-Cherif  
Conseiller à la Cour d'appel  
Conseiller au Ministère  
de la justice  
Algér

Burundi

M. Gabriel Mpozagara  
Procureur général  
Bujumbura  
  
M. Cyrille Nzohabonayo  
Directeur de Cabinet au Ministère  
de la justice  
Bujumbura

Cameroon / Cameroun

M. Mbella Mbappé  
Directeur des affaires judiciaires  
et du Sceau  
Ministère de la justice  
Yaoundé  
  
M. R. Jean Mbaya  
Conseiller technique de la Présidence  
de la République fédérale du Cameroun  
Yaoundé

Central African Republic / République centrafricaine

M. A. Grothe  
Directeur général  
des Services judiciaires  
Bangui

Chad / Tchad

M. Oumar Mahamat  
Procureur de la République  
Fort-Lamy

Participants designated by governments (cont'd) /  
Participants désignés par les gouvernements (suite)

Democratic Republic of Congo / République démocratique du Congo

M. José-Patrick Niny  
Magistrat à la Cour  
suprême de justice  
Kinshasa

M. B. Bulambo  
Deuxième secrétaire  
Ambassade du Congo  
Addis-Abéba

Ethiopia / Ethiopie

The Hon. Ato Amanuel Amdemichael  
Attorney-General  
Addis Ababa

The Hon. Ato Tadesse Abdi  
Judge of the High Court  
Addis Ababa

Gabon

M. E. Mepas  
Magistrat et Directeur de  
l'administration judiciaire  
Ministère de la justice  
Libreville

Ghana

Mr. M.A.F. Ribeiro  
State Attorney  
Ministry of Justice  
Accra

Mr. G.F.A. Sawyerr  
Lecturer, Faculty of Law  
University of Ghana  
Legon

Ivory Coast / Côte-d'Ivoire

M. Gérard Goudot  
Directeur de Cabinet de la  
Cour suprême  
Abidjan

M. Brizoua-Bi  
Magistrat, Cour suprême  
Abidjan

Participants designated by governments (cont'd) /  
Participants désignés par les gouvernements (suite)

Kenya / Kénia

Mr. James Karugu  
Deputy Public Prosecutor  
Attorney-General's Department  
Nairobi

Liberia / Libéria

Mr. James Newton Garnett  
Assistant Attorney-General  
Monrovia

Libya / Libye

Mr. A.M. Ræid  
Counsellor, Ministry of Justice  
Tripoli

Madagascar

M. Victor Ramanitra  
Procureur général  
près la Cour d'appel  
Tananarive

Mauritius / Maurice

Mr. Victor Glover  
Principal Crown Counsel  
Ministry of Justice  
Port Louis

Nigeria / Nigéria

Mr. Solomon O. Sogbetun  
Legal Adviser  
Federal Ministry of Justice  
Lagos

Somalia / Somalie

Dr. Ahmed Mohamed Darman  
Somali Ambassador to Ethiopia  
  
Mr. Yusef J. Buraleh  
Counsellor  
Somali Embassy  
Addis Ababa

Participants designated by governments (cont'd) /  
Participants désignés par les gouvernements (suite)

Sudan / Soudan

Mr. Mohamed Salih Mohammed  
Solicitor General  
Ministry of Justice  
Khartoum

Swaziland / Souaziland

Senator D. Lukele  
Attorney/Senator  
Swazi Parliament  
Mbabane

Tanzania / Tanzanie

Mr. Y.M.M. Mwakasendo  
Assistant Attorney-General  
Dar-es-Salaam

Mr. H.K. Katua  
Secretary, Permanent  
Commission of Enquiry  
Dar-es-Salaam

Mr. N.M. Lugoe  
Legal Secretary  
Embassy of Tanzania  
Addis Ababa

Togo

M. K.R. Creppy  
Conseiller technique  
Ministère de la justice  
Lomé

Tunisia / Tunisie

S.E. M. Mohamed Ben Slama  
Président de Chambre  
Cour de Cassation  
Tunis

Uganda / Ouganda

The Hon. P.J. Nkambo Mugerwa  
Attorney-General  
Kampala

Mr. M.B. Matovu  
Principal State Attorney  
Kampala

Participants designated by governments (cont'd) /  
Participants désignés par les gouvernements (suite)

United Arab Republic / République arabe unie

H.E. Mr. Justice Badawi I. Hamouda  
Chairman  
Supreme High Court  
Cairo

Miss Laila Emara  
Diplomat, Foreign Ministry  
Cairo

Upper Volta / Haute-Volta

M. Jean-Marie Apiou  
Avocat général près la Cour suprême  
Procureur de la République  
Ouagadougou

Zambia / Zambie

Mr. Sebastian Zulu  
Permanent Secretary/  
Solicitor General  
Lusaka

EMINENT AFRICAN JURISTS PARTICIPATING IN THEIR OWN RIGHT /  
EMINENTS JURISTES AFRICAINS PARTICIPANT ES QUALITE

The Rt. Hon. Sir Adetokumbo Ademola  
K.B.E., C.F.R., P.C.  
Chief Justice of Nigeria

The Hon. Mr. Justice S.D. Adebisi  
High Court, Lagos, Nigeria

Prof. K. Bentsi-Enchill  
Professor of Law  
Accra, Ghana

S.E. M. Alphonse Boni  
Président de la Cour suprême  
Abidjan, Côte-d'Ivoire

M. Abdoulaye Diop  
Conseiller à la Cour suprême  
Palais de justice  
Dakar, Sénégal

Eminent African jurists participating in their own right (cont'd) /  
Eminents juristes africains participant es qualité (suite)

H.E. Dr. Ismail Ghanem  
Ambassador, Permanent UAR  
Delegate to UNESCO  
Paris, France

The Hon. Mr. Justice M.P.K. Kimicha  
Chairman, Permanent Commission of  
Enquiry, Dar-es-Salaam, Tanzania

Dr. W.S. Marcus-Jones  
Department of Law  
Fourah Bay College  
University of Sierra Leone  
Fourah Bay, Sierra Leone

The Hon. Mr. Justice C.I. Moollan  
Judge of the Supreme Court  
Port-Louis, Mauritius

Professeur P.C. Nguya-Ndila  
Faculté de droit  
Université Lovanium, Kinshasa  
République démocratique du Congo

M. Paul Nikyema  
Vice-Président  
Cour d'appel  
Ouagadougou, Haute-Volta

The Hon. Mr. Justice M.A. Odesanya  
High Court, Lagos, Nigeria

H.E. The Hon. Mr. Nii Amaa Ollennu  
Speaker, National Assembly of Ghana  
Accra, Ghana

M. Placide Pandanzyla  
Assistant d'université  
Université Lovanium  
Leuven, Belgique

M. Ahmed Ben Sedrine  
Conseiller  
Cour de cassation  
Tunis, Tunisie

Mr. Mahdi A. Sharif  
Advocate  
Khartoum, Sudan



OBSERVERS DESIGNATED BY ORGANIZATIONS AND INSTITUTES /  
OBSERVATEURS DESIGNES PAR DES ORGANISATIONS ET DES INSTITUTS

Canadian Government / Gouvernement du Canada

Mr. E. Richmond Olson, Q.C.  
Director, Legal Research and  
Planning, Department of Justice  
Ottawa

Jamaican Government / Gouvernement du Jamaica

Mr. R. Aston Foreman  
Ambassador for Jamaica  
Embassy of Jamaica  
Addis Ababa

United Nations Human Rights Division / Division des droits de  
l'homme de l'Organisation des Nations Unies

Mr. Henri Mazoud  
Senior Officer  
Division of Human Rights

United Nations High Commissioner for Refugees (UNHCR) /  
Haut Commissaire des Nations Unies pour les réfugiés (HCR)

Mr. J.E.R. Candappa  
Legal Officer  
  
M. N. Bwakira  
Délégué adjoint du HCR

International Labour Organisation (ILO) /  
Organisation internationale du Travail (OIT)

M. M.O.A. Ndisi  
Directeur régional  
Addis-Abéba  
  
M. P. Adossama  
Haut fonctionnaire  
  
Mr. C.A. Johnson  
Regional Information Officer

United Nations Educational, Scientific and Cultural Organization  
(UNESCO) / Organisation des Nations Unies pour l'éducation, la  
science et la culture

M. Eric Armerding  
Représentant de l'UNESCO auprès  
de la CEA et de l'OUA

Observers designated by organizations and institutes (cont'd) /  
Observateurs désignés par des organisations et des instituts (suite)

Commonwealth Secretariat / Secrétariat de Commonwealth

Mr. T.O. Kellock, Q.C.  
Director, Legal Division

Council of Europe / Conseil de l'Europe

Dr. A.H. Robertson  
Director of Human Rights

Organization of African Unity (OAU) /  
Organisation de l'unité africaine (OUA)

M. Bassirou Barry  
Conseiller juridique

Baha'i International Community /  
Communauté internationale Baha'ie

Kegnazmatch Gila Michael Bahta

International Commission of Jurists (ICJ) /  
Commission internationale de juristes (CIJ)

Mr. Niall MacDermot, Q.C.  
Secretary-General

International Legal Center (ILC)

Mr. John B. Howard  
President

Dr. John S. Bainbridge  
Director for Africa

Mrs. Terry Wood  
Associate Director  
Resources for Development

Phelps-Stokes Fund

The Hon. Franklin H. Williams  
President

Mr. Robert L. Carter  
Lawyer

Pan-African Workers Congress

Dr. Gebremikael G. Selassie  
Permanent Representative of the  
Pan-African Workers Congress  
Addis Ababa

Observers designated by organizations and institutes (cont'd) /  
Observateurs désignés par des organisations et des instituts (suite)

World Federation of World Federalists (WAWF) / Mouvement  
universel pour une fédération mondiale

Ato Abraham Tsegaye  
Ato Ali Zegeye  
Ato Tadesse Kahessaye  
Ato Tessema Bedasso  
Ato Yusuf Hamid Nasser  
Ato Zeudie Bedada

Center for African Legal Development (CALD) /  
Centre de développement juridique africain (CDJA)

Dr. Thierry Verhelst  
Associate Director  
  
Dr. Millette  
Professor, Faculty of Law  
Haile Selassie I University  
  
Mr. Z.Y.G. Plater  
Lecturer, Faculty of Law  
Haile Selassie I University

Faculty of Law, Haile Selassie I University /  
Faculté de droit, Université Haïlé Sélassié Ier

Dr. C. Thompson  
Dean  
  
Miss K. O'Donovan  
Professor of Law  
  
B.J. Tennery  
Professor  
  
Dr. Franz Lang  
Associate Professor  
  
Mrs. Nellie Okello  
Staff Assistant

The Urban Center, Columbia University

Mr. Lloyd A. Johnson  
Director

The Senegal Committee for Human Rights / Comité  
sénégalais des droits de l'homme

M. Seydou Ba

Observers designated by organizations and institutes (cont'd) /  
Observateurs désignés par des organisations et des instituts (suite)

Association for Exchange Programmes with Developing Countries /  
Association pour les programmes d'échanges avec les pays en voie  
de développement

Avvocato Carmelo Conte  
Secretary-General  
Dr. Nicolino Mohamed

Max Planck Institute for Foreign and International Penal Law /  
Institut Max Planck pour le droit pénal étranger et international

Dr. Barbara Huber  
Réfèrent

International Institute of Human Rights (Strasbourg, France) /  
Institut international des droits de l'homme

Miss Myrna Macquarrie  
University of California  
Berkeley, California

Individual observers / Observateurs à titre personnel

The Hon. Mr. Clarence Clyde Ferguson, Jr.  
US Ambassador to Uganda  
Kampala, Uganda

M. Jacques G. Kamanda  
Avocat  
OUA  
Addis-Abéba, Ethiopie

Ato Saleh A. Kebiré  
Advocate, High Court  
Addis Ababa, Ethiopia

Ato Getahun Hunegnaw  
Attorney-at-Law  
Addis Ababa, Ethiopia

ANNEX III

LIST OF DOCUMENTS

Topic 1

- HR/WP.1 Constitutional guarantees of the individual -  
Center for African Legal Development, Faculty of  
Law, Haile Selassie I University, Addis Ababa,  
Ethiopia
- HR/WP.2 The procedure of arrest and detention -  
Mr. Ahmed Ben Sedrine, Advocate-General  
of the Court of Appeal, Tunisia

Topic 2

- ECA/HR/WP.1 Human rights cases and African courts -  
A.M. Akiwumi, Regional Adviser,  
Economic Commission for Africa
- HR/WP.3 The legal process: Access to the courts, proceed-  
ings, review and legal remedies -  
H.E. Mr. Alphonse Boni, Chief Justice, Ivory Coast
- HR/WP.5 Some exceptional courts and procedures  
in criminal matters -  
Center for African Legal Development, Faculty of  
Law, Haile Selassie I University, Addis Ababa
- HR/WP.6 The Ombudsman and the Permanent Commission of Enquiry -  
The Hon. Mr. Justice M.P.K. Kimicha, Chairman,  
Permanent Commission of Enquiry, Tanzania
- HR/WP.7 The Ombudsman in Africa -  
Center for African Legal Development, Faculty of  
Law, Haile Selassie I University, Addis Ababa
- HR/WP.8 The legal process: Independence of the judiciary -  
H.E. Mr. Alphonse Boni, Chief Justice, Ivory Coast
- HR/WP.9 The judiciary -  
Center for African Legal Development, Faculty of  
Law, Haile Selassie I University, Addis Ababa
- HR/WP.10 The legal process: The executive and the judiciary -  
H.E. Mr. Alphonse Boni, Chief Justice, Ivory Coast
- HR/WP.11 The executive and the judiciary: The Nigerian  
experience -  
The Hon. Mr. Justice S.D. Adebisi,  
High Court of Nigeria
- HR/WP.12 The legal process: International legal process -  
H.E. Mr. Alphonse Boni, Chief Justice, Ivory Coast