

From a lawyer's note Book :



Some principles and characteristics of Justice

by

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Every modern state establishes those institutions necessary for the administration of Justice. These institutions are generally responsible for interpreting and enforcing the law of the land for and on behalf of the people.

2. The institutions may differ both in nature, powers, jurisdictions and methods of approach to problems but, in general, they must observe certain procedures, issue specific processes and, in some states, be guided by precedents. The whole system constitutes the machinery of Justice in the State. This machinery has, in order to be efficient and effective, to observe certain basic principles of Justice.

3. The heart of man is the seat of true justice and law. His conscience provides a laboratory wherein the quality of justice as administered and the justness of the laws of the land are tested. It is from this primal source of justice, that true justice finds expression in practice to the benefit of man in society. Dante, realizing the importance of this, said in one of his sonnets :

*Forgive me, God, if all my days have been
Devoted to man's laws, unjust and vain,
Unless THY law within the heart be fixed.*

4. Justice cannot be administered without laws. These laws must be such as have passed through well defined processes and satisfied certain qualifications. It is not enough to see that the legal draftsman does not exceed the scope of his instructions and that

the bill is properly and freely debated where applicable. It is also necessary that the laws should possess, among other characteristics, the following :

- I. They should be in proper legal form and language.
- II. They should not be vague or ambiguous but precise, clear and easy to understand.
- III. They should be enforceable without any undue or unreasonable hardship.
- IV. Any special TERMS used should be properly defined or interpreted.
- V. They should not be repugnant to the principles of natural justice and,
- VI. They should take cognisance of the circumstances before, during and likely to follow the passing of the law - the effects of the law and its possible length of life.

5. All laws made are meant to be enforced when contravened. In the course of this enforcement the principles of Justice as embodied in the dynamic concept of the Rule of law in favour of the individual should, indeed must, be observed. These principles fall into two groups :

- I. A guarantee of the FIVEFOLD Freedom of Speech, Writing, Association, Movement and Religion and,
- II. The TWOFOLD Equality of ALL before the law and of access by ALL to the law.

6. In consideration for the full enjoyment of these freedoms and equalities the individual must act within the law or in respect of the law. He cannot, therefore, use his freedom of speech and of writing to slander and to libel. In short, in the process of enjoying his freedom he must so act as not to infringe on the rights of other persons, natural or legal.

7. As there is interdependence between citizens so must it be between the Department of Justice and other departments of State. Thus, for example, while the Department of Finance makes available the funds necessary for the administration of Justice, the Department of Justice should, after receiving appropriate drafting instructions, be responsible for drafting any necessary Financial

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Legislation. In short, since the Department of Justice benefits from the services of other departments of state, it should not only draft any laws necessary for their efficient functioning but, also, interpret and enforce these laws in the interest of these departments and the people.

Justice is administered through the cooperation of **judges, law officers** and **legal practitioners**. Any weakness in one of these groups adversely affects the quality of the administration of justice. They may take apparently different and opposing positions in a case but, like bees in a hive, they work for a common end - the proper and efficient administration of Justice. The degree of their success will largely depend on, among others, the following conditions :

- I. There must be a guarantee of the independence of judges and of the security of their tenure of office.
- II. The law officers should have sufficient and proper powers and freedom of action to enable them perform their duties without let or hindrance and with minimum delay and inconvenience to themselves and to the individual.
- III. Justice should be cheap, rapid, fair and humane.
- IV. All those engaged directly in the administration of justice should be properly trained and selected.
- V. Legal practitioners should have proper protection under the law and sufficient freedom to act without improper hindrance to enable them protect, properly and adequately, the interests and rights of the individual.
- VI. Governments should respect the rights of the individual under the Rule of Law and provide effective means for their enforcement.

With these conditions present, **the judge, the law officer** and **the legal practitioner** should feel free, in cooperation, to discharge their respective functions efficiently and properly. In doing so it would be necessary to bear in mind that :

- I. Everyone of them should always be, first and foremost, responsible to his conscience for the proper execution of his duties to man in society.

II. The judges should always :

- a) Be guided by the Rule of Law, and should protect and enforce it without fear or favour.
- b) Resist any encroachments by Governments, political parties or individuals on their independence as judges.
- c) See that no one is punished in the name of any law which does not exist.
- d) See that justice is not only done but is seen to have been done.
- e) See that under the Rule of Law the State as a legal person is subject to the Law.

III. The Law Officers should always :

- a) Satisfy themselves that there is a case to answer before taking any citizen to the Law Courts.
- b) Act with due propriety and within the law in the due execution of their duties.
- c) Act in a manner to preserve and improve, not impair, the cooperation necessary between them and members of public in the interest of justice and,

IV. Legal Practitioners should always :

- a) Do their best to preserve the independence of their profession.
- b) Assert the rights of the individual under the Rule of Law without fear.
- c) Insist that every accused person is accorded a fair trial and.
- d) Act in the best interests of their clients but without prejudice to their duties and responsibilities to the Courts.

10. Proper training, both academic and professional, is necessary for those directly engaged in the administration of Justice. This requires a proper system of Legal Education, one capable of turning out not only competent lawyers but, also, those properly grounded in the ethics of the legal profession. Above everything, there must be complete intellectual freedom in every institution for the teaching of law and the training of lawyers. The importance of proper legal education in every modern State cannot be over-emphasized.

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11. It is not surprising, therefore, that in a young state like the Federal Republic of Cameroon the Faculty of Laws is one of the first few to be established at the Federal University in Yaounde ; that the Federal Government has taken vigorous steps since Unification to train lawyers learned in the two legal systems now in practice in the Federal Republic ; and that the Government and the architects of Unification wisely decided in favour of the continuation in each state in the Federal Republic of the legal system it enjoyed prior to Unification.

12. The wisdom of this decision rests on the fact that it affords an opportunity for the young state to see the two systems in practice ; to see the training methods involved in both ; to have time to strengthen them and carry out studies in Cameroon into their possible differences and their reconciliation ; and, what is more, the possibility of finally, if necessary, evolving a single system from the two taking into account the customary law of the land, current juridical consciousness and the needs of the people. It looks a difficult task but one which is exciting and rewarding to students of Law and legal scientists.