

1-12-1985

A Survey of Voluntary Legal Assistance for the Poor in Tanzania

Wilbert B. L. Kapinga

Follow this and additional works at: <http://scholar.valpo.edu/twls>

Recommended Citation

Kapinga, Wilbert B. L. (1985) "A Survey of Voluntary Legal Assistance for the Poor in Tanzania," *Third World Legal Studies*: Vol. 4, Article 12.

Available at: <http://scholar.valpo.edu/twls/vol4/iss1/12>

This Article is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Third World Legal Studies by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.

A SURVEY OF VOLUNTARY LEGAL ASSISTANCE FOR THE POOR IN TANZANIA

Wilbert B.L. Kapinga*

I. Introduction

This survey of voluntary legal assistance for the poor in Tanzania will focus mainly on the legal aid scheme of the Faculty of Law of the University of Dar es Salaam. The scheme is now in its eighteenth year of existence. Until very recently, however, it has been marked by long spells of inactivity. That notwithstanding, this survey proposes to look at the history of the scheme, the context in which it was conceived, the societal role it has played so far, its failures and successes, and its projections for the future.

In June 1967, the Faculty of Law of the University of Dar es Salaam appointed a committee, subsequently known as the Legal Aid Committee, to look into and propose ways of expanding certain legal aid facilities which existed in fact, although not in law.¹ This was done in the light of the view that legal aid in Tanzania was greatly restricted as poor persons were unable to get legal assistance in criminal cases, save perhaps for those who were charged with capital offenses.² In addition, indigent persons could hardly be provided with legal counsel in civil cases. It was because of this unsatisfactory state of affairs that the Faculty of Law decided to appoint a committee to work in accordance with the terms of reference stated above.

Alongside the initiative of the Faculty of Law, it is only proper to take cognisance of the invaluable initiative taken by the Tanganyika Law Society some years previously to provide legal assistance in civil cases. The Society employed a full time advocate who was stationed in their only office in the city of Dar es Salaam. It is significant to note the legal aid scheme of the Tanganyika Law Society in the context of this survey because of the important relations it had with the Legal Aid Committee of the Faculty of Law, particularly in the early days of the Committee.

* Faculty of Law, University of Dar es Salaam, Tanzania.

1. Kassam, *Legal Aid and the Law Student*, JOURNAL OF DENNING LAW SOCIETY 170 (1969) (Dar es Salaam University College, Tanzania).

2. Poor Prisoners Defence Ordinance, Cap. 21 now repealed and replaced by Legal Aid (Criminal Proceedings) Act, No. 21 of 1969.

II. Early Days

Initially when the Legal Aid Committee was set up, it opened an office at Magomeni Community Centre, in the midst of one of the working class residential areas in the city of Dar es Salaam. Members of the Faculty of Law were available for four evenings each week to provide legal assistance to poor persons who sought it. The clinic was open between 6:00 p.m. and 8:00 p.m. Considerable publicity of the clinic was given in the news media. Later, because of the lack of response from the public, the operating schedule was reduced to two meetings per week. Members of the Faculty of Law, both students and lecturers who participated in the clinic, conducted interviews with clients and prepared briefs for the Tanganyika Law Society advocates, as then the Committee had no advocates of its own to undertake litigation on behalf of the clients.

Many law students did enthusiastically volunteer to man the legal aid scheme. When the Committee secured a room at the Anoutoglu Community Centre, which is in the heart of the city of Dar es Salaam, some students even volunteered to run the clinic during their long vacations (April - June). Unfortunately, the enthusiasm of the students waned after a short while. It appeared that the main reason for the loss of interest on the part of the students was the low level of public response. Other contributory factors were considered to be the intervention of University vacations and the students' pressing need to prepare for examinations during the third terms.

It seemed that the legal aid program of the Faculty was destined to fail. A few years ago the Judicial System Review Commission (JSRC) was emphatic to state that it was not surprising that the Legal Aid Committee of the Faculty of Law failed in the end. The following were the words of the Commission:

It had no manpower for the task. Law students, with their own overwhelming legal problems are not the best soldiers for this kind of war. They can win a few legal battles here and there, but they cannot win the war. It is difficult enough for a practising advocate to win the confidence of his clients, *a fortiori* an undergraduate law student whose experience of legal issues is that based on the facts of cases digested in appellate judgments. Add on to that the fact that he has to crack for his exams, and that his results would not depend on his work with the legal aid scheme, the whole exercise turns out to be a mere legal laboratory experiment for him.³

3. *The Report of the Judicial System Review Commission*. Government Printer, Dar es Salaam, Tanzania 154 (1977).

It may be that the commissioners were justified to make such an assessment of the Legal Aid Committee at the time they made their report. Incidentally, when the report was released for public consumption on the 12th of April, 1980, the Committee was alive and well and making significant progress. In any case the success of the Committee would have mattered the least to the JSRC, for its concern was with the issue of legal assistance which would cover the whole of the country and, it said, the legal aid program "would (surely) not be (the) kind of scheme upon which the hopes of Tanzanians could safely be pinned."⁴

The early protagonists of the legal aid scheme of the Faculty considered several factors as being contributory to the poor response of the public. It was thought then that perhaps there was not enough publicity given to the scheme. And probably too the location of the clinic at Magomeni was unsuitable in terms of accessibility to the people. Perhaps the office opening hours - late in the evening - may not have been suitable, especially after a tedious day's work by prospective clients. It was also thought that there was a likelihood that people had little need to use the formal court system; in other words, people were generally not litigious.

The last point seemed to have made a paramount impression upon the minds of those who manned the legal aid scheme in its early days. They considered then that future publicity should have emphasized the advisory role of the legal aid scheme thus eliminating any impression among the people that the scheme was solely for the purpose of litigation. It is worth noting that the experience of the 1980's is somewhat different and perhaps in a material sense it represents a higher level of legal consciousness, for people who come to the clinic carry along with them a strong faith in the courts as the last resort for justice, that is after having failed or being utterly dissatisfied with other institutionalized social, political, or legal organs like Labour boards, Marriage boards, Party organs, and commissions of enquiry. This is significant in that it shows some progress in legal awakening among the people as regards what they consider to be their legal rights.

As indicated above, by 1972, five years after its inception, the Faculty's legal aid program had become virtually non-existent. The JSRC raised in its report the fact that the Legal Aid (Criminal Proceedings) Act, 1969, had by 1972 remained the sole source of legal aid for indigent persons and that civil litigants who were poor remained at the mercy of chance.⁵ It is true that during the seventies the business of the Committee had

4. *Id.* at 155.

5. *Id.* at 154.

seriously slackened. But in the second half of 1979 the legal aid scheme was resurrected and until August of 1985 students and lecturers in the Faculty of Law went to the clinic at old Magomeni Centre in Dar es Salaam every Wednesday between 4:00 and 6:00 p.m. to listen to people who had legal problems. In August 1985 the Legal Aid Committee extended its clinical services to another district of Dar es Salaam, namely Temeke. Thus every Wednesday evening the Committee runs two clinics simultaneously at Magomeni and Temeke, which are about fifteen kilometres apart. It may also be noted that now some of the law lecturers and professors have been registered as advocates of the High Court of Tanzania, and whenever need arises Committee members themselves are now capable of taking cases of its clients to courts of law.

Before going into the workings and scope of operation of the Legal Aid Committee, one question may likely be asked: What prompted members of the Faculty of Law to offer legal aid to poor persons? The answer to this question may not necessarily and immediately justify the context in which the legal aid scheme of the Faculty operates. There may be many dimensions to the history of legal programmes, and although schemes which can be likened to legal aid programs were existent ever since the Medieval era in Britain, we will not go into the intricacies of historical details. We may however recall that in modern times, bourgeois democracy advocates that every person should be entitled to a hearing in a court of law whenever need arises and should, irrespective of his stature in life, have a right to representation by counsel in litigation. This is the principle at its theoretical level. The question is: What happens in reality?

The answer to the foregoing question cannot be divorced from the nature of bourgeois society which is a society of commodity relations. This simply means that in such a society every service has a price tag on it. So the services provided by lawyers, courts, and even medical doctors are commoditized and must be paid for. To bring this closer to our subject matter, we may say that any person who wishes to commence litigation and wants an advocate to represent him, must have fiscal power. This is tantamount to saying that although the poor and the rich alike have a right to open litigation in court and may retain the services of an advocate, not everyone has the financial ability to do so. The rich can afford it; the poor cannot.

This is to say there is a great divergence between the principle of equality before law and the objective reality. This serious divergence may be said to have kindled the first origins of various schemes of legal aid. But this is not to say that these schemes will resolve the contradictions of our time; they are, to say the least, mere reforms or palliatives. In

various legal aid schemes in the world, whether formed at the instance of the state or by private groups and organisations, there is one common strand - namely that "the needy were to be assigned lawyers to represent them gratuitously. The element of charity or gratuitous assistance to the impoverished still remained."⁶ Perhaps this illusion of the right to legal aid, a scheme which has peculiar tendencies of charity, in a situation where equality among people is merely formal is best articulated by Cappelletti and Johnson in the following words:

Actual equality requires that all citizens have effective access to comparable legal services and cannot exist in a system in which some legal services are rendered to paying clients and others are given gratuitously to the recipients of quasi-charity. In the first place, in a free market economy, a lawyer will necessarily tend to concentrate his time, effort and skill on the remunerative business, the source of his livelihood and reputation. . . . [A] steady diet of non-remunerative work is distasteful even to the charitably minded and there will be a tendency to keep the volume of such work at low level, whether more formally through a demanding admissions procedure, or less formally through a failure to publicise the program, or a simple tendency of practitioners to be unsympathetic to non-paying clients.⁷

As we said earlier, the context in which the legal aid schemes arose and in which they operate today generally need not necessarily or immediately justify or explain why the members of the Faculty of Law of the University of Dar es Salaam decided to offer free legal service to poor persons. In an interview with "Mzalendo," a Sunday Kiswahili newspaper of 4th January, 1981, the current Chairman of the Legal Aid Committee, Professor Issa G. Shivji, when asked to state the reasons which made them consider and proceed to provide legal aid, had the following to say:

The main reason which has made us offer free legal service is the selflessness of the youths in assisting the people. Our youths realize that they were educated through the sweat of the workers and peasants and they feel that they have a duty to make a contribution in the interest of workers and peasants. There is no other reason, for no lecturer or student can be forced to participate in a voluntary scheme; and the business of legal aid is not even part of the lecturer's duties or student's scheme of studies.⁸

6. *Id.* at 167.

7. Cappelletti, Gordley & Johnson, *TOWARDS EQUAL JUSTICE* 25-6 (1975), quoted in *JSRC Report* 167-68.

8. Issa G. Shivji, 4th January 1981 interview with MZALENDU weekly newspaper, Dar es Salaam, Tanzania.

III. Activities and Scope of Operation

From the Committee's revival in 1979 to August 1985, when clinical services were extended to Temeke District, the Committee operated a legal aid clinic at Magomeni Centre in Kinondoni District only once a week for approximately two hours in the evening. Both districts are situated in the city of Dar es Salaam. The clinics are manned by two members of the Committee on a rota system, occasionally assisted by one or two interested students or other members of the Faculty who are not on the Committee. The extension of clinical services to Temeke has doubled the number of receptions at the clinic. For purposes of our study it should be noted that between July 1982 and July 1985 about 2,625 receptions were recorded. The number of clinics during that period was 125. July 1982 was the time when the Committee introduced a Receptions Register in order to systematise the record of the proceedings of clinical services. The table below illustrates the breakdown of receptions at the clinic.

BASIC DATA OF RECEPTIONS AT THE CLINIC FOR THE PERIOD JULY 1982—JULY 1985

Total No. of clinics.....	125
Total No. of receptions	2,625
New "clients"	2,107
Old "clients"	518

"New 'clients'" refer to persons who visit the Committee at the clinic for possible assistance for the first time; while "old 'clients'" refer to those persons who have visited the Committee more than once, usually on a follow-up of the progress of their cases being handled by the Committee. It would be misleading to attempt to compute the average number of receptions per clinic from the figures given above because clinical time is limited and in cases involving a group of complainants, interviews are often conducted outside clinical time.

The distribution of the subject matter of complaints recorded at the clinic during the period under review is as follows: Matrimonial (73), Tort (65), Labour (2,035), Landlord/Tenant (223), Property (91), Criminal (49), Other (88). It is significant to note that more than 75% of the receptions involved labour problems. One of the factors that may account for such a large proportion is that a good number of labour complaints involved a group of workers, each one of whom is counted as a separate reception. The same explanation applies to receptions regarding Landlord/Tenant, where the Committee had a class suit involving 203 tenants.

A summary of the action taken in respect to complaints received at

the clinic during the period under review is as follows: Legal advise (on the spot) (1,493), Legal Aid Approved (928), Not eligible (143), No merits (63), and Reconciliation (3). It can be seen that a good number of the receptions were granted legal aid. This of course does not represent the proportion of persons granted legal aid, because the same people may visit the clinic more than once, in which case each visit is counted as a separate reception. With regard to "new 'clients'" only 651 out of 2,107 were granted legal aid.

The legal aid scheme is basically a voluntary and extra-curricular activity for the teaching and student members of the Faculty. It may be noted that the voluntary and extra-curricular character of the scheme has restricted the geographical spread of the clinical and litigational functions of the Committee. Thus the geographical area of operation of the Committee is confined to Dar es Salaam.

In one instance, however, there was one case which arose in Morogoro,⁹ some 200 kilometres from Dar es Salaam, in which a member of the Committee volunteered to go to Morogoro to represent some thirty-three people in their labour case when a High Court session was held there. In addition, occasionally the Committee receives letters from people resident outside Dar es Salaam who may wish to seek legal assistance. In such cases the Committee communicates its legal advice to such persons by post.

In general the Committee provides free legal service in civil cases only. The Committee may, nevertheless, be prepared to take a criminal case in exceptional circumstances. For example, in a case where there has been a serious infringement of the freedom of an individual, as in the case of unlawful detention, the Committee might consider taking up the case. But even in civil cases the Committee has priority areas. The first of these is that of employment causes. Here a worker may be seeking redress for unfair dismissal or unlawful termination from employment. A worker may also be seeking guidance for a claim of arrears of wages or relief under the workmen's compensation laws. The Committee, in such cases, sends a claim or demand note to the respective employer. And where an out-of-court settlement is not forthcoming the Committee invariably takes the matter to court for final determination. Apart from the District Courts, the High Courts, and the Court of Appeal, the Committee also assists eligible parties before quasi-judicial bodies such as labour conciliation boards and the Permanent Labour Tribunal, which is the industrial court in the country.

9. Ahmad Kondo and others v. The Hon. A.G., Civil Appeal No. 36 of 1980 (unreported).

Matrimonial causes and affiliation proceedings constitute another priority area for Legal Aid. The main legal problems here centre on questions of custody and maintenance of children. In most cases the claims are by unmarried mothers or mothers who are living apart from their presumptive husbands. Such cases have often been settled out of court by the parties with the persuasion of the Committee. Other cases in this area relate to property adjustments after dissolution of marriage. The claims often concern the question of distribution of matrimonial property acquired through the joint efforts of the spouses. To a small extent the Committee provides guidance in matters of administration of estates. Landlord and tenant disputes also form a thorny area for the Committee; and invariably the Committee offers legal assistance to the unfortunate tenant who might have been unjustifiably evicted from a house.

IV. Applications for Legal Aid

It is important to examine the procedure that the Committee follows when it has before it a case which merits litigation. The person who applies for legal aid is required to complete an application form provided to him by the Committee. The applicant must fill in his personal particulars as regards his place of domicile, occupation, his income and a list of dependents, if any. Then the brief facts of his case are recorded in the application form, whereafter he must sign a declaration certifying and acknowledging the correctness of the particulars so given. The Committee reserves the right to withdraw its legal assistance at any stage if it is discovered that the applicant has made a material misstatement.

The application is then sent before the Legal Aid Committee (which presently consists of seven academic staff members) for consideration. If legal aid is recommended, the Chairman of the Committee instantly approves the application and assigns the brief to a member of the teaching staff of the Faculty of Law, who should be an advocate of the High Court of Tanzania, to proceed with litigation. The decision of the Committee is formally communicated to the applicant, and the Chairman dispatches a certificate to the appropriate court for noting that the applicant in question has been granted legal aid by the Committee; the advocate handling the case is appropriately introduced through the same certificate. The certificate also enables filing of necessary papers in court without payment of court fees.¹⁰

10. See the Court Fees (Amendment) Rules (G.N. 64 of 29/5/1981) and the Tanzania Court

V. Standing for Legal Aid

Before the Committee can take up a case which it may consider "fit" the person who requests legal assistance must satisfy a means test. In the eyes of the Committee a pauper (one who qualifies under the means test) is a person whose income does not exceed one thousand shillings per month. This is considered to be a fair ceiling as the majority of ordinary people in Tanzania would fall under this category. In any case, a person earning about one thousand shillings per month can hardly, if ever, manage to retain a private advocate.

The Committee also considers other factors before it takes any case. Where a prospective applicant has immovable property (e.g. farm land on which he employs wage labor or a house rented out) or other substantial property, even if his average income for the month may be one thousand shillings or less, ownership of such property would exclude an applicant from the pauper category. A peasant who earns a lump sum in a year may also be eligible for legal aid if his average monthly income is in the region of one thousand shillings or less. The main objective of the Committee is to assist those persons who for lack of economic standing may lose their rights if legal aid were not offered.

There are times when the Committee encounters intricate problems at very preliminary stages. There are two typical problems. A tenant may be complaining against a threat of or actual eviction by his landlord. In the process it may be revealed that the said "landlord" is also a pauper. [This may happen when the landlord may only be "owning" some rumshackle of a house which hardly earns him an aggregate rental of four hundred shillings per year]. In another situation a poor peasant woman may ask to be assisted in divorce proceedings against her allegedly cruel husband. The husband may also happen to be poor and therefore eligible for legal aid. Should the Committee assist one pauper against another? To avoid such embarrassing situations, the Committee attempts to reconcile the parties to some amicable settlement (as they try to do in all cases) rather than clash one pauper against another. It could be embarrassing for the Committee if it were to represent a poor client against another indigent person who has been granted legal aid by the Tanganyika Law Society's Committee for legal aid.

The Committee is deeply aware of its limited resources in terms of finances, personnel, and the availability of time. It is obvious that the

of Appeal (Amendment) Rules, 1981 (G.N. 65 of 29/5/1981) under which a person in receipt of legal aid from the Committee is exempted from paying court fees.

Committee is not expected to meet the enormous demand for legal services in the country. Consciously, therefore, the Committee takes those cases and matters involving large groups of people and/or those likely to have greater societal impact. Apart from class actions, actions having potential for law-reform get priority in the legal aid work of the Committee.

VI. Diversification of Legal Aid Activities

As we noted earlier, the Legal Aid Committee of the Faculty of Law is not, in its activities, restricted to litigational work. Members of staff who are registered advocates also administer oaths relating to affidavits and deed polls sworn by persons who may be unable to pay the appropriate fees in such cases. The Committee also plays an advisory role in some matters which may be brought before it by members of the public who are generally eligible for legal assistance. Usually the matters are non-litigational and they merely involve advising the applicant of the appropriate forum where he could present his complaint; for example, matters of pension or provident fund claims, maintenance claims against putative fathers, etc.

In an effort to diversify further its provision of legal aid the Committee launched a Kiswahili monthly bulletin known as "*HAKI*,"¹¹ the first issue of which came out in November 1981. Incidentally, production of the bulletin, as a result of the shortage of stencils and paper, had to be discontinued after nineteen issues. During its existence it was prepared and edited by members of the Committee in conjunction with some members of the teaching staff of the Faculty of Law and was distributed free of charge. Its circulation was restricted to persons who at one time or another had contact with the Legal Aid Committee and therefore constituted about 100 copies every month. Now, because of the possibility of obtaining paper and stencils, plans are underway to revive the bulletin.

HAKI was conceived so as to provide a forum through which, among other things, the Committee could publicise its activities and at the same time monitor the feedback from the general public as regards its impressions on the legal aid scheme. Thus the activities of the Committee, its failures, successes, and the problems it encountered were being explained in a summary form in the bulletin. The bulletin also gave a digest of cases which the Committee handled in the past. It contained a regular column captioned "Know Your Rights" in which particular aspects of

11. "*HAKI*" is a Kiswahili noun which means: justice, right. See: F. JOHNSON, A STANDARD SWAHILI-ENGLISH DICTIONARY 124 (1976). (O.U.P. Nairobi Reprint).

the basic legal rights of the citizen were discussed. To cite a few examples, the legal rights of a worker under employment laws, the rights of an individual upon arrest, search and interrogation by the police, the rights of tenants under the relevant law, and matrimonial property rights were highlighted by the *HAKI*. Basically the column attempted to cover those fundamental rights which an ordinary citizen ought to know.

In the column where the bulletin digested cases which had been handled by the Committee, an outline of the brief facts of the case, the contestable issues raised, and the decision of the court were given. The editors also included case notes if a new interpretation to the law affecting the ordinary citizen had been offered. This was significant in that several cases which had been handled by the Committee had reached the final court of appeal in Tanzania, whose judicial statements may be treated as settled law. Also there was a column in the bulletin where "subscribers," (these were ordinary peasants and workers) expressed their opinions on the administration of justice and the legal regime in general, and asked questions on various legal problems. The editors of *HAKI* attempted to reply to the questions that were asked. The Committee believes that the bulletin would have provided an effective medium for legal education to the section of masses who were able to read and write.

Between 22nd January and 1st April, 1984, the Committee ran a column entitled "Law and Society" in a government owned newspaper, *Sunday News*. The column was seen by the Committee as falling within one of its major functions, namely law-reform. The contribution to law-reform was done by the Committee through critique and exposure of abuses in the administration of law and justice. In view of the limited audience of "Law and Society," for a very small proportion of the Tanzanian population read the English-language newspaper, the column was presumably more suited for laying bare deficiencies in law and its administration than for legal literacy. Despite its popularity the column was short lived, for it was discontinued by the management of the *Sunday News* presumably for its critical stance. Incidentally, the articles which appeared in the column have now been edited by the Committee and published in book form entitled *Essays on Law and Society*.

With effect from August 1985, in its crusade for legal literacy, the Committee launched a column in a Kiswahili weekly, *Mfanyakazi* (The Worker) entitled "Sheria na Jamii," which means "Law and Society." It is hoped that this column, unlike its predecessor in the English-language newspaper which had a very limited audience and was largely concerned with law-reform, will go a long way in imparting to the public basic knowledge of the law and certain fundamental rights.

VII. Legal Aid Camp

An important innovation in the provision of legal assistance to the poor was initiated by the Legal Aid Committee of the Faculty of Law in 1984. This was the conducting of a legal aid camp in an upcountry region of Kigoma, which is about 1,200 kilometres from Dar es Salaam, in basically rural and semi-urban settlements. The maiden camp was conducted by all members of the Legal Aid Committee for the period 25th April, 1984 to 3rd May, 1984. The Government Regional Administration and the University of Dar es Salaam met travel and accomodation expenses for members in connection with the camp.

There were three major activities of the Legal Aid Committee during the camp. Firstly, there was a general information talk to members of the public on the objects and operation of the Legal Aid Committee. Secondly, there was conducted in Kigoma Town a law seminar which took several hours per day for the period 27th April, 1984 to 30th April, 1984. The seminar sought to impart some basic knowledge of the law and the legal system of Tanzania to persons of varying occupations resident in Kigoma and Ujiji Towns. The aim was to form a nucleus for some kind of "para-legal" personnel acquainted with some "first-aid" legal knowledge. The third major activity was the conducting of Legal Aid clinics in Kigoma, Ujiji, and Kasulu Towns. Under this head, legal advice was given to citizens who had legal problems.

The three activities outlined above were conducted in two Districts of Kigoma Region, namely Kigoma and Kusulu Distrists. In Kigoma District the camp was held in the major centres of Kigoma and Ujiji Towns. In Kasulu District, the District Headquarters are about 104 kilometres North East of the Lake-side town of Kigoma. Kiswahili was the medium of communication during the Legal Aid Camp.

VIII. General Information Public Talks

A total of six talks were held during the camp. The talks were held at the following centres: Kigoma Port (200), Kigoma Mnarani (80), Mwanga-Kigoma (90), Kigoma Town Centre (130), Kasulu Town (100), and Ujiji-Kigoma (98). The figures in the brackets indicate the estimated number of persons who attended the talks. The people who attended came from various walks of life: workers, peasants, unemployed, hawkers, petty traders, teachers and religious leaders (Sheikhs), secretaries, clerks, office attendants, party and government leaders. In all about 700 people attended the public talks.

The thrust of the general information public talks on legal aid and the Legal Aid Committee was double-pronged. The first aspect was

concerned with introducing the concept of legal aid to the public. Here the historical evolution of the legal aid schemes in the common law system from a purely philanthropic institution to an institution providing legal aid as of right for indigent persons was discussed. The second aspect was concerned with the legal aid schemes operating in Tanzania. The discussions stressed that the object of legal aid schemes in the country was to provide legal assistance to persons who were unable to pay the expenses of litigation.

The public was informed of the right of legal representation in murder and treason cases under the Legal Aid (Criminal Proceedings) Act, 1969. Under the Act the state provides counsel to defend the accused. Mention was also made of the existence of the legal aid scheme provided by a Committee of the Tanganyika Law Society.

Then information was provided on the legal aid scheme of the Legal Aid Committee of the Faculty of Law, University of Dar es Salaam. The type of legal aid provided and priority areas of the Committee were outlined.

IX. Law Seminar

The law seminar was held for three days between 27-30 April, 1984. The lecture method was used in conducting it. On each seminar day lecture sessions lasting for two to three hours were held. The purpose of the seminar was to impart some basic knowledge of the law and the legal system of Tanzania to those persons who were often or were likely to be approached for advice. Thus, Party secretaries and agents of the state (ward and division public functionaries) who were involved in the day-to-day civil life constituted a majority of the seminar participants. The participants exhibited tremendous enthusiasm for learning. A total of sixty participants attended the seminar.

Seven lectures were prepared for the seminar. Handouts prepared in Swahili for each of the lectures were made available to the seminar participants. The lectures were as follows:

- (a) Introduction to the Legal System of Tanzania.
- (b) The Law and the Citizen.
- (c) The Right to Bail.
- (d) Introduction to the Law of Marriage.
- (e) The Breakdown of Marriage, Division of Matrimonial Assets and the Rights of Children.
- (f) Introduction to Labour Law.
- (g) The Employees' Rights under the Security of Employment Act, 1964.

X. Legal Aid Clinics

A total of five clinics were conducted in Kigoma region during the legal aid camp. Within Kigoma District there were four clinics, each lasting about three hours. The fifth clinic which lasted for two hours was conducted in Kasulu Town. The total number of cases handled was twenty six; the breakdown for the two districts being 21 for Kigoma and 5 for Kasulu.

The types of cases dealt with included: Matrimonial Causes (4), Employment Causes (4), Criminal Causes (6), Miscellaneous Civil Causes (11). Quite a few cases were time barred and the clients were advised accordingly. A number of clients complained of delays in the proceedings and/or subsequent determination of their cases already filed in the courts of law. The usual advice was to lodge formal complaints with the relevant authority, either the court concerned or the Ministry of Justice. Assistance was provided by the Committee on how to draft proper complaints to the relevant authorities.

In a few cases the opening of civil suits or petitions was advised, presumably with the assistance of advocates. No litigational work was undertaken during the legal aid camp.

The occupations of the persons who came for legal advice at the clinics varied; among others there were drivers, petty traders, peasants, masons, clerks, teachers, office attendants, and security guards. For the purpose of the legal aid camp the pauper criterion for aspiring clients was waived.

XI. General Observations

As mentioned earlier, the language of the camp was Kiswahili. This presented some difficulty in articulating some of the legal concepts during the law seminar, the public talks, and at legal aid clinics. The greatest majority of the people, however, seemed to appreciate what the Committee members attempted to put across. The need to develop and be more versed with Kiswahili legal terms and expressions was thus underlined.

Mention must be made of the question/discussion sessions which followed every general information talk during the camp. Of noteworthy significance were the comments and suggestions made by the public, for instance:

- (i) Legal Aid Camps should be conducted more often.
- (ii) Legal Aid should be expanded to regions.
- (iii) The Government should be requested to provide financial assistance to legal aid schemes.

- (iv) Possibilities of introducing the teaching of basic legal knowledge in secondary schools should be looked into.
- (v) The "Law and Society" column of the *Sunday News*, which used to be run by the Legal Aid Committee, should not have been discontinued.
- (vi) "*HAKI*," the monthly bulletin of the Committee, should be revived and its distribution in the country expanded.
- (vii) Possibilities of disseminating legal knowledge by publishing simple legal books in Kiswahili should be explored.

The thirst for basic legal knowledge seemed quite great. However, some people expressed the view that the legal aid camp might not leave a significant imprint in the areas visited because the Committee was not in a position to make a follow-up. Thus the need to create a nucleus of "para-legal" personnel was underlined. It was hoped that the law seminar participants would create such a nucleus. A "law club" was thereafter formed by the seminar participants to play the role of a follow-up committee and a coordinating organ with legal institutions such as the Judiciary and the Ministry of Justice. The "law club" hoped to conduct a number of activities such as organising law seminars of the camp's type in future, inviting guest speakers like judges, magistrates, and senior police/prisons personnel to talk on legal affairs of public interest. The "law club" also expected to liaise with the Faculty of Law in the procurement of basic legal literature for the use of the club's members.

Some mention must also be made of two common legal problems of which the Committee became aware through public discussions during the camp. These were as follows:

- (a) Delays were rampant in virtually all levels of the machinery of the administration of justice.
- (b) Members of the public often experienced loss of legal rights through lack of legal representation and because of ignorance of knowledge of law or for failure to act within the legal limitation of time.

XII. Some Concluding Remarks

It should be clear by now that the societal context in which the legal aid scheme operates is a context of unequal opportunities of access to legal justice - the inequality being occasioned by the dichotomy between the rich and the impoverished. In such a context legal aid becomes a gratuitous institution which seeks to assist the poor. As we suggested earlier, legal aid schemes cannot resolve the contradictions of our time; they are at most mere palliatives. But this is not to say that they are

entirely unimportant. At one level legal aid at least ensures that a person does not lose his legal right for the sole reason that he lacks economic standing, that he is a pauper. At another level legal aid may provide immense opportunities for the awakening of ordinary people as to their legal rights.

XIII. Proposals for the Future

Given that the Legal Aid Scheme of the University of Dar es Salaam is run on a voluntary basis and is therefore unlike an institutionalised state scheme of the type which is found in a country like Nigeria, the Committee's plans for the future tend to have an *ad hoc* approach. In other words Legal Aid plans in the Faculty of Law have to take into account the demands of the regular occupations of the people who participate in legal aid activities, namely, lecturers and students. We have already seen the limited contribution which law students can make. As regards the lecturers, apart from the fact that not all members of the academic staff participate in the scheme, their involvement is often affected by the general shortage of staff in the Faculty and the consequent large teaching load they have to carry.

The foregoing constraints notwithstanding, the Committee's proposals for the future are largely centred on improving and subsequently consolidating the present coverage of legal aid activities. Two years ago the Committee envisaged the expansion of clinical services in the city of Dar es Salaam. Since August 1985, the Committee has been recording a two-fold increase in clinical services in Dar es Salaam. Following a successful legal aid camp in Kigoma Region in 1984, apart from exploring possibilities of a follow-up camp in the region, the Committee is investigating the possibilities of conducting camps in other regions of the country next year. The Committee considers legal aid camps as being particularly important in creating some form of para-legal nuclei which would sustain the "gospel" of the camps. As the experience of the first legal aid camp has borne no fruits in this aspect, the Committee is in the process of revisiting the approach it used in this respect with a view to improving future undertakings.