

## SHARING THOUGHTS

### The Early Days of the Faculty of Law, AAU

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#### **Introduction**

I have been asked to share some of my thoughts on the early days of the Faculty of law, Addis Ababa University. In December 2006, I was privileged to give a series of lectures at a number of the Faculties of Law in Ethiopia [Bahir Dar University, Gondar University, Hawassa University, Jimma University, Haramaya University, and Addis Ababa University]. I was able to reflect on some of the events of the early days when Addis Ababa University, Faculty of Law [which was then known as Haile Selassie I University] was just forming. It is my intention in these remarks to reiterate some of what I said during those lectures.

#### **The Period**

The Faculty of law, Haile Selassie I University was founded in 1963, shortly after the University College had been changed into a full University. It was reported that Emperor Haile Selassie desired to staff the new Faculty of Law from France. This was thought to be essential since the sources of the new Civil Code of 1960, the Penal Code of 1957, and the Commercial and Maritime Codes of 1961 were essentially French and Swiss law. However, at that time it was very difficult to find French persons who were able to teach in English. Harris Wofford, who had been a Professor of Law at Notre Dame University in the United States and who was working in Ethiopia at the time, intervened and approached James C.N. Paul who was a Professor of Law in the U.S. Professor Paul undertook the Deanship. He spent six years in Ethiopia, four as Dean of the Faculty of Law and two as Academic Vice President of the University. The rest is, as it is said, history.

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### **The circumstances that brought me to Addis Ababa**

Following my first degree, I was employed by an American company that had a series of international offices. They sent me to Stockholm, Sweden where I was the Special Assistant to the Managing Director of the company Standard Radio & Telefon, AB. By coincidence, the Managing Director, Frank Hammar, a telecommunications engineer, had been the head of the Swedish team that represented the Royal Board of Telecommunication which was the group that was installing and implementing telecommunications system in Addis Ababa for the Ethiopian Imperial Board of Telecommunications in the early 1930s. Thus my introduction to Ethiopia came from Engineer Hammar and his secretary who had both spent some years in Ethiopia. I began reading whatever I could find about Ethiopia, both because it was something I knew nothing about, and because it was a means of maintaining a decent level of conversation with my secretary and my boss.

Following my work experience in Sweden, I enrolled in a Faculty of Law, and when I was about to graduate, I found an employment notice informing me that the dean of the new Faculty of Law from Addis Ababa, Ethiopia would be coming to interview prospective law teachers. It seemed natural for me to put my name on the list, which I did, and shortly thereafter I was interviewed by Dean Paul and made an arrangement to join the faculty.

### **The academic staff**

The academic staff at the new Addis Ababa Faculty of Law, in the beginning was more or less American. Of course, there was the famous Polish Professor George Krzecunowicz who had come to Ethiopia after World War II from France. He was working for the Ministry of Justice teaching Diploma courses in law. When the Faculty of Law was founded he joined and served there for a number of years.

The American group who first came in 1963, was led by Professor James C.N. Paul as the first and founding Dean of the Faculty. He had been a Professor of Law in the United States at the University of Pennsylvania, School of Law. None of the other members of the Faculty who arrived that first year, other than Professor Krzecunowicz and Dean Paul, had teaching experience. Professor Bob Sedler had graduated from Law School in the United States a few years before, but he was serving in an administrative position as an Assistant to the Dean at Rutgers Law School. The others, Steve Lowenstein, Larry Church, and Owen Cylke were all fresh graduates of law school in the United States. The Faculty expanded the next year with the addition of one experienced law teacher who had been teaching at the University of Virginia,

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School of Law from 1944. The others were either recent graduates or in the case of Stanley Fisher, had been a Fellow in the Ministry of Cooperatives in Tanzania for one year before joining the Faculty of Law in Addis Ababa. In 1964 Michael Kindred and Harrison (Hap) Dunning joined the Faculty; they spent a year in France prior to coming to Addis Ababa. Art Goldblatt had spent a couple of years working as a lawyer and, as noted above, I was a new graduate the year that I joined.

In the following year a number of experienced people sponsored by their Governments joined the Faculty. There were two Belgians, Jacques Vanderlinden [with teaching experience] and Thierry Verhelst; a Finn, Zaki Sundstrom, from University of Helsinki; a Canadian Jean-Louis Baudouin from the University of Montreal; Mecktel Immenkotter from the University of Munich; Michael Topping from the University of Edinburgh and Professor Roland Stanger from Indiana University School of Law. There were others who did not have teaching experience. For example, there was Peter Sand from Germany, and Everett Goldberg and Anthony Ceratto from the United States

In the ensuing years, there were a number of other people who came to the Faculty of law on two-year contracts. The names of those individuals can be found in the early issues of the Journal of Ethiopian Law. For the most part, the individuals who were joining the faculty were products of the American system where legal education is a graduate course following a four-year undergraduate program.

### **Memories about students**

I have fond memories of students. There are a couple of things that are relevant when thinking about the students. First, many of us who were faculty members were about the same age as our students. This was especially true of the group who were military officers or had been selected for the military academies in the late 1950s; second, the number of students (initially) in each of the classes was small, approximately seventeen. However, at the beginning there was only one class and then one additional class each year. Since we were members of the faculty with the first intake of students, it was much easier to get to know the students; third, in my case, I was the Chairman of the Student-Faculty Relations Committee for three of the four years I was on the Faculty. This latter fact made it much easier for me to get to know the students as we worked together very closely in arranging various programs at the Faculty.

Of course, there were events and activities that were done in total partnership between the students and the members of the faculty. One of these was the

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Journal of Ethiopian Law. For each faculty editorial position there was a parallel student editor. The working relationship between the faculty and student editors was essential to the ongoing work of the Journal. I served as the faculty Case Editor of the Journal for three years. I am proud to say that all three of the parallel editors and I became very close. Even today, more than forty years after I last served as an Editor, I am still close to the two editors who have survived.

One of the major events that took place was a joint faculty-students “circle” trip to visit the provincial High Courts in Dessie, Mekelle, Gondar and Debre Marcos during a school holiday in 1967. The University provided us with a bus; fifteen students and six faculty members and their families made the trip together. There were some memorable events along the way, one of which was camping out in the royal *gibbi* in Gondar where the officials of the province provided a traditional feast. Many of us who were on that trip still talk about it.

Again, because of the number of students and the age of most of us, we developed a feeling of family all involved in the same enterprise. We all took the development of the Faculty of Law very seriously, and each constituency in its own way was working for its development. This was greatly furthered during the third year of the Faculty’s existence by the generous funding that was made available through the Ford Foundation. This external funding made it possible to do many things that would not have been possible before - more programs, more opportunities and therefore a much closer set of relationships among the persons involved.

### **The facilities**

The Faculty of Law was first given one of the buildings on the campus at Siddist Kilo which had originally been one of the Emperor’s palaces. The Emperor had given the palace compound to the University following the 1960 coup attempt which had taken place in the main palace building. He moved to a new residence in another location of the city. The facilities which housed the Faculty of Law were pretty much the same as they are today. The main building which contained three classrooms and an area for the administration was on the upper floor of the Duke of Harar’s palace. It was difficult to determine what many of the rooms had been used for prior to the time it became the Faculty of Law’s home in 1963. The ground floor focused around the library, although there were additional rooms there as well. In fact, my first office on the ground floor was a pink-tiled room that had formerly been a bathroom.

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As the number of full-time lecturers grew there were some renovations in the building to increase the number of offices, and additional buildings became part of the Faculty. For example, just behind the main building, on the side of Ras Makonnen hall, there was a small building which has been the “*buna bet*” [the coffee house], which every official building will have. The “*buna bet*” was moved to another location and it was remodeled to hold a number of faculty offices. Other buildings were also converted into office buildings and one also had additional classrooms.

The major find in the main building, which was full of rooms with rather nice paneling, was the location of hidden switches in the wall which opened up the walls and gave access to secret [at least we thought they were secret] alcoves and a number of additional bathrooms. I am sure that the original residents knew and had access to all these “secret” rooms while they were living there.

There have been promises of new facilities as the present faculty of law buildings are not in good shape. To date there has not been a new facility even though the number of students enrolled in the Faculty of law has increased more than ten fold from the original enrollment.

### **Quality and standards of legal education during the late 1960s**

The standard of legal education at the time was quite outstanding. There were reasons for the high standard such as quality of students, the vigor and commitment of staff, the student-staff team spirit, strong achievement motivation and sense of mission in the attitudes of students as would-be members of a newly emerging legal profession

In the 1960s there were not many secondary schools in Ethiopia. Many of the then school-aged children were not enrolling in school because they did not live in a place that was close enough for them to attend school without being away from their families for most of the school year. In the few schools available, there was full enrollment, but the number of children in any given age group was far reduced. For example, I once saw a statistic that only 6% of children in the first grade age group were actually enrolled in school. However, many children were older than that age cohort that would enter school in the first grade. It meant that the age cohort had a reduced number, but of the older more mature children much of the enrollment on the grade level was made up of older children.

I was curious about the English proficiency level of law students in Ethiopia in the 1960s although Ethiopia did not have English as its working language.

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I found out that the medium of instruction (until around 1964/65) was English starting from the 3rd grade. For example students used to learn all subjects (science, math, history, and other subjects) in English, other than Amharic and Morality (which was called *Gibre Geb*).

I was told that after learning English as a language only in the first and second grades, there were difficulties of comprehension for a year or two when all subjects were taught in English third grade onwards. However, students managed to come over the difficulties at young age probably because the best age to learn language is childhood. Students at fifth and sixth grade levels wrote and spoke English pretty well. For example, Eight Grade National Exam was subjective, i.e. essay type, and performance of students was remarkable. Starting from the first grade, students went to school the whole day, and the national exams at eighth and (since around 1964) at sixth grade reduced the number students along the way. This was repeated in the twelfth grade where there was a rather strict competitive exam to qualify for entrance into the single university. In retrospect, I believe that the screening system was too strict and elitist. Yet, it had the undeniable merit of preparing world class university students.

In the tenth grade, there were also a series of vocational opportunities available for students who had passed the two leaving exams, but who were either not confident of passing the 12<sup>th</sup> grade leaving exam, or who opted for an earlier career. Many students would switch tracks and enter teacher training or other vocation opportunities. There was also the opportunity after the eleventh grade to switch to the *Bede Mariam* Laboratory School which would guarantee entrance in to the University's Faculty of Education. This ensured a University degree, but it also meant a career of teaching in secondary school. I also remember that there was American Field Service (AFS) Program which allowed a number of Ethiopian students from all secondary schools to complete their twelfth grade in the US. They lived as a member of an American family for a year, and all Ethiopian AFS students were reputed for their competence, integrity, interpersonal skills and culture. Upon completion of 12th grade as AFS students, they joined Haile Selassie I University, based on their twelfth grade completion transcript from a US High School.

Once the students qualified for the University by passing the 12<sup>th</sup> grade leaving exam, they had to apply for a faculty. As the Faculty of Law was new and the profession of a lawyer or a judge was prestigious, the number of persons choosing the Faculty of law as a first choice was high. It ensured that the better students among those eligible would be chosen for the faculty of law.

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In addition, when the Harar Military Academy was opened in the late 1950s, the Emperor visited the then existing secondary schools and handpicked the best students for the military academy. Many of the students completed the academy and were officers in the Ethiopian Army when the Haile Selassie I University formally commenced operation. Many of the military officers who had been among the best students in their secondary schools then opted for a leave of absence in order to complete a university degree. Many of these officers [both Army and Navy] selected the Faculty of Law for their university education. There were also a number of officers who were pre-Harar Academy, who had graduated from Sandhurst (UK) and opted for legal education.

Thus, the quality of the students was very high whether the students came directly out of secondary school or through the military. Moreover, the initial classes had less than twenty students each, and were quite easy to deal with intellectually. As I noted above, the member of the teaching staff was also made up of rather exceptionally committed and capable persons. The mix of students and faculty thus allowed for an exceptional level of performance.

#### **The blend between the new Codes and Ethiopian traditional law**

The fact that there were differing legal systems, Code and traditional, was not obvious to me at the outset. As a new graduate of law school and a person who had never had prior experience with a legal system similar to the Ethiopian one, it appeared to me that what we were teaching, i.e. the Code law, was perfectly reasonable and caused no concern about conflicting legal systems. It did take me a while to understand that the vast majority of people in Ethiopia were not processing their legal transactions through the Codes. The Codes were the territory of the upper socio-economic classes and those individuals who had the benefit of western styled education. As many as 90% of the Ethiopians did not belong to the upper socio-economic class. It became obvious to me sometime during my second year of teaching that there was the entirely separate legal system through which most of the disputes in Ethiopia were being processed. I guess it might be fair to say that there was an urban law and a rural one. They did not seem to meet.

When I learned what the reality was, it became very important to me that I spend time working with the students, who were mostly products of the urban environment, to realize and comprehend that there was a secondary system of law existing in Ethiopia. The Codes did not take into consideration the living traditional practices that were very much a part of the law. However, many individuals of European heritage would simply dismiss the traditional systems as they existed in the countryside [and in the urban areas as well] as “custom” and not law. The definition of law can be manipulated so that only

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the rules and processes formally recognized by the government become part of the legal system. I felt that, although it was possible to write off all traditions as “customs” it was not a realistic way to deal with the rules and behaviors of a vast majority of the people.

I had hoped to bring some knowledge of the traditional system into the curriculum, which was set up to mirror a western styled course of study. When I taught Private International Law [also known as Conflicts of Law], I introduced a component which introduced the students to “internal conflicts of law” or the traditional system of dispute settlement. There were a number of different systems with which we could have become acquainted. I chose the Sunday evening dispute resolution sessions of a man called Basha Retta, a man possessed by the spirit *Adal Moti*, who held dispute resolving sessions at his compound which was just outside the small town of Ilulta, on the Dessie Road going north from Addis Ababa. I took a group of three students to the sessions and because it was located in an area without a road, we spent the night there on the Sunday evenings when we attended his sessions. By spending the night we were able to talk to many of the people who brought disputes to him in order to understand how they felt about his effectiveness, etc. Seeing how effective he was fortified my view that it was a mistake not to include the traditional system within the officially recognized legal system.

### **My memories about Professor René David**

I was fortunate in that following my time on the Faculty of law, I had several opportunities to meet Professor René David (of the University of Paris) who was the drafter of the Ethiopian Civil Code. We talked about many things, but seemed to concentrate our discussions on the existence of a parallel system of law [the traditional system] in Ethiopia. His position was very clear. He felt that the official law recognized in the Civil Code was the only law in Ethiopia. In fact, he repeated a number of times that the systems that existed outside of the officially recognized Code system were just custom. Many systems, he repeated, had components of custom. In fact, he noted that France or the United States had customary principles, but they were custom and did not attain the status of law.

I had just completed my studies in the anthropology of law when I had the opportunity to have these discussions with Professor David, and I tried to convince him that there were certain elements inherent in a definition of law which raised the status of custom to that of law. I also noted that where there were independent systems, as there were in various Ethiopian ethnic groups, it was much easier to recognize the rules in place as rules of law and not just rules of custom. I felt that the elements that were present in many of the sys-

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tems within Ethiopia created a parallel system of law, even if the official recognition was not accorded to them by the Government. Professor David simply reaffirmed his belief that there had to be official recognition by the government, and in the case of Ethiopia, since there was no recognition of the parallel system, (and that in fact, they were not system of law), there was nothing to recognize even if the government would do it. We respectfully disagreed with one another. I still believe that most of the systems of traditional dispute settlement in Ethiopia possess the elements which give them the force of law.

### **Attachments and looking into the future**

I wish I could say additional remarks with more depth and provide a deeper historical perspective on the history of legal education in Ethiopia. But the pages I am typing are getting long and I think I have to wrap up my thoughts. All of us who were in Ethiopia back in the 1960s and early 1970s are still very much attached to Ethiopia. For most of us, teaching in Ethiopia during our youth was not merely a job, but a noble mission motivated by a passionate involvement in legal education. According to recent research, maximum learning takes place in the course of teaching, and the years I was at AAU Faculty of Law was a great learning experience which nurtured the initial stages of my law teaching career and my exposure to the world beyond USA and Europe. I recall what one of my former colleagues said during a social event (Washington D.C., January 2006) while we were having tea with a team that came from Ethiopia for an exposure tour to US Law Schools. He recalled the extent to which he really missed the general knowledge, broader world outlook and sense of mission of his Ethiopian students (of the 1960s) after he left to the US for another law teaching job.

My optimism thus takes its root from my satisfaction in and appreciation of the earlier days of AAU Faculty of Law, and is reinforced by ongoing efforts toward benchmarking and enhancing standards of legal education in Ethiopia. A number of regional and private law schools have been established during the current decade. I have visited nearly all of them, and my impression is beyond the scope of this article. What I would like to underline at this stage is my concern about resources, admission policies, staff recruitment, staff development schemes, class size, and commitment of students and staff toward sense of mission. Law schools prepare members of the legal profession with the competence and integrity required for the responsibilities of the profession at national, regional and global levels, and our focus to quality legal education today pays-off hundreds-fold tomorrow. \_\_\_\_\_■

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