

EIGHTH ANNUAL REPORT FROM THE DEAN

1963 E. C. (1970-71)

Cliff F. Thompson, Professor and Dean

Faculty of Law

Haile Sellassie I University

A permissible presumption for a new dean is to recast events into historical trends. In my report last year, I did just that, envisaging that the Law School was entering a transitional period of great importance. I saw the Law School beginning the change from being a new law school with a wholly expatriate staff, to becoming an established law school with a predominantly Ethiopian staff.

This trend continues. The implications flowing from the transitional period will dominate annual reports from the Law School for many years to come.

But for this year my report will emphasize the activities we started or completed and I will reserve to next year an initial evaluation of the patterns which are emerging in the transition from a new to a maturing faculty.

I. Unusual Credits and Activities

I will begin by noting a number of outstanding events which were credits to the year, beyond the normal progress which has come to be expected of the Law School. In doing this, I want to emphasize that the record of our faculty now provides solid evidence for the claim that the "unusual" is normal. Our ability to innovate programs has been amazingly consistent over the past eight years.

International Jessup Moot Court Competition

The International Jessup Moot Court Competition selected our Faculty to represent Ethiopia, and Africa, in the competition held in Washington, D.C. This program was undoubtedly the outstanding academic and extra-curricular event of the year. Some sixteen students participated in the arduous competition from which *Hagos Haile* and *Yewondwesson Mekbib*, with *Bezawork Shimelash* as the alternate, emerged as our team. The final selection took place at two public moot competitions held in Law House and was judged by two panels of 9 judges each, including outstanding lawyers from the local and international community. Hard work showed its result. We were all impressed by the competitors. One of the nicest compliments came from a fellow student who had earlier been eliminated from the competition; he said, "They have certainly come a long way from where we all were!"

The value of the competition was not so much the substance of international law involved in the moot question, but the development of a lawyer's skill to see the legal issues and argue them cogently. The panels of judges did not allow the competitors merely to give prepared speeches; they interrupted the speakers with

difficult questions and expected prompt answers to the point. All of our competitors increased their ability in this area, and renewed the feeling in the Faculty that we need a more general and effective moot court program for all students.

In Washington, D.C. our students entered directly into the semi-final rounds, and immediately competed with top teams which had won in earlier elimination contests. We have had many reports on our team, and all of them agreed that the team was excellent. Based on the voting of the panels of judges, our team ended in the middle of the nine semi-final teams. More impressive, in the voting by all of the judges for the most outstanding speaker, Hagos Haile ranked 6th, and Yewondwossen Mekbib ranked 3d!

Associate Professor Ron Sklar organized the competition at the Faculty, and nearly all of the staff assisted in the judging and criticism. We are all pleased and proud of the result.

Conference on the Lawyer and Legal Education in Ethiopia

Senior Government officials concerned with the administration of justice, members of the Faculty of Law, and some outstanding private advocates, gathered for two days in May at the Galila Palace to discuss and argue points of common concern.

We had a fruitful beginning of discussions on topics such as the hiring and best utilization of our graduates, Ethiopian University Service, a curriculum better designed to meet the actual needs of the country, and research priorities. Professor B.J. Tennery, who organized the very successful conference, with financial assistance from an AID educational grant, has prepared a report which will be the basis of further dialogue.

Since the beginning of the Law School the Faculty has kept itself informed of the real problems in Ethiopian legal development by informal contacts and through some institutional ties such as the Board of the Journal of Ethiopian Law. The conference represents a step toward even more systematic developments such as the creation of some kind of institute actively involved in the areas where practice and academic interest clearly overlap. One such area is the Amharic-English-French Lexicon, which became fully revived in the Faculty this year.

Amharic-English-French Lexicon

About five years ago a start was made in creating a lexicon of legal phrases which were found in the Amharic, English, and French law materials which constitute Ethiopian major sources of modern law.

The need for such a work was obvious in order to speed and rationalize the creation of a national legal language. A concept such as "mortgage" had received several Amharic translations in official texts, and translations of the Faculty's English articles and books further proliferated the Amharic legal vocabulary.

Mr. Jacques Bureau, a French government volunteer to our Faculty, who is a lawyer capable in all three languages, completed a preliminary edition of a model Lexicon. His system permits cross-indexing in all of the languages. The mimeographed work is being distributed to departments or persons who have had a continuing interest in the project, such as the Amharic Department of the University and Dr. Berhanou Abebe of the Haile Sellassie I Prize Trust.

We could move forward from the preliminary edition by completing the indexing coverage of all legal phrases in the codes, and by attempting to limit the Amharic versions of *all* such phrases. My strong feeling, however, is that the next proper step is to have those who are daily involved in legal affairs to select those phrases *most* used, and begin with them in creating a dictionary of Amharic legal terminology. The scholarly development of a national legal language will in any event be a long and difficult process, and must therefore have a strong practical orientation from the beginning. In this regard it is worth mentioning the efforts of Mr. Peter *Winship*, who has compiled English-Amharic phrase equivalents relevant to his commercial courses as an aid to developing clearer and thus more useful Amharic legal concepts.

The Northwestern-HSIU Law Faculty Research Project

The project involved intensive field-work for six months on research topics of importance to Ethiopia. It was not a new project at the Faculty, but this past year was only its second trial since 1968-69, and we added the important element of involving our students in the writing as well as the research for the completed articles.

Again expertly directed by Associate Professor *Beckstrom* of Northwestern University Law School, the project teamed three Northwestern law students and three students from our Faculty with scores of student-researchers from the School of Social Work and our Faculty. The research was interdisciplinary, and focused upon the socio-economic-political and legal aspects of juveniles in trouble, and upon the economic potentials and problems of traditional commercial institutions in the Mercato.

The preceding Northwestern-HSIU project resulted in three published articles, and our expectation is that the same quality will be achieved this time. More important, I believe our students have had a superb opportunity to receive the benefits which arise from close professional supervision in the intricacies of field research into often sensitive topics.

CALD Contribution to ECA Human Rights in Africa Conference

In the spring of 1971, the Economic Commission for Africa sponsored a conference on Human Rights in Africa. The International Legal Center, New York (a grantee of the Ford Foundation) provided travel grants and other support, and the Center for African Legal Development of our Faculty provided a series of background papers and documentary support during the conference. Dr. *Thierry Verhelst*, Co-Director of the Center, organized the assistance, which included useful papers by Professor *Anne-Marie Millette* and Mr. *Zygmunt Plater*.

In the course of the Conference, the Center was able to provide the kind of help which justified Professor *Jacques Vanderlinden's* original conception of the Center as an African based center of documentation on African law. When, for example, the conference delegates expressed particular interest in African developments in the concept of an Ombudsman, the Center was able by the following day to distribute to all delegates the relevant African legislation.

I believe it is a tribute to our Center that it was requested by the Secretariat of the E.C.A. during the conference to serve as rapporteur for the proceedings. Those proceedings, with the background papers and selected legislation and a bibliography, will be published by the Center.

Ethiopian - Sudanese Law Student Exchange Program

More than five years ago there was an exchange of a law student from our Faculty to the University of Khartoum, which sent one student here. The idea lapsed, but not because the exchange had been unsuccessful, and Dean Saeed Mohammed Ahmed El Mahdi and I exchanged considerable correspondence in order to revive it. Student Ahmed El Gassim of the University of Khartoum Law Faculty was a visitor at our Faculty during the second semester 1970-71, and although he was initially appalled at the students' rooming accommodations, he fit in well, found friends and participated in our academic and social life.

A purpose of the exchange program is the benefit to the individual students who experience the cultural and other differences of a country foreign to them. But the more ambitious purpose is to add, even if in a small way, to the long-term good relations between the two neighbours, Ethiopia and Sudan. As the exchange program continues, more and more law graduates, many of whom will rise to positions of national importance, will know their neighbouring country not as a strange land, but as a country of colleagues and friends.

Special Lecture Series

The Center for African Legal Development, the Research and Publications Committee and the Journal of Ethiopian Law sponsored a series of special lectures. With the aid of a French government grant, Professor *Gonidec* of the University of Paris was with us for nearly a month. In addition to public lectures on the theme of legal and political integration in Africa, he taught the Introduction to Public Law course for the entire period of his visit. Professor *Garretson* of New York University, who was a legal advisor in Ethiopia from 1949 to 1959, gave several public lectures recounting the role of law in the post-World War II developments. Professors *Meagher* and *Lee* of Tufts University, and Professor *Fatuos* of Indiana University gave a seminar on law and development. Professor *Yash Ghai*, formerly Dean of the Law School at the University College in Tanzania, gave a faculty staff seminar on recent developments in East African public law. Professor *Singer* of Alabama University (a former member of our Faculty) presented his findings on attitudes to legal change in Ethiopia. Professor *Sundstrom*, of Uppsala University (also a former member of our Faculty) gave two public law seminars; Mr. *Ilyal* spoke on aspects of the class struggle involved in land reform in Tanzania; and *Ato Paulos* spoke on land reform in Ethiopia. Mr. *Abrous* discussed the role of the OAU in regard to the problem of the sale of arms to South Africa.

Every year we have had the opportunity to hear outstanding speakers from outside of the Faculty, but I feel that the series this year was exceptionally rich in talent.

Faculty Finances and Administration

In this report, my next general category is "Usual Credits and Activities," and I would prefer to be able to say that the favourable financial situation with which we ended the year was "usual" progress!

Unfortunately, an unusual amount of my own time was consumed in the effort to handle the difficulties arising from the phase-out of support from the Ford Foundation.

The two most successful results were that the University budget began to cover the cost of several secretaries essential for our publication program which had previously been carried on our Ford Foundation budget, and the Ford Foundation approved a research grant for this year, and a staffing and research grant for the two-year period beginning September 1971, at the level of our requested needs.

The grant from the Ford Foundation had seemed assured in April of 1970, but financial and policy reassessments in the Foundation resulted in cuts of 50% in the grant to the University, including the Law Faculty. We are grateful that in the end the grant to the Law Faculty was restored to meet our needs. We can now turn to the stimulating effort of making the best use of these funds, and preparing a program tailored to the inevitable decline in outside financial support.

On the administrative side, we were very fortunate to have Mr. Jon Eddy join us as Assistant Dean. In a short time he was able to restore order to the areas which fell loose after the departure of our assistant dean in mid-year last year. He was able, for example, to create a complex schedule which made it possible for Law to be the only faculty to offer to all withdrawn students an overload structure as an alternative to a second summer make-up session. We are sorry that Mrs. Nellie Okello, an LL.B. graduate of the University of Tanzania, had to return home to Kenya, for she gave able assistance in administration and legal writing.

II. Usual Credits and Activities

There were a number of noteworthy developments in the activities which I believe have come to be associated with normal progress in the Faculty.

Last year I emphasized the difficulty and depression which can arise from the necessity of new staff finishing projects by staff who have departed, rather than having full time for their own research or innovation. The need for such sacrifice by staff is undoubted, but remains a heavy burden nevertheless. That a sufficient number of staff continued to give of themselves in this way was marvelous. Most of the backlog from the past was removed, providing a clear stream and encouraging prospect for next year.

Research and Publication

Assistant Professor Katherine O'Donovan and her Research and Publication Committee this year sent to press the second volume of Paul and Clapham's ETHIOPIAN CONSTITUTIONAL DEVELOPMENT. This long-awaited work had passed through several editors and helpers, organized locally by Katherine and urged forward from abroad by Jim Paul—he had become as anxious as an expectant father about this volume, and we are all pleased by the excellent result. Katherine's committee also published Professor Krzeczunowicz's fine book on THE ETHIOPIAN LAW OF EXTRA-CONTRACTUAL LIABILITY, and began the printing of the CONSOLIDATED LAWS OF ETHIOPIA (Ewing, General Editor). This massive work, comprising more than 1000 pages in both the Amharic and English versions, has been a major institutional effort of the Faculty for more than five years. For several years the Faculty has announced its imminent appearance, but the announcements reflected optimism rather than reality. It is a pleasure to report that the first page proofs, at least, are now a reality.

Professor Vanderlinden, a former member of our Faculty, completed and published in Paris an introduction to modern Ethiopian law in French.

Two more issues of the JOURNAL OF ETHIOPIAN LAW also appeared during the year, Volume 6, Number 2 and Volume 7, Number 1. Major articles in these issues discussed in depth the following topics: divorce in urban Ethiopia (by *Beckstrom*); Ethiopian lower courts (*Geraghty*); Ethiopian labour relations (*Morehous*); and criminal procedure for juvenile offenders in Ethiopia (*Fisher*).

During the past three years, Mr. Zygmunt *Plater* has been primarily responsible for the production of the JOURNAL and the work of the student Editors, and we give him a sincere vote of thanks upon his final departure from Ethiopia. His departure will leave a large gap in our publications program, and it will be important for the Faculty to consider thoughtfully how it should be filled.

Activities of the Full-Time Teaching Staff

In addition to taking normal teaching loads, members of staff participated in many useful activities.

Abiyu Geleta - gave occasional legal advice on request by the Business Vice President of HSIU, and continued research on an introductory book on Ethiopian property law.

Frank C. Ballance - Chairman of the Law Faculty Curriculum Committee which completed a major study of the curriculum; produced three volumes of teaching materials for Law and Development course; completed article, "Zambia and the East African Community," to be published by Syracuse University; member of the Academic Commission.

Berhane Ghebray - Director of Law Faculty's sub-Degree programs (see description below); member of the University Faculty Council and University Extension Committee; member of Vice President's *ad hoc* Committee on "salaries and fringe benefits;" continued research on taxation law.

Jacques Bureau - completed preliminary edition of *Amharic-French-English Lexicon*.

Jon Eddy - Assistant Dean, responsible for a wide range of administrative duties, and Acting Dean in Dean's absence. Member of University bodies: Deans' Council; Faculty Council; and Admissions Board. Member of Law Faculty committees: e.g. Academic Commission; Student Relations; book selection for Law Library. Began research on article "Product Liability under the Ethiopian Code," and preparation of teaching materials for Obligations course.

George Krzczunowicz - published book, *The Ethiopian Law of Extra-Contractual Liability*; sent for publication, article "The University College Period in Ethiopian Legal Education" (*JEL*), and article, "The Law of Filiation in Ethiopia" (Institute of Ethiopian Studies). Continued research for monograph, "Formation of Contracts in Ethiopia." Started: drafting Legal Quiz samples for the *JEL*; reviewing (with Verhelst) the East African Restatement volumes for the *JEL*; working on manual, *The Ethiopian Law of Damages*. Completed two volumes of teaching materials and instructor's questions on "Comparative Tort" and "Damages and Unjust Enrichment." Member of several Law Faculty and University committees; reported on Ethiopian law to the International Academy of Comparative Law; held workshop meetings with members of the legal profession.

Franz Lang - published article, "Legal and Political Aspects of Establishing a Modern Local Government in Africa" (*Afrikaforum*); translated Sundstrom's article on our Law Faculty from English to German for publication abroad; started article, "Judicial and Quasi-Judicial Protection Against the Executive in Africa." Translated German legal texts into English for Administrative Law course.

Robert Melin - started teaching materials collection for Evidence course; helped prepare basis for introduction of Ethiopian Legal Assistance Clinic; conferred with government officials about amendments to Draft Evidence Code.

John Messing - completed revision of four volumes of teaching materials and instructor's notes on Transnational Transactions; completed two volumes of teaching materials for Natural Resources course; member of the University Faculty Council. (John is leaving the Faculty next year and he will be greatly missed; if every staff member could produce teaching materials of the quantity and quality of his, we would be considerably improved. He will also be missed in Faculty Council, where his precision and persuasion made him one of the Council's most formidable members.)

Anne-Marie Jacomy-Millette - published book on Treaty Law in Canada (Paris); published article on Ombudsman in Africa (*Revue Général*); member of Center for African Legal Development team for ECA Human Rights Conference; assisted organization of Jessup International Moot Court Competition for the Law Faculty; helped organize Law School public lectures; prepared teaching materials for African Institutions course.

Katherine O'Donovan - Chairman of the Law Faculty's Research and Publications Committee which published two books and sent two more to press, and assisted publication of the *JEL*; Articles Editor, *JEL*; completed teaching materials for Introduction to Private Law; started teaching materials and an article on Ethiopian Family Law. Member of several Faculty committees, including the Academic Commission.

Zygmunt Plater - Chairman of the Journal of Ethiopian Law, which published two issues and sent a third to the printer. Member of the Center for African Legal Development team for the ECA Human Rights Conference and completed paper on African Constitutionalism for the conference. Member of HSIU Press Board and correspondent for Ethiopia for African Law Reports.

Ron Sklar - chief organizer of the Jessup International Moot Court Competition for the Law Faculty; member of several Faculty committees including Academic Commission; continued writing article about *dohus eventualis* in Ethiopian Criminal Law and began related article; continued to prepare supplementary teaching materials for Penal Law Course.

B.J. Tennery - organized and co-ordinated "Conference on the Lawyer and Legal Education in Ethiopia" held May 21-23 and participated in by senior government officials concerned with the administration of justice, members of the Law Faculty, and outstanding private advocates; began research for monograph on "Ethiopian Employment Law;" founding member of "Ethiopian Industrial Relations Research Association;" member of the Law Faculty Curriculum Committee and Student Relations Committee.

Thierry G. Verhelst - Co-Director, Center for African Legal Development, including assistance to ECA Conference on Human Rights (see description above); advisor for establishing course for lay magistrates in Rwanda; organized law and

development public lectures at Law Faculty; published two articles on development law (Louvain University and Boston University Law Journal); continued preparing teaching materials for Land Reform Course.

Peter Winship - originated course on Law and Economic Regulation and completed teaching materials for it; translated and began annotating background material on the Commercial Code; started article on background of the Commercial Code. Member, Law Faculty Curriculum Committee, and responsible for coordination of Senior Research Writing program; member, Faculty and University EUS Committee.

Yohannes Heroui - continued research on Ethiopian civil procedure.

Staff Members on Scholarship abroad

Fasil Nahum - completed requirements for LL.M. program at Yale University Law School and received "excellent" rating from his advisor.

Worku Tefara - completed requirements for LL.M program at Northwestern University Law School and received "outstanding" rating from his advisor.

Semereab Michael - continued research at University of Brussels for thesis on the Law of contracts; I had not yet received a report from his advisor at the time of writing this report.

Extension Program for Sub-Degree Candidates

Dr. Berhane opened two new courses in the second half of the year. He initiated a new Diploma program for 200 students after screening over 650 candidates, and after arranging two special examinations to be given by the University's Testing Center. He also opened a new special course for about 40 Parliamentarians. In both courses a new syllabus was created, and eight excellent teachers were employed.

A fascinating result of the examinations administered by the Testing Center was the proficiency distribution of the candidates. The analysis of the examination divided the mature candidates into three major categories: those with a Grade 12 education; those without that but who had graduated from the Law Certificate Program with good cumulative grade averages; and those without either of the preceding, but with long experience (10 years or more) in law related jobs. The exams were in Amharic, and basically tested reading and comprehension ability. Would you, as reader, like now to guess which groups scored best? Of course, there were individual differences, but as groups they quite clearly fell into an order of relative ability. The ranking, beginning with the best scores, went in the exact order of the groups as already noted. Such testing, and we intend to use again the expert and cooperative services of the Testing Center, will provide useful clues about what should be the quantity and quality of our sub-degree teaching materials and curriculum.

The Extension teachers for 1970-71 were: Ato Ababya Abajobir, Ministry of Justice; H.E. Ato Muhammed Abdurahman, Commissioner of Pensions; Dr. Assefa Habte Mariam, Legal Adviser, Ministry of Commerce, Industry and Tourism; Ato Assefa Liben, Judge, High Court; Dr. Bereket-ab Habte Sellassie, Legal Adviser, Ministry of Interior; Ato Schul Michael, Assistant Attorney General; Major Shimelis Metaferia, Adviser, Ministry of Defence; Ato Zegeye Asfaw, Legal Adviser, Ministry of Land Reform and Administration.

Curriculum and Academic Standards

Mr. Frank *Ballance's* Curriculum Committee concluded a year of debate and discussion by producing a report in April which was to be the basis of full Faculty consideration. The committee emerged with some stimulating ideas, and we all regret that the disturbances at the University in early May and the many crisis meetings effectively postponed discussion until next academic year. I regret that Frank is leaving Ethiopia, and will not have the opportunity to follow-through on the ideas proposed.

By September of 1971 we also will have an evaluation report on the Faculty by Professor Yash *Ghai*, formerly Dean of the University Law School in Tanzania, and now Research Fellow at Yale University Law School. He is known for his imaginative and critical mind, and I asked him here because I feel we are at a stage where we need an evaluation by an outstanding outsider with those qualities.

We have also written to our staff members who are currently abroad on scholarship, and we have already received long and useful replies. At the Conference on the Lawyer and Legal Education in Ethiopia we received many curriculum suggestions from government officials and private practitioners, and we will be continuing the dialogue with them. We also intend to involve our students and former students in the discussions. It should be a lively year, and we hope a fruitful one as well.

My own concern continues to be less with the particular nodes of knowledge represented by the subject-matter of individual courses—though these too require careful thought—but more with the skills which a graduating lawyer must have and which I feel we still handle inadequately. I define these skills broadly. They include the ability to identify the issues in human problems, to isolate the relevant social and other factors to project the consequences of different solutions, and to make the most effective resolution of the problems. The student must also be given greater opportunity to develop his powers to argue persuasively, both orally and in writing, and in particular to be able to draft alterations in the law or new laws which truly reflect the goals desired.

At the end of the year, before the final examinations, I took a confidential and anonymous student poll on each teacher. The student responses seemed frank and fair, and I believe our teachers will benefit from both the compliments and criticisms when I discuss them with them next September. The overall responses in most (but not every) case were gratifyingly in praise of the teachers, but in all cases the trends in the answers will be useful to our teachers, and therefore beneficial for the students.

This year there was another boycott of classes during the final weeks of the second semester by students from all faculties, which resulted in an early closure of many class-year units in the faculties. As a wandering alien, it is not easy for me to judge the political advantages the students seek to gain by boycott of classes and related activities. But as a teacher who has taught in Sudan, the United States, and in Zambia as well as in Ethiopia, I have no doubt that academic standards suffer by the repeated interruption of the learning process. One aspect of the problem particularly disturbed me. There seemed to be an increasing number of students who wanted to believe that any staff member who talked about academic standards was indulging in an attack on student political activity. In part, they are right. A few staff members in the University have used loose talk about academic standards to discourage any activity other than studying. This is wrong. But it is equally

wrong for some students to use loose talk to deny the advantages of maintaining high academic standards.

Whatever the future may bring for Ethiopia, there will be an overwhelming need for well-trained doctors, engineers, and lawyers—the social engineers. Our graduates will be unable to fulfill their responsibilities to the people of the country if standards are lowered and easy grades are handed out after every crisis. The Law Faculty intends to do all it can to make its students into skilled graduates, and it intends to keep its standards high for the benefit of the students and those they will eventually serve.

Our students who excelled in the international moot court competition against schools from many places are an example of the standard our Faculty can reach—and I say “our” purposely, for *all* of our students are capable of high achievement. But achievement requires good teachers and good students (and these we have), *and* the ability to work hard. Hard work is not natural or easy to anyone; all persons, students included, must develop the capacity to work long and well. I believe staff and students must together come to a consensus on how we can further develop the skill of hard work—for it is a skill, just as cogency and perceptiveness of thought are skills.