

SOCIALIST ETHIOPIA'S ACHIEVEMENTS AS REFLECTED IN ITS BASIC LAWS

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The Revolution - A Turning Point

Ethiopia is one of the oldest states in the world. It has an impressive and uninterrupted history of independence going back to the millennium before Christ.¹ Thus it conspicuously stands out among the African and developing countries, many of whom came into existence very recently by hurling themselves out of the jaws of colonialism. On every other count, however, Ethiopia has remained an emerging nation and shared the same unhappy pattern of socio-economic underdevelopment which is the trademark of the lot. Ethiopia, in spite of its long history of independence, in spite of the proud and fierce spirit of its people and in spite of its potentially rich material resources has unfortunately been a country whose people have remained imprisoned in poverty and backwardness. And the feudalistic system, state structure and administration which burdened the Ethiopian people as a yoke for so long is basically accountable for such state of affairs. Thus, this was the main reason for the eruption of a belated Social Revolution in 1974.

A Social Revolution is not an event, it is a process and at that a long and difficult one. This Revolution has had several antecedents in peasant uprisings, student demonstrations and worker struggles, lately particularly in the 1960s and 1970s. And at the time of the writing of this paper, the revolutionary process has only begun. It will be quite some time before one can properly assess the re-

sults. However, even at this early stage certain achievements stand out as being significant. And the modest intention of this preliminary inquiry into Ethiopia's historic progress since the Revolution is to point out *prescriptive* highlights of achievements as reflected in some of the basic laws.

It is possible to examine Ethiopia's achievements through the basic laws prescribed, and present a fairly accurate and focussed picture, because Ethiopia's Revolution has been a legal revolution. The phrase "legal revolution" may need clarification as to the sense in which it is here employed. First, the phrase, "legal revolution" is intended to convey a technical meaning. A major characteristic of the Ethiopian Revolution has been its employment of the machinery of the law in bringing about fundamental social changes. No basic change has been implemented without corresponding legal prescription.² However, the term "legal revolution" is also intended to convey a much deeper substantive meaning. The Revolution was an eruption caused by the accumulated overall injustices of a mainly feudalistic system of life. Its aim was the attainment of a new justice. Justice, not in an individualistic, chancy and tangential manner; justice, not in the sense of privilege for the few in the upper class, but justice for the masses and in a systematic and broad sense; a social justice that would alter previous unfair relationships and substitute them with humanistic ones based on an appreciation of the

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1. General reference works on Ethiopian history include C. Conti Rossini *Storia d' Etiopia* (Roma, 1923); J. Doresse, *L'Ethiopie* (Paris, 1958, English translation 1959); E.W. Budge, *A History of Ethiopia, Nubia and Abyssinia*, 2 Vols. (London, 1923); and specific works include M. Abir, *Ethiopia: The Era of the Princes* (London, 1968); S. Rubenson, *The Survival of Ethiopian Independence* (London, 1975); Matheme Selassie Wolde Meskel, *Zekre Neger* (Addis Ababa, 1948); and Tekle Tsadik Mekuria, *Ye Etyopya Tarik Ka-Aise Libnedingel Eske Aise Tewodros* (Addis Ababa, 1956).
2. Obviously the monarchical constitutional order could not, particularly at the initial stage, be turned into a socialist order by purely legal manoeuvres alone. The mobility of power dynamics was frozen in the interest of the actual power-holding class.

full worth of man. Incidentally, the broad social justice would inevitably provide a new emancipated individualistic justice. Since law at its best, and particularly socialist legality, always aims at the achievement of the highest and most complete justice; the two - law and justice are fundamentally intertwined. And that is the reason for characterizing the Ethiopian Revolution as a legal revolution.

The Revolution has made possible the issuance of sweeping substantive legal prescriptions geared toward improving the conditions of the Ethiopian masses as well as the establishment of appropriate channels of decision-making. And these have been accomplished through basic laws. These basic laws are an aggregate of legal norms intended to express the will of the Ethiopian masses and to regulate the social relations for the realisation of socialist rule and so constitute the foundations of the Ethiopian social and state system.

The reference to basic laws in some minds conjures up the idea of a constitution, and legalistic minds may then begin to wonder about the relationship of basic laws to the constitution. When a constitution is understood to mean the formal fundamental law of the state, which usually is a single written prescription governing state principles, then Ethiopia does not as yet have a *de jure* constitution. This however should not lead one to the fallacious conclusion that Ethiopia therefore does not have a constitution. For Ethiopia presently has a *de facto* constitution. And the various basic laws which will be examined are of constitutional significance and as such constitute constitutional acts.³

These basic laws have to be understood as pre-constitution's constitutional acts. Moreover, it would be logical and appropriate to divide them into two. The first type are provisional constitutional acts.

These are temporary stop-gap constitutional acts necessarily enacted to do away with the previous archaic constitutional order and to provide for new substantive constitutional prescriptions as well as channels of decision-making and procedure. Since they are provisional in nature, a new socialist constitution could replace them when the political conditions for a *de jure* constitution are present. So these provisional constitutional acts will not be dealt with in this paper. It suffices to note that Proclamation No. 1 of 1974 and its subsequent amendments are good examples of provisional constitutional acts.⁴

The second type are more permanent constitutional acts. Referring to these as permanent constitutional acts does not mean there may not be further developments and changes both in substantive and procedural aspects. But a new socialist constitution would only re-enforce and enshrine the basic principles embodied in them. It is this second type that will receive our attention.

Five such basic laws have been purposely selected, as they clearly fall into the category of constitutional acts. These are the Proclamation to Provide for the Public Ownership of Rural Lands; the Proclamation to Provide for the Organization and Consolidation of Peasant Associations; the Proclamation to Provide for Government Ownership of Urban Lands and Extra Urban Houses; the Urban Dwellers' Associations Consolidation and Municipalities Proclamation; and the Labour Proclamation.

Rural Transformation

It is fashionable in some intellectual circles to speak about "land reform" and "land reform laws" and to lump together experiences from different societies as if there is only a difference in degree of reform and not in nature. To refer to the Public Ownership of

3. It should be pointed out that there are basic policy declarations in addition to basic laws. The National Democratic Revolutionary Programme is the most important policy declaration issued. It is intended to serve as a comprehensive guideline to the Revolution, but is outside the scope of this paper dealing with basic laws.

4. Provisional Military Government Establishment Proclamation No. 1 of 1974, *Negarit Gazeta* 34th year No. 1. Note that Proclamation no. 1 of 1974 and its amendments have been incorporated into the Redefinition of Powers and Responsibilities of the Provisional Military Administration Council and the Council of Ministers Proclamation No. 110 of 1977.

Rural Land Proclamation⁵ as a land reform proclamation is not only a misnomer; it is doing injustice and disservice to the Proclamation. What the Proclamation prescribes is not a reform but a total alteration of the previous rural order. It provides for a new beginning on a new slate. Thus this Proclamation undoubtedly emerges as a landmark of the Revolution one of the most basic constitutional acts the Revolution has given birth to.

The legal document strikes deep into the basis of the feudal structure and gives feudalism a fatal blow by nationalizing all rural lands and bringing to an end feudal relations of production. In rural Ethiopia, land constitutes the most precious commodity, a *sine qua non* for life and dignity. In the language of the preamble to the Proclamation, "a person's right, honour, status and standard of living are determined by his relation to the land." Moreover, rural Ethiopia can appropriately be referred to as the proper Ethiopia, as it constitutes 90% of Ethiopia.

It is here that feudalism has had its deep-seated roots. An agrarian economy based on exploitation of man by man; a private ownership of land in the hands of the very few and passed on from generation to generation, and a sophisticated multi-layered and multi-faced system of tenant-landlord relationship which had made possible the systematic flourishing of economic, social and political mass injustices. Thus it was imperative that agrarian relationships be fundamentally altered. As the preamble to the Proclamation amply demonstrates, what was needed was both to destroy *in toto* the feudalistic agrarian system and to build up in its stead a new order. This new order would have far reaching economic, social and political consequences. It would be the basis for equitable distribution of land; for providing

meaningful work for all rural people; for releasing for industry human labour suppressed in the system; for establishing self-administration; and thereby building up a system aiming at social justice.

The broad strategies for achieving these results were simple. Firstly, as of 4 March 1975, all rural lands were nationalized and made the collective property of the Ethiopian people;⁶ no physical or juridical person had the right to buy, sell or transfer rural land, as henceforth it was not a private commodity. Secondly, rural land was to be distributed to any Ethiopian citizen willing personally to cultivate it irrespective of race, sex, language or religion. No plot of land was to exceed 10 hectares; the size of a plot depending on local conditions and the productivity of the land, with the further aim of making the plots as equal as possible.⁷ Thirdly, the duty of implementing the Proclamation was given to Peasant Associations formed at local (800 hectares), county (*Woreda*) and provincial (*Awraja*) levels.⁸

The Public Ownership of Rural Land Proclamation provided for various detailed strategies, including provisions concerning non-privately-owned communal and nomadic lands,⁹ which need not be taken up in this paper. It suffices to point out that the responsibility for forming Peasant Associations was given to the Ministry of Agriculture and Settlement in cooperation with the Ministry of the Interior.¹⁰

With reference to Peasant Associations, the next legal document of constitutional significance and one closely connected with the Rural Land Proclamation is the Peasant Associations Organization and Consolidation Proclamation, issued in December 1975.¹¹ This Proclamation as the title suggests, goes further in strengthening and consolidating the Peasant Associations. It also creates

5. Public Ownership of Rural Lands Proclamation No. 31 of 1975, *Negarit Gazeta* 34th year No. 26.

6. Art. 3 (1-2) of the Rural Lands Proclamation.

7. Art. 4 of the Rural Lands Proclamation.

8. Arts. 8-11 of the Rural Lands Proclamation.

9. Arts. 19-27 of the Rural Lands Proclamation.

10. Art. 12 of the Rural Lands Proclamation.

11. Peasant Associations Organization and Consolidation Proclamation No. 71 of 1975, *Negarit Gazeta* 35th year No. 15.

service cooperative societies, agricultural producers cooperative societies, women's associations and peasant defence squads. Moreover, it deals in greater detail with peasant associations' judicial tribunals. The latter had already been created by the Rural Land Proclamation. The function of settling land disputes, whether new or pending, had been placed outside the jurisdiction of regular courts and handed over to the judicial tribunals of peasant associations at *Woreda* and *Awraja* levels.

The organizing and developing of various cooperatives at different levels are intended to lay down the foundation¹¹ for socialist agriculture in which the peasantry would enjoy the benefits of joint labour.¹² Thus the institution of agricultural cooperatives has a deep significance on the social, economic and political levels. It should also be pointed out that, since the management of cooperatives of various types and at different hierarchical levels is in the hands of the peasantry itself, these institutions are means not only of economic development but also serve as schools for participation, learning self-administration and solving local problems.

The establishment of women's association is based on the recognition of the fact that the organized participation of women in the Revolution is a *must* for socialist achievement. Women in the Ethiopian Society have for too long been second-class citizens. The situation has not only to be remedied but altered. Women have to take their rightful place as co-equals in the political, economic and social development of the nation. The establishment of women's associations with legal personality and broad powers and duties is hence the beginning of a social revolution within the Revolution.

Finally, the Peasant Associations Proclamation establishes defence squads both for the protection of the peasants and peasant

associations, as well as for the protection and further development of the Revolution. The defence squads have the duty to police their respective localities. The defence squads are also the nucleus of the militia and have a very important responsibility in protecting the Revolution both from within and from external enemies.

Urban Transformation

The next Proclamation of constitutional significance is the Urban Land and Extra Houses Proclamation of July 1975.¹³ This Proclamation is complementary to the Rural Land Proclamation. What that Proclamation did to the feudal and exploitative rural relationships, this Proclamation does to urban feudal and exploitative relationships. All urban lands, as of the effective date of the Proclamation, are nationalised and made the property of the Government.¹⁴ Thus no person, physical or juridical, has the right to buy, sell or transfer urban land, as urban land is no more a private commodity. The Proclamation abolishes landowner-tenant relationships. It also empowers the responsible Ministry to grant to Ethiopian citizens the right of possession of urban land up to 500 square metres for the purpose of building dwelling-houses as well as the granting of possessory right to urban land for business as needed.¹⁵

With respect to houses, no person or family is allowed to own more than one dwelling-house, and all extra houses automatically revert to the Government.¹⁶ Moreover, as the Government becomes the only institution with the right to rent houses for residence and business, rents are fixed.¹⁷

The proclamation establishes urban dwellers' cooperatives. And that brings us to the Urban Dwellers' Associations Consolidation and Municipalities Proclamation of October

12. Arts. 6-7 of the Peasant Associations Proclamation.

13. Government Ownership of Urban Lands and Extra Houses Proclamation No. 47 of 1975, *Negarit Gazeta* 34th year No. 41.

14. Art. 3 of the Urban Lands Proclamation.

15. Art. 5 of the Urban Lands Proclamation.

16. Art. 11 of the Urban Lands Proclamation.

17. Art. 20 of the Urban Lands Proclamation.

1976.¹⁸ This Proclamation provides urban dwellers' associations formed at various hierarchical levels with legal personality. It also provides the *Kebele*, Higher and Central Urban Dwellers' Associations with detailed powers and duties, with respect to administering the affairs of urban dwellers as well as protecting and consolidating the Revolution. The urban dwellers' associations have policy-making committees, public safety committees and judicial tribunals.¹⁹ The policy-making committees have the overall administrative powers to safeguard and develop the interests of urban dwellers and the Revolution. The public safety committees have not only police duty for the respective areas but also serve as pools from which the militia can be drawn. The judicial tribunals handle questions arising from urban land and houses as well as minor civil cases and petty offences.²⁰ The respective Ministry in cooperation with central municipality authorities naturally provides the necessary guidelines and supervises the work of urban dwellers' associations.

Labour Transformation

The last basic law to be discussed is the Labour Proclamation of December 1975.²¹ This Proclamation affirms a number of basic socialist socio-economic principles and establishes legal structures and arrangements through which the worker's rights and conditions of work can be protected. The preamble as a matter of first principle states that work is a matter of honour for every human being and unequivocally points out that every individual has "the right and the obligation to work". The Proclamation recognises the worker as the source and foundation of all production and therefore considers it crucial to improve his standard of living by protecting him from exploitation by properly protecting his safety and health as well as by fair remuneration. The Proclamation is also mindful of providing every Ethiopian

citizen with equal employment opportunity, without discrimination on basis of race, tribe, sex or religion. To this effect the Proclamation considers it essential to assess the country's manpower resources and its effective utilization, aimed at expanding employment opportunities and thus eradicate the unemployment problem.

The basic objectives the Proclamation sets out, include the building up of socialism, and to this effect raising the political consciousness of the worker as well as making him effectively participate in the development of the country, the Proclamation properly asserts, can be achieved only when the workers are organized in trade unions and systematically pursue their objectives in line with socialist principles. Trade unions are democratic institutions established hierarchically. Workers, as defined by the Proclamation may become members of trade unions, and undertaking with a minimum of 20 workers would be a place for the establishment of a trade union. Workers in small undertakings with less than 20 workers may join others in similar undertakings and form general trade unions. These grass-roots general trade unions and trade unions are then grouped by economic sectors to form industrial unions, of which there are nine at present. Finally, industrial trade unions come together in one all-embracing organization to form the All-Ethiopian Trade Union. The All-Ethiopian Trade Union represents all workers in Ethiopia and represents them in international workers organizations.²²

The Proclamation with its objectives of participation of workers in management, enhancing efficiency and the creation of harmonious labour relationship in view, creates a sophisticated legal machinery and various institutions for the achievement of its objectives. These include establishment of trade dispute committee in each undertaking with not less than 10 workers, on a 50-50 basis membership from labour and

18. Urban Dwellers' Associations Consolidation and Municipalities Proclamation No. 104 of 1975, *Negarit Gazeta* 36th Year No. 5.

19. Arts. 8 and following of the Urban Dwellers' Associations Proclamation.

20. Art. 11 of the Urban Dwellers' Associations Proclamation.

21. Labour Proclamation No. 64 of 1975, *Negarit Gazeta* 35th year No. 11.

22. Arts. 49-52 of the Labour Proclamation.

management. Such trade dispute committee is a first-instance tribunal with respect to individual trade disputes in its undertaking and has a conciliatory role with respect to a collective trade dispute.²³ At other levels, the Proclamation provides for labour divisions of the Awraja and High Courts.²⁴ It also deals in great detail with minimum labour conditions, with collective agreements, with contracts of apprenticeship and employment and with unfair labour practices.

By proclaiming the dignity of labour and labourer and by setting objectives geared to building socialism through labour in the regime of laws, the Labour Proclamation achieves constitutional significance and therefore can be classified as a constitutional act.

From Prescription to Implementation

The basic laws examined are prescriptions of constitutional significance. As already noted, a *de jure* constitution would basically enshrine the basic principles embodied in them once it materializes. Moreover it is obvious that these basic laws are symptomatic of a legal revolution of great import for the Ethiopian masses. However, the need

for continuous strategies of implementation of prescriptive achievements is an ongoing problem to be tackled. In other words, in the final analysis prescriptions would have to be effectively implemented. Implementation is no easy task. It requires a breakdown of the problems into components that can be effectively tackled. Moreover, these require executive acts at different hierarchical stages. Thus, at the central level, more elaborate prescriptions that so-to-say put flesh on to the bare bones of the generalized prescriptions would have to be issued. These are usually issued as legal notices. Then there is the question of detailed procedures at various levels that have to be issued in order to translate prescription into reality and assist the carrying out of actual work of implementation. Moreover, the process of implementation may throw light on to problematic prescriptions which may not produce the desired outcome and hence may need to be reexamined. Thus the whole process of implementation can excellently serve as a feed-back mechanism for improvement. And relevant research would arrive at definitive conclusions by focussing on the whole continuous process, including both prescription and effective implementation.

23. Arts. 79-88 of the Labour Proclamation.

24. Arts. 95-100 of the Labour Proclamation.