

“In The Beginning”: Reflections on the Early Years of the Addis Law School

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Introduction

This is not a detailed history of the beginning of the Law School. Rather it is, primarily, a discussion of the principles on which it was founded. I believe those principles may still be of interest, even as the school now confronts very serious pressures and problems which affect its ability to meet its obligation to train professional lawyers dedicated to the rule of law. As will be evident from what follows, the Law School, during the decade 1963-74 was a collective enterprise. Its successes were due to the combined efforts of a dedicated, international faculty and our students of this period. I remain forever grateful to these colleagues and friends. Indeed, their continuing affection for the law school is now evident from the fact that, on the occasion of the school's 40th anniversary, we (the faculty of 1963-74) joined in a project to create a Fund, now totaling around \$125,000, to help the school develop teaching materials and research in the fields of human rights law and the rule of law – subjects which, I hope will remain basic goals of legal education in Ethiopia, even in times of adversity.

Launching the Enterprise

During the years 1960-62 I visited Ethiopia several times, first on my own initiative as an Eisenhower Fellow commissioned to study the development of legal education in Anglophonic Africa, and then on missions for the Peace Corps. These trips inspired a continuing affection (despite my ignorance) for Ethiopia and a deep interest in the steps then underway to codify and “modernize” its legal system and, in light of these changes, the need to develop a university law school.

During this time I corresponded with Don Levine (then working on his masterpiece, “Wax and Gold”.) He encouraged my interest, and I wrote a short paper expressing my thoughts which I sent to a few acquaintances in Addis. Indeed, I learned that, upon the founding of Haile Sellassie University, the Emperor (as Chancellor) had pressed for the immediate creation of a law school; and, in 1962, despite my slender qualifications, I was invited by Lij Kassa Wolde Meriam, then President of HSIU, to become its founding Dean.

Three factors led to my acceptance. First, my wife, Peggy, was enthusiastic about the project and about living in Ethiopia and the chance to expose our young children to a different culture. Second, I was granted a generous leave of absence from the University of Pennsylvania (where I was a tenured Professor). Third, the Ford Foundation indicated a willingness to help the enterprise - though no final commitment had been made.

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We arrived in Addis in June 1963. The rain season had begun. Lij Kassa was out of the country. The university lacked an Academic and a Business Vice President to advise me on what to do. There was neither a university budget nor a plan for the new Law School. The “Duke Bet,” designated as the home of the Law School, was locked, and apparently, the key was lost. There was no furniture, not even a chair, in that strange structure – (the Duke *Bet*), nothing but a substantial amount of dust. When I sought help to get the building in shape I quickly learned about the concept of “*ishi negga*.”

Despite this discouraging beginning, the picture soon brightened. The Ford Foundation quickly responded to my urgent plea for an immediate, substantial grant to help pay for the moving expenses of the initial faculty who I had already recruited; for the cost of starting a library, for a mimeograph machine and for other essential items. Lij Kassa returned and, at my request, invited the Emperor to dedicate the Law School as soon as we could put the Duke Bet in operation. In preparation for that occasion, there suddenly appeared an army of cleaners and carpenters and others carrying the furniture we needed. Books from the University Library were temporarily “borrowed” to fill up our empty shelves and make us look like a “going concern”

The first faculty contingent also arrived – an energetic, gifted group who, along with our memorable, scholarly friend, George Krzeczunowicz, supplied the hard work needed to make plans and start operations in just a few months. Together we made some decisions based on our basic assumptions about university legal education in general, and the principles we should follow to implement them in Ethiopia. I hope these early decisions may still be of some interest today.

Some Initial Formative Decisions

1. Determining the Size and the Academic Standards of the Law School

In 1963 there were, in Addis, less than a dozen, young Ethiopian graduates from foreign university law schools – notably a group from McGill University in Canada, plus a few, rather exotic, older professionally trained foreign judges and lawyers. Especially in light of the “modernization” of Ethiopian law, the need for many more professionally trained judges, government lawyers, and advocates was obviously urgent.

In theory, a case could be made for us to recruit a large entering class. However, several considerations led us to limit enrollment. We determined that entering students should have completed at least two years of university education with a superior academic record. That meant we had to lure good students away from other units of the university – an outcome which did not sit well with these faculties. Accordingly, our entering class was limited to about 30 – although that number grew in subsequent years when we began to recruit full time students from the military, police and various government offices.

We also believed a limited enrollment was particularly important at this time to establish appropriate academic standards. The determination of appropriate standards for any professional institution should depend on goals sought-- on the knowledge and skills required for its graduates. We resolved that graduates of the Law School should be at least

as well prepared, professionally, as the Ethiopian LLB graduates from foreign universities – such as the McGill group.

This called for rigorous classroom instruction of a kind which was new to most students, notably because some faculty used “Socratic” methods of teaching. Our program also called for the immediate preparation of teaching materials grounded in Ethiopian law that challenged students to use that law (and, where appropriate, relevant foreign sources) to resolve hypothetical cases and other problems related to the interpretation and implementation of this new body of law. Our program also called for intensive “hands on,” individualized instruction in legal analysis, drafting and advocacy—training which seemed particularly important because there were no other institutions to provide practical, post-degree training.

In light of the above, we lacked faculty resources to teach a large student body. Rather, it seemed appropriate to adopt the “elitist” model described above. Certainly there are “large scale” university programs of legal education in other countries, notably in many civil law jurisdictions; but the legal systems of these countries also provide extensive, specialized post-degree training before university graduates can become notaries, advocates, judges, law teachers or other kinds of professionals. Later, when I became Academic Vice President of HSIU, I did argue that it was very important for the government to create regional universities in order, *inter alia*, to expand opportunity for legal education where there was also an urgent need for professionally trained lawyers.

However, that step would obviously depend on the adoption of new, long term government policies and budgets not then planned. In any event, I continue to believe that a country lacking a well trained judiciary and an independent, self regulated legal profession can ill afford to sacrifice quality for quantity. The effective development of the rule of law, as the foundation of any credible legal system, requires competent, dedicated and independent judges and lawyers. Legal education committed to training them should never be provided “on the cheap,” nor overwhelmed by numbers.

2. Outreach: Part Time Legal Education

At the outset we decided to establish an evening, part time program designed to provide an opportunity for LLB training to experienced, educationally qualified, government officials and military and police officers. We believed this program would serve important public needs, and certainly these older students would also provide us, a foreign faculty, with greater knowledge of Ethiopian circumstances relevant to our mission. Too, the evening program provided important contacts and links with the world outside the university, and, ultimately, a loyal and supportive alumni body. Indeed this program did prove to be a very valuable asset.

Entry requirements, academic standards, the curriculum, course materials and examinations for the evening LLB program were the same as those established for full time programs. No “mercy” was shown to those who fell behind - no matter how highly placed in government they might be. The popularity and success of the evening LLB program soon led to decisions to establish Diploma programs modeled on the LLB course but with

more liberal standards and a modified curriculum. One specialized diploma program was developed in cooperation with leaders of police to provide much needed training for their officers.

Before the founding of the law school, there also existed, thanks to the initiative of the McGill trained lawyers, a “Certificate” program which was taught in Amharic and designed to “familiarize” advocates, judges, and members of Parliament with the new codes. It was quite popular, and when the program was put under the aegis of the Law School this gave it added prestige, and linked it to our “outreach” mission. These programs provided, an interesting, if limited, practical response to local needs, and they ultimately provided us with a large, diverse alumni constituency - and friends.

Thus, the Addis Law School became something more than a traditional “Faculty of Law” It was a “sui generis” center for legal education. Indeed we even began to reach out further when we encouraged students, with the cooperation of the Ministry of Information, to present radio programs in the form of discussions about Ethiopian law, aimed at informing the general public about their rights and obligations. These efforts proved to be quite popular, attracting large audiences.

3. The Curriculum, Course Materials and Faculty Loads

Planning a curriculum is a subject that often consumes much faculty time. However the first step is to determine the principles and objectives which we thought should guide the development of our program – not on the details of particular courses. For example: (i) In view of the recent “modernization” of Ethiopian law it seemed important to devote time to the history and evolution of law and legal institutions in other regions, particularly in Civil Law and Anglo-American countries, and then to the problems of “transplanting” those systems to other regions of the world, notably Ethiopia. Too, the students should be introduced to modern philosophies of law (e.g. Austinian vs. Sociological), and to political theories particularly relevant to constitutional development. (ii) As noted above, some courses should emphasize methods of interpreting, legislation, critiquing legal doctrines and resolving hypothetical cases. We also thought that an additional objective should be to provide close supervision individual student work requiring research and writing different kinds of legal documents. (iii) The teaching of most courses should be based on faculty prepared teaching materials designed not only to teach Ethiopian law but to relate this “law in the books” to Ethiopian circumstances – and which included illustrative problems of interpretation and implementation of the codes and other legislation for class discussion. Preparation of these materials and revisions of them based on classroom experience and further research, required considerable faculty time – and, thus, teaching loads limited to one subject area. In light of the above, the organization and detailed content of each course should be left to the discretion of individual teachers – not dictated by the full Faculty.

4. The Journal of Ethiopian Law and its Relation to the Educational Program

During 1963, we also developed plans for publishing the bilingual JEL twice a year. Overall supervision was entrusted to an editorial board composed of both Ethiopian lawyers and judges and members of our faculty. The first two issues were produced in

1964. The Emperor, in an “Introduction” (which I helped to draft) emphasized the need for scholarly commentary and publication of significant, well reasoned court decisions in order to promote knowledge of Ethiopia’s new legal system. His remarks helped to “legitimize” the Journal and to encourage its circulation. From its founding until it ceased publication in the 70’s; the JEL did provide scholarly resources to the profession, faculty and students.

The JEL also provided a valuable kind of educational experience to the many students who volunteered time to work as “Assistant Editors” and as translators of sophisticated articles written in English and vice-versa for court decisions written in Amharic. Many students also became co-authors (with faculty members) – or authors in their own right – of articles. Other articles were written by distinguished members of the judiciary and government lawyers. Further, the JEL served an “outreach” function. It was well received by many advocates, judges and in government circles as well. In 1965, we invited readers of the Journal to become “patrons” (financial supporters) of it – promising that their names would be published in each issue. This effort proved successful during the Journal’s early years. It helped to expand its readership as well as pay for its publication costs.

5. The Library

The importance of the Law Library to the quality of legal education need hardly be elaborated here. During the early years, we were fortunate to enjoy considerable assistance from our Ford Foundation grant and many foreign donors to help build a sizeable foundation collection.

Departing from my basic assignment in regard to this article, I offer here some personal thoughts (for whatever they are worth) on several additional principles which, I think, should guide the ongoing development of the library, especially in light of the important “role” now assigned to the Law School to develop graduate level education. Advanced legal education and, indeed, the intellectual development of new faculty members, should encourage study of political and legal theory, comparative law, the history of the transfers of legal systems into non-western countries, the concept and importance of the “rule of law” in both the private and public spheres and the problems of implementing these concepts in large socially diverse countries like Ethiopia.

The collection should also aid exploration of theories about the different roles of law in promoting different concepts and strategies of development .e.g. the problems of state-managed development; the history of harms done to people by different kinds of state-managed, large scale infrastructure projects, (such as the building of dams) which have often resulted in the uncompensated, displacement of the rural poor and pastoral people; the roles of human rights in promoting “people” and “poverty” centered “human” development; the problems of creating an effective body of foreign investment and “private” international law; the importance of environmental law in Ethiopia and the development of effective methods to enforce it. Fortunately much of the literature on these new subjects now exists in electronic form.

6. Ethiopian University Service

This university wide program requiring students to serve, in rural areas – in various fields such as education, public health, agriculture, and local government - was initiated in 1967. I strongly supported it, believing that it would provide a valuable educational experience – notably because most of our students came from Addis or Asmara, and many were rather unfamiliar with the cultural and social diversity of the different rural areas of their country where most Ethiopians lived. Some of the faculty writings, based on field research, reported in the appended faculty bibliographies underscore this point.

It was my hope that, through the EUS programs, our students could be attached to local courts and governments in rural areas. Learning about the administration of law at “grass roots” levels was, and perhaps still is, an important dimension of legal education, and a subject, which, absent research materials, could not be taught in the classroom, nor by professional work in Addis. A good example of this is learning about the problems of enforcing women’s rights, as codified by the UN Women’s Convention (ratified by Ethiopia long ago). Alas these hopes for developing “grass roots” education were never realized. The Ministry of Justice “drafted” all our EUS students into government service in Addis – not in the Provinces. However, today, in light of development programs, emphasizing small – holder agriculture, and important human rights considerations concerned, e.g. with women’s right and “participatory development” it seems to me that knowledge of “grass roots” legal development is still very important.

Interestingly, a group of able senior law students challenged the legality of the EUS program in the High Court, claiming that the University Charter did not authorize it. Despite the able arguments of the University’s experienced counsel, and to my dismay (albeit tempered by admiration for the skills shown by our students), the High Court, in an opinion rendered by its foremost foreign judge, agreed with our students; he decided that the EUS was not an “academic” program and thus not authorized by HSIU’s Charter. Although I disagreed with his opinion, I included it in my constitutional law sourcebook as a valuable illustration of doctrine of “ultra vires”, then a rather novel concept. The students abandoned their case when the University appealed the High Court judgment, permitting the program to go forward until it was terminated with the coming of the revolution.

7. The Development of Professional Standards and Ethics

In the ‘60s, advocates and judges (with a few exceptions) had no formal training in professional organization, responsibilities and standards. There was no bar association, no code of professional ethics, nor an effective system of oversight and discipline. The concept of an independent, self regulated profession, an essential component of “rule of law,” was lacking.

Accordingly, we took steps to develop knowledge of, and pride in, professionalism in the Law School. We requested the first entering class to form their own professional association and draft a body of rules establishing an Honor System – a code of governing the taking of exams, the use of the library and the preparation of student papers, and other conduct. This was a novel enterprise – unknown then, I believe, to Ethiopian education.

To its credit, the Law Student Association (LSA) also produced an annual “Law Day” program, which entailed both a guest lecture by a distinguished government official and a student presentation featuring, in a drama format, discussion of some novel legal issue - for example: a parliamentary debate on the constitutionality of the Penal Code’s authorization of corporal punishment for theft; a depiction of a labor dispute which followed the history of a worker’s case from a hearing and decision of the Labor Board through appellate review.

Another notable achievement of the LSA was the project to raise funds to construct “Law House” a building designed to provide for student managed programs and receptions and living quarters for senior students. Towards this end, starting with a gift of \$10,000 from the Emperor, the LSA raised more than \$80,000 during the period of my Deanship. The building was completed after I left Ethiopia. Alas, after the Derg took control of the campus, “Law House” was “expropriated” by the University and used for other purposes - an unlawful act which, I suppose, will never be redressed.

8. External Evaluations and Consultation with Outside Experts

During our second year, we arranged for an international team of distinguished law professors to visit the Law School, evaluate our progress and submit a report to the President. The team was requested to visit classes, meet with individual students, faculty members and university officials and the Minister of Justice. They also were invited to review the curriculum, teaching materials and examination papers and assess the quality of these.. Thereafter, these evaluations occurred on a regular basis, and I think it is fair to say, that we were regularly given high marks.

I believe that assessments, and visits and consultations with individual foreign experts, are useful ways to review the development of new programs, particularly in some particular, novel subject area – such as “law and development.” These visits can also be useful to bolster the Law School’s standing within the university and the outside legal community – and to boost faculty morale. Moreover, especially in times of adversity, guest experts are usually quite willing to write strong reports to the university and the government emphasizing the need for more resources to support programs which are essential to maintain the academic quality of the Law School, and to condemn policies which undermine its quality. Reports by internationally recognized experts can also provide useful support in approaching donors for help in meeting specific needs.

9. The Faculty as a Key Resource

The quality of any academic institution is measured by the quality of its faculty - not only the quality of its classroom teaching, but also, the quality of its scholarship, notably (in Ethiopia) as reflected in the production of articles and teaching materials. During its formative years, the Law School was fortunate to have an international faculty who were both productive scholars and stimulating teachers. We were also, as noted, fortunate to be able to limit most faculty teaching loads to one subject area. A survey of the publication records of these colleagues attests to their extraordinary energy—not only in the preparation

of course books and texts but in the many JEL articles they wrote during their stay in Ethiopia, and, indeed, in the many, very useful articles which they wrote after they left the country. I believe that no other law faculty in Africa (or elsewhere) has left such an institutional legacy - such valuable resources for the teachers who succeeded them.

Some Concluding Observations

Much of the above account has focused on decisions made during time when I was Dean. But I wish to stress that the Law School continued to prosper during the able Deanships of my successors: Deans Quintin Johnstone and Cliff Thompson. They, too, enjoyed the support of a wonderful, productive faculty. Indeed, I hope my admiration for the efforts of these colleagues has been made very clear. Today we are all part of a close-knit tribe, which maintains an ongoing interest in the progress of the Law School.

I also remain very grateful for the generous support provided by the Ford Foundation and particularly to Frank Sutton (Vice President of the Foundation) who convinced the Foundation's trustees that support for legal education in Africa, and particularly in Ethiopia, was a worthy cause. In the '60s, other major, international donors thought that funding legal education was a "luxury", irrelevant to the country's "development"; but Frank believed that the building of a rule of law was indispensable to building both a sustainable democratic system and development policies which are accountable to the people.

In the '70s, in Africa, brutal military regimes, such as the Derg, seized power in many countries and attempted to destroy the rule of law in them. In the United States, a strident group of academics ridiculed the Ford Foundation's legal education assistance programs of the '60s, especially the Ethiopian program. We were told that we (the faculty who went to Ethiopia) were deluded "legal missionaries," that our assumptions about the importance of the "modernization" and the rule of law were based on ignorance of lessons taught by the "sociology of law" (an amorphous discipline which enjoyed popularity, if not much intellectual coherence, in those days). In Europe, Marxist legal academics portrayed us as "bourgeois enemies of socialist development" These were discouraging times both in Ethiopia (suffering under the Derg) and for many of us, the "deluded legal missionaries"

However, today, all this criticism of our efforts seems ill-informed, to say the least. International donors have now changed their tune. US AID and the World Bank support of legal education and rule of law projects in Ethiopia are examples of a change of heart which is better late than never. A large body of scholarly literature (based on considerable experience) stresses the importance of developing a "rule of law" and human rights law, as preconditions for building a sustainable system of democratic governance. Clearly, too, the rule of law is also essential to promote foreign investment and maintain accountable governance.

This new interest in support of legal education may, hopefully, be useful in helping today's Law School plan its ongoing development. In my view, planning legal education for the future should start by identifying basic principles and goals and then identifying particular programmatic decisions to implement them, and then estimating some of the costs required.

Perhaps the preceding discussion of the planning process we followed during the very early years of the Law School may be of some value to planning today for the future. Of course, presently, this exercise may seem academic, due to current policies of the government and the university. Yet it still may be useful for the Dean and faculty to articulate a plan showing what must be done to provide the kind of “quality” legal education urgently needed, in light of experience and present national aspirations. Too, a well thought out plan may provide an effective way to seek donor support in a time of donor interest. Donors should be pressed to support programs identified by the Faculty as a result of its careful planning, not programs cooked up by the staffs of donors.

Finally, let me come back to the faculty of the first decade. All of us are today, truly appreciative of the wonderful opportunity we enjoyed: to have lived in Ethiopia and learned something about its unique history and its cultures, and to have served the Law School during its exciting founding era.

Certainly my family and I still look back on those years with nostalgia. My work with the Law School provided the most challenging and rewarding period of my professional career, which has spanned over 50 years. The Law School will always remain dear to my heart.