

INTRODUCTION

Haile Sellassie I University - Northwestern University
* Faculty of
Research Project

Articles by John H. Beckstrom, Thomas Geraghty, and Lynn G. Morehouse
by *Quintin Johnstone**

Law and legal institutions are not ends in themselves but means to the better ordering of human affairs. The test of the value of a law is its impact on the society to which it is meant to apply. If that impact is beneficial, the law is of value; if the law has no effect or an adverse effect, it is meaningless or worse and may need to be repealed or its administration drastically altered.

The same law can be enacted in two countries and have very different consequences in each. Merely because the language is identical gives no assurance of identical results. Impact of a law is dependent on a host of cultural factors that can vary greatly from one society to another. Anyone familiar with such fields as comparative constitutional law or the history of received codes should be well aware of this fact.

Although different persons may have different standards as to what is good or bad and this may lead to different conclusions as to a law's merits, an essential prerequisite to adequate evaluation of a law is knowledge as to its impact. It makes little sense to apply moral standards unless one knows what he is applying them to.

A law's impact can be guessed at and those highly familiar with the society, especially if working in fields touched by the law in question, can often make guesses that have considerable validity. But the more systematic and comprehensive the impact study, the more accurate the evaluation. Also the more objective the investigators, the better. Too often, in both developed and developing countries, hunch and intuition by biased individuals are the sole sources of reliance in evaluation of a law's impact.

Similar to the study of a law's impact is the study of some segment of a society devoid of applicable law to determine if a law should be enacted. Facts are analyzed to ascertain needs and then estimates made as to what various possible laws might achieve in filling these needs. Impact studies of prospective laws, however, usually lead to more tenuous conclusions than similar studies of actual laws, as in the prospective kind of investigation there are more hypothetical as distinct from existing relationships to be analyzed. But even studies of actual laws are often accompanied by much of this tenuousness, for they commonly include consideration of the desirability and probable effects of proposed amendments or repeal.

What does all this abstract talk have to do with the three studies that these comments of mine are supposed to introduce? Simply this: Professor Beckstrom

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and his associates have tried to evaluate some important Ethiopian laws and legal institutions by objectively studying their impact. Unlike many legal scholarship projects theirs have not stopped with a statutory text or its interpretation by courts or commentators, but have sought to determine how laws and legal institutions actually work. This, I submit, is not only more difficult but much more important than summarizing or glossing a text. They have come out of the monastic otherworldly retreat of academics into the real world of present day Ethiopia. They have dealt with the legal process at its applied level, the level that counts, the ultimate testing ground of merit.

Before Professor Beckstrom came to Ethiopia I had been told by some of my expatriate colleagues that for many decades legal scholarship of the kind he proposed could not be done effectively in developing countries. Legal scholars didn't know how; expatriates, even if they could learn the methods, did not know enough about the societies and were unfamiliar with the local languages; there were no foundation studies on which to build; no one would finance the studies; informants would not talk; and results would not be published. Would it not be better, they said, to peruse another text and prepare another gloss? I submit that those who worked on the studies reported here, the three principal authors and the thirty or so Ethiopian law students who did most of the field work, have proven these doubters wrong. The impact of important laws and legal institutions has been studied, important issues have been inquired into, a great deal of data has been assembled, knowledgeable Ethiopians have cooperated and the studies are being published.

It is no surprise that these studies were done at Haile Sellassie I University. It quickly was apparent to me upon my arrival in Ethiopia that the spirit of independent and productive inquiry was deeply ingrained in the University and that objective research on Ethiopian problems was a responsibility that the University increasingly was expected to assume in the best tradition of universities all over the world. I hope these studies are the forerunners of others of a similar nature. I hope too that as Ethiopians become better established as full-time teachers they will take over the direction of such studies. The high level of performance shown by the students who assisted in the studies indicates that law-trained Ethiopians have a particular aptitude for field-type inquiry.

As the social science side of the University develops it might be mutually advantageous for joint impact study research plans to be worked out by the Law Faculty with departments in the social sciences and schools of administration. Each group has something to learn from the others and cooperation should accelerate the systematic accumulation of knowledge about Ethiopia necessary if the University is to fulfill its research obligations to the nation. Integrated research programs also should enable better materials to be prepared for new and expanded course offerings about Ethiopian government and social controls so badly needed in the Law Faculty and other University faculties as well. Joint research efforts might even facilitate genuine interdisciplinary courses mixing students and teachers from different parts of the University, including law, and making meaningful the interdisciplinary proposals that currently are such a fad among top University administrators.

Research is expensive and although money is no guarantee of success it is essential to major research efforts. Haile Sellassie I University is indebted to the Council for Intersocietal Studies at Northwestern University, and particularly to Professor Richard D. Schwartz, its Director, for funding these studies by Professor Beckstrom and his associates. We can but hope that other funding bodies will provide assistance for similar HSIU Law Faculty research projects in the future.