

## AFRICAN LAW BOOKS IN 1969 AND 1970

Survey by A. Arthur Schiller

There has been the usual spate of new books devoted to the field of African law during the past two years. What is perhaps noteworthy, in addition, is the number of reprints of older, out-of-print, volumes which have been published. Since there is no current bibliographical listing of new publications in the field, it is proposed to note in this Survey the items which have come to my attention, up to January 1971. The listing by no means purports to be complete but it is hoped that no item of any significance has been omitted. Some thin volumes or pamphlets of purely local interest have been excluded. The items are presented in the sequence of materials adopted in the classification used in the African Law Digest (see 6 ALD, p. 79).<sup>1</sup>

Bibliography (010)

Three extensive bibliographies of African law have been promised for many years: (1) that being prepared by the Restatement of African Law Project of the School of Oriental and African Studies, University of London, under the general editorship of A.N. Allott;<sup>2</sup> (2) that being undertaken by the Center for African Legal Development within the Faculty of Law, Haile Sellassie I University, Addis Ababa, under the direction of J. Vanderlinden;<sup>3</sup> (3) that included within the Libraries

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<sup>1</sup>For the complete numerical classification, see Schiller, Foreign Law Classification in the Columbia University Law Library (1964).

<sup>2</sup>Mimeographed pre-prints reveal the exhaustive content of this bibliography.

<sup>3</sup>A portion of the African Law Bibliography 1947-66 was issued in preliminary form, on cards, but without subject entries conducive to easy reference; the author has seen no further effort. However, the African Law Center is not a subscriber to this project.

Project of the Association of American Law Schools, under the general editorship of M.O. Price and H. Bitner. The first of two volumes in this third project was published in 1970; the second volume, to complete the bibliography, is scheduled for publication in 1971:

Schiller, A. Arthur. African Law [Law Books Recommended for Libraries, No. 39 (Association of American Law Schools)] South Hackensack, N. J., Fred B. Rothman & Co., 1970. xi, 175 p.

This volume includes books on the law of the territories in French Africa, German Africa, Italian Africa, Portuguese Africa, and Spanish Africa, and in the geographical regions and individual countries within North Africa (including Algeria, Morocco, Tunisia), Northeast Africa (including Afar and Issa, Ethiopia, Somalia, Sudan), West Africa (including French West Africa and all the individual states of West Africa) and of South Africa, within the region of Southern Africa. In the second volume, in addition to supplemental entries, law books devoted to all Africa, to the regions of West Central Africa, East Africa, and the remainder of Southern Africa will be covered. The attempt has been made to be as complete as possible in those spheres and areas where bibliographies are virtually non-existent (e.g., the law of the former colonies of Germany and Italy, or of many of the French and British possessions and their successor states, such as Dahomey, The Gambia, Guinea, Mali, etc.). The bibliography is more selective where comprehensive bibliographies already exist (e.g., the French North African states prior to independence, or the Republic of South Africa). In most cases the bibliographic entry is accompanied by an annotation by the author. An index of authors is included.

#### Periodicals (030)

During the period under review two new law journals have come to my attention:

Review of Ghana Law. Accra, Ghana Publishing Corporation, May 1969 -

This review contains articles and notes and occasional reviews, and in addition includes a valuable "Legislative Instrument Citation."

Zambia Law Journal. Lusaka, Univ. of Zambia, 1969 -

The Law Faculty of the University of Zambia is now to be added to the list of African law schools sponsoring law

review. The issues which have appeared to date contain articles, comments, digest of legislation, and book reviews.

Legal Education and Teaching Tools (070)

Rubin, N.N. & Cotran, E., editors. Annual Survey of African Law, Volume I: 1967. London, Frank Cass & Co., 1970. xxvi, 426 p.

This is the first volume of a survey of legal developments in the commonwealth African countries (excluding South Africa), together with six other areas (Cameroun, Sudan, Congo [Kinshasa], Ethiopia, Somali Republic, and Portuguese territories), published in November, 1970. Within each country it is proposed to cover the significant developments during the year in constitutional law, civil and criminal law and procedure, conflict of laws and international law, if there be development in the area. As may be expected, the extent of coverage and the method of presentation differs in each case, but even in the most succinct chapters (e.g., Zambia or Sudan) the highlights are well treated. In other instances, such as Tanzania (by J. S. Read), Rhodesia (by C. Palley), or Botswana, Lesotho and Swaziland (by N.N. Rubin) one has the feeling that there has been complete coverage, and the definitive study of the developments during the year has been made. The Annual Survey is an invaluable tool for research, and it is to be sincerely hoped that the expectations of the editors for wider scope be realized, and that the enterprise be a most successful venture.

A new edition of an earlier survey has appeared:

Allott, A.N. Judicial and Legal Systems of Africa. 2nd edition. London, Butterworths, 1970. [Butterworths African Law Series No. 14]

The new edition brings the description of the administration of justice and of the legal systems of the English-speaking states of Africa up-to-date, and gives more detailed accounts of the legal institutions of the African states than was offered in the 1962 version.

A new work primarily of educational value is:

Rubin, N.N. & Cotran, E., editors. Readings in African Law. 2 vols. London, Frank Cass & Co., 1970. xxvii, 418; ix, 336 p. [Cass Library of African Law, No. 6]

This is a collection of extracts from the leading books and articles, in English, which have been devoted to various aspects of customary law in Africa. Acknowledgement is made for permission to reprint from some seventy books and articles in the fields of the customary judicial process, crimes and civil wrongs, land law, the law of persons and the family, marriage and succession. No work of prime importance seems to have been omitted, and the set of materials is indispensable for all law schools save those few which have exceptionally good African law collections. The arrangement of the materials in the two volumes enables the teacher to select one or more subjects for detailed study, for the total coverage would seem to constitute unduly excessive treatment of customary law in any school.

#### Legal Profession (080)

The fourth edition of a standard work on the status and functions of notaries in South Africa, the first edition of which appeared in 1933, is:

Elliott, R.C. & Banwell, E. The South African Notary. 4th ed., revised by R. C. Elliott. Cape Town, Juta & Co., 1969. xviii, 330 p.

A more general work on the legal profession is the first work of its kind for tropical Africa:

Jackson, T. Guide to the Legal Profession in East Africa. London, Sweet & Maxwell, 1970. xii, 88 p.

It combines a discussion of the qualifications for advocates or lay magistrates in the three states of East Africa, with a brief bibliography of texts in the various fields of private and public law and a survey of possible careers for lawyers in East Africa.

#### Compilation of Legislation (120)

Another African state has produced a new revised edition (compilation) of its current legislation during the biennial period of this survey.

Harris, F.O.C., editor. Revised Edition of the Laws of Malawi. Publ. by the Government of Malawi, 1968/69. [Dobbs Ferry, N.Y., Oceana Publications, 1969] 10 vols. loose-leaf.

The revised edition of the laws enables the researcher interested in the present state of the law to disregard earlier compilations and annual statute books, as well as earlier legislation (slip laws, public notices, etc.) issued as supplements to the official gazettes. Until supplementary and superseding pages to the loose-leaf edition are issued, recourse must be had to the law supplements of the gazettes to keep up-to-date. Although legal practice and up-to-the-minute research is facilitated by these loose leaf compilations with their annual (?) supplements, the scholar interested in the historical development of legal institutions is greatly hampered in his research. Unless exceptional care is taken, the superseded pages of the Revised Edition are destroyed when the replacing pages of the Supplement are inserted, and with them goes the information as to the status of the law in earlier years. I, for one, would prefer the publication of an annual volume of statutory legislation and subsidiary regulations, coupled with an index of the acts and regulations in force on the 31st day of December, 19---. In this way there could be quick reference to all legislation currently valid, and at the same time the historical record of the development of legal institutions would be available.

#### Law Reports (150)

One of the most significant undertakings of the past two years has been the expansion of the reporting of High Court and appellate decisions in English-speaking Africa, largely through a project supported by the International Legal Center, and published by Oceana Publications of Dobbs Ferry, New York. The general editor of the series is A. Milner, with a Board of Advisors comprising the Chief Justices of the countries involved and two academicians working the field of African law. Actually, the publication of the first volumes in the project occurred in 1968, but some fifteen volumes were issued in 1969/70. The project is known as The African Law Reports, and at present comprises three series, each under the direction of a special editor or editors, but with a uniform method of presentation of the cases, headnotes and indices. Recorded, to date, are the following:

##### The African Law Reports: Commercial Series

1964 Reports, vol. 1 (1969) lviii, 426 p.

1964 Reports, vol. 2 (1969) lvi, 423 p.

1965 Reports (1968) lxvi, 625 p.

1966 Reports, vol. 1 (1968) xlix, 531 p.

1966 Reports, vol. 2 (1969) lxiii, 537 p.

1967 Reports, vol. 1 (1969) lxx, 446 p.

1967 Reports, vol. 2 (1970) lxxii, 435 p.  
 1967 Reports, vol. 3 (1970) lxiii, 470 p.  
 1968 Reports (1970) lxx, 465 p.

The African Law Reports: Malawi Series

Vol. 1: 1923-1960 Reports (1968) lxiv, 1004 p.  
 Vol. 2: 1961-1963 Reports (1969) lix, 599 p.  
 Vol. 3: 1964-1966 Reports (1970) lviii, 618 p.  
 Vol. 4: 1966-1968 Reports (1970) lxii, 638 p.  
 Index to Vols. 1 and 2, 1923-1963. Oxford,  
African Law Reports, 1970. 125 p.

The African Law Reports: Sierra Leone Series

1964-1966 Reports (1969) liv, 586 p.  
 1967-1968 Reports (1970) xlvi, 462 p.  
 1968-1969 Reports (1970) lii, 421 p.

Not within the African Law Reports project, but issued by the Faculty of Law, University of Khartoum and published by Oceana Publications, Dobbs Ferry, New York, are:

Sudan Law Reports (Civil Cases)

Vol. 1: 1900-1931 Reports (1969) lxvii, 533 p.  
 Vol. 2: 1932-1940 Reports (1969) lvi, 440 p.

There has also been issued, as a concluding volume, to another series of case reports:

Liberian Law Reports, ed. M.R. Konvitz.  
 Cumulative Index and Table of Cases to  
 Vols. I-XVI (1861-1964). Ithaca, Cornell  
 Univ. Press, 1969. 163 p.

Among other items, attention is called to a single volume reprint of a series of reports long unavailable:

Southern Rhodesia. Reports and Decisions  
 of the Court of Appeal for Native Civil  
 Cases, 1928-1962. (?) Salisbury, Gov't.  
 Printer, n.d. [?1969]. 1030 p.

There has also appeared, though not seen:

Chukura, O. A Digest of Decisions of Her  
 Majesty's Privy Council in Appeals from  
 West Africa, 1841 to 1964. Ibadan, Gillford  
 & Co., 1969. 65 p.

Also to be noted is:

The South African Law Reports. Translation of Afrikaans passages in reported cases. Cape Town, Juta & Co., 1969 -

The increasing number of cases reported in Afrikaans has led to the necessity of translating the Afrikaans material - and the passages in Dutch from the old authorities have been included - into English. If the reports are to be utilized in other jurisdictions where Roman-Dutch law flourishes, and are to have a place in comparative law research, such translations were necessary.

Finally, connected with reports of cases, there is:  
 Durand, P.P. Index to East African Cases Referred to, 1868-1969. Nairobi, Legal Publ. 1969.

Opinions of Attorneys General (160)

An early volume has been reprinted and a recent volume has been published of the opinions submitted by Liberian Attorneys General:

Grimes, L.A. Reports and Opinions of the Attorney General of the Republic of Liberia, Dec. 15, 1922 - July 31, 1930. Ithaca, Cornell Univ. Press, 1969. [v], 436 p.

This is a reprint of the 1930 edition, with a new index. And recently:

Pierre, J.A.A. Opinions of the Attorney General of the Republic of Liberia, September 10, 1964 - August 13, 1968. Ithaca, Cornell Univ. Press, 1969. 208 p.

Legal History (190)

There is only one volume to report in the area of legal history of the states of Africa. This is an English translation of one of the pre-Code sources of a portion of the Ethiopian law:

Tsadua, Aba Paulos, translator. The Fetha Nagast, Law of the Kings, with the editorial assistance of P. Strauss. Addis Ababa, Faculty of Law, Haile Sellassie I. Univ., 1969. 339 p.

This Ethiopian law-book is a translation of a compilation

of biblical, canonical and Byzantine sources, written in Arabic in the 13th century. It comprises ecclesiastical regulations, civil and criminal, in a first part, governing the relations of the church with its members and regulating ecclesiastical ceremonies and the like; and in a second part, setting forth the proper conduct of the Christian (Coptic) population with respect to marriage, donations, pledge, various contracts, guardianship, public rights and duties, including sanctions for criminal offenses, in all a hodge-podge of religious precepts comingled with civil suggestions. These provisions actually played a minor role in the conduct of legal affairs for the mass of the population of Ethiopia in recent times.<sup>4</sup>

#### Text-Books and Treatises (300)

Allott, A. N. New Essays in African Law.

London, Butterworths, 1970. xxxiv, 348 p.

[Butterworths African Law Series, No. 13]

New Essays in a new book, not merely a second edition of the Essays published in 1960. The chapters of Part I: Reception of extraneous laws; the general law, may well merely bring the problems of the reception and content of English law in African states, and the doctrine of judicial precedent, up-to-date, in the light of judicial decision and secondary comment during the past decade. But Part II is a greatly expanded and largely novel consideration of two very significant elements, internal conflict of laws and the application of customary law. In chapter 4 there is a treatment of the general principles basic to the resolution of the conflict of one system of law with another within the confines of a single state, while chapters 6 and 7 present at length the factors which affect the choice of one legal system over the other. I would also call special attention to chapters 5, on the definition of customary law and repugnancy thereof, and chapter 7, on the ascertainment and proof of customary law. The last chapter on fee simple in West Africa does not have the general significance of the remainder of the volume. The work as a whole, however, merits inclusion within the category of general

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<sup>4</sup>See G. A. Costanzo, s.v. "Fetha Nagast," Novissimo Digesto Italiano, 7 (1961), 253-54.



treatises, indispensable for the student of African law.

The first comprehensive introduction to the law of the French-speaking states of Africa, in English, will long remain a reference work to those interested in comparative study of the legal systems of the continent:

Salacuse, J.W. An Introduction to Law in French-speaking Africa. Volume I: Africa South of the Sahara. Charlottesville, Va., Michie Co., 1969. xxii, 616 p.

Part One is devoted to states of French heritage, during the colonial era and since independence, in each of the states presenting a brief survey of the constitutional structure, the sources of law, the judicial system, and the legal development since independence. The same is done for the states of Belgian heritage in Part Two. An appendix has an English translation of the constitution of the Democratic Republic of the Congo of June 24, 1967. Even though the judicial organization may change, or the legal development pursue a different course, the volume will still be an excellent start for further study.

A number of volumes devoted to the law of individual states have been published. One of the most intriguing, since it involves an intermixture of English and Italian legal influence upon an Islamic, largely nomadic population, is:

Contini, P. The Somali Republic: An Experiment in Legal Integration. London, Frank Cass & Co., 1969. viii, 92.

The small volume is largely devoted to the steps towards the formation of a single state, including the unification of the judiciary and the enactment of integrated legislation. The interaction between the different legal systems affords insight into the difficulties which must be faced in resolving distinctions among differing legal systems.

One of the French-speaking African states touched upon in Salacuse's work is given monographic treatment:

Crabb, J.H. The Legal System of Congo-Kinshasa. Charlottesville, Va. Michie Co., 1970, xiii, 233 p.

The volume emphasizes the pluralistic nature of the law in the Congo, with special attention devoted to the development of customary law in Kinshasa. A good part of the volume deals with the organization of the courts and the relation of the law to economic development. Appendices present

the constitution of June 24, 1967 (also found in Salacuse's book), three customary law cases and the Investment Code, in English translation.

There is another volume noted as published:

Palmer, V.V. The Legal System of Lesotho.  
Charlottesville, Va., Michie Co., 1970.

This item has not as yet been received at Columbia University.

Finally, in this group of general treatises, there is another edition of:

Wille's Principles of South African Law,  
6th ed. by J.T.R. Gibson. Cape Town, Juta  
& Co., 1970. xliii, 567 p.

The general principles of the (Roman-Dutch) civil law are set forth, fully annotated by reference to judicial decisions. The first three parts (Introduction, Persons and Real Rights) largely update Wille's fifth edition of 1961, but Part IV: Personal Rights (contracts, enrichment, delict) has been completely rewritten by the editor.

#### Islamic Law (302)

The basic work in this field has been reprinted:

Anderson, J.N.D. Islamic Law in Africa.  
London, Frank Cass & Co., 1970. xii, 409 p.

Unfortunately, a new edition of the 1955 work was not possible; the author has supplied a one-page preface noting major changes. The work, however, is invaluable in any study of the impact of Islamic law in the former British possessions on the continent. It provides in extenso the background upon which the present states have, in the last decade and a half, introduced many reforms.

#### Customary Law (309)

The papers presented, and a comprehensive survey of the problems discussed in a seminar of lawyers and social anthropologists held in Addis Ababa in January 1966, has appeared:

Gluckman, M., editor. Ideas and Procedures  
in African Customary Law. London, Oxford  
Univ. Press, 1969. xiii, 361 p.

The introduction, by A.N. Allott, A.L. Epstein and M. Gluckman, is a report of the proceedings and thus outlines the problems of research, describes the procedures involved in the present-day application and development of customary law, and attempts to frame the concepts which are fundamental to this sphere of law (pp. 1-96). The remainder of the volume is devoted to the papers of the scholars who were invited to attend the seminar.

Another leading social anthropologist has contributed a major study of the legal institutions and procedure of one of the important tribal groups of Uganda:

Fallers, L.A. Law without Precedent. Legal Ideas in Action in the Courts of Colonial Busoga. Chicago, Univ. of Chicago Press, 1969. xiii, 365 p.

The description of Busoga courts and procedure, and the exposition of the customary law of this people by means of a brilliant presentation of litigated cases places this work on a par with those of Schapera, Gluckman, Bohannon, Gulliver and Goldschmidt, to name but a few of the social anthropologists who have contributed so much to our knowledge of the recent working of customary law in tropical Africa. In a final chapter, Fallers develops the thesis implied in the title, Law without Precedent; in italics, he writes: "The interest of the Soga material for comparative legal studies, I suggest, is that it shows how legal a system of social control can be without overt communication about the application of legal concepts- without precedent or legislation" (page 312).

A number of standard monographs on the customary law of various indigenous peoples of Africa have been reprinted with little or no change from earlier editions:

Holleman, J.F. Shona Customary Law. Reprint of 1952 ed. Manchester, Manchester Univ. Press, 1969. xix, 401 p.

Schapera, I. A Handbook of Tswana Law and Custom. New Impression of 2d. edition. London, Frank Cass & Co., 1970. xxxi, 328 p. [Cass Library of African Law, No. 4]

MacLean, J., compiler. A Compendium of Kafir Laws and Customs. New impression. London, Frank Cass & Co., 1970. vi, 164 p.

These three items and others announced meet the demand for significant works on customary law out of print. In some instances there is sufficient interest to call for a new edition:

Seymour, S.M. Bantu Law in South Africa.  
3rd. edition. Cape Town, Juta & Co., 1970.  
lvi, 429 p.

This volume replaces a second edition, in 1960, of 305 pages. The Zulu civil law, stemming from the Natal Code of Bantu law, is integrated into the discussion of the unwritten Bantu law of the other provinces of the Republic of South Africa wherever possible, and the whole treatise is annotated with the pertinent decisions of the Bantu Appeal Courts and the Supreme Court.

There is now, also, a treatise on South African Bantu law in Afrikaans, by the well-known professor of that subject at the University of Stellenbosch:

Olivier, N.J.J. Die Privaatreg van die Suid-Afrikaanse Bantoe. Durban, Butterworths, 1969.  
xv, 634 p.

This volume, as its title indicates, is limited to the private law (thus marriage and divorce, civil wrongs, succession, contracts), with a short chapter devoted to recognition of Bantu law and inter-tribal (Inter-stam, Intergentiele) conflict of laws. The citation of authority (Native Appeal, later Bantu Appeal, Court decisions) is the most extensive in any of the treatises devoted to Bantu law in South Africa, so that even if the reader is not fluent in Afrikaans, the cited cases- until recently all in English- afford one of the most complete and graphic treatments of the legal institutions of an African people.

Bantu case law in South Africa is brought up-to-date in:

Warner, H.W., compiler. A Digest of South African Civil Case Law, 1963-1968. Cape Town, Juta & Co., 1970.

This is the second supplement of a work which, in the original publication, covered the years 1894-1957. The complete set of reports of the native (Bantu) courts is difficult to obtain, and Warner's Digest serves as a dependable substitute. It is gratifying that the Digest is kept up-to-date.

Two monographs dealing with the customary law of peoples in francophonie Africa have been published:

Vanderlinden, J. Coutumier, manuel et jurisprudence du droit zande. Bruxelles, Ed. Inst. Social., Univ. Libre, 1969. 350 p.

There is first an explanation of the arrangement of materials in the volume, secondly a statement of the principles of the customary law of the Zande people, with reference to the decisions which support these principles, and third, a manual of Zande law for the use of practitioners. The final, and most significant part is a digest of almost five hundred cases handed down in 1958 in various districts of northeastern Congo; these are the cases to which reference is made in the second part of the volume.

The other monograph on the Mossi of Upper Volta I have not seen:

Pageard, R. Le droit privé des Mossi: tradition et evolution. 2 vols. Paris, C.N.R.S., 1969. 488 p. [Recherches voltaïques, 10 & 11]

There has further been published a digest of customary law cases and a bibliography of articles on customary law in the Congo:

Pauwels, J.M. editor. Répertoire de droit coutumier congolais. Jurisprudence et doctrine, 1954-1967. Kinshasa, O.N.R.D., 1970. 443 p.

This work is a continuation of J. Sohier's Répertoire Général of cases and doctrine on customary law in the Congo and Ruanda-Urundi to December 31, 1953. The cases and articles are grouped according to subject matter, with extensive indices to facilitate easy reference. A chronological history of the cases with an indication of the legal problems dealt with therein, together with an index of the authors of the articles makes this a worthy supplement to Sohier's Répertoire.

#### Law of Marriage and the Family (370)

One part of the comprehensive Survey of African Marriage and Family Life, published in 1953, has been reprinted:

Mair, L. African Marriage and Social Change. London, Frank Cass & Co., 1969. xviii, 171 p. [Cass Library of African Law, No. 5]

This is the social anthropological portion of the earlier socio-legal-religious treatise, and still of general inter-

est, though the role of women has, of course, altered in the intervening period. At least the book affords the basic portrayal of the indigenous family life in Africa upon which to engage in research on the developments of the law in the independent states. The legal part of the original work would have to be completely rewritten to be of value today.

Another reprint is:

Shropshire, D.W.T. Primitive Marriage and European Law. A South African Investigation. London, Frank Cass & Co., 1970. ix, 185 p. [Cass Library of African Law, No. 2]

This book is a new impression of a work published in 1946. It reports an investigation undertaken to study the forces leading to the disruption of Bantu family life, and the inadequacy of the South African marriage laws to protect Bantu women in these circumstances. There may be some question of the necessity of re-issuing a report of this nature, now a quarter of a century old.

There is a new monograph which apparently deals with the constitutional guarantees to the family in the African states:

Felesi, T. L'istituto della famiglia nelle costituzioni degli stati africani. Milano, Giuffrè, 1969. vii, 318 p.

It is noted in the April 1970 issue of Africa, but has not been seen.

A good anthropological study, serving as the dissertation towards a Ph.D. at the University of London, should be noted herein:

Nukunya, G.K. Kinship and Marriage among the Anlo Ewe. London, Athlone Press, and New York, Humanities Press, 1969. ix, 217 p. [London School of Economics, Monographs on Social Anthropology, No. 37]

The Ewe, a population of approximately one million, inhabit the southeastern portion of Ghana and southern Togo. This study was made of the Anlo, one of the largest of the coastal tribes in Ghana, of which the author is a member.

It is valuable to lawyers for the detailed description of marriage and divorce ceremonies and the legal consequences thereof. There are statistical tables on marital experience and divorce ratios, and a few cases are reported.

The Restatement of African Law, a project at the London School of Oriental and African Studies, under the general direction of A.N. Allott, the first volume of which appeared in 1968, continues with a second and third volume in the biennial period. Cotran's marriage and divorce in Kenya (Volume 1) is joined by:

Ibik, J.O. Malawi I: The Law of Marriage and Divorce. London, Sweet & Maxwell, 1970. xviii, 214 p. [Restatement of African Law: 3]

The scheme utilized in preparing the restatement of the customary law is briefly described in an Introduction by Allott. The primary source of information were the members of locally constituted councils. This was supplemented by materials in existing ethnographic studies. There has been some adverse comment, largely on the method employed in gaining information for the Restatement and the failure to record developments in legal institutions, due perhaps to the pressure of the governments of both Kenya and Malawi to furnish with all speed the basis for the unification of the law.<sup>5</sup> Nevertheless, the information on the present status of the marriage and divorce law of the indigenous population of Malawi is a welcome addition to our knowledge, even if it may have to be modified to some degree by later studies.

In South Africa, a new edition of what has become the standard work in the field of marriage law, has appeared:

Hahlo, H.R. The South African Law of Husband and Wife, with an Appendix on Jurisdiction and Conflict of Laws by E. Kahn. 3rd edition. Cape Town, Juta & Co., 1969. xl, 745 p.

The work has been completely revised and largely rewritten.

#### Law of Succession (450)

The second of the volumes of the Restatement of African Law project, mentioned above, is:

Cotran, E. Kenya II: The Law of Succession. London, Sweet & Maxwell, 1969. xxxi, 191 p. [Restatement of African Law: 2]

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<sup>5</sup> See the review by C. Palley, in the October 1970 number of the International and Comparative Law Quarterly.

The preface contains a brief statement of the method of investigation, together with a bibliography and glossary. A brief chapter on the recognition and application of the different succession laws is followed by seventeen further chapters "restating" the law of succession among the various tribes and tribal groups in Kenya. A selection of cases on customary succession is appended. It may be noted that this survey was the basis, in part, of the Report of the Commission on the Law of Succession (August 1968) with its recommendation of a uniform law of succession for Kenya, but allowing for the application of customary or religious law in certain circumstances.<sup>6</sup>

#### Law of Contracts (500)

Maasdorp's Institutes of South African Law, first appearing at the beginning of the century, has been transformed into a series of texts. There has recently appeared:

Hall, C.G. The Law of Contracts. 8th edition. Cape Town, Juta & Co., 1970. 358 p.

[Maasdorp's Institutes of South African Law, Vol. III]

The new edition of the volume on the law of persons appeared in 1968, that on property and that on delicts and dissolution of contracts are to follow.

#### Law of Lease (535)

The letting and hiring of immovable property is the subject matter of a new volume of South African Law:

Kerr, A.J. The Law of Lease. Durban, Butterworths, 1969. xxv, 191 p.

The general rules common to all leases and other contracts are treated in the author's Principles of the Law of Contract.

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<sup>6</sup>See comment in vol. 5, nos. 1-2, of the East African Law Journal, and the review of Derrett, in [1970] Journal of African Law, page 65.



Law of Torts & Delicts (590)

A work prepared to aid in the teaching of law students and for the use of the bench and bar in Ethiopia, is of general interest:

Berhane, Y. Delict and Torts. Asmara, Il Poligrafico P.L.C., 1969. xxiv, 392 p.

The work is to serve as an introduction to the sources of the law of civil wrongs in Ethiopia (arts. 2027-2161 of the Ethiopian Civil Code). The author first describes the pre-Code law and then the codification efforts. A general survey of extra-contractual liability is followed by the more extensive treatment of the three elements possible in the Ethiopian situation, namely, continental civil law principles, doctrines of the common law, and norms of the customary law. A final chapter is devoted to situations which cannot be pinpointed to any one of the three legal systems, but are dealt with in the code. The appendices give chapter 1 of Title XIII of the Code: Extra-contractual liability in the Amharic, English and French versions.

The extent to which rules of Roman-Dutch law displace principles of Sesotho law in Lesotho, rather than the problem of which law is to apply, is dealt with in:

Palmer, V.V. The Roman-Dutch and Sesotho Law of Delict. Leiden, A.W. Sijthoff, 1970. 210 p.

The principles of each subject matter in the law of delict are set forth in both the Roman-Dutch and the customary law. To a surprising extent, rules have been developed for most situations in both legal systems. The choice of which system of law is to be applied, internal conflict of laws, is to be treated in the book by Palmer and Poulter, The Legal System of Lesotho, announced for publication in The Legal Systems of Africa series.

A significant portion of the law of delict, as it relates to South African law, is newly treated in:

Macintosh and Scoble's Negligence in Delict. 5th edition by C. Norman-Scoble. Cape Town, Juta & Co., 1970. 612 p.

The new edition incorporates the decisions of some four hundred cases since the last edition. The work is up-to-date as of March, 1970.

Commercial Law (600)

A text-book which was prepared for the use of students enrolled for a Bachelor of Commerce Degree at the University of Nairobi, but which may be of use to law students and practitioners is:

Rogers, M. Outline of the Commercial Law in East Africa. Nairobi, Legal Publ., Ltd. and New York, Oceana Publ., 1969. xxv, 281 p.

As intimated, this is an elementary hand-book, with only a few citations to cases, but it does refer to East African decisions frequently.

A standard work of reference in the field of corporations in the South African law appears in a new edition:

Emmett, E. & Barlow, T.B. Principles of Company Law. 6th edition by T.B. Barlow and M.D. Emmett. Cape Town, Juta & Co., 1969. xxxiii, 377 p.

As the title indicates, the book is directed to the businessman and student alike. It does not attempt full treatment of the topic.

Law of Insurance (655)

Thirty-three years after the first edition, there has been published:

Gordon, G., assisted by W.S. Getz. The South African Law of Insurance. 2nd. edition. Cape Town, Juta & Co. 1969. xlv, 592 p.

The volume bears little resemblance to the earlier edition, and incorporates discussion of the Insurance Amendment Act of 1969.

Also concerned with insurance is:

Gordon, G. & Odes, M.W., in collaboration with A. Suzman. The Law of Compulsory Motor Vehicle Insurance in South Africa. 2nd. edition. Cape Town, Juta & Co., 1970. xvii, 375 p.

It might be noted that similar legislation to that of the Motor Vehicle Insurance Act of the Republic of South Africa has been enacted in Lesotho, Botswana and Swaziland.

Copyright Law (680)

In the author's words, a survey, and not an exhaustive treatise:

Copeling, A.J.C. Copyright Law in South Africa. Durban, Butterworths, 1969. xiii, 380 p.

The Copyright Act, 1965, as amended, and other legislation and regulations are appended to the handbook.

Law of Civil Procedure (700)

The papers resulting from a colloquium organized under the auspices of the Centre d'histoire et d'ethnologie juridiques, of the Institut de Sociologie, Université de Bruxelles, in May 1962, are published:

Gilissen, J. editor. L'organisation judiciaire en Afrique noire. Bruxelles, Ed. Inst. Sociol., Univ. Libre, 1969. 290 p.

The themes of the contributors extend beyond the organization of the courts to their competence and jurisdiction, as revealed in the introductory article of synthesis, by the editor and J. Vanderlinden. The emphasis is upon the customary courts of various parts of the Republic of the Congo (Kinshasa), but there is one study, by M. Helvetius, on customary courts and procedure in Burundi, and a briefer report on local and customary courts in the former British territories, by A.N. Allott.

According to the author, South Africa is on the way to becoming "the last home of the true nonsense of the common law [of evidence]:"

Hoffmann, L.H. The South African Law of Evidence. 2nd edition. Durban, Butterworths, 1970. lxvi, 461 p.

This work gained speedy acceptance by the legal profession, and this edition has received exceptionally favorable notices in reviews.

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<sup>7</sup>D. Zeffertt, in the May 1970 issue of South African Law Journal, page 253: "South Africans should be proud of a book on their law of evidence of a standard that is not excelled - in my view, not equalled - by any book on the English law of evidence."

Criminal Law (800)

The first work which seeks to survey penal systems of the states of Africa and call attention to the problems of African criminology is:

Milner, A., editor. African Penal Systems.  
London, Routledge & Kegan Paul, and New York,  
Praeger, 1969. xiii, 501 p.

There are descriptions of the criminal law of the Congo, Ethiopia, Ghana, the states of East Africa, the three new states in southern Africa, Portuguese Africa, U.A.R. and Zambia, by recognized authorities in the first part of the volume. A number of special problems in penology and criminology make up the second part, by the editor, R.E.S. Tanner, D. Welsh, and R.B. Seidman, among others. This is an exceptionally good collection for the first effort in this field.

The well-known Gardiner and Lansdown's South African Criminal Law and Procedure is being succeeded by a four volume set, the first of which is:

Burchell, E.M. & Hunt, P.M.A. General Principles of Criminal Law. Cape Town, Juta & Co.,  
1970. circa 500 p.

Volume II: Common-law Crimes, by Hunt, and Volume III: Specific Offenses, by J.R.L. Milton and N.M. Fuller, were scheduled for publication in September and December 1970. Volume IV: Criminal Procedure and Evidence, by A.V. Lansdown and J. Campbell is set for early 1971.

Law of Criminal Procedure (860)

A new edition in the Law in Africa Series:

Brown, D. Criminal Procedure in Uganda and Kenya. 2nd. ed. London, Sweet & Maxwell, 1970. [Law in Africa Series, No. 13]

Unfortunately, this item has not been received as yet, so I cannot say to what extent the first edition of 1965 has been brought up-to-date. That volume was destined primarily for use by non-professional magistrates and police officers, though might of course be turned to by students and attorneys.

A book of teaching materials for students of the Faculty of Law, Haile Sellassie I University, Addis Ababa, is:

Fisher, S.Z. Ethiopian Criminal Procedure: A Source Book. Addis Ababa, Faculty of Law, Haile Sellassie I Univ., 1969. xl, 519 p.

The volume is the typical collection of cases and other materials, interspersed with problems and further reading assignments that characterize the best in "case books" of American law professors. The cases are almost all decisions of Ethiopian courts!

More of a legal philosophical nature than a study of legal institutions is:

Pettoello Mantovani, L. Fasi processuali e processo penale somalo. Padova, Cedam, 1969. 41 p.

The author treats the relation of the procedural structure to the objective of the criminal process, as reflected in the Penal Code and Code of Criminal Procedure of Somalia.

An encyclopedic treatise in the South African law is:

Swift's Law of Criminal Procedure. 2nd. edition, edited by A.B. Harcourt and others. Durban, Butterworths, 1969. xii, 1095 p.

The new edition takes account of some twenty-two acts of Parliament since the first edition of 1956. An index of over one hundred pages provides ready reference to the vast mass of material presented in the volume.

#### Public Law (900)

I start with an item of general interest to the legal field as well as to political scientists; for the most part, other works which stress the "government" side of public affairs are omitted from this survey.

Gautron, J.C. & Rougevin-Boville, M. Droit public du Sénégal. Paris, Pedone, 1970. 465 p.

The volume traces the development of political institutions, with particular emphasis on administrative organization, the judicial and financial organs of the state.

Constitutional Law (910)

Some annotations are added to the publication of:

Dormu, A.K. editor. The Constitution of the Republic of Liberia and the Declaration of Independence. New York, Exposition Press, 1970. 119 p.

The small volume contains a good deal of information respecting governmental administration and traces the development of constitutional doctrine through the cases.

A paper destined for a Seminar on Constitutional Problems of Federalism in Nigeria is:

Proehl, P. Fundamental Rights Under the Nigerian Constitution, 1960-1965. Los Angeles, African Studies Center, U.C.L.A., 1970. 41 p. [Occasional Papers No. 8]

This booklet is a study of the power of the courts and of the doctrine of judicial review to safeguard fundamental human rights guaranteed by the Nigerian constitution. The problem is of particular concern because of emergency legislation and parliamentary action during and since the dates given.

From the University of Fribourg, Switzerland, is a dissertation:

Okogwu, L.E. The Legal Status of the Aliens in Nigeria. Berne, W. Wälchli, 1969. 130 + p.

The dissertation is based upon extensive reading, as the citations indicate. The thesis was approved by Professors von Overbeck and Wubbe.

The following item is included in this section because of the implications raised by the subject matter:

Elias, T.O., editor. Nigerian Press Law. Lagos, Univ. of Lagos, Evans Bros., 1969. viii, 148 p. [Univ. of Lagos Law Series No. 1]

Eight members of the Faculty of Law at Lagos, under the editorship of the Dean of the Faculty, have written a full account of the relations of the press with the government and public of Nigeria. A Nigerian journalist, reviewing the book, asserts that the full story has not been told.<sup>8</sup>

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<sup>8</sup>D. Omazo Edeani, in the Dec., 1970 issue of Africa Reports, p.40.

Administrative Law (930)

A manual for university students and public officials in the Congo:

de Bulet, J. Precis de droit administratif congolais. Kinshasa, Univ. Lovanium, and Bruxelles, Larcier, 1969. xv, 278 p.

The handbook sets forth clearly and succinctly the structure and the functions of the Congolese administration.

The career of the civil servant in the Congo is fully set forth in:

Vieux, S.A. Le Statut de la Fonction Publique. Kinshasa, O.N.R.D., 1970. [xii], 628 p.

The study is based on the Décret-loi of 20 March 1965 and the regulations issued thereunder.

International Law (990)

Reference has been made to what appears to be a significant contribution, which I have not as yet seen:

Bipoun-Woum, J.M. Le droit international africain: Problemes généraux-règlement des conflits. Paris, Lib. Gén. de Droit et de Juris., 1970. 327 p. [Bibliothèque Africaine et Malgache. Droit et sociologie politique, vol. 5]

Another volume in the same series is:

Wodie, F. Les institutions internationales regionales en Afrique occidentale et centrale. Paris, Lib. Gén. de droit et de Juris., 1970. [iv], 274 p.

A study of regional institutions among the states of francophone Africa, as well as specialized regional institutions and the regulations which govern their activities. This is perhaps more of a monograph on international affairs than on international law.

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