

FIELD RESEARCH IN ETHIOPIAN LAW

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I. Background

During the first half of 1969, two Northwestern University law students--Lynn Morehous and myself, and Professor Beckstrom of the School of Law--journeyed to Ethiopia, where we became attached to Haile Selassie I University's Law Faculty in order to investigate first hand the operation of particular laws and legal institutions in Ethiopian society. It was hoped that resulting articles would be published in Ethiopia. These articles were to deal with subjects deemed priority items by members of the Law Faculty in Ethiopia, and suggestions for possible topics were solicited from law teachers there well in advance of our departure.

Professor Beckstrom held a seminar during the fall of 1968 in which we prepared for fieldwork by discussing readings in Ethiopian culture, history, economics, and law. Professor Beckstrom and I also took a very basic course in Amharic, one of the two official languages in Ethiopia (the other is English, but it is spoken by only a small minority of Ethiopians who have had considerable formal education).

The seminar and language course were designed to facilitate a choice of research topics. However, when we arrived at the beginning of February, 1969, only tentative choices had been made. We found it difficult to choose subjects 8000 miles from the problems to be investigated. But upon our arrival, decisions were made fairly quickly after consultation with members of the Law Faculty. Lynn Morehous decided to investigate labor law and practice, Professor Beckstrom began a study of divorce procedures, and I began to look into lower court administration.

II. Research

Up to now in developing countries, priority has been placed upon the rapid creation of legal systems which promise a framework for social, economic, and political

modernization. The urgent need felt by these countries for modern legal systems has overshadowed the necessity of determining how and if existing social foundations support the new structures.

Most developing nations have adopted and adapted western legal concepts, and some have modeled entire legal systems on western examples. How well these concepts and systems fit the requirements of their societies needs to be evaluated. Data must be collected which can lead to conclusions as to whether these societies have laws and institutions that order matters effectively and which command the respect of the people. Obviously, such an analysis cannot be made with information gleaned from libraries--one must obtain facts in the field, where these laws and institutions operate, by asking questions and observing procedures.

However, fieldwork in Ethiopia, whether by native Ethiopians or foreigners, presents many problems. As we had anticipated, the first of these was language. In the course of each of our field studies it was contemplated that we would have to talk to Ethiopians who did not speak English. Accordingly, Ethiopian law students were recruited to work with us on a salaried basis. None of our work could have been accomplished without the cooperation of these students. We were further assisted by the advent of a student strike at the University, which meant that many students could work full time with us, increasing our information-gathering capacity.

Furthermore, since the kind of reception we would be accorded in the field was doubtful, each project was undertaken with reservations about its feasibility. We understood that our success depended on a number of variables: Would labor organizers and government labor administrators discuss their problems with a foreign student? Would individuals who had been through divorce proceedings bare the facts of family problems and the methods used for resolving them? Would judges and lawyers not accustomed to being interviewed talk about their work? While such problems of cooperation exist for every field researcher, no matter where he works, Ethiopians display pronounced forms of hesitancy, a result of a number of cultural and historical factors.

Ethiopia, except for the Italian presence from 1936 to 1941, was never a colonial territory, and thus has had little experience in dealing with the inquiries of outsiders. While foreign advisers have been instrumental in creating the structures and policies of many institutions in Ethiopian society, Ethiopians have traditionally kept the last word on government and social policy to themselves--the last word usually being given by the Emperor, Haile Selassie I. Inquiries by foreigners on such matters are met with suspicion, even when proper clearance is obtained from government authorities. This is due to the fact that most government agencies, including the one that administers the judicial system, operate according to procedures hitherto unexposed to scrutiny by independent researchers--foreign or Ethiopian. Often, personal relationships rather than logic or efficiency dictate the way things are done and who gets a promotion or a job.

In this state of affairs, any investigation of such an agency of government is likely to touch upon many sensitive areas. Persons interviewed pursuant to our studies often suspected that they were objects of an investigation launched by superiors to determine degrees of competence and loyalty. There is no tradition in Ethiopia of asking questions to find out how things work. Usually, only superiors question subordinates, and since such questions are asked most commonly when disciplinary action is contemplated, a person will hesitate to speak unless he feels either that no harm can come to him or that he is obliged to talk.

Private individuals, on the other hand, often felt that a question concerning the application or substantive fairness of a law or the legal system as a whole would lead them to make treasonous statements about government policy. For this reason, the man on the street was often unwilling to be interviewed or to give meaningful answers to questions posed.

In addition to the above difficulties, which one might encounter at any time in Ethiopia, trouble at the University during the first half of 1969 created special problems for us. A student movement succeeded in closing down the University for a good part of the spring semester with a boycott of classes. Although the University did open officially for two months of the spring term, only

one-third of the students attended during that period. Students organized protest marches and circulated literature condemning the Haile Selassie Government with allegations of corruption, inefficiency, and perpetuation of a feudal landholding system. One target of the protest was United States aid to Ethiopia, which, students claimed, kept Haile Selassie in power. Students who marched were packed off to jail for short periods and were reportedly beaten and tortured by police. Hard core student organizers were given stiff jail sentences (since remitted) for organizing criticism of the Haile Selassie Government. Newspapers, radio, and television denounced student activists who, they said, had been duped by "foreign elements" into making their protests. Consequently, the man on the street, the conservative judge, and the government bureaucrat were suspicious and fearful of being interviewed by students whom they had been told were bent on sacrificing the country to foreign interests. Two Ethiopian law students, interviewing litigants and lawyers for us at one court, were ordered arrested by the presiding judge for, in the words of the charge, "interviewing advocates and litigants without the permission of the court." They were later released, after University authorities explained their mission to the police. The judge who ordered the arrest was reported to have said that the incarcerated students were putting evil thoughts into the minds of the people in his court. Other students who attempted to interview factory workers for views on government and company labor policy found few people to talk to because it was dangerous to be seen conversing with a student.

These were some of the problems we encountered. Although the reasons for such difficulties were always clear and understandable, we had many frustrating moments. Our method of dealing with such frustration could most appropriately be termed the "perseverance method": we simply kept trying to obtain the needed information. This persistence paid off in the end, and through a trial and error approach each of us obtained more than enough information in our respective areas to write useful articles.

Our completed articles contain information which we hope will be beneficial to legal practitioners and students in Ethiopia. They demonstrate that problem areas in the substance and application of laws can be uncovered, and suggest improvements that can be made by the legal system.

project is still uncertain because of some as yet unanswered questions about the publication of our articles.

We chose the Journal of Ethiopian Law for publication because articles included in the Journal appear in both English and Amharic, and because it enjoys a wide circulation among legal practitioners within Ethiopia, most of whom speak only Amharic. If the articles are to do the most good as far as reaching Ethiopians is concerned, publication in the Journal of Ethiopian Law is the answer. But the appropriateness of our articles for publication is still to be considered by the Journal's "Editorial Board," partly composed of high government officials who, it is suspected, will be sensitive to anything that might reflect negatively on the government.

In Ethiopia, the publication of views critical of government policy or practice is highly restricted, and censorship curbs a wide range of factual statements as well as subjective opinions and conclusions. Often material deleted by a censor is innocuous, and the censor's action only rankles. But sometimes truths which one has a duty to state if the subject is to be discussed conscientiously are attacked. A question always in the back of our minds was whether or not we would be permitted to discuss certain facts that we had discovered. For example, would we be able to state the fact that many judges take bribes, that labor organizers are dissatisfied with government policy toward organized labor, that Haile Selassie has not pressed hard enough for judicial reform, or that judges are often not familiar with the laws they are responsible for interpreting? Should we tread lightly when dealing with facts that might be offensive to Ethiopian government authorities, or would compliance with a system that restricts free expression only serve to perpetuate the lack of constructive criticism? If we could not say everything we wanted to say in exactly the way we wanted to say it, should we pack up our materials, take them home, and have them published there?

The answer was, it seemed to us, not to emphasize facts or opinions necessary to these articles which might encourage a censor to react negatively. We tried to phrase passages which impinged on vested sensitivities in such a way that censors would have difficulty objecting to them. We often disagreed as to what should be included, left out, or

re-phrased. The danger of compromising the truth in order to be sure the articles enjoyed maximum circulation in Ethiopia was clear. The problem was to produce articles that would be useful to Ethiopians because of the factual information they contained--this in the face of a system which does not always consider the dissemination of such information in its best interest.

Once the decisions were made among ourselves concerning what would be included and what would not, the articles were left in the hands of the Law Faculty in Ethiopia, which will submit our work to the Journal's Board of Editors. Depending on whether and how these "editors" alter the content of the articles, we will make the final decision on publication.

I have touched on a number of problems which a field researcher in Ethiopia encounters, and which he would probably face in many other developing countries. By emphasizing the difficulties I do not mean to create the impression that we were engaged in a struggle to extract data given only grudgingly. We encountered as much willingness as hesitancy. The relationship between us and the Ethiopian students was cordial and a valuable experience for all. We and the Ethiopian students came away from the studies with an increased appreciation of the problems which developing countries face with respect to choosing appropriate laws and legal institutions.