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## **The Genesis of the Contemporary Ethiopian Legal System**

### ***Resumé***

Jusqu'au XVIème siècle la législation dans l'Empire éthiopien était principalement fondée sur les règles du droit canonique, les commandements bibliques, et des éléments du droit coutumier. Il a fallu attendre l'apparition du premier écrit code juridique pour voir l'intégration du droit romain et byzantin dans la législation éthiopienne.

La codification du droit en Ethiopie, qui a eu lieu dans les années 1924-1933 et 1950-1960, a exigé des codificateurs l'application des législations des pays du monde occidental. Pour la création du code criminel et du code civil, on a utilisé les codes des pays dont la législation s'appuyait sur le droit romano-germanique, aussi bien que ceux des pays dont la législation reposait sur le droit anglo-saxon.

Le texte ci-dessous tente de répondre à la question: à quelle famille juridique appartient la législation éthiopienne contemporaine?

Not much is known about the legal codes that existed in the Ethiopian Empire before the 16<sup>th</sup> century. It is assumed that Ethiopian civil and criminal law developed from a mixture of the customary laws of local ethnic groups, biblical commandments and religious norms that were found in the Old Testament. The regulations of canon law were among the most important sources of law of that time. Traces of this legal system can be found in Ethiopian texts from the 13<sup>th</sup> and 14<sup>th</sup> centuries<sup>1</sup>. In minor litigations, documents were created by a local governor or prince, whereas in instances of serious offend-

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<sup>1</sup> Aberra Jembere, 2007, "Law and judiciary" in: S. Uhlig (ed.), *Encyclopædia Aethiopica*, vol.3, Wiesbaden: Harrassowitz, p. 507.

es that threatened the stability of the state (e.g. treason or conspiracy against the monarch), the emperor himself was the lawmaker<sup>2</sup>.

The first attempts to codify Ethiopian law were made by Emperor Zera Yaikob (1434-1468). He seized power as a mature man with a precise idea of how to rule Ethiopia. The Emperor wished to centralize power to the highest degree and extend the borders of the empire<sup>3</sup>. Despite major resistance from Ethiopian aristocracy and part of the clergy, the Emperor was able to implement most of his concepts. One of these was the codification of law. Zera Yaikob wanted his empire to be governed by written criminal and civil law rather than by amorphous customary laws and oral traditions. Consequently, he ordered scholars of the Ethiopian Orthodox Church to prepare authoritative written code of laws. Since the Solomonic dynasty restoration the Ethiopian Orthodox Church held immense economic power and great influence on public administration and the clergy strongly supported the Emperor's conception of centralized power, because it legally confirmed the power of the Ethiopian Orthodox Church<sup>4</sup>. The draft was submitted around 1450. It had sixty-two articles, mainly on criminal matters, and was called *Mats'hafa Fews Manfassāwī*, which can be translated as "The Book of Spiritual Remedy". Religious precepts taken from canon law of the Ethiopian Orthodox Church formed the basis of that code and hence, the rules were more of a spiritual than a secular nature<sup>5</sup>. Since the law was not very comprehensive, it was not able to resolve many legal problems that arose at that period. It seems that the code did not come into

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<sup>2</sup> Aberra Jembere, 2007, "Traditional legal institutions" in: S. Uhlig (ed.), *Encyclopaedia Aethiopica*, vol.3, Wiesbaden: Harrassowitz, p. 513-515; A. Pankhurst, Getachew Assefa (eds.), *Grass-roots Justice in Ethiopia. The Contribution of Customary Dispute Resolution*, Addis Ababa: Centre Français d'Études Éthiopiennes.

<sup>3</sup> A. Bartnicki, J. Mantel-Niećko, 1978, *Geschichte Äthiopiens. Von den Anfängen bis zur Gegenwart in 2 Teilen*, Berlin: Akademie, 57f.

<sup>4</sup> *Ibidem*, p. 74.

<sup>5</sup> It is believed that the sources of that code were: the Old Testament, the "Didascalia Apostolorum", the "Epistle of Peter to Clement", the "Synodos" and the "Canon of Hippolytus (Abulidus)". Aberra Jembere, 1998, *Legal History of Ethiopia, 1434-1974*, Rotterdam: Erasmus.

general use and was abandoned after the Emperor's death.

Zera Yaikob was unsatisfied with the *Mats'hafa Fews Manfassāwī*, because it did not deal with the prevalent legal issues. He believed that another code was needed. According to Ethiopian oral tradition, a new code was introduced in the 15<sup>th</sup> century by an Egyptian named Petros Abda Sayd at the request of Zera Yaikob.

“[...] One day a certain Petros Abda Sayd, an Egyptian by origin, found the Emperor in a sad mood. When Petros asked the Emperor what the cause of his sadness was, the latter replied that he was displeased that the justice in his empire was still administered on the basis of the Old Testament although he and his people lived in the era of New Testament. Then Petros informed the Emperor that there was a book of laws which had been compiled by the 318 Fathers of the Council of Nicaea, and was then promulgated as law by the Emperor Constantine. The book [...] has been translated into Arabic and could be found in Alexandria; why not send somebody and fetch a copy of it? Zar'a Ya'qob responded: “You know the language of this country and that country. Go and bring me the book”, and gave Petros 30 weqets [= 28 grams] of gold. Petros brought the book and subsequently translated it into Ge'ez”<sup>6</sup>.

According to Ethiopian scholars, the Emperor indeed received a copy of this book and ordered it to be translated into the Giiz language.<sup>7</sup> The new code of the Ethiopian Empire was called *Fetha Negest* –“The Law of the Kings”<sup>8</sup>. It is very doubtful that it was Zera Yaikob who enforced the code as law. There is no information about the use of *Fetha Negest* in his chronicle. Furthermore, philological analysis has proven that the code could not have been translated be-

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<sup>6</sup> P. L. Strauss (ed.), 1968, *The Fetha Nagast. The Law of the Kings*, Addis Ababa: Faculty of Law, Haile Sellassie I University, p. XVII.

<sup>7</sup> Aberra Jembere, 1998, *op. cit.*, 184f.

<sup>8</sup> The Amharic word *fythe* literally means “justice”. Two other words are used to denote “law” in Amharic: *hygg* and *syrat*. Both have Ge'ez origins and both can be translated into English as “law,” but are used differently. *Hygg* refers to law in its general sense, while *syrat* refers strictly to legal procedures and *fythe* relates more directly to matters of judgment.

fore the 16<sup>th</sup> century<sup>9</sup>. The earliest information about the implementation of this code can be traced in the chronicles of the following emperors: Serts'e Dingil (1563-1597), Susnīyos (1607-1632), Īyasu I (1682-1706), Īyasu II (1730-1755), Tēwodros (1855-1868), and Mīnīlik II (1889-1913).

While there are still some doubts about who exactly introduced the code to Ethiopia, it is certain that the code was compiled by a Coptic scholar named Abu l-Fada'il ibn al-Assal as-Saff,<sup>10</sup> who was a legal adviser to Ciril III ibn Laqlaq (1235-1243), the seventy-fifth patriarch of Alexandria. At some point after it was brought to Ethiopia, the code was translated into Giiz and then into Amharic by an anonymous translator<sup>11</sup>. The work left something to be desired – the language of the book was poor, and provisions did not fully align with Ethiopian culture – but it was the first successful attempt to introduce an official set of laws that was supposed to be mandatory for all inhabitants of the Ethiopian Empire. The code replaced customary laws only in the domains concerning criminal and civil issues, and it rather served as a transitional law. Nevertheless, the code contributed a number of civil and criminal law principles taken up in the modern codes of Ethiopia.

The modern period of Ethiopian legal development started in 1855 with public laws being enacted by not only the Emperor himself, but with the help of Ethiopian and (later) foreign scholars and jurists<sup>12</sup>. The second period of Ethiopian legal history, in the field of legal enactments, is very different from the first period, in the sense that the legislative concept is much closer to what European legal historians are accustomed.<sup>13</sup> Articles written at that time were not

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<sup>9</sup> Paulos Tzadua (ed.), 2005, “Fətha nägäst” in: S. Uhlig (ed.), *Encyclopaedia Aethiopica*, vol. 2, Wiesbaden: Harrassowitz, p. 534.

<sup>10</sup> A number of legal and theological works in Egypt are attributed to him. See: P. H. Sand, 1980, “Roman Origins of Ethiopian ‘Law of the Kings/Fetha Nagast’”, *Journal of Ethiopian Law*, vol. 11, p.74.

<sup>11</sup> P. L. Strauss (ed.), *op.cit.*, p. XVII.

<sup>12</sup> Aberra Jembere, 2007, *op. cit.*

<sup>13</sup> J. Vanderlinden, 1966, “An Introduction to the Sources of Ethiopian Law from the 13<sup>th</sup> to the 20<sup>th</sup> Century”, *Journal of Ethiopian Law*, vol. III, 1, p. 232.

only derived from customary and canon law, but also incorporated several Western legal concepts (e.g. constitutional and international laws).

When Emperor Tēwodros II gained power in Ethiopia in 1855, the empire was a conflict-ridden and divided set of provinces ruled by chiefs “warring with each other for positions or booty or both”<sup>14</sup>. The Emperor’s major goal was to reunite and modernize the empire. His idea of centralization mainly meant stopping the fractional wars among the chiefs and bringing all provinces under his control. Although he was barely successful on that field (subjugation of one province led to an uprising in another that had been previously subjugated), the Emperor still managed to introduce some rudiments of centralization. He reorganized the administrative system, introduced a new manner of paying taxes, abolished the slave trade, introduced a territorial police force, outlawed polygamy and tried to deprive the landlords of judicial privileges by introducing several new laws and proclamations<sup>15</sup>.

The projects started by Tēwodros II were completed and continued first by Yohannis IV and then by Mīnīlik II. The latter was responsible for the introduction of postal and telegraph systems, dividing the country into logical provinces and the establishment of modern education. During his reign, Mīnīlik II introduced many laws and proclamations concerning the succession, the launching of a new currency, abolishing slavery and the slave trade, as well as passing a land tenure act. Additionally, major progress in the Ethiopian law-making process was made during his reign. It began in 1907 when

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<sup>14</sup> H. Scholler, 1976, “Ethiopian Constitutional Development”, in: *Jahrbuch des öffentlichen Recht der Gegenwart*, vol. 25, p. 526.

<sup>15</sup> A. Barnicki, J. Mantel-Niećko, *op. cit.*, 251f; R. Pankhurst (ed.), 1967, *The Ethiopian Royal Chronicles*, Addis Ababa: Oxford University Press, p. 144-158; H. Scholler, *op. cit.*, p. 526. See also: Gerima Terefe, 1962, *Abba Tatek Kassa, Yaqurraw Anbässa*, [Abba Tatek Kassa, the Lion of Quara], Addis Ababa: Berhanenna Selam; Taddese Beyene, R. Pankhurst, Shiferaw Bekele (eds.), 1990, *Kasa and Kasa. Papers on the Lives, Times and Images of Tēwodros II and Yohannes IV (1855-1889)*, Addis Ababa: Institute of Ethiopian Studies, Addis Ababa University.

the Emperor appointed a Cabinet of Ministers<sup>16</sup>. Nine ministries were established: of the interior, commerce and foreign affairs, finance, agriculture and industry, public works, war, pen, palace, and justice. It is significant that in the regulations issued by the Emperor – which defined the powers and duties of the Minister of Justice – it was provided that *Fetha Negest* should be applied as law in every judgment<sup>17</sup>. Finally, it seems that some sort of subsidiary legislation had begun to appear in Ethiopia. Such subsidiary legislation was prepared by foreign experts in charge of various divisions of the newly appointed ministries, e.g. Mr. Guillet “who kept the population informed of the postal regulations”<sup>18</sup>.

The third period of Ethiopian legal history starts with the appointing of *ras* Teferī Mekwonin as Regent of the Ethiopian Empire. It has been estimated that approximately one hundred proclamations were issued during the period beginning with his regency and ending with the Italian invasion<sup>19</sup>. The legislation became more and more abundant, especially from 1920 onwards, but the qualitative progress made in terms of legislation is the most significant aspect of this period. Nearly all aspects of Ethiopian daily life were included in the proclamations, as well as issues concerning commercial matters (on companies, bankruptcy, registering commerce, brokers, etc.)<sup>20</sup>. Hayle Sillasē’s idea to codify Ethiopian law would have remained incomplete, if he had not gone on to create a legal document of paramount importance for the legal development of the country – the first written constitution of the Ethiopian Empire<sup>21</sup>. Heinrich Scholler

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<sup>16</sup> This appointment was the first of Menelik’s moves towards organizing his empire in European way. See: S. Ege, 1988, “The first Ethiopian cabinet: background and significance of the 1907 reform” in: Taddese Beyene (ed.), *Proceedings of the Eight International Conference of Ethiopian Studies*, vol. 1, Addis Ababa: Institute of Ethiopian Studies, Frankfurt am Main: Frobenius Institut, Johann Wolfgang Goethe Universität, p. 351-360.

<sup>17</sup> P.L. Strauss, *op.cit.*, p. XXVII.

<sup>18</sup> J. Vanderlinden, *op. cit.*, p. 233.

<sup>19</sup> *Ibidem*, p. 235; H. Scholler, p. 505.

<sup>20</sup> J. Vanderlinden, *op. cit.*, p. 235.

<sup>21</sup> Another legal document of major importance that was created in those times was the Penal Code of Ethiopia of 1931.

writes that: “there was no sign of any popular pressure for such a document, and by many of the more traditionally minded figures, especially in the nobility, it was opposed rather than supported”<sup>22</sup>. Yet the Emperor ordered his ministers to prepare a suitable draft. The constitution was largely prepared by *bejjirond* Tekle-Hawaryat, the foreign-educated Minister of Finance. The draft was then submitted to the major noblemen of the country and was promulgated only after they had approved it<sup>23</sup>. The constitution was a transitional law that had to accommodate tradition while simultaneously implementing new political ideas. As Aberra Jembere put it: “this legal instrument marked the first step towards the use of formal law and legal science to develop the Ethiopian governmental structure and institutions”<sup>24</sup>. The Constitution of 1930 is particularly interesting, because it defines the differences between various enactments of legislative power. In the document, three categories of legislative enactments were created: statutes, decrees, and orders.

Over the next thirty years, Ethiopian lawyers with the help of their European colleagues managed to prepare and publish several civil and criminal codes<sup>25</sup>. In 1952, a Codification Commission was formed to prepare modern codes for Ethiopia. The commission was organized into a general body and a working group, which were placed under the Chairmanship of the Minister of Justice. The commission was comprised of twenty nine members of different nationalities and occupations. There were twelve comparative legal experts, jurists and lawyers from France, Switzerland, Great Britain, the United States of America, Greece, Armenia, India, Russia, Israel and Poland<sup>26</sup>. All foreign advisors were recruited by the Emperor in order

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<sup>22</sup> H. Scholler, *op. cit.*, p. 528.

<sup>23</sup> *Ibidem*.

<sup>24</sup> S. Uhlig, *op. cit.*, p. 507.

<sup>25</sup> The Penal Code of 1957, the Civil Code of 1960, the Commercial Code and Maritime Code of 1960, the Criminal Procedure Code of 1961 and the Civil Procedure Code of 1965. Also between 1964 and 1976, a Consolidated Laws of Ethiopia in five volumes were published.

<sup>26</sup> Namely these were: René David, Jean Graven and his son Philippe, J. Escarra, A. Jauffret, Judge Roberts, Witold Grobowski, Mr. Vorghese, Olin

to create proper drafts of the codes for a modern country, in line with the vision the Emperor had concerning Ethiopia<sup>27</sup>. Although these documents were strongly influenced by Western legal systems, there is no doubt that the authors did not fully abandon the original Ethiopian legal tradition. For example, there are over sixty articles in the Criminal Code that refer directly to *Fetha Negest*, while in the preface to the Civil Code of 1960 one can read:

“In preparing the Civil Code, the Codification Commission [...] has constantly bore in mind the special requirements of Our Empire and of Our beloved subjects and has been inspired in its labors by the genius of Ethiopian legal traditions and institutions as revealed by the ancient and venerable >Fythe Neguest<<sup>28</sup>.

### **Ethiopian law among the legal families of the world**

The laws of the world can be divided into two legal families: Common law and Civil law (also known as Romano-Germanic or Romanist-German)<sup>29</sup>. These two legal families are distinguished on the basis of two criteria. The first is ideology – states similar with respect to religion, philosophy, economy and social structure form one legal family. The second criterion is legal technique. This means that states having common or similar rules of normative acts by legislators also form a legal family<sup>30</sup>.

Common law, in contrast to Romano-Germanic law, is derived itself from local customary law. Courts take part in creating law, which signifies that their role is not limited to simply adhering to the rules constructed by legislators. This means that a court giving its

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B. Scott, Mr. Kvostoff, Mr. Babian, I. Menezes, Nathan Marein, Mr. Perdikis. See: Aberra Jembere, 1998, *op. cit.*, 195f.

<sup>27</sup> For more about foreigners in Haile Selassie's government see: S. Clapham, 1970, *Haile-Selassie's Government*, London: Longman, p. 103-107.

<sup>28</sup> “Civil Code of the Empire of Ethiopia”, *Negarit Gazeta*, 1960, Vff.

<sup>29</sup> There are also a loosely attached groups of laws generally called “other law systems” consisting of Jewish law, Hindu law, law of the Far East and the youngest group of African and Malagasy law. See: Aberra Jembere, 1998, *op. cit.*, p. 9.

<sup>30</sup> Aberra Jembere, *ibidem*. Also: H. P. Glenn, 2010, *Legal Traditions of the World. Sustainable Diversity in Law*, Oxford: Oxford University Press.

opinion in a case creates a precedent to which other courts will refer while judging a similar case. Therefore, the main responsibility of a court is to deliver a verdict in a particular case, and not to create universally biding norms. The created law can only be changed by a court that had previously formed it or by a court of a higher level<sup>31</sup>.

Civil law is a continuation of traditional Roman law. It is based on rules and principles established by state parliaments or legislators. Codes, especially the codified criminal and civil codes, are considered the highest forms of legislation. In countries that are part of the Civil law legal family, courts play a much smaller social role than in countries that are part of the Common law legal family. Courts are appointed to apply law and not in order to create it; therefore, verdicts are not treated as the basis of a new law. Additionally, in the case of Civil law, there is a strictly defined hierarchy of legal acts, with the constitution treated as the fundamental legal act<sup>32</sup>.

Comparative law experts have also distinguished another group – the African legal family. It is disputable to talk about one specific “African law”. Rather, the African legal system consists of a collection of independent African laws that have one common source – custom. Despite various differences, one can try to find common denominators such as: the persistence of a law, which refers both to legal acts (e.g. no records concerning the sale of land, because in African cultures land is rather inherited than sold) and to institutions (prescription, usucaption), putting the well-being of the group above the well-being of an individual, the community (rural, ethnic, caste) treated as a basic legal unit, and the like<sup>33</sup>.

Discussing the genesis of the contemporary Ethiopian legal

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<sup>31</sup> H. P. Glenn, *op. cit.*, p. 140, 157 and 238; H. P. Glenn, 2005, *On Common Laws*, Oxford: Oxford University Press.

<sup>32</sup> H. P. Glenn, 2010, *op. cit.*, p. 133-138; R. David, J.E.C. Brierley, 1978, *Major Legal Systems in the World Today. An introduction to the comparative study of law*, New York: The Free Press, 21f.

<sup>33</sup> René David in 1960s has also distinguished another group of laws – the Socialist family, where legislation was based on Marxist ideology. It seems that nowadays there is no reasonable cause to make such a distinction. See: Aberra Jembere, 1998, *op. cit.*, p. 9; K. Zweigert, H. Kötz, 1992, *An Introduction to Comparative Law*, Oxford: Clarendon Press, p. 65.

system, it is necessary to pose the question concerning the place of Ethiopian law among the legal families of the world. It is very difficult to give a satisfactory response, as modern Ethiopian law has its own, specific features. On the one hand, the source of Ethiopian law comes from custom and so-called *casus*; however, on the other, a successful codification of laws was performed in the 16<sup>th</sup> century, while courts, similarly as in the case of the Civil law family, are restricted to the application of law and do not participate in its creation. It should also be mentioned that for centuries a major body of law in Ethiopia consisted of the customary laws of different ethnic groups<sup>34</sup>. Due to the large ethnic diversity of Ethiopia, customary laws were different in form and substance within each ethnic group and the laws were applied only within a given area. Customary laws did not have uniform application all over the country, and they were created and accepted only at the community level. Their common character was rooted in the participation and consensus of the community and, therefore, they derived their legitimacy from these factors.

René David believed that the Romano-Germanic legal family included countries whose law was based on Roman law. Another feature of this family pointed out by R. David is that the first created codes were those that aimed at regulating affairs between individual citizens. Other branches of law developed later. Outside Europe, Romano-Germanic law has spread either as a by-product of colonisation or through voluntary adaptation. In the case of Ethiopia, the Western legal regime was incorporated. The process started around the 16<sup>th</sup> century with the introduction of the *Fetha Negest*, whose sources were mainly based on Roman-Byzantine and Syro-Roman law.

The influence of Civil law is also noticeable within Ethiopian criminal codes. Jean Graven, who took part in creating the Ethiopian Criminal Code in 1957, claimed that in 1930 a French lawyer residing in Djibouti, who had previously spent many years in Indochina, was asked for help with the codification of the criminal code in Ethi-

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<sup>34</sup> Even after the introduction of *Fetha Negest*, as its content was not widely known to the public, customary norms were applied, especially in criminal matters, until the introduction of the Civil Code in 1960.

opia. It is very probable that the lawyer was inspired by the Code of (French) Indochina which itself was a version of the French Criminal Code. The same might have happened during the preparation of a new version of the Ethiopian code in 1957. In both cases, it is easy to see that many of the included articles have roots in the Roman and the later German legal systems. It is worth mentioning the fact that the Swiss Code was often used during the Ethiopian codification of criminal law, because the legislators believed that the diversity of cultures, languages and legal traditions somehow made Switzerland akin to Ethiopia<sup>35</sup>.

The influence of the Western legal system is much smaller on the Civil Code of 1960. It can be observed within articles concerning obligations, special contracts and registers of immovable property, literary and artistic property. The rest of the provisions, especially those concerning family, filiation and inheritance, are derived from the customary laws of the Ethiopian peoples. The legislators of the Civil Code of 1960 decided that if certain social norms and customary practices that are deeply rooted in society work as a solution for different legal situations, these practices should be included in full within the code. The provisions that deal with the institution of marriage constitute an exception to this rule. Before the code was implemented, marriage was an alliance between two families rather than a union of two people. The Civil Code defined marriage as a union between a man and a woman, and led to religious, civil and customary marriages being considered equally important.

When analyzing Ethiopian legal codes from the 1960s, it can be easily traced that the legislators referred to the tradition of Roman and German law. Therefore, it can be concluded that, in this respect, Ethiopian law belongs to the Romano-Germanic family of legal systems. However, matters become more complicated when the Ethiopian constitutions of 1931 and 1955 are analyzed. While creating these legal acts, legislators relied on the doctrines of both Common and Romano-German laws. As afore-mentioned, the constitution of 1931 was largely drafted by *bejjirond* Tekle-Hawaryat, who “helped himself with copies of other constitutions provided by foreign legations

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<sup>35</sup> Aberra Jembere, 1998, *op.cit.*, p. 10. It should also be mentioned that some articles in the code of 1957 have their roots in Common Law.

in Addis Abeba”<sup>36</sup>. The Ethiopian constitution borrowed heavily from the Imperial Japanese Constitution of 1899 (also called the Meiji Constitution), due to the fact that among all countries then represented in Addis Abeba, Japan, as a modernizing empire, was the closest in its political position to Ethiopia. However, the Ethiopian constitution was much more concise than the Japanese one and far less liberal when it comes to the division of power<sup>37</sup>. Furthermore, the Meiji Constitution was in its turn inspired by the Prussian Constitution of 1871. Prussian law belonged to the Civil law family, so it can be presumed that the constitution promulgated by Hayle Sillasē I in the first year of his reign would classify Ethiopian law as belonging to the Romano-Germanic legal family.

On the other hand, the Ethiopian Revised Constitution of 1955 was mainly based on the constitution of the United States of America, belonging to the Common law family. Another argument in favour of Ethiopian law being considered as part of the Common law family is the fact that legislators of the civil and family code, especially in provisions that dealt with marriage and inheritance, decided to leave articles derived from customary law unchanged.

### **Modern Ethiopian law as a separate legal family category**

Problems with aligning modern Ethiopian law with one of the three main families of world legal regimes have led scholars to put forward a thesis that the legal system in question is one of the few independent legal groups among the legal systems of Sub-Saharan Africa that belongs to the Romano-Germanic legal family. Arguments in favor of such a thesis state that it is impossible to categorize Ethiopian law as part of the African law family, because the country’s modern law is not based exclusively on the customary laws of Ethiopian ethnic and religious groups. Furthermore, during the 1960s codification, Ethiopian legislators were inspired by the legal codes of European countries (Switzerland, Germany, France), whose laws belong to the Civil law family. Moreover, Romano-Germanic legal doctrine was implemented in Ethiopia with the introduction of *Fetha*

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<sup>36</sup> H. Scholler, *op. cit.*, p. 528.

<sup>37</sup> More about differences between the Meiji Constitution and the Ethiopian constitution, see: H. Scholler, *op. cit.*, 529f.

*Negest*, which originates from Syro-Roman and Roman-Byzantine legal codes. The codification of law that took place in 1924-33 and 1950-60 bound Ethiopian law to the Romano-Germanic law system even more strongly.

The strongest argument which has convinced scholars that modern Ethiopian law forms a separate category is the fact that this law successfully combined the doctrine of Romano-Germanic family with the doctrine of African law. In Ethiopia, a country of over eighty ethnic groups, it would be impossible to create one comprehensive, national law while rejecting customary laws that these groups follow. Therefore, the legislators decided to keep the elements of the customary laws that had hitherto been successfully applied. This applied especially to provisions concerning civil and family law (marriage, law of filiation, inheritance, ownership, purchase and sale of immovable property, etc.)<sup>38</sup>. The Civil Code of 1960, where this principle was applied for the first time, remained unchanged for forty years and served as a testament to the wisdom of the decision to adopt such a solution.

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<sup>38</sup> Article 625 of the Civil Code of 1960 can serve as an example of including customary laws into legal codes. The article states that every union between a man and a woman will be legally recognized if the marriage ceremony was conducted in accordance with the principles of the customary laws of both would-be spouses.

- stitute of Ethiopian Studies, Haile Sellassie I University, p. 175-183.
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