Folter (S. 223-243) wird u.a. der Fall Attorney General versus Ahmed Zaoui erwähnt, ein Fall, der wie kaum ein anderer neuseeländische Juristen beschäftigt hat (S. 236; Andrew Butler hatte in diesem Fall die Krone vertreten). Die in Deutschland im Zusammenhang mit einer Frankfurter Kindesentführung 2002/2004 heftig entbrannte Diskussion über die Frage der strafrechtlichen und öffentlich-rechtlichen Beurteilung einer so genannten „Rettungsfolter" – m.E. kein guter Begriff – (Fall Daschner) konnte von den Autoren in diesem Kapitel noch nicht berücksichtigt werden. Im übrigen ist aber die deutsche Rechtsprechung außerordentlich reichhaltig ausgewertet worden, wie auch das irische Case Law. Hinsichtlich der Bezugnahme auf Irland erklären die Autoren dies unter anderem mit der Tatsache, dass in Irland schon seit 1937 eine rechtlich durchsetzbare Bill of Rights in Kraft ist: „This makes Ireland the second oldest common law jurisdiction with a full-blown judicially enforceable supreme law bill of rights". Was die Rechtsprechung in Deutschland betrifft, so weisen die Autoren auf die aktive Rolle des Bundesverfassungsgerichts und auf die leichte Zugänglichkeit seiner Entscheidungen auch für englischsprachige Juristen hin (S. XII). Jedenfalls ist die Auswertung des ausländischen Materials in seiner Fülle höchst eindrucksvoll; selbst die Verfassung der Fidschi-Inseln (S. 247) und des Supreme Court von Zimbabwe (S. 322) werden zitiert. Das umfangreiche Sachregister dokumentiert die geradezu gigantische Stoffmasse, die in diesem Fall nicht – wie sonst bei Werken eines solchen Umfanges üblich – ein ganzes Team von Autoren bewältigt hat, sondern ein Duo. Man kann Andrew Butler und Petra Butler zu diesem großen Werk nur beglückwünschen und hoffen, dass der Kommentar in die Hände von möglichst vielen an den Menschenrechten Interessierten in möglichst vielen Ländern gelangt.

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Law has been an essential component of the Ethiopian culture since ancient times. Though no codes of law are known to have survived from the Aksumite kingdom, the predecessor of the modern Ethiopian state, the stone inscriptions provide sufficient evidence for the existence of a legal institution and its practices.[1] From the fourteenth century onward, however, numerous legislation pieces, enactments, proclamations and codes of law

[1] For an excellent reconstruction of an aspect of legal history of the Aksumite era, see the work of *Habte Mariam Assefa*, Die vorsätzlichen Tötungsdelikte im äthiopischen und deutschen Strafrecht – Ein Vergleich. Diss. jur. (Bonn 1965)

recorded on parchments have survived.[2] Quite a few court litigations and verdicts are also described in the chronicles, historical documents and colophons of monastic manuscripts. Ironically, law, as a subject of study, was rather marginal in the Ethiopian traditional schools until recent decades, as the author of the book under review notes in the preface. A church scholar who described the traditional church schools in the light of his personal experience, notes that only a fraction of the time allotted to the study of the patrological books was devoted to the study of law.[3] After all, the underlying concept was that judicial administration was a divine gift and that only some education would be needed to use the talent properly.

The first modern faculty of law was instituted under the Haile Selassie I (later National) University in Addis Ababa in the 1960s where the author of the book under review taught and researched for three years in the following decade. Since then, Ethiopian law has become his favourite field of study, on various aspects of which he has lectured and published frequently. Among his works are two books published earlier,[4] the first of which was done jointly with a colleague equally interested in Ethiopian legal studies, Professor *Paul Brietzke*, who also participated in the writing of chapters 3 and 6 of the current volume. The present work under review is the first of two volumes, which contains a compilation of his various essays published in academic journals and conference proceedings, and focuses "... on general aspects of the legal sources, comparative constitutional law, development of human rights in general and in Ethiopia as well as the development of constitutional review" (p. 5). The aim of the book is, "... to give an overview for the Ethiopian law student and the wider public on the modern law of their country" (Ibid.). The author nonetheless emphasizes that it "... should, however, not be separated from the historical legal tradition and legal culture of Ethiopia".

True to its title, this volume focuses on the making and interpretation of the constitution in Ethiopia, a country which experienced three totally different regimes within a period of six decades during which four constitutions and two provisional charters were issued. In view of the continuing political crisis of the country, the examination of the concept and praxis of constitution is of great relevance to our understanding of Ethiopia's tempestuous situation. Chapters 1, 4, 7, 10, 11 and 12 deal with different aspects of the constitution. Chapters 2 and 3 focus on the separation of power, protection of human rights and the evolution of Ethiopian public law. Chapter 5 (which is in French) describes the reception of western law

[2] For a survey of their historical development, see *Bereket Habte Selassie*, "Constitutional Development of Ethiopia" in: Journal of African Law 10/2 (1966) pp. 74-91; *J. Vanderlinden*, "An Introduction to the Sources of Ethiopian Law. From the 13th to the 20th Century" in: Journal of Ethiopian Law 3/1 (1966) pp. 227-55.

[3] See *Inbakom Kalewold*, Traditional Ethiopian Church Education. Translated by *Mengistu Lemma* (New York 1970) p. 31.

[4] *Heinrich Scholler* und *Paul Brietzke*, Ethiopia: Revolution, Law and Politics = Afrika-Studien 92 (München 1976); *Heinrich Scholler*, The Special Court of Ethiopia 1920-1935 = Äthiopistische Forschungen 15 (Stuttgart 1985)

in Ethiopia and various inherent cultural and technical problems related to the adoption of foreign concepts, while chapter 6 assesses the interrelation between law, politics and revolution. Finally, a comparison is drawn in chapters 8 and 9 between the federalism of present-day Ethiopia and Germany.

The fact that the history of the sources of Ethiopian law since the thirteenth century is placed at the opening of the book is not a mere habitual pursuit of a chronological order. It provides an overview of the historical and legal concepts within the context of Ethiopian culture which facilitates the readers' understanding of certain problems described in the subsequent chapters. It also introduces the academic novice to the relevant sources.

The sources are categorized roughly into two major parts summed up by the author as "legal and non-legal" (p. 11). The former includes legislations, decrees, proclamations, etc. while the latter comprises all sorts of studies and publications including newspapers. The history of the legal development is limited to the period from the 13th century to the present and is divided into four sub-periods: the first phase covers the longest time, i.e. from ca. 1270 to 1889, during which several legal documents, including the *Ser'atä Mängest* and the *Fetha Nägäst*, came into existence; second, 1889 to 1916 during which "the existence of legislative concepts not unfamiliar to European legal historians" (p. 13) is observable; third, 1916 to 1935, during which the quality and quantity of the legal sources increased by leaps and bounds; and fourth, the period since 1941 during which legislation became dominant and several codes of law and constitutions developed. Customary and case laws as well as the different versions of the modern written constitutions are also discussed at length.

The advantage of compiling essays which were published in scattered instances in a book is obvious. It seems, nevertheless, that the other chapters have scarcely drawn advantage from this wisdom. Instead of referring to the first chapter, extensive treatment of several constitutional elements is repeated again and again. The problem is inherent to the way the book came into existence: the chapters were originally published in different academic journals and conference proceedings. That means that each essay was self-contained and therefore all necessary explanations had to be provided for within it. There was no introductory chapter to refer to in their old location. An attempt to strip the articles of these explanations for the purpose of the compilation now would have certainly reduced at least some chapters to the size of a subsection. It would have been ideal if the book had been planned as a reconstruction of the theme rather than a compilation of the essays. Meticulous proofreading would also have enhanced the technical quality of the book. It must, however, be emphasized that such desiderata should by no means imply any deficiency in the way the evidence has been handled, the method of interpretation used and the substantiation of the arguments forwarded. The book remains impeccable in all its academic elements; and the students of Ethiopian law, history and politics can only appreciate the contributions of *Heinrich Scholler*.

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