

Insgesamt gesehen gibt dieser Band einen guten Überblick über Geschichte, Entwicklungslinien, politische und gesellschaftliche Einflußfaktoren und derzeitigen Stand der Forschung bzw. aktive Forschungsgruppen in den einzelnen nordischen Ländern. Des weiteren sind Hinweise gegeben, wo sich Zentren für einzelne Forschungsrichtungen befinden. Sucht jemand also Anknüpfungspunkte für eine Forschung in oder mit diesen Ländern in Bezug auf die Dritte Welt, werden durch diesen Band erste Hinweise geliefert – auch wenn seit der Erstellung der Papiere inzwischen schon wieder vier Jahre vergangen sind.

Regina Wegemund

Heinrich Scholler

The Special Court of Ethiopia 1920–1935

Äthiopistische Forschungen 15

Franz Steiner Verlag Wiesbaden, Stuttgart 1985. 414 S.; Leinen, DM 160,—

Each time a new dimension of Ethiopian studies is explored by a qualified person, the horizon of our knowledge usually expands. It is gratifying to note right away that the merit of the book under review lies in its originality. For some obscure reason, the historical aspect of Ethiopian justice has so far received only a minimal attention of scholars though no less evidence is available for it than for other areas. This book – written by a wellknown jurist who has also published on Ethiopian history, law and politics – now opens a new chapter with the study of a particular institution; namely, the »Mixed Court« which despite its very short period of existence had nonetheless an impact on the development of the modern Ethiopian legal corpus. The royal chronicles and the travel accounts indicate that throughout the centuries foreigners in Ethiopia were subject to Ethiopian law and their cases – at least those which involved the Ethiopian state or its nationals – were settled in Ethiopian courts. Why was it then necessary to create a new institution whose very establishment might imply an infringement on Ethiopian sovereignty? Various other studies have revealed that Ethiopia and some other countries in a similar situation could not avoid the repercussions of the prevalent colonial political pressures of the time. The so-called Special Court was a strange phenomenon in the history of Turkey, Egypt, Siam, Ethiopia and other states in so far as it served as an instrument of domination of the sovereign states by alien powers. The author asserts bypassingly in his foreword (cf p. 7 f.) that long before the abolition of these institutions, » . . . many nations regarded the Mixed Courts as a limitation of sovereignty and as an obstacle in the quest for total independence and equality.« This was more so in Ethiopia where, in the words of the author, » . . . the foreign plaintiff had the right to grab the Ethiopian defendant by the neck and drag him to court«, whereas, »it would not have been possible

to do this the other way round« (cf p. 68). Once the court was established, the consular representatives no longer concealed their prejudices: »The attitude of the European consuls was characterized by the ignorance and disdain of Ethiopian law in cases in which the defendant was an Ethiopian subject« (cf p 92). But the author, a professor of law at the University of Munich, maintains a different opinion on this issue. He disregards the pressures of Colonialism as a mere contingent, and he places the »Mixed Courts« within their international historical context which was essentially linked to the medieval political economy, but which persisted in some European attitudes to the twentieth century: ». . . when looking at the Mixed Courts from a historical viewpoint and considering the present difficulties of international jurisdiction, it becomes apparent that the Mixed Courts which occasionally may have been misused as instruments of domination, actually served to create an international private law. Without such a common law interaction between different nationalities with different religious and cultural backgrounds would not be possible« (cf p 7). The author recognizes indeed the awkward status and function of the Special Court, but he apparently prefers esteeming its positive contribution particularly in Ethiopia to lamenting its snags. The transition from the defunct Ethiopian medieval legal code known as the Fetha Nagašt and the traditional customary law into a modern national common law was facilitated, or at least necessitated, by the active role of the Special Court: ». . . it bridged the gap between traditional Ethiopian legal concepts and modern European law, thereby paving the way for a modern codified law in the 1950's and 1960's in Ethiopia« (cf p 93). This new institution brought about a new challenge to the Ethiopian judges who were time and again confronted with new cases, new laws and new legal concepts when working jointly with the consular representatives in the Special Court, though the actual life span of this institution did not exceed two decades. The establishment of a special court was conceived in the bilateral treaties Ethiopia concluded with France, Great Britain and Italy in the nineteenth century; but its foundation was laid down by the Franco-Ethiopian Treaty of Friendship and Commerce, better known as the Klobukowski Treaty after the envoy who negotiated it in 1908. Before long other nations showed a keen interest in the creation of the institution and it was established by a royal decree of the Ethiopian Government in 1922. The presidency of the court was held by a high Ethiopian official appointed by the Emperor, and about a dozen of them held it successively in the years 1922–1935. Cases involving Ethiopians and foreigners were examined by a mixed judiciary consisting of Ethiopian judges and the consul (or his representative) of the concerned country. Appeals in such cases were brought to the Ethiopian ruler until around 1930 when he ominously waved this function aside, perhaps as a tacit disapproval of the Court's existence. The book describes not only the historical background of the Mixed Court as well as the biographies of its presidents, but also the judicial and political complications which arose from the 1500 or more cases on which the court passed verdict. Most of the files – which incidentally are valued as linguistic and historical documents – have been preserved in London, Bonn, Paris, Rome and other European archives, though the author decidedly relied for his research mainly on

the London and Bonn records. Obviously there is much more material for a further study. Most of the documents are composed in Amharic, the official language of the Special Court, and are accompanied by generally deficient translations. Some 58 select cases (cf pp. 98–310) are appended to the book as illustrations of the ». . . difficult task of the Court and its judges« (cf p. 92). Amazing though it may seem, the author found no records in Ethiopia where he worked as a visiting professor in 1972–1975 and which he repeatedly visited in the subsequent years. Neither the reason for this curious circumstance nor whether it was also impossible to collect the reminiscences of some of those involved in the activities of the Court is, however, provided in the work. Two appendices (pp. 313–403) include the salient treaties, decrees, notices and other documents pertaining to the Special Court while a glossary, a bibliography, an index and a detailed table of contents provide easy access to this valuable monograph.

Bairu Tafla

Rainer Hoffmann

Traditionale Gesellschaft und moderne Staatlichkeit.

Eine vergleichende Untersuchung der europäischen und chinesischen Entwicklungstendenzen; München etc: Weltforum Verlag, 1987, pp 151, DM 39,—

For almost two centuries China has been bedevilled by her loss of regional pre-eminence in East Asia, mainly to the rising Western imperialism and also to an increasingly powerful Japan. The traditional Chinese élites, steeped in their conviction of the Middle Kingdom's superiority and self-sufficiency, were suddenly confronted with the dégringolade of a universal prestige, long taken for granted, under the impact of modern Western military and industrial power. Ever since the inception of this long decline many Chinese, individual statesmen and intellectuals as well as broader social and political movements, have sought to turn the tide of humiliation and backwardness, mainly by introducing methods of science, industry and government developed in the West in order to reinvigorate the country. Not a few reformers may have perceived such regeneration as a process which would restore China to a splendour considered as rightfully due to Shen Zhou – the Divine Land. The aim of the post-Mao régime »to build China into a modern, powerful socialist state by the year 2000« distinctly echoes the spirit of this quest. China's loss of stature in the world during the last century and the first half of this one naturally prompted the question of why no equivalent to the Western Industrial Revolution had occurred there. After the First World War, Marxist ideology and Communist revolution in Russia and China accentuated a conceptual need to relate the development in Tsarist Russia and Imperial China to a theory of social progress which had located the leading edge of historical advance in the industrialised countries of the world.