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**THE GOOD OLD LAW.
LITERACY AND ORALITY IN THE PRACTICE
OF ETHIOPIAN ROYAL LAW¹**

“You go first!” “No, you,” that was the first title of this paper, which I conceived while studying ancient Ethiopian chronicles, and under the influence of an academic, better collegial disenchantment on my mind. I start from the valuable premise that the structure of the Ethiopian monarchy is comparable to that of the Carolingian empire. Such an assertion relies on the view of history – to speak with Karl Löwith² – as the past, which man – who did not really change in the known course of his history – has made and for which he is to be held responsible, is full of internal correspondences, which the historian can compare from beyond the gulf of space and time, each according to his attitude with either irony or cynicism. But let us now turn to the event that triggered these thoughts, as it is recounted in the royal chronicles of the emperor Iyasu I:³

¹ This small contribution to the collected studies in honour of Andrzej Zaborski does not treat „ausnahmslos gültige Lautgesetze“ nor other linguistic topics as it would be appropriate for the eminent linguist to whom this collection of articles is dedicated. It treats the more vague and fluent laws of human society. Nevertheless, I am confident that Andrzej, always a good, engaged and passionate partner not only in scientific, but also, and even more so, in discussions on history and politics, will appreciate this humble contribution. My son, Dr. Andreas M. J. Kropp (University Nottingham), to whom goes my deep gratitude, translated the original German text and provided numerous corrections, suggestions and comments.

² Who merits to be known and read more, especially by historians. Suffice it to cite the following statement: „Daß wir aber überhaupt die Geschichte im ganzen auf Sinn und Unsinn hin befragen, ist selbst schon geschichtlich bedingt: jüdisches und christliches Denken haben diese maßlose Frage ins Leben gerufen. Nach dem letzten Sinn der Geschichte ernstlich zu fragen, überschreitet alles Wissenkönnen und verschlägt uns den Atem; es versetzt uns in ein Vakuum, das nur Hoffnung und Glaube auszufüllen vermögen. Die Griechen waren bescheidener. Sie maßten sich nicht an, den letzten Sinn der Weltgeschichte zu ergründen. Sie waren von der sichtbaren Ordnung und Schönheit des natürlichen Kosmos ergriffen.“ (*Weltgeschichte und Heilsgeschehen*, Sämtliche Schriften Bd. 2, S. 1).

³ Cf. the chronicle of Iyasu in GYoh (= *Annales Iohannis I, Iyasu I et Bakaffa*. Ed. et interpr. est. Ignazio Guidi. 1.2. Paris. 1903-1905. (CSCO. script aeth. ser.2. tom. 5.) Réimpr. Louvain, 1960-61. (CSCO. 22-25. = script aeth. 5-8) I, 144,27-145,7; II (Übers.) 151,15 -152,35. Iyasu

On the 30th of Yäkkatit, 1682 Eth. style (= March 6th, AD 1690), during his stay in Aringo⁴, the king summoned all his office-bearers (*seyuman*)⁵ of his court tent Hoflager (*te'yent*) to discuss an affair, which we have not mentioned thus far, but will recount in due time.⁶ The king called upon them: "Give your advice on the best way to decide in this issue!" But on this day the officials were quarrelling with one another: "You go first!" and the next one "You go first! I will pronounce my verdict after you!" When the king saw this, he ordered his supreme commander⁷ and prime minister⁸ Yohannes: "Tomorrow you will summon all nobles (*mäkwänent*)⁹, court judges (*liqawent*)¹⁰ and court counsellors (*azzaž*)¹¹ in the tent and consult them on the book of legal customs (*māshafä nägärä wäg*), which prescribes the order of the judgement, namely which official comes first (i.e. is lower in rank), and who comes next. They shall give you their reply together with the chancellors (*sähaftä te'zaz*)¹², who will have consulted the imperial annals (*māshafä tarik*), the *Kebrä nägäst*¹³ and the book of legal customs (*māshafä nägärä wag*),

I. ruled from AD 1682 to 1706; Iyasu = Jesus = Messiah; note the emphasis on kinship in the onomastics of the dynasty Dawit and Salomon to Jesus Christ.

⁴ A summer residence of the kings, 15 km west of Däbrä Tabor, cf. AfrOr (= *Africa Orientale Italiana*. Milano, 1938. (*Guida d'Italia della Consociazione Turistica Italiana*.) Maps after p. 368; 391; *Elementi per la Toponomastica Etiopica*. (ed.: A Bombace et al.). Napoli, 1937. p. 38; Richard PANKHURST, *History of Ethiopian Towns*. From the Middle Ages to the Early Nineteenth Century. (*Äthiopistische Forschungen*. 8.) Wiesbaden, 1982. p. 139 f.

⁵ In accordance with the historical contents of this paper I have opted for a simplified transcription; the philological expert of Geez or Amharic will easily recognise the original terms; the interested historian will find these transcriptions, in approximation of German orthography, easy to handle. Likewise all titles, offices and names have been treated in this fashion. A short explanation for each will be provided in the footnotes, but without reference to either dictionaries or, often inexistant, secondary literature.

⁶ Stylistic theme and principle: many retrospectives and addenda in the otherwise linear sequence of the chronicles are usually explained as necessary for the subject's context. Often the Bible is quoted as a textual example, which also does not procede in strict chronological order.

⁷ Eth.: *mäl'akä hayl*, a pure Geez title, corresponding to *abägaz* in spoken language., perhaps of Harari origin.

⁸ Amharic: *behtwädäd*: old Amharic designation for the office; *ras*: modern Arabic term; *wäzır*: borrowed from Arabic, or *abägaz*: Semitic term borrowed from the Muslim populations of South Ethiopia. This gives a foretaste of the linguistic problems contained in these historiographic texts written in a mixed language.

⁹ Amharic plural of *māk'annen* "lord." Synonym in Geez would be *mäsafent*.

¹⁰ Also called *wämbär* "throne, judge's seat." The Geez plural to this Amharic term is *mānabert* (actually "throne"); Similarly, *liqawent* is a pertinent creation in pseudo-Geez to fit Amharic *liq* "eldest," as an alternative to *liqan* and to the real Amharic *liqočč*.

¹¹ Pure Amharic term (actually "commander"), may be translated into literary language as *bäalä hegg* "legal expert;" pertinent to it is *azizan*, a creation in pseudo-Geez.

¹² Geez term, literally "scribe of the (royal) command."

¹³ "Splendour of the kings," the Ethiopian national epic. See, among numerous titles, the most recent (French) translation by Gérard COLIN, *La Gloire des rois (Kebra Nagast)*. Épopée

which the court counsellor Wäldä-Tensa'e, the renowned expert of traditional law (*täbib ma'meranä wäg*), as well as the book of laws, which the ancestors (of the counsellors) have compiled at the time of his Majesty Mäläk-Sägäd.¹⁴

Chapter: The next morning, on the 1st Mäggabit, prime minister Yohannes summoned all the court counsellors in his tent and delivered to them all the instructions of the king. They replied: "These instructions are superb. We will consult the book of legal customs straightaway and report to the king tomorrow."

The next morning the king bade the counsellors (*azzaž*) Zä-Mämfäs-Qeddus and Minas to his right, and the counsellors to his left were Amoni and Zä-Mämfäs-Qeddus.¹⁵ He asked these legal experts and called upon them: "Let me hear what you have read yesterday in the book of legal customs and heard yourself from the fathers (in oral tradition)!" The aforementioned counsellors replied: "Our Lord, what we have read and heard is the following:

"First of all the regular colonel (of the army) Del-Čefra pronounces his verdict!..."

Then follows a long list of the principal court counsellors¹⁶ and their recorded rank, which does not further concern us now. We shall return to it when we will hear the continuation of the story about the good old law. (Which tradition prevails? Are there contrasts in the tradition?) We can already draw some conclusions on the nature of the written tradition in Ethiopia and the nature of royal law. It is remarkable that the most prominent technical terms can be reproduced in different languages. The literary language Geez, which is the Low Latin of Ethiopia, has serious difficulties in providing a vocabulary for practical and technical aspects of everyday life: These terms are sometimes translated literally, but often the same expression is also given in Amharic, the spoken language and, more importantly, the language of the king – *lesanä-negus*: This

naionale de l'Éthiopie. Paris, 2002. Und Manfred KROPP, „Zur Deutung des Titels Kebra Nagast“. In: *Oriens Christianus*. 80. 1996. 108-113.

¹⁴ Särsä-Dengel, ruled from AD 1563-1597, i.e. about 100 years before.

¹⁵ The son of said Wäldä-Tensa'e?

¹⁶ It is known as the list *zä-yeqäddem lä-mekr* "who passes his judgement first" and exists in diverging editions, as we shall see below; cf. one edition in Joseph VARENBERGH, *Studien zur äthiopischen Reichsordnung*. Phil. Diss. Straßburg, 1915. (= *Zeitschrift für Assyriologie*. 30. 1915. 1-45). p. 45. This edition is only part of the dissertation; the publication of the entire piece is announced there, but has never been realised. Cf. on this topic also Maria-Georgia STYLIANOUDI, *Droit et Société en Éthiopie médiévale: Ser'ata Mangest: Analyse sémiotique d'un texte juridique éthiopien*. Thèse pour le doctorat de 3ème cycle. Université Paris I = Panthéon Sorbonne, 1984. p. 258-278 „ordre de préseance“. The collection of the *Thesaurus linguae aethiopicae* (Universität Mainz) contains as a digital text a critical edition of the *Ser'ata mangest* with accompanying documents in different editions, based on 40 manuscripts. A translation with commentary based on this edition is in preparation.

choice is a matter of prestige, it is the *lingua curiale*, comparable to how Sicilian was employed by the last Staufer kings, though it only develops into a literary language comparatively late. Hence all our tradition of Ethiopian history and Ethiopian law is made of translations, even though the translation only takes place in the scribe's mind. In the same way as many a Low Latin text, such as Paul the Deacon or a German medieval author writing in Latin, it is often only our background knowledge of the author's mother language which makes a text fully intelligible. Secondly – and here we return to more recent ridicule: In accordance with Parkinson's Laws, this ancient law is often concerned with itself, i.e. it gives guidelines for the administration on how to administer itself, and it suggests official rankings of its administrators! All-time populars are quarrels over competence, priority and privilege among court judges and counsellors. Indeed these themes recur so frequently in the tradition that it is hardly an exaggeration that it is thanks to these issues that much of it has been fixed and preserved at all. It is mostly lower officials, as we shall see in brief, who carry out these disputes, which is hardly surprising since it was this very class of officials that was entrusted with maintaining the historical archives and thus had the amplest occasions to record their cases for posterity. Still one is left to wonder what made these clerks, or their modern counterparts for that sake, more familiar and knowledgeable than anyone else on matters of customs and procedures, venture to pick such quarrels at all.

Before turning to the question of literacy and orality in royal law and law courts, let us first of all consider the historical development of legal practice in Ethiopia, in order to elucidate the context and relations in which court justice has to be regarded. This will be followed by a brief comment on how the Ethiopian Christian culture appreciates language and literacy.

Conti Rossini, explorer and expert of Ethiopian history, to whom we owe the apt structural comparison of the kingdom of Ethiopia with pre-Ottonic Germany and Italy, writes in his *Principi di diritto consuetudinario dell'Eritrea*,¹⁷ which is a fundamental reading until today, on p. 71:

“A striking fact is the virtually complete absence of royal initiative in the field of legislation. No king of Abyssinia has ever issued either a civil or criminal law extending over the entire kingdom; the scarce exceptions only had a limited effect. Written laws are entirely absent. The decrees of the king, as well as those of regional authorities, are publicly proclaimed, usually on market squares. Each region follows its own orally transmitted laws. Yet he is chief justice of his kingdom.”

The physical fragmentation of the Ethiopian high plain, with its rugged landscapes and diverse climates, is echoed in the variety of its peoples, languages and cultures, only loosely held together by a common stately concept, that of the Christian monarchy. The racy legal systems reflect the same diversity in

¹⁷ Roma, 1916. (*Manuali Coloniali*)

Ethiopia, where even the smallest social units such as the clan or the hamlet live by their traditional self-established legal customs. They are transmitted by word of mouth from generation to generation. A common thread, and hence part of a common Ethiopian heritage, is the emphasis on the contractual character of all legal institutions (e.g. marriage), which ensures the strong position of the guarantors. Thus the position of the bride is strengthened as representative of one of the parties to enter a contract at marriage. Various legal systems thus coexist without interference on different hierarchic levels. Only in two cases do they intertwine: in the form of laws of vassalage and fealty, when one group or people rises as the master of another, an occurrence which can often be observed in Ethiopian history down to recent times. Laws of relationship or rather collision are then created, which are usually modelled after those of the dominant group, to regulate the minimal economic and political relationships between both groups. They mostly deal with questions of levy, tribute and distribution of land, to some degree also questions of social hierarchy (slaves and feudal tenants). To enforce this law, a feudal lord is appointed as personal representative who stands above the autonomous officials of towns and villages. He exercises all higher jurisdiction, fixes the tributes and organises their collection. However, through religious missionary work, also the civil laws, the status of individuals of the dominant people can make themselves felt, namely between Islam and Christianity viz. between natural and monotheistic creeds.

However, one should note that religious faith to either of the great monotheistic creeds plays an astoundingly minor role in law; on the contrary, in the civil sphere religion always had to accommodate itself to traditional prescriptive law (e.g. in questions of marriage). This is also true of the royal law, where the basic ideology in its religious garb is restricted to a mere nominal influence in practical matters.

The royal law in many respects resembles the laws of vassalage and collision mentioned above. It is above all the common law of the ruling dynasty, i.e. in the last centuries the law of the Amharic people. These Semitic people from the South deposed the northern Agaw dynasty of the Zag^we, who in their turn had been the descendants of the kingdom of Aksum. In this function it appears in the arrangement of family affairs within the nobility, and partly also of the royal court. But at the same time it is a law of vassalage, which regulates the relationships between the various parts of the kingdom and the central court. Naturally the foremost issues are those of levies, which are usually requested in exchange for fiefs *g^welt*, i.e. for all kinds of rights to the usufruct of land and for the administrative measures that such territorial changes necessitate.¹⁸ Another

¹⁸ I chose the term “fief” after some hesitation and, as can be seen, with the help of an explicatory paraphrase. I do not think that one should entirely renounce to technical terms from different legal spheres. For once, the term “fief” itself is an umbrella for a variety of legal

important aspect is the supreme court, which in this case is not only concerned with cases of treason, asylum and so forth: the royal law court was, in theory at least, available as the court of last instance to any justice-seeking subject.¹⁹ The church as an integral part of public life, endowed with the monopoly on education (on the role of writing, see below) and extended land property, likewise played an important role in royal law. Not that the so-called *Fetha nägäst* “Law of the Kings,” a canonical collection of the Coptic church, translated into Ethiopic perhaps in the 15th c., ever became binding law: the translation itself was to a large degree unintelligible and required an Amharic commentary,²⁰ which was orally transmitted and full of highly inventive interpretations – no, this compilation has nothing to do with Ethiopian law. It was only occasionally consulted in political cases, when e.g. against all Ethiopian legal conceptions, a rebel was to be recalled from exile.²¹ The church was called into legal questions concerning civil status, such as cases of divorce, and to decide on the competence of single courts in land disputes; indeed some edicts and precedents are preserved in the so-called *ser’atä mängest*, “the order of the kingdom,” to which we shall return soon.²²

The first and most productive field, in which the king took active measures of legislation, was the administration of the centre of power, of the royal court itself, whose political life was regulated in an immensely complicated protocol and a maze of instructions down to the last detail. In the best times of the ‘wandering’ residence, i.e. the mobile tent camp of the king, the centre comprised hundreds of notables and commanded a standing army of 30,000 souls, with an appropriately gigantic infrastructure of means of transport, kitchens, barracks, armourer’s

institutions. Secondly, it is only an interdisciplinary approach that enables us to attain a general, comparative perspective on history, which as comparative linguistics ultimately aims at a general anthropology.

¹⁹ Further decrees on the right to appeal to the royal law court attest that it was in service 24 h a day.

²⁰ It has only recently been fixed in written form, cf. Ignazio GUIDI, *Il „Fetha Nagast“ o „Legislazione dei Re“*. Codice ecclesiastico e civile di Abissinia. Tradotto e annotato. (Pubblicazioni scientifiche del R. Istituto Orientale di Napoli. 3.) Roma, 1899; *Fetha Nägäst, nebab-ennä terg’ame*. Addis Abeba, 1958 äth. Stils = 1965 n.Chr.

²¹ In a fine example of circular reasoning, such cases are then often taken as evidence for the practical validity of the *Fetha nägäst*; cf. the introduction to the English edition by PAULOS TZADUA, *The Fetha Nagast. The Law of the Kings*. Translated from the Ge’ez. Edited by Peter L. STRAUSS. Addis Abeba, 1968. p. XXI-XXVI; GContr = Ignazio GUIDI: “Contributi alla storia letteraria di Abissinia”. In: *RRAL*. ser. 5. vol. 31. 1922. (1923). 65-94; 1885-218. I. Il Ser’ata Mangest. IV. La storia di Iyasu II e Iyo’as nel codice di Francoforte. V. La storia di Hayla Mikâ’el. VI. Un risponso sul diritto di asilo. IV, 195 f; VI; KrHay, *Die äthiopischen Königschroniken in der Sammlung des Däggazmac Haylu*. (= *Heidelberger Orientalistische Studien*. 13.) Frankfurt am Main (usw.), 1989. 240-242.

²² The *Ser’ata mangest* “the order of the kingdom” is hence not a constitution, as is sometimes claimed. Neither is the corresponding passage, containing the precedents in matters of stately law, a systematic chapter on the relationship between church and state.

workshops and storage facilities. This was the case under Zär'a-Ya'qob in the mid-15th c.²³ The mobility of the residence had two reasons: the monarch was well-advised to show himself in person in the provinces from time to time in order to maintain his authority there; secondly, none of them, under the conditions of trade and transport at the time, were able to support the royal court for any length beyond two to three years. The supply of fire-wood was one crucial problem²⁴, a second one the climatic shifts of the country from rain to dry period. The eventual establishment of a permanent residence in the 17th c. under Gondär, attained with the help of foreign craftsmen, can hardly be seen as a deliberate step towards urbanisation: it was rather a gesture of resignation. The king was rather forced to renounce to visiting all parts of his kingdom, faced with the tempest of Islamic invasions and irruptions of various Oromo peoples in the 16th c. He restricted himself to the control of one core province and the delegation of the outer territories to regional *gouverneurs* and princes, whose ties to the central power were steadily diminishing. Nevertheless, and well explicable in the light of Parkinson's Law, royal law and protocol were greatly enhanced in this period.

To turn to orality and literacy, and to the relationship between the classical Geez, language of writing and high culture, and the popular languages, especially Amharic. According to the legal systems *Rechtsordnungen* of the free peasant popular rights, each member of the community with a pronounced culture of verbal arguments had the right to appeal to the court; here the modest peasant could often shine as accomplished orator.

According to the testimony of the Swedish general Eric Virgin in 1935²⁵:

The Abyssinian is a born speaker, and neglects no opportunity of exercising his talent. A lawsuit is a heaven-sent opening and entails as a rule a large and appreciative audience. Now threatening and gesticulating, now hoarsely whispering with shrugged shoulders, now tearfully, he tells of his vanished farthing, and points a menacing, trembling finger towards the accused. The judge, sitting in the midst of a circle of spectators, having listened

²³ There is translation by Pedro PAEZ in his Ethiopian history (cf. *Rerum aethiopicarum scriptores occidentales inediti a saeculo XVI ad XIX*. A cura di Camillo BECCARI. Vol. 2. Roma, 1905 (repr. Bruxelles, 1969). 51-59. It is unfortunately incomplete, but certainly relies on information from court counsellors, i.e. from first-hand sources.

²⁴ The attempt to a quantitative study on the extent of available wood reserves has been made; it is concerned with the smelting of iron in Uman and relies on the parameters of climatic conditions and vegetation of certain areas, of course extrapolated from modern conditions; cf. Dieter ECKSTEIN, Walter LIESE und Josef STIEBER, „Holzversorgung im prähistorischen Kupferbergbau in Oman“. In: *Naturwissenschaftliche Rundschau*. 40. 1987. 426-430.

²⁵ Eric VIRGIN: *The Abyssinia I knew*. (= Abissinska minnen) London, 1936, 90-91. Cf. also Donald N. LEVINE, *Wax and Gold*. Tradition and Innovation in Ethiopian Culture. Chicago; London, 1965. S. 230-231 and s.v. *litigation* in the index (passim).

to his eloquence with a grave and thoughtful mien, now invites the accused to reply. Like a released spring he leaves up, and with raised hands calls heaven to witness his innocence, then falls on one knee, rises, stands on tiptoe, drops back on his heels, shakes his fist under the nose of his adversary and approaches the judge with clasped hands, while all the time an unceasing stream of words pours from his lips. Then it is once more the turn of the first, and in this way the duel of words continues for hour after hour...

This behaviour is found through all stages of appeal, up to the royal law court, since Amharic is not only the language of the people, but also *lesanä negus*, “the language of the king.” Hence all juridical texts – apart from the laws of the church – have to be translations of verbal Amharic texts. This is a fact which, often overlooked, bears enormous consequences for our literary critique of the manuscripts.

Moreover, even the religious scholar – Christianity being doubtlessly a literary religion – does not necessarily write: he learns by heart in the first place, the way his masters have taught him in long years of oral teaching. Though he reads, he does not write himself, but dictates. The scribe, *qum safi* in Amharic, is seen as rather simple-minded, or in the case of half-clerics, *däbtära* in Amharic, as a dangerous fellow, skilled in handling amulets and the arts of magic. The language of chronicles and other secular texts, such as legal documents, – a very peculiar mixture of Geez and Amharic, is accorded a special status: *lesanä tarik*, “language of chronicles,” which is below the prestige of Geez. It is supposed to reproduce spoken language with all the trivialities of everyday life, and indeed often when faced with peculiar Amharic words, it adopts them as loan-words. In legal texts, the language of chronicles is but a pale reflection of Amharic rhetoric culture, and manifestly fails to reproduce its polish and vivacity. Yet it owes its very existence to the continuous translation of the spoken word, and it is our task, if we are to understand a document in this kind of Geez, to retrace this mechanism of translation back to its spoken origin.²⁶

A few words on legal terminology: *hegg* (derived from common Semitic HGG) designates in Ethiopic the fixed, codified law, which is usually understood as Biblical law, as its usage in the context of asylum trials shows. Related to *hegg* is *feth*, literally “sentence, Counsel’s opinion;” it is also employed as a verb: *fätha* and *täfätha* “to sentence” and “to be sentenced.”²⁷ The common Ethiopic *ser’at* “order, instruction,” or “edict, law, ceremony,” related to Arabic *šari’a*, but semantically

²⁶ One should keep in mind that the exorbitant prices of writing materials alone set clear limits to the keeping of records: one herd of sheep for one book!

²⁷ The corresponding Quranic expression with this particular significance has reached Northarabian either via Old Southarabian or directly via Ethiopic; in Northern Arabic the root has a different meaning.

in both languages derived from entirely different fields; it may be related to *räte'a*, “straight, correct.” A *ser'at* rests on *wäg / tarik* “prescriptive law and traditional, historical precedent.” *wäge'a* “to narrate” is peculiar to Ethio-Semitic, not found in Asio-Semitic languages (Semantically, the word should be compared to common Semitic LMD); in fact, Ethio-Semitic is increasingly turning out to be surprisingly autonomous and particular, especially when it comes to the basic terms of its language and culture.²⁸ Other terms, e.g. derived from the roots K^WNN, FRD, should be called into question. The judge is called *dāñña*, *wāmbär*, *liq* or *azzaž*.

We have noted pre-eminent position of the spoken word in Ethiopia's legal practice and the transmission of its laws. But which are the sources for us to reconstruct this bygone oral culture?

The greatest contribution on popular and prescriptive laws comes from Italian civil servants of the colonial age; they had records made of the oral laws and statutes of single tribes and regions. Rather than scholarly research, their purposes were naturally pragmatic and immediate: to create a binding and positive system of laws, thus to replace the *fetha nägäst* with the *fetha Talyan* “Laws of the Italians”, or better a *fetha Martini*, named after one of the governors of Eritrea. The new *feth* was to be achieved by integrating the traditional laws in a legal system after European models. This is why Conti Rossini's *Principi* were published in the series *Manuali Coloniali*. It reminds us of similar proceedings of the English in India and Sudan, where they likewise codified colonial laws. This is also the ultimate reason why the laws of Northern Ethiopia are much more familiar to us than e.g. the traditional laws of the Amharic people. By contrast, Haylä-Sellase I, when he later created the new autonomous state, did not show the least interest or scruples when doing away with the traditional legal systems. Fortunately, a high revenue-officer, out of his personal scholarly and historical interest, recorded parts of the traditional systems of taxation in the provinces of the kingdom. His is an invaluable collection, which enables us to interpret ancient documents in the manuscripts.²⁹

²⁸ I may recommend the comparative dictionary of Leslau, which is a superbly adequate tool for this kind of study; cf. my review of Wolf LESLAU, *Comparative Dictionary of Ge'ez (Classical Ethiopic)*. Wiesbaden, 1987. In *Oriens Christianus*. 74. 1990. 270-275 und “Individualität und Bindung: Die Geschichte des Äthiopischen (Gə'əz) im Spiegel von Wolf Leslaus Comparative Dictionary.” In: *Afrikas Horn: Akten der ersten Internationalen Littmann-Konferenz, 2. bis 5. Mai 2002 in München*. Herausgegeben von Walter Raunig und Steffen Wenig. Wiesbaden, 2005. (*Meroitica*. 22.) 282-299.

²⁹ The man in question is Gäbrä Wäld Engeda-Wärq; his work is called *Yä-Itopya märet-ennä gebr sem* (Addis Abeba, 1948 äth. Stils = 1955 n.Chr.) and has been translated into English (‘Ethiopia's Traditional System of Land Tenure and Taxation.’ Translated by MENGESHA GESSESSE. In: *Ethiopia Observer*. 5. 1961-1962. 302-339). All other studies rest on this text, such as Berhanou Abbebe's: *L'évolution de la propriété foncière au Choa (Ethiopie)*. Paris, 1971; a rich collection of material is also offered in the compilation of Mahtämä-Sellase Wäldä-Mäsqäl, a chancellor of Haylä-Sellase, under the title *Zekrä nägär 'res acta'* (Addis Abeba, 1942 Eth. Style = AD 1949, which has so far been unjustly overlooked, let alone translated.

Let us now turn to the actual cases of the royal law, as it is preserved in the written sources, while keeping in mind the precedence of the spoken word outlined above. They contain the *ser 'atä gebr* “banqueting order” (with the double meaning “systems of taxation”), and a few further *ser 'at*, edicts, which sometimes appear as appendices to royal deeds of gift, without necessarily being part of them.

A very interesting piece is found in a manuscript written by many hands, which probably comes from the church of Täklä-Haymanot at the court of Gondär. It contains superb decrees from the time of Zär'a-Ya'qob and his successors (15th century), which are themselves in turn copied from decrees in a gospel from Amba Gesche, the royal monastery in Wollo. The authenticity of this brief text is beyond any doubt. Its peculiar language is an idiosyncratic blend of Amharic and Geez of astounding vigour and clarity, which reproduces the emperor's idiom.³⁰

Why does an evangeliar in a church in Gondär contain a royal decree? we encounter here a significant peculiarity of the archiving of royal documents. A royal deed of gift is pronounced by the spoken word, and then publicly proclaimed and thus made legally effective. The king does not speak himself, but his word is transmitted in the court via the “mouth of the king,” *afä negus*, who then passes it on to the herald, who then goes to the market square where to the sound of drums – drums are one of the principal royal insignia – he proclaims the decree, often in the presence of the king and high officials. At times however, it was forbidden for the king to be visible to his people, and he would be concealed behind a curtain. When for instance in the course of decisive battles, the king Bä-Edä-Maryam (15th century) and Lebnä-Dengel (16th century) showed themselves, the Ethiopian people scorned at them for violating the ancient custom. If the decree is regarded as significant, the chronist then records the proclamation, usually in abbreviated form. Such recordings are in fact testimonies, since they do not only contain the gifts, their size, value, beneficiaries etc., but also the witnesses and the books, which contain further copies of the deed: These books, Bible manuscripts or psalms, are in the private archives of notables, but also in the archives of the beneficiary institution, and in churches and monasteries, which could be relied upon for safekeeping. Such a procedure is attested on the foundation of the church in Mahdärä-Maryam near Este by Däggazmač Haylu, who had it recorded among his chronicles. A second edition is preserved in the church itself.³¹

This well-attested procedure is even outdone by a second one, which allows us to follow the history of a church in Gondär, which is still extant, from

³⁰ Cf. M. Kropp “Dann senke das Haupt und gib ihr nicht im Zorn” Eine testamentarische Verfügung des Kaisers 'Amdä-Seyon aus dem Archiv der Handschrift BM Or 481'. In: *Orientalia Suecana*. 28-29. 1989-1990. 92-104.

³¹ Cf. KrHay = Manfred KROPP, *Die äthiopischen Königschroniken in der Sammlung des Däggazmač Haylu*. (= *Heidelberger Orientalistische Studien*. 13.) Frankfurt am Main (usw.), 1989. 79-98.

its foundation under Salomo II in 1786 until the present day. The narration of the tradition is found in the chronicle. The king's secretary is reluctantly – for how shall a weak man protect a church – appointed as patron and solicitor. This is what he tells us in the chronicle and reproduces the founding document. At the same time, a book in the church preserves the same document, together with a lot of further documents regarding the church, gifts from the king, inventories of its property, all of which are testified by said court counsellor and his son in the function of solicitor. Furthermore the document mentions eight copies to be made and distributed to various churches; by luck and coincidence, all eight of them are preserved and were found exactly in the churches listed. And finally: On top of a page in one of these manuscripts, a small scrap of parchment was attached, which revealed itself to be a letter of protest from the abbot of the church to the royal law court. He complained for being deprived of some land that legally belonged to the church. The fact that the letter returned from the court to the church surely means that the king or his judge had the church' witnessing documents checked, or the abbot interrogated, in order to determine the validity of the abbot's claim.³²

We mentioned the court counsellor and his son as solicitor. The posts of higher judges were indeed hereditary, though they were not handed directly to the next generation, but only after a regular *cursus honorum* (which has not yet been studied in detail, but may be reconstructed from the chronicles and other prosopographic data). These families, which interestingly often descend from royal princesses, collected in the course of time veritable family archives on all procedures in which they were involved by testimony or authentication. Hence the archives developed into a kind of law and land-register offices. It is this very group, which the king consulted in the first case mentioned above. Unfortunately I cannot prove family relationships of these court counsellors with those of the 17th and 18th century: here the oral tradition breaks off. But it may be possible to reconstruct them from documents in a similar way as I was able to do for the 17th and 18th centuries across five generations.³³

The judges did not only take interest in single procedures. It was also their task to be familiar with procedures and ceremonies. Much of this knowledge was surely conveyed by word of mouth, but there must have been cases where it was recommendable to have written documents to sustain one's position in the face of litigant parties. This is how the *ser'atä mängest* came into being,

³² The story is preserved in the chronicles of the MSS. Frankfurt am Main, Stadt- und Universitätsbibliothek, Sammlung Eduard Rüppell, neue Signaturen Ms Or 39 und 40 (Lazarus GOLDSCHMIDT, *Die abessinischen Handschriften der Stadtbibliothek zu Frankfurt am Main (Rüppell'sche Sammlung)*. Berlin, 1907. Nrr. 18 und 19). One of the archival documents e.g. in W. WRIGHT, *Catalogue of the Ethiopic Manuscripts in the British Museum acquired since 1847*. London, 1877. S. 213 (No. CCCXX).

³³ Cf.. KrHay, S. 235-248.

as vademecum of the court counsellor , “the perfect little court counsellor .” At the same time it is a peculiar chronicle, often a virtual rejoinder to rectify the great official annals, which contained much historical information (genealogies, precedents), which was likewise indispensable for juridical decisions.³⁴ The *ser’atä māngest* is therefore not a complete or even systematic constitution, but a register of the kingdom’s ceremonies containing the principal stately events: crowning and funeral of the king; ascension of the queen, the patriarch and high noblemen; main holidays, such as the Feast of the Holy Cross. The significance of the second part, with a long list of officials, regions, cities and monasteries, has not been determined yet. Thirdly, a disposition of the mobile court and the royal military campaigns. Finally several precedents and disputes over competence between cleric and secular courts (civil status, land property) and the ranking of court judges, as we have seen at the very beginning.

When I began writing the critical edition of the text, I imagined the fairly recent Amharic versions to be secondary translations of little relevance, versions such as those made of some chronicles under the influence of European travellers and with a didactic purpose. But the further I proceeded in clarifying the background and origin of the text, the more urgently I perceived the necessity to explore the Amharic texts and their relationship with the impenetrable and often obscure Geez version. To my surprise, the Amharic versions proved to be more concise, more precise in detail and further in scope; they have been written down under the immediate impression of the oral transmission of the original text.

One example: At the installation of a *däggäzmač*, the words to accompany his crowning are *wäsinomu mayä* “by drawing the border with water.” The saying has been variously attributed to a sprinkling or plunging of the crown in holy water, which led me to the conjecture *wäsihomu* “to besprinkle” (the two words only differ in graphically very similar letters). However, this reasoning is methodically incorrect, as we shall see. In Amharic the passage reads: *bä-zihemm gize yagär dengag adregäw yä-negus färäs täqämtö yegäbbal* “in this moment they (the court councillors performing the ceremony of installation) define the borders of the territory (of his provinces) and he mounts the horse of the king and enters (comes back to the tent camp) on horseback.” The translation in Geez tried to explain, with perfectly unintelligible results, that traditionally the borders of the provinces in Ethiopia are defined by rivers.³⁵

³⁴ Cf. Manfred KROPP, “Die Stimme der Opposition in der äthiopischen Geschichtsschreibung. Kaiser und Kirche in Äthiopien.” Überarbeitete Fassung des Vortrags für den 22. Deutschen Orientalistentag, Tübingen, 1983. In: *Horizonte der Christenheit*. Festschrift für Friedrich Heyer zum 85. Geburtstag, Erlangen, 1994. (Oikonomia. 34.) 36-48.

³⁵ Such boundaries are clearly imposed by Ethiopia’s natural conditions: during the raining season the swelling rivers become uncrossable obstacles and turn single regions into separate islands. Already the early European maps of Ethiopia, which were made with the help of local informers, show that court counsellors had a clear notion of Ethiopia’s geography and in

But back to where we started: we still do not know the outcome of the case in 1690! But that does not need to disquiet us. Such cases of petty envies are plentiful and always will be, one is tempted to say, as long as there is a bureaucracy:

In the eighth year of king Bäkaffas³⁶, son, but not direct successor, of Iyasu I, in the year 1728, a rebel needs to be sentenced:³⁷

“In this year thanks to abeto Diyonasyos the rebel Alfeyos of Lasta was brought as a prisoner to Gondär. The king came to the rasgebet (a palatial district), summoned the nobles and judges and bade them: “Pass your sentence!” Thus began the (prescribed sequence of) sentences, until it was the turn of the court counsellors (azzaḥ). A quarrel ensued between the court counsellors and the chancellors (sähaftä te’zaz), whereby they were calling upon one another: “You go first!” and “You go first!” Then the king asked about the ancient legal custom, and a custom was found, which said: “From the time of his Majesty Fasilädäs³⁸ to the time of his Majesty Adyam-Sägäd (Iyasu I.), the sentence of the two court counsellors stood above that of the chancellor. But in the time of his Majesty Adyam-Sägäd the sentence of the chancellor stood above that of the court counsellors.” When the king had heard of this custom, he decided: “It shall be again as before under his Majesty Aläm-Sägäd (Fasilädäs)!” Thus the chancellors passed their sentence first, and the sentence of the court counsellors stood above. But the rebel Alfeyos then was hanged on the addäbabay (square in front of the royal palace).”

This actually means that Fasilädäs changed a sequence, which had been in effect under Särsä-Dengel and perhaps also Susneyos. For lack of space we

particular of its hydrographic conditions. The most famous example is the map of Gastaldi (after information from Täsfa-Seyon) and of Ludolf (after information from Abba Gorgoryos); cf. the still unpublished PhD thesis by Bertrand HIRSCH, *Connaissances et figures de l’Ethiopie dans la cartographie occidentale du XIVe siècle au XVIe siècle*. Thèse de doctorat Université Paris I. 1990. On the question of how the Geez and Amharic versions relate, cf. Manfred KROPP: ‘The ser’atä gebr: a mirror view of daily life at the Ethiopian Royal Court in the Middle Ages’. In: *Northeast African Studies*. 10, 2-3. 1988. 51-87. (with a complete critical edition of the text).

³⁶ Ruled from AD 1721 – 1730.

³⁷ Appears in all editions of the “Short Chronicle;” cf. René BASSET: *Etudes sur l’histoire d’Ethiopie*. Paris, 1882. (Verb. Sep.-Dr. aus: JA. 7. sér. vol. 7. 1881. 315-434; 8. 1881. 93-183; 285-389.) p. 92, 15- 93,4; Francesco BEGUINOT, *La cronaca abbreviata d’Abissinia*. Nuova versione dall’Etiopico e commento. Roma, 1901. p. 119-120. The precedent under Iyasu I. in GYoh I, 292 = II (transl.). 313 ff); as the chronist remarks with a sigh, the same instructions had to be given time and again; it shows the continuous quarrels between the notables on this issue; cf. GYoh I 144 und II 292.

³⁸ Ruled from AD 1632 – 1667; grandfather and predecessor of Iyasu I.

cannot delve into the intriguing political context of this episode in any detail, but this is only out of several instances where Fasilädäs saw himself forced to break with the policy of his father Susneyos and restore the Ethiopian orthodoxy. The reign of Särsä-Dengel was particularly held in scorn: he came from a different branch of the dynasty, and many of his vassals and followers were later declared rebels, such as a certain prince Yona’el, who in the first editions of the *ser’atä mängest* still enjoyed a place of honour in the royal tent camp.³⁹ At any rate, there were good political reasons for overlooking the law of Särsä-Dengel. Hence already the decision of 1690 under Iyasu I was in fact a recourse to “good old law.” Bäkäffa now revived the law of Fasilädäs. We do not know why: one would need to examine Bäkäffa’s attitude towards his father and other predecessors, as well as his position to Fasilädäs, as far as it can still be reconstructed at all. Perhaps the case of 1690 was simply forgotten and, searching for the “good old law,” the king judged according to the most ancient laws to be preserved. Or finally – and here the historian’s systematising cynicism breaks through – it may have been the lower officials at court who took a chance to live out their vanity. They may have made a show of their superior knowledge of legal customs by determining at will what, after all, the “good old customs” were supposed to be.

One final remark: there is a manuscript of the “Brief Chronicle,” where one sheet interrupts the narration and appears to be cut out from elsewhere and inserted by mistake. In fact, the page comes from a *ser’atä mängest* “ordinance of government” from the collection d’Abbadie, hence from the collection of his Ethiopian friend Liq Atqu. The scribe or author of the chronicle had obviously placed the document at the respective place in the historical account: perhaps he was a court counsellor asked for a testimony, who then presented his evidence to the trial. This peculiar working method, to combine the historical narration with documents, is applied several more times in the manuscripts of the Atqu family: as court counsellors, they had these documents at their disposal. But to go even one step further: The Rüppell Collection, Frankfurt, has a manuscript of the *ser’atä mängest* with an incomplete ending: the sheet missing is exactly the one that was found in the “Brief Chronicle.” A fine joint indeed. We may therefore conclude that one of the ancestors of the court judge had a trial in 1728, for which he supplied as evidence a piece from his own archives; or perhaps it was Liq Atqu himself who composed his chronicle as modern historians do,

³⁹ Another clamorous case of this kind is that of Mälka-Sedeq, servant and army commander of Särsä-Dengel and later rebel against Susneyos, due to whom an entire chapter of the chronicle of Särsä-Dengel had to be virtually censored; cf. Manfred KROPP: ‘Politische Zensur im 17. Jhdt. in Äthiopien: die Chronik des Sarsa-Dengel. In: *Nubica et Aethiopica*. Internationales Jahrbuch für koptische, meroitisch-nubische, äthiopische und verwandte Studien. 4.5.1 999. 77-100. (French version: ‘Un cas de censure politique au XVII^e siècle: les chapitres 8 et 9 de la chronique de Särsä-Dengel’. In: *Annales d’Ethiopie*. 17. 2001. 257-277.)

by retrieving and interpreting the original documents; though modern historians hardly take the licence to cut the original documents and stick them in the text.

Such dossiers are also found in his other manuscripts. He passed them on to his *qum safi*, his narrow-minded scribe – Ethiopian stereotypes proven absolutely correct –, who copied them mechanically and thus often inserted pieces out of place and with no regard for the contents, just strictly following sheet by sheet the order in which Liq had compiled the bundle for him.⁴⁰ Hence a confusion and corruption arose in the manuscripts of the Atqu Collection, which cannot occur in oral transmission. It seemed inexplicable at first until in one instance the original documents were identified and reconstructed. Its textual corruption is hence due to mindless and mechanical copying, i.e. to the *literary* transmission of texts. By contrast, our previous example of the king's crowning and the saying *mayä wäsinomu* (SM III, 11 installation of a *däggazmač*) showed the linguistic difficulties which confront us in the Geez-versions of the *ser'atä mängest*: Their solution has to be sought in the mechanisms in which people transmit the spoken word.

⁴⁰ We know his Name, Däbtära Haylu; cf. KrHay, 148-149; 240, in connection with the texts discussed here.