# CURRENT TRENDS IN AFRICAN LEGAL GEOGRAPHY:

# THE INTERFUSION OF LEGAL SYSTEMS

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One of the most important functions of comparative law is pure geography, in the literal sense:scientific description of the world. Yet in spite of mounting interest in African law, nobody seems to have bothered to bring the legal map of Africa up to date -- so that to some comparatists the African continent probably still looks as it appears on a map published in 1963 by the Mexican Institute of Comparative Law: a huge blank spot, with a touch of Muslim law on its northern fringes.[1]

The only scientific attempt at presenting a comprehensive geographical classification of legal systems in Africa is now more than 30 years old: WIGMORE's "world-map of present-day legal systems" -- based on the political boundaries of 1923.[2] It broadly divided the laws of Africa in two major

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[1] Grandes corrientes juridicas, in UNIVERSIDAD NACIONAL AUTONOMA DE MEXICO, INSTITUTO DE DERECHO COMPARADO (Mexico 1963) p.11; cf. J.N. Hazard, Classifying Africa's Law, in ZBORNIK RADOVA O STRANOM I UPOREDNOM PRAVU, vol. 4 (Belgrade 1966), p.217.

[2] J.H. Wigmore, A PANORAMA OF THE WORLD'S LEGAL SYSTEMS, vol. 3 (St. Paul, Minn. 1928), pp.1140-1145.

categories: the "Anglican system" (A)[3] and the "Romanesque system" (R)[4] each containing certain "blends" or "composites"[5] of tribal customary law, Mohammedan law, or both.

Although these categories obviously are far from homogeneous (with the "Romanesque" system reflecting a wide range of legal styles from Paris, Brussels, Rome, Lisbon and Madrid: and the "Anglican" system, a variety of somewhat post-classical versions of English law made in India and elsewhere, plus some American imports in Liberia), WORTLEY assures us that WIGMORE's maps,[6] with some minor adjustments, are still quite suitable today. Indeed, most of the recent literature tends to divide Africa along the "legal iron curtain" between common law and civil law,[7] which is to some extent coincident with the convenient cliché of "anglophonic" vs. "francophonic" Africa - at least if one takes the

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[3] According to Wigmore's map (at p.1145), this included what is today Botswana, The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Namibia, Nigeria, Rhodesia, Sierra Leone, Sudan, Swaziland, Tanzania, Togo, Uganda and Zambia.

[4] Including what is today Algeria, Angola, Burundi, Central African Republic, Chad, Congo-Brazzaville, Congo-Kinshasa, Dahomey, Ethiopia, Gabon, Guinea, Ivory Coast, Libya, Malagasy Republic, Mali, Mauritania, Morocco, Mozambique, Niger, Rwanda, Senegal, Tunisia, the United Arab Republic and Upper Volta.

[5] Indicated on Wigmore's map as AT (blend of Anglican and tribal customary law), At (composite of Anglican and tribal customary law), Am (composite of Anglican and Mohammedan law), Atm (composite of Anglican, tribal customary law and Mohammedan law); RT (blend of Romanesque and tribal customary law), Rm (composite of Romanesque and Mohammedan law).

[6] B.A. Wortley, On Re-reading Dean Wigmore's Panorama of the World's Legal Systems, in PROBLEMES CONTEMPORAINS DE DROIT COMPARE, vol.2, (N. Sugiyama ed., Tokyo 1962) p.541.

[7] A.N. Allott, Unification of Laws in Africa, AMERICAN JOURNAL OF COMPARATIVE LAW, vol.16 (1968) p.84; cf. R. David, LES GRANDS SYSTEMES DE DROIT CONTEMPORAINS: DROIT COMPARE, (Paris 1964) p.74.

distinctively British view of classifying everything as either Anglo-Saxon or non-Anglo-Saxon (i.e., all the rest). So conditioned has this viewpoint become in the minds of African lawyers that they are being chided by Europeans for "the initial taking over of English categories" to describe their own law,[8] or for treating the Gauls as their legal ancestors.[9]

There are signs, however, that colonial divisions may not be as durable in African legal geography as seems to be generally assumed. It is true that the end of the colonial period did not bring the end of the "imported" law; and DAVID is perhaps correct in stating that throughout the independent states of Africa "there is no question of abandoning the Western law which prior to independence had become their droit commun."[10] Yet decolonization has opened many doors and windows, and has initiated a momentous process of interaction among legal systems in Africa. We may describe this process as a kind of transcultural and transnational interfusion. I have adapted this term from the concept of "diffusion" which is used in contemporary social geography to explain the spatial interaction and expansion of cultural phenomena in general, and of innovative ideas in particular.[11] Interfusion of legal systems in

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[8] A.L. Epstein, Injury and Liability in African Customary Law in Zambia, in IDEAS AND PROCEDURES IN AFRICAN CUSTOMARY LAW (M. Gluckman ed., London 1969) p.292, referring to T.O. Elias, THE NATURE OF AFRICAN CUSTOMARY LAW (London 1956).

[9] J. Hilaire, Nos Ancêtres les Gaulois, ANNALES AFRICAINES, (1964) p.7.

[10] David, op.cit. supra, (note 7) p.564.

[11] E.g., see R. Heine-Geldern, Cultural Diffusion, INTERNATIONAL ENCYCLOPEDIA OF SOCIAL SCIENCES, vol. 4 (1968) p.169; T. Hägerstrand, The Diffusion of Innovations, ibid. p.174; E.M. Rogers DIFFUSION OF INNOVATIONS (New York 1962); and cf. P.A. Sorokin, SOCIAL AND CULTURAL DYNAMICS, vol. 2: Fluctuation of Systems of Truth, Ethics and Law (Englewood Cliffs, N.J. 1962); R. Aron et al., The Diffusion of Ideologies, CONFLUENCE, vol. 2 (1953) p.3; W. Koppers, Diffusion: Transmission and Acceptance, YEARBOOK OF ANTHROPOLOGY, vol. I (1955) p.169; P. Gould, A Note on Research into the Diffusion of Development, JOURNAL OF MODERN AFRICAN STUDIES, vol. 2 (1964) p.123; id., SPATIAL DIFFUSION (Washington 1969); and D. Crane-Herve, La diffusion des innovations scientifiques, REVUE FRANCAISE DE SOCIOLOGIE, vol. 10 (1969) p.166.

the modern independent states of Africa has begun to defy and to erode traditional categories of classification, and may indeed render them obsolete in the foreseeable future. The present study attempts to place this process in a comparative perspective, and to analyze some of its causes and effects.

## I. CAUSES OF INTERFUSION

First, Africa appears to be the only area in the world where the number of "mixed legal systems" (straddling the fence between Anglican and Romanesque law) has increased significantly. To this group, in which WIGMORE listed only the Republic of South Africa in view of its blend of English and Roman-Dutch law, we may have to add today Botswana, Lesotho, Namibia, Rhodesia and Swaziland.[12] Political events created a blend of English and French legal sources in Cameroun,[13] and Mauritius,[14]

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[12]E.g., see A.J. Kerr, The Reception and Codification of Systems of Law in Southern Africa, JOURNAL OF AFRICAN LAW, vol.2 (1958) p.82; S. Poulter, The Common Law in Lesotho, JOURNAL OF AFRICAN LAW, vol. 13 (1969) p.127; J.R. Crawford, History and Nature of the Judicial System of Botswana, Lesotho and Swaziland, SOUTH AFRICAN LAW JOURNAL, vol. 86 (1969) p.476, vol. 87 (1970) p.76; and A.N. Allott, Towards the Unification of Laws in Africa, INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, vol. 14 (1965) p.372.

[13]See P. Vergnaud, Levée de tutelle et réunification du Cameroun, REVUE JURIDIQUE ET POLITIQUE: INDEPENDENCE ET COOPERATION, vol. 18 (1964) p.556. On the slow progress of legal integration see E. Ardener, The Nature of the Reunification of Cameroun, in AFRICAN INTEGRATION AND DISINTEGRATION (A. Hazlewood ed., London 1967) p.328; cf. J.A.C. Smith, The Cameroun Penal Code: Practical Comparative Law, INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, vol. 17 (1968) p.651; and J.W. Salacuse, AN INTRODUCTION TO LAW IN FRENCH-SPEAKING AFRICA, vol. I (Charlottesville, Va. 1969) p. 264.

[14]See A.H. Angelo, Mauritius: The Basis of the Legal System, COMPARATIVE AND INTERNATIONAL LAW JOURNAL OF SOUTHERN AFRICA, vol. 8 (1970) p.228. On the difficulties arising from this dualism, see e.g., D.A. Caponera, Report to the Government of Mauritius on Water Resources Policy; Administration and Legislation (FAO, Rome 1969).

and a blend of English and Italian sources in the Somali Republic.[15] Ethiopia joined the group by enacting Romanesque codes along with an Anglican procedure, in a unique effort to combine "the best that other systems of law can offer".[16] Although the Ethiopian law reform is sometimes singled out as a "voluntary reception" of foreign law,[17] westernization of the legal system was virtually imperative even for independent Ethiopia, particularly in view of the discriminatory "capitulations" imposed on her by foreign powers[18] and all that may be called voluntary about this

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[15] See P. Contini, THE SOMALI REPUBLIC: AN EXPERIMENT IN LEGAL INTEGRATION (London 1969); id., Integration of Legal Systems in the Somali Republic, INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, vol.16 (1967) p.1088.

[16] HAILE SELLASSIE I, SELECTED SPEECHES 1918 TO 1967 (Addis Ababa 1967) p.394 (addressing the Codification Commission on 26 May 1954). From the abundant recent literature on the Ethiopian "eclectic" or "synthetic reception" of foreign law see, e.g., J. Vanderlinden, Civil Law and Common Law Influences on the Developing Law of Ethiopia, BUFFALO LAW REVIEW, vol.16 (1967) p.255; R.A. Sedler, The Development of Legal Systems: The Ethiopian Experience, IOWA LAW REVIEW, vol.53 (1968) p.596; K.R. Redden, THE LEGAL SYSTEM OF ETHIOPIA (Charlottesville, Va. 1968); P.H. Sand, Die Reform des aethiopischen Erbrechts, Problematik einer synthetischen Rezeption, RABELS ZEITSCHRIFT, vol.33 (1969) p.413 (with English summary at p.455) and see infra (notes 49, 50, 63, 71).

[17] R.A. Schuetz, Die Rezeption auslaendischen Rechts in Afrika, JURISTENZEITUNG, vol.24 (1969) p.627.

[18] See Art. 7 of the 1908 French-Ethiopian treaty, which practically exempted French citizens from Ethiopian jurisdiction "until the laws of the Ethiopian Empire are in conformity with the laws of Europe". This immunity was extended to other foreigners by way of most-favored-nations clauses in other treaties; see J. Auberson, ETUDE SUR LE REGIME JURIDIQUE DES ETRANGERS EN ETHIOPIE (Annemasse 1936). Art. 5 of the 1942 Anglo-Ethiopian Agreement substituted for these capitulations a right for all foreigners to have their cases tried before British judges appointed for this purpose on the Ethiopian High Court, amended in 1944 to read "judges of proven judicial experience in other lands"; see M. Perham, THE GOVERNMENT OF ETHIOPIA (London 1948) pp.421, 430; Sand, op.cit.supra, (note 16) p.422

reception is its manifest eclecticism. The result of these events was not, as Eurocentric critics would have it, a mere adulteration of some Western tradition,[19] but a new alternative type of legal system, sui generis.[20]

Secondly, even countries which in WIGMORE's days could perhaps be said to fall wholly within either system can no longer be considered as purely "Anglican" or "Romanesque" today, in view of increasing legislative cross-fertilization in Africa. A tendency which first made its appearance during the colonial era (witness the spreading of the Australian TORRENS system of land registration in the former French and Belgian territories,[21] or of certain French legal concepts introduced via Egypt in the former British Sudan,)[22] mutual borrowing of laws -- to the point of "legal mimicry" or outright imitation -- has become more and more frequent after independence not only within the major systems, but across

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[19] Especially T.B. Smith, The Preservation of the Civilian Tradition in Mixed Jurisdictions, in CIVIL LAW IN THE MODERN WORLD (A.N. Yiannopoulos ed., Baton-Rouge, La., 1963) p.6; and see the reviews by U. Baxi, JOURNAL OF THE INDIAN LAW INSTITUTE, vol.7 (1965) p.285, and by H. Koetz, RABELS ZEITSCHRIFT, vol.31 (1967) p.725.

[20] Allott, op.cit.supra, (note 12) p.386.

[21] E.g., see the reports submitted at the 1970 Libreville Congress of the "Institut international de droit d'expression francaise (IDEF)", REVUE JURIDIQUE ET POLITIQUE: INDEPENDANCE ET COOPERATION, vol.24 (1970) no.4, p.684 (Tunisia), p.728 (Madagascar), p.741 (Congo-Kinshasa) and p.745 (Burundi); and cf. J.W. Salacuse, Developments in African Law, AFRICA REPORT, vol.13 (1968) p.40.

[22] See C.F. Thompson, The Sources of Law in the New Nations of Africa: A Case Study from the Republic of the Sudan, in AFRICA AND LAW (T.W. Hutchison ed., Madison, Wisc., 1968) p.164; cf. Atiyah, S.G. v. Bakheit Adam Mohammed and the Recovery of Lost and Stolen Property Ordinance, 1924, SUDAN LAW JOURNAL AND REPORTS (1956) p.147; W.L. Twining, ibid. (1957) p.229; Perrott, ibid. (1962) p.323, and (1963) p.221

the dividing line as well.[23] As ELIAS puts it, "many ex-British territories, while continuing to base their legal systems upon the British common law, have shown a desire to improve their own systems by borrowing freely from other legal systems;"[24] or in the words of THOMPSON, "there is growing support for an eclectic marketing among the legal products of many countries as a basis for new legislation,"[25] The very technique of codification, which is becoming increasingly popular also in anglophonic Africa,[26] is a borrowed "Romanesque" device. Modern African legislators clearly are less concerned with preserving the purity of some "Anglican" system than with accelerating national legal development. If "un-Anglican" codification proves effective for this purpose -- and indications are that it does[27] -- they will hardly hesitate to use it. Two competent Anglo-Saxon observers, ALLOTT and SEIDMAN, predict

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[23]K.M'Baye, Unification of African Law, Paper submitted at the Copenhagen meeting of the International Association of Legal Science (September 1969); and see the examples cited by Allott, op.cit. supra, (note 12) p. 386.

[24]T.O. Elias, The Evolution of Law and Government in Modern Africa, in AFRICAN LAW: ADAPTATION AND DEVELOPMENT (H. and L. Kuper eds., Berkeley, Calif., 1965) p.192.

[25]Thompson, op.cit.supra, (note 22) p.13.

[26]See the examples given by X. Blanc-Jouvan, Europaeischer Beitrag zur Rechtsgestaltung in den Entwicklungslaendern Afrikas, JURISTENZEITUNG, vol.21 (1966) p.256; and by H.H. Marshall, in LES ASPECTS JURIDIQUES DU DEVELOPPEMENT ECONOMIQUE (A. Tunc ed., Paris 1966) p.106; but see T.O. Elias, Common Law, Kodifizierungsprobleme und der Einfluss des afrikanischen Gewohnheitsrechts, ZEITSCHRIFT FUER RECHTSVERGLEICHUNG, vol.7 (1966) p.54.

[27]See the "plea for codification" by R.B. Seidman, Law and Economic Development in Independent, English-Speaking Sub-Saharan Africa, in AFRICA AND LAW: DEVELOPING LEGAL SYSTEMS IN AFRICAN COMMONWEALTH NATIONS (T.W. Hutchinson ed., Madison, Wisc. 1968) pp.33-68; see A.A. Schiller, Introduction, ibid. p.XVIII.

that codes will become the predominant future source of law throughout Africa, with the possible exception of South Africa and Rhodesia.[28] These new African codes will undoubtedly retain much of the original English law in style and substance; as in India, indeed, the very codification of English legal concepts will make them more readily "exportable"[29] and (with the help of translations) is bound to encourage further cross-cultural borrowing, to satisfy what D'ARBOUSSIER aptly terms the "hunger for legislation" in the wake of independence.[30]

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[28] Seidman, op.cit.supra, (note 27) p.48; A.N. Allott, The Future of African Law, in AFRICAN LAW: ADAPTATION AND DEVELOPMENT (H. and L. Kuper eds., Berkeley, Calif. 1965) p.238; cf. H.R. Hahlo, And Save Us From Codification, SOUTH AFRICAN LAW JOURNAL, vol.77 (1960) p.432.

[29] See K. Lipstein, The Reception of Western Law in India, INTERNATIONAL SOCIAL SCIENCE BULLETIN, vol.9 (1957) p.91; id., The Reception of Western Law in a Country of a Different Social and Economic Background: India, REVISTA DEL INSTITUTO DE DERECHO COMPARADO DE BARCELONA. No. 8-9 (1957), pp.69, 213; and INDIAN YEARBOOK OF INTERNATIONAL LAW, vol.6 (1957) p.277. - On the importance of codification to facilitate the "transferability" of foreign law to a developing nation, see David, op.cit.supra, (note 7) pp.63,72; K. Takayanagi, A Century of Innovation: The Development of Japanese Law 1868-1961, in LAW IN JAPAN: THE LEGAL ORDER IN A CHANGING SOCIETY, (A.T. von Mehren, ed., Cambridge, Mass. 1963) p.37; W. Roehl, FREMDE EINFLUESSE IM MODERNEN JAPANISCHEN RECHT (Frankfurt 1959) p.3; but see also K. Lipstein, The Global Reception of Foreign Law, paper presented at the VIIIth International Conference of Comparative Law (Pescara 1970) p.6.

[30] G. d'Arboussier, L'évolution de la législation dans les pays africains d'expression francaise et Madagascar, in AFRICAN LAW: ADAPTATION AND DEVELOPMENT (H. and L. Kuper eds., Berkeley, Calif. 1965) p. 168.

Thirdly, most African states are now being exposed to new influences from extraneous systems of law. The diversification of economic and cultural relations, which gradually replaces the chasse gardée of the former colonial powers,[31] inevitably results in a diversification of legal contacts, including legal training offered by and in partner countries other than the former "law-givers." Most active in this field are the United States (through their International Legal Center, the AID and the Peace Corps Lawyers),[32] the Soviet Union and other East European countries,[33] whose legal education and information programmes are directed at both anglophonic and francophonic Africa. On a smaller scale, African lawyers are

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[31] P. Decraene, La disparition d'une vielle "chasse gardée", LE MONDE DIPLOMATIQUE, vol.17 (1970) No.198, p.16.

[32] E.g. see J. Bainbridge, Roundtable on International Legal Center and Comparative Law, JOURNAL OF LEGAL EDUCATION, vol. 22 (1970) p.261; J.A. Haskins, United States Technical Assistance for Legal Modernization, AMERICAN BAR ASSOCIATION JOURNAL, vol.56 (1970) p.1160; S. Shriver, Peace Corps Lawyers: Building Emerging African Societies, AMERICAN BAR ASSOCIATION JOURNAL, vol.49 (1963) p.456; Q. Johnstone, American Participation in East African Legal Education, JOURNAL OF LEGAL EDUCATION, vol.17 (1964) p.312.

[33] E.g. see the reference to legal studies in V.G. Solodovnikov, African Studies in the USSR, JOURNAL OF MODERN AFRICAN STUDIES, vol.4 (1966) p.361, and in R.A. Touzmoukhamedov, Etude de l'Afrique à l'Université de l'Amitié entre les peuples Patrice Loumoumba, in L'AFRIQUE DANS LES ETUDES SOVIETIQUES: ANNUAIRE 1968 (Moscow, 1970) p.194; by coincidence, the INTERNATIONAL LAW ASSOCIATION REPORT, vol.52 (1966) p. LXXXVII, lists four members for Tanzania -- all enrolled at Moscow University; and cf. the proceedings of the 1964 Warsaw Conference on "Problems of State and Law in Contemporary Africa" (cf. AFRICANA BULLETIN No. 2, 1965, p.99) and of the 1969 Budapest Conference on "The Implementation of Problems of Economic Development Plans and Government Decisions in the Countries of Black Africa." See also infra (note 51).

also trained, e.g., in Israel, Switzerland and Scandinavia.[34] Considering the crucial importance of inter-personal influences for the growth of any legal system -- the decisive role of MAX WEBER's honoratiores has recently been stressed again by RHEINSTEIN[35] and is confirmed by recent studies in social geography[36]- it is hardly surprising to find multiple foreign influences reflected in many modern laws of Africa.

A fourth cause of interfusion is the multilateral technical aid provided by the United Nations and its specialized agencies, which includes "legislative assistance" to developing countries. The UN has thus provided foreign legal advisors from a variety of backgrounds for the drafting of mining legislation in Congo-Kinshasa, Ethiopia, Kenya,

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[34]See Y. Dinstein, Legal Aid to Developing Countries, ISRAEL LAW REVIEW, vol.1 (1966) p.632 (training for legal officials from Uganda, Kenya, Malawi, Liberia and Nigeria); and cf. J.M. Guth, Problemes de methode en vue de l'assistance technique et de la formation des juristes, REVUE INTERNATIONALE DE DROIT PENAL, vol.39 (1968) p.133; see P.H. Sand, Juristische Entwicklungshilfe in Afrika: Erfahrungen und Moeglichkeiten, MONATSSCHRIFT FUER DEUTSCHES RECHT, vol.20 (1966) p.459; and F. Reichert-Facilides, Juristischer "Entwicklungsdienst"?, in IUS PRIVATUM GENTIUM: RHEINSTEIN FESTSCHRIFT, vol.1 (Tuebingen 1969) p.275.

[35]M. Rheinstein, Die Rechtshonoratioren und ihr Einfluss auf Charakter und Funktion der Rechtsordnungen, RABELS ZEITSCHRIFT, vol.34 (1970) p.1; cf. H. Berstein, Rechtsstile und Rechtshonoratioren: Ein Beitrag zur Methode der Rechtsvergleichung, ibid. p.443.

[36]T. Hägerstrand, op.cit.supra, (note 11); and cf. W. Bunge, THEORETICAL GEOGRAPHY (Lund 1963) p.119.

Liberia and Zambia;[37] so has FAO for agrarian and water legislation in several African countries,[38] ILO for labour legislation, WHO for health legislation, ICAO for aviation legislation, etc.[39] The proliferation of this foreign-drafted law in developing countries has never been studied in a comprehensive context and seems to be largely ignored by academic comparatists. While there is frequent reference to the fact, e.g. that the Ethiopian civil and commercial codes were drafted by professors DAVID, ESCARRA and JAUFFRET of France,[40] few people seem to know that Ethiopia's modern civil procedure law was drafted by an Indian-trained Ethiopian, part of her

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[37] See UN SECRETARIAT, REPORT ON PERMANENT SOVERIGNTY OVER NATURAL RESOURCES (14 Sept. 1970, A/8058) p.142; and cf. N. Ely, Legislative Choices in the Development of Mineral Resources, Paper presented to the UN Conference on the Application of Science and Technology for the Benefit of the Less Developed Areas (Geneva 1963).

[38] E.g., see D.A. Caponera, Water Policy, Adminstration and Legislation in Africa, Paper presented to the ECA Working Group of Experts on Water Resources Planning (Addis Ababa 1970); D.A. Caponera, op.cit.supra, (note 14), and Water Legislation: Report to the Government of Libya (FAO, Rome, 1962).

[39] See A. Elisha, LES INSTITUTIONS INTERNATIONALES ET LE DEVELOPPEMENT ECONOMIQUE EN AFRIQUE (thesis Paris 1969), vol.I, pp.110-262.

[40] It would be an oversimplification, however, to assume that those codes are essentially based on French law, as suggested by A.N. Allott, La place des coutumes juridiques africaines dans les systemes juridiques africains modernes, in ETUDES DE DROIT AFRICAIN ET DE DROIT MALAGACHE (J. Poirier ed., Paris 1965) p.265. Among the known sources are the Swiss, Italian and Greek codes, English case law, as well as draft legislation from Israel and Portugal, and several international conventions on uniform laws; see R. David, Les sources du code civil éthiopien, REVUE INTERNATIONALE DE DROIT COMPARE, vol. 14 (1962) p.497. Some of these in turn are derived from other sources as distant as the German BGB and legislation originating in New Zealand; see Sand, op.cit.supra, (note 16) p.424.

administrative-economic law by an influential American advisor, her mining law by a Czech, her labour law by a German, her water law by an Italian and an Australian, and so forth. Much the same is happening all over Africa today, resulting in a phenomenal inter-systemic "pollution" of what used to be neatly identifiable legal systems.

The combination of these external factors alone would seem to cast doubt on the continued validity of the common vs. civil law cliché in Africa. More important, however, is an intrinsic political factor. Any "wholesale reception" of foreign law is, as KOSCHAKER bluntly put it, eine Machtfrage -- a matter of power; i.e., of political or cultural domination.[41] The advent of independence from colonial rule, while clearly not the end of European cultural domination, released political counterforces which may prove powerful enough to offset well-established affinities -- as India demonstrated by converting to the metric-decimal system in 1956.[42] Legal traditions may seem to be more difficult to abandon. Yet a striking precedent is offered by the 19th century development of law in Latin America: within two or three generations after the end of the colonial era, the newly independent states there had virtually severed their traditional links with the Spanish and Portuguese legal systems, and in a gigantic legislative effort gave themselves new codes of law largely based on sources other than those of their former

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[41] P. Koschaker, EUROPA UND DAS ROEMISCHE RECHT (4th ed., Munich 1966) p.138; cf. B.T. Blagojevic, La réception globale des droits étrangers, Rapport Général au VIIIe Congrès international de droit comparé (Pescara 1970) p.13.

[42] For the influence of the "political climate of independence" on this radical decision (gradually implemented after 1957), see L.C. Verman and J. Kaul (eds.), METRIC CHANGE IN INDIA (New Delhi 1970). - The current state of Africa's conversion to the metric system is shown on a recent map in SCIENTIFIC AMERICA, vol.223, No. 1 (July 1970), p.20.

colonial rulers.[43] This wave of eclectic codification was a powerful assertion of political and cultural independence, which also had certain historical parallels in the early resistance of North American lawyers against the "colonial" English law.[44]

What N'BAYE calls "legal decolonization" is, of course, part of the general process of cultural decolonization in contemporary Africa.[45] ALLOTT notes "the desire to break away from the overpowering influence of introduced European institutions."[46] D'ARBOUSSIER has stated in unequivocal terms the position of the new-born states "qui desirent affirmer leur

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[43]See H.P. DeVries and J. Rodriguez-Novás, THE LAW OF THE AMERICAS: AN INTRODUCTION TO THE LEGAL SYSTEMS OF THE AMERICAN REPUBLICS (Dobbs Ferry, N.Y. 1965) p.191; T. Esquivel Obregón and E. Borchard, LATIN AMERICAN COMMERCIAL LAW (New York, N.Y. 1921); R. Bosch, Andres Bello: The Blackstone of the American Civil Law, AMERICAN BAR ASSOCIATION JOURNAL, vol.25, (1942) p.285; F.W. von Rauchhaupt, Vergleich und Angleichbarkeit der Rechte Sued-und Mittelamerikas, RABELS ZEITSCHRIFT, vol.20 (1955) p.134; and cf. S. and B. Stein, THE COLONIAL HERITAGE OF LATIN AMERICA (London 1970).

[44]There were even proposals to abandon the common law entirely and to give the U.S. a new codified legal system based on Roman or French models. According to R. Pound, it was mainly the absence of ready-made English translations of continental law which eventually let Blackstone's convenient commentaries prevail instead. See J.N. Hazard, Problems of Reception in the U.S., ANNALES DE LA FACULTE DE DROIT D'ISTAMBUL (1956) p.219; I. Zajtay, La réception globale des droits étrangers, in ETUDES DE DROIT CONTEMPORAIN (Paris 1970) p.34.

[45]K.M'Baye, Droit et développement en Afrique francophone de l'Ouest, in LES ASPECTS JURIDIQUES DU DEVELOPPEMENT ECONOMIQUE (A. Tunc ed., Paris 1966) p.135; and cf. J. Ngugi, The Independence of Africa and Cultural Decolonization, UNESCO COURIER, vol.24 (1971) no. 1 p.25.

[46]Allott, op.cit.supra, (note 28) p.219.

souveraineté, leur indépendance, et qui veulent avoir leurs propres institutions juridiques sans aucune attache avec l'ancienne puissance dominante, ou avec les nouvelles puissances voisines;"[47] and THOMPSON confirms that greater legal eclecticism "is also a withdrawal from heavy reliance on the colonial heritage."[48]

Political factors thus have a direct bearing on the selection of foreign models for legislation. Emperor HAILE SELLASSIE first chose European draftsmen for his codes, reportedly in order to counterbalance heavy Anglo-American influences[49] -- only to neutralize them later by Anglo-Saxon replacements.[50] In recent years, the political spectrum of potential foreign models of legislation in Africa has been broadened further by East European (and possibly East Asian) socialist law, which

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[47] D'Arboussier, op.cit.supra, (note 30) p.166.

[48] Thompson, op.cit.supra, (note 22) p.164.

[49] R. David, A Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries, TULANE LAW REVIEW, vol. 37 (1962) p.192.

[50] The 1961 Criminal Procedure Code, which originally was to be drafted by the author of the 1957 Penal Code (Professor Jean Graven of Switzerland), was eventually entrusted to Sir Stanley Mathews of England; and the 1965 Civil Procedure Code, originally to be drafted by Professor René David, to the Indian-trained Ethiopian lawyer Nerayu Ensayas; in general, see Vanderlinden, op.cit.supra, (note 16); R.A. Sedler, CIVIL PROCEDURE IN ETHIOPIA (Addis Ababa 1968); and S.Z. Fisher, MATERIALS ON ETHIOPIAN CRIMINAL PROCEDURE (Addis Ababa 1970).

first made its appearance in West Africa.[51] Initial setbacks notwithstanding,[52] the socialist legal system will count as a factor in the future interfusion process. As a

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[51]See J.N. Hazard, Negritude, Socialism and the Law, COLUMBIA LAW REVIEW, vol.65 (1965) p.778; id., op.cit supra, (note 1); id., Guinea's "Non-Capitalist Way", COLUMBIA JOURNAL OF TRANSNATIONAL LAW, vol.5 (1966) p.231; id., Mali's Socialism and the Soviet Legal Model, YALE LAW JOURNAL, vol.77 (1967) p.28; id., Marxian Socialist Inspiration in West African Institutional Reform, AFRICAN LAW STUDIES (preliminary issue 1969) p.45, and in LIBRO-HOMENAJE A LA MEMORIA DE ROBERTO GOLDSCHMIDT (Caracas 1967); id., Marxist Models for West African Law, in IUS PRIVATUM GENTIUM: FESTCHRIFT FUER MAX RHEINSTEIN, vol.1 (Tuebingen 1969) p.284; id., COMMUNISTS AND THEIR LAW: A SEARCH FOR THE COMMON CORE OF THE LEGAL SYSTEMS OF THE MARXIAN SOCIALIST STATES (Chicago, Ill. 1969); and cf. N.S. Merzlyakov, STANOVLENIE NATSIONALNOI GOSUDARSTVENNOSTI V RESPUBLIKYE MALI (Moscow 1966); L.M. Entin, NATSIONALNAYA GOSUDARSTVENNOST NARODOV ZAPADNOI I ZENTRALNOI AFRIKI (Moscow 1967); L.M. Entin and S.A. Sosna, NATSIONALNO-DEMOKRATICHESKOYE GOSUDARSTVO I EKONOMICHESKYI PROGRESS (Moscow 1968); and especially the collective work published by the Institute of State and Law of the Soviet Academy of Sciences, PRAVO V NYEZAVISIMYKH STRANAKH AFRIKI: STANOVLENIE I RAZVITIES (Moscow 1969). See also the recent studies by H. Schabowska (Warsaw) on the implementation of socialist ideologies in Mali, Senegal and Guinea; and by K. Hutschenreuther (Leipzig) in national types of socialism in francophonic West Africa; cf. the reports by J. Kowalski and H.J. Weinhold, in JOURNAL OF MODERN AFRICAN STUDIES, vol.5 (1967) p.270, and vol.6 (1968) p.412.

[52]There may be a certain amount of premature Schadenfreude, if not wishful thinking, in the statement by K. Grzybowski, Review of J.N. Hazard, AMERICAN JOURNAL OF COMPARATIVE LAW, vol.18 (1970) p.664: "African fascination with the Soviet state and its law was short-lived and ended quite rapidly." K. Mueller, DIE ENTWICKLUNGSHILFE OSTEUROPAS: KONZEPTIONEN UND SCHWERPUNKTE (Hanover 1970). If these setbacks had happened to Western efforts, they would, of course, be attributed to the notorius "WAWA" syndrome (West Africa Wins Again)...

result, sweeping generalizations to the effect that "the present trend in African legislation is strongly westernizing"[53] or that "true African law will be ... a composite of indigenous elements and borrowed, but modified, principles of all the western world"[54] may well be in need of qualification.[55]

## II. EFFECTS OF INTERFUSION

From the point of view of the "Anglican" or the "Romanesque" system, the current interfusion process in Africa is a centrifugal one -- deplored by some as a "dispersion of laws" (ALLOTT) or even as legal "balkanization" (DESCHAMPS), which is said to run counter to the proclaimed goal of pan-African unification.[56] In both systems, therefore, efforts are made to actually preserve the colonial legal tradition as a uniting element,[57] rationalized in ALLOTT's mildly

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[53] Allott, op.cit.supra, (note 7) p.86.

[54] A.A. Schiller, Foreword in Salacuse, op.cit.supra, (note 13) p. XIII.

[55] Apart from the obvious fact that some of the "Western" elements really came to Africa from "Eastern" India, there also is the more general question raised by R. David, Existe-t-il un droit occidental?, in XXth CENTURY COMPARATIVE AND CONFLICTS LAW: LEGAL ESSAYS IN HONOR OF HESSEL E. YNTEMA (Leyden 1961) p.56.

[56] Allott, op.cit.supra, (note 7) p.87; K. M'Baye opcit.supra, (note 45) p.137.

[57] E.g., see R. David, La refonte du code civil dans les Etats africains, ANNALES AFRICAINES (1962) p.166, and RECUEIL PENANT, vol.72 (1962) p.352; or E. Cotran, The Unification of Laws in East Africa, JOURNAL OF MODERN AFRICAN STUDIES, vol.1 (1963) p.209. While common legislation in the Commonwealth framework has remained largely accidental, an ambitious legislative programme is envisaged by the "Organisation commune africaine, malgache et mauritienne" (OCAMM) in Yaoundé; and cf. the efforts of the "Institut international de droit d'expression française" (IDEF), supra (note 21).

paternalistic terms: "Shared borrowing of similar external institutions is probably the only way in which legal unity will come to Africa."[58] Yet the same author has admitted elsewhere that colonial laws, like colonial boundaries, stand in the way of a pan-Africanist approach to African law.[59] It seems most unlikely that future African unity can be built on the colonial legal heritage -- no more, by the way, than contemporary European or Latin American integration is built on the "Romanesque" legal heritage.

On the other hand, the current interfusion process between Anglican and Romanesque systems is expected by D'ARBOUSSIER to lead to the eventual unification of African law, by way of a gradual rapprochement and convergence.[60] It is true that there are certain patterns of unification -- constantes de l'unification, as LIMPENS has called them[61] -- which usually start in the commercial field and demonstrably have led to cross-cultural legal unification on a regional or universal scale. It must be recalled, however, that such unification never occurs automatically, but requires a major conscious effort from the states concerned; and the record of the African states in this respect is still mainly negative.[62]

The question is not whether interfusion is desirable or undesirable. Interfusion of legal systems in Africa is a fact for reasons which I have tried to show in the first part of this study. The question is how interfusion can be turned into a beneficial fact, or how its problems and drawbacks can be overcome or minimized. For there can be no doubt that eclecticism has its price, as the "mixed" legal systems, such as

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[58] Allott, op.cit.supra, (note 7) p.87.

[59] Allott, op.cit.supra, (note 28) p.220; and see particularly Blagojević, op.cit.supra, (note 41) pp.15-18.

[60] D'Arboussier, op.cit.supra, (note 30) p.166.

[61] J. Limpens, Les constantes de l'unification du droit privé, REVUE INTERNATIONALE DE DROIT COMPARE, vol.10 (1958) p.277.

[62] Allott, op.cit.supra, (note 7) p.87.

Ethiopia, were first to realize.[63] With the gradual geographical widening of cross-cultural interaction, "pluralism" of modern legal sources may actually become more characteristic of future African law than pluralism of traditional sources.[64] African states will be well advised, therefore, to prepare for trouble ahead.

The problems raised by laws derived from multiple foreign sources are to a large extent aggravations and complications of problems already existing with respect to a single "imported" system. If it is difficult for judges and civil servants to work with laws received, e.g., from England and to apply them in an African context, it will be even more difficult to work with laws derived from a combination of foreign models and to reconcile them in practice. If it is difficult for law teachers to train students in a foreign legal language defined in a foreign social context, it will be even more difficult to provide adequate training in concepts derived from several foreign languages and from several social systems. If it is difficult for legislators to keep up with current changes in one parent system of law, it will be even more difficult to keep up with simultaneous developments in a multitude of systems.

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[63] The "problem list" which follows here was first submitted in a preliminary version of this paper, Twelve Years of "Comparative Legislation" in Ethiopia: Some Second Thoughts, delivered at the 1969 Annual Meeting of the African Law Association in America (Montreal). See also Sand, op.cit. supra, (note 16) p.441; id., L'expérience éthiopienne en matière de successions, NOMOS, vol.1 (1971) no.1.

[64] Legal pluralism due to conflicting "personal laws" is said to be typical for African law: B.O. Nwabueze, Legal Aspects of Economic Development, in LES ASPECTS JURIDIQUES DU DEVELOPMENT ECONOMIQUE (A. Tunc ed., Paris 1966) p.167; A.A. Schiller, ibid., p.194. Yet it has rightly been pointed out that this problem was equally "typical" for medieval Europe: D.V. Cowen, African Legal Studies: A Survey of the Field and the Role of the United States, in AFRICAN LAW: NEW LAW FOR NEW NATIONS (H.W. Baade ed., Dobbs Ferry, N.Y. 1963) p.16. Cf. generally PLURALISM IN AFRICA (L. Kuper and M.G. Smith eds., Berkeley, Calif. 1969).

The crucial factor which distinguishes eclectic from single-source receptions of foreign law is the absence of any special "genetic" relationship with a particular law-donor. Whereas within a "legal family" it is technically feasible for the younger members to look back to the parent country for interpretation,[65] eclectic legislation produces "orphan laws," not unlike the "orphan conventions" of uniform private law produced by international conferences.[66]

However, African states are not the first to encounter these problems. The technique of "comparative legislation" was initiated and used on a large scale in 19th century Europe and Latin America,[67] and was subsequently adapted

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[65] A well-known medieval example was the "mounted couriers" sent by newly-founded townships to seek legal advice from older towns, whose codes (such as the Magdeburger Stadtrecht) served as models for municipal law throughout Central and Eastern Europe.

[66] On "conventions à caractère orphelin" see P. Lagarde, in REVUE CRITIQUE DE DROIT INTERNATIONAL PRIVE, vol.53 (1964) p.246; J.W.F. Sundberg, in SCANDINAVIAN STUDIES IN LAW, vol.10 (1966) p.224; and cf. Sand, op.cit.supra, (note 16) p.454.

[67] See David, op.cit.supra, (note 7) p.5; H.C. Gutteridge, COMPARATIVE LAW (2nd ed. Cambridge, Mass. 1949) p.7, uses the alternative term "applied comparative law." Comparative compilations such as F.A. de Saint-Joseph, CONCORDANCES ENTRE LES CODES DE COMMERCE ETRANGERS ET LE CODE DE COMMERCE FRANCAIS (Paris 1844), had a lasting influence on Latin American codifications; see K.H. Nadelmann, Kritische Notiz zu den Quellen der Rechte Sued - und Mittelamerikas, RABELS ZEITSCHRIFT, vol.20 (1955) p.500.

for legal modernization in other parts of the world.[68]

This past experience, including also the experience of older "mixed legal systems",[69] can provide a useful comparative stock of solutions[70] for some of the problems currently raised by the interfusion of legal systems in Africa:

- Legal education on a comparative basis can be coordinated to serve countries belonging to a common legal system (e.g., the law schools in Dar-es-Salaam and Dakar), or can be adjusted to the needs of mixed systems

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[68] Among others, Japan, China, Thailand and Turkey. E.g., see on Japan: Takayanagi and Roehl, op.cit. supra, (note 29); and on Turkey, INTERNATIONAL SOCIAL SCIENCE BULLETIN, vol.9 (1957) no.1; ANNALES DE LA FACULTE DE DROIT D'ISTAMBUL (1956); E. Hirsch, Einfluesse und Wirkungen auslaendischen Rechts auf das heutige tuerkische Recht, ZEITSCHRIFT FUER DAS GESAMTE HANDELSRECHT UND KONKURSRECHT, vol.116 (1954) p.201; and cf. R.E. Ward and D.A. Rustow eds., POLITICAL MODERNIZATION IN JAPAN AND TURKEY (Princeton, N.J. 1964).

[69] E.g., Scotland (Roman-English), Louisiana (French-American), Quebec (French-English), Peurto Rico and the Philippines (Spanish-American). On the relevance of "juridically mixed countries" to modern African law, see A.N. Allott, in CHANGING LAW IN DEVELOPING COUNTRIES (J.N.D. Anderson ed., London 1963) p.207. Prior to the establishment of a law faculty in Addis Ababa, a number of Ethiopian lawyers were trained in Quebec; see G. Krzeczunowicz, Ethiopian Legal Education: Retrospect and Prospect, JOURNAL OF ETHIOPIAN STUDIES, vol.1 (1963) p.68; New Profession for an Old Country: McGill's Lawyers in Ethiopia, McGill NEWS, vol.47 (1966) no.3, p.17.

[70] Paraphrasing Zitelmann's term (Loesungsvorrat), as quoted by E. Rabel, Aufgabe und Notwendigkeit der Rechtsvergleichung, RHEINISCHE ZEITSCHRIFT FUER ZIVIL - UND PROZESSRECHT DES IN UND AUSLANDES, vol.13 (1925) p.287.

(e.g. the law school in Addis Ababa).[71] The problems and opportunities of African legal education have been explored by the 1968 Addis Ababa Conference of UNESCO's "International Association of Legal Science;" what seems to be required now is a multilateral operational framework for educational assistance, which would mobilize resources from countries other than the former colonial powers.[72] Foreign assistance should not concentrate exclusively on the top of the hierarchy, but can usefully contribute to the training of legal personnel on all levels.[73]

- In order to compensate for the lack of a popular basis (SAVIGNY's Volksgeist), which is characteristic for any

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[71]While proposals for bilingual teaching (English-French) did not prevail (R.David, JOURNAL OF AFRICAN LAW, vol.6 (1962) p.96, the law school of Haile Sellassie I University has regularly drawn on multinational staff from Belgium, England, Finland, France, Germany, Poland, Quebec, Scotland and the United States; see the annual reports of the dean in JOURNAL OF ETHIOPIAN LAW; and R.A. Sedler, Legal Education: Ethiopia, ASSOCIATION OF AMERICAN LAW SCHOOLS FOREIGN EXCHANGE BULLETIN, vol.7 (1965) p.7; Q. Johnstone, Legal Education in Ethiopia, YALE LAW REPORT, vol.15 (1968) no. 1 p.1; J. Wróblewski, Studia prawnicze in Etiopii, PANSTWO I PRAWO, vol.23 (1968) p.287.

[72]The "African Law School Association", which includes anglophonic and francophonic universities, might become a nucleus for such cooperation. One highly successful unilateral scheme is the SAILER Programme ("Staffing of African Institutions of Legal Education and Research") of the Ford Foundation's International Legal Center; see Bainbridge, op.cit. supra, (note 32).

[73]On elementary legal extension programmes see, e.g., A. Milner, Legal Education and Training in Nigeria, JOURNAL OF LEGAL EDUCATION, vol.17 (1965) p.304, and for Ethiopia the dean's annual reports in the JOURNAL OF ETHIOPIAN LAW. Training of lower-rank legal officers is particularly critical in the case of eclectic legislation, which may create serious problems of implementation in the absence of suitable forms, etc.; see Sand, op.cit.supra, (note 16 p.447.

imported law,[74] auxiliary and explanatory materials adapted to local administrative and judicial practice are indispensable.[75] In view of the high degree of interfusion between legal systems in Africa, an elementary comparative law dictionary seems urgently needed, to cover at least the most important Anglo-French legal concepts[76] and possibly also the most important customary concepts which continue

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[74]Transnational diffusion "does not bode well for grass-root democracy": T. Hägerstrand, as quoted by Bunge, op. cit.supra, (note 36) p.120; and cf. N.S. Marsh, Quelques réflexions pratiques sur l'usage de la technique comparative dans la réforme du droit national, REVUE DE DROIT INTERNATIONAL ET DE DROIT COMPARE, vol.47 (1970) p.83. While it is true that some "undemocratic" imports subsequently become well-rooted in the national culture of the recipients (Roman law, Islamic law, and the Napoleonic codes are examples), there also is a risk that they remain "fantasy law", as noted by Schiller, op.cit.supra, (note 64) p.200; cf. J.W.Salacuse, Modernization of Law in French-Speaking Africa: Fantasy or Revolution?, AFRICAN LAW STUDIES (preliminary issue, 1969) p.62.

[75]The so-called "vulgarization" of Roman law, by way of simplified manuals for administrative and judicial use, was a prerequisite for its effective diffusion not only in the Roman Empire, but also for its subsequent "reception" in medieval Europe. Similarly, Professor David had envisaged the publication of an elementary manual (Institutes) with his Ethiopian code, but this project regrettably never materialized; see R. David, Le code civil éthiopien de 1960, RABELS ZEITSCHRIFT, vol.26 (1961) p.669 n.5.

[76]On an English-French-Amharic "Law Lexicon Project" see Fassil Abebe and S.Z. Fisher, Language and Law in Ethiopia, JOURNAL OF ETHIOPIAN LAW, vol.5 (1968); and HAILE SELLASSIE I UNIVERSITY, A FORWARD LOOK: SPECIAL REPORT FROM THE PRESIDENT (Addis Ababa 1969) p.III/22. Some of the linguistic problems arising from pluralism of sources are described by M.M. Moreno, La terminologia dei nuovi codici etiopici, RASSEGNA DI STUDI ETIOPICI, vol.20 (1964) p.22; and by Contini, op.cit.supra, (note 15) p.1090.

to co-exist in both systems.[77] Here again lies a major task for cooperation and technical assistance from the developed countries and from international organizations.

National institutions for law reform in Africa, instead of relying on accidental ad hoc information about foreign law,[78] should be equipped to do functional comparative research, possibly with assistance from appropriate international bodies like the International Institute for the Unification of Private Law (UNIDROIT) and the United Nations Commission for International Trade Law (UNCITRAL).[79] The "Institutes of Public Administration" established with

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[77]On the need for a common "vocabulary" for customary law, see the introduction by A.N. Allott, A.L, Epstein and M. Gluckman, in IDEAS AND PROCEDURES IN AFRICAN CUSTOMARY LAW (M. Gluckman, ed., London 1969) p.16; and cf. the "Gluckman-Bohannan controversy" at the 1966 Wenner-Gren Conference, in LAW IN CULTURE AND SOCIETY (L.Nader ed., Chicago, Ill. 1969).

[78]Thompson, op.cit.supra, (note 22) p.164, reports that Sudanese legal officers preparing installment purchase legislation wrote to the foreign embassies in Khartoum for their relevant laws.

[79]Allott, op.cit.supra, (note 7)p.87, notes the responsibility (and lack of initiative) of the competent international bodies in this respect; see also Sand, op.cit.supra, (note 34 and note 16 p.454) as regards the potential role of UNIDROIT. Collection of comparative legal data in Africa is among the functions of the "Centre de récherches, d'études et de documentation sur les institutions et la législation africaines" (CREDILA) in Dakar, and of the "Center for African Legal Development" (Addis Ababa and Brussels), but the burden of comparative research for specific legislative projects is on national parliamentary and departmental draftsmen, unless specialized institutions are created for this purpose, such as the "Ethiopian Law Institute" proposed in the special report of Haile Sallassie I University (supra note 76).

United Nations assistance in several developing countries might serve as models; alternatively, direct technical assistance might be envisaged, through specialized foreign or international agencies and institutes designated for this purpose.[80][81]

Borrowing from abroad has become a recognized legislative practice in most contemporary states.[82] The developing legal systems of Africa should be given a chance to share in this continuous process of "mutual acculturation"; for in the words of an anthropologist,[83]

> "the comparatively rapid growth of human culture as a whole has been due to the ability of all societies to borrow elements from other cultures and to incorporate them into their own."

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[80] Chi-Yuen Wu, Training in Public Administration for Development, JOURNAL OF ADMINISTRATION OVERSEAS, vol.10 (1971) p.15.

[81] Since UNIDROIT has used the services of national research institutes for the drafting of uniform law conventions, there seems to be no reason why similar "sub-contracting" could not be provided (through an international clearing-house) for comparative legal research related to specific African law reform projects.

[82] Institutionalized in comparative research offices in the legislature (e.g., the "Legislative Reference Service" of the U.S. Library of Congress), or in government-sponsored legal research institutes (e.g., the French "Centre national de la recherche scientifique", the German "Max-Planck Institutes", the Soviet Academy of Sciences'"Institute of State and Law", the Yugoslav "Institute of Comparative Law", the Israeli "Institute of Legislative Studies and Comparative Law"), or in academic research institutions; see the survey Tendencias y organización del derecho comparado en los diverses paises, REVISTA DEL INSTITUTO DE DERECHO COMPARADO DE BARCELONA, no.6-7 (1956) p.9, and see, e.g. L. Julliot de la Morandière, L'avant-projet du code civil français et le droit comparé, in PROBLEMES DE DROIT COMPARE, vol.2 (N. Sugiyama ed., Tokyo 1962) p.170.

[83] R. Linton, THE STUDY OF MAN: AN INTRODUCTION (New York, N.Y. 1936) p.324.

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