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**A *Ferenj* Observer in the Horn of Africa –
Perspectives on Cultural Relativity**

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Harvard Law School Conference on Prospects for Democracy: Ethiopia and Eritrea

http://www.ethiopiasymposiumharvard.com/zygmunt_plater

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Zygmunt J. B. Plater is professor of law at Boston College Law School, teaching and researching in the areas of environmental, property, land use, and administrative agency law. He has taught on seven law faculties, including (for three years until 1971) the law faculty of the national university in Ethiopia where he was sponsored first by the U.S. Peace Corps and later by the Ford Foundation, and worked for the Ministry of Agriculture's wildlife and national parks bureau. While teaching public law in Ethiopia, he redrafted the laws protecting parks and refugees, assisted in the publication of the Consolidated Laws of Ethiopia, and helped organize the first United Nations Conference on Individual Rights in Africa.

[I present today not as an expert, but as a legal professional who in the past spent a deep and fulfilling time in the Horn of Africa, and continue to carry a warm appreciation, interest, and concern for the land and its people. When Ato Fasil Amdetsion asked me to speak – thinking that my thoughts on perspectives of cultural relativity on being a *ferenj* [foreigner] observer of the Horn of Africa might be useful – I was honored, and I hope he was at least slightly correct. The invitation to speak has released a flood of memories....]

The first time I flew into Ethiopia (as it all was then) 35 years ago, I remember I was sitting at the window on the right side of the plane after a long overnight flight from Europe, and looking out as we came down out of the night sky into early morning. I saw that amazing landscape – a scrap of desert savannah, then a high escarpment and green-clad hills, dotted with tiny round houses with thatched roofs sitting in isolated clumps with no roads in sight, threshing circles on the windy ridgelines, then tin roofs of an isolated market town, and then some more sparsely settled hills and precariously perched fields....

The man sitting beside me was an Ethiopian returning after ten years of education in the West. Leaning over me to look out the window (the physical separation distance expected between people in Ethiopia is much less than in the West), he drank in the view, and started to sigh joyfully – Aiee, *ageré, ageré!*... My Land, oh, my own land....

And as I imagine returning once more to that place, flying again into Addis Ababa or Asmara, I can sense intensely just what it will be like. I can see myself looking down from the plane window and I too will be thinking – *ageré, ageré!*...

But, of course, this is romantic nonsense, a wistful romantic projection. It is not my land and never was. True, I for a time felt deeply bonded to that place and its mosaic of people, but I speak virtually no Tigrinya or Oromiffa (I can say hello), and I speak fairly elementary Amharic, and I lived in that land for only three years...

Yet for a ferenj professional who spends time in the Horn of Africa there are sights, smells, sounds, and places that do become deeply evocative:

- the bustle of a Mercato bazaar with itinerant merchants hawking goods from all over this corner of the continent,
- the sound and feel of that tiny railroad winding from the mile-high Asmara plateau down to the sea at Massawa,
- the smell of eucalyptus smoke in the morning and mitmita spices in the air,
- the shimmer of hot air over a parched desert savannah near Dire Dawa as we look out from a cave that has its walls covered with delicate red and ochre figures of hunters and antelope painted there by human hands perhaps 200,000 years ago,
- sounds drifting up steep slopes from villages far below in the Bale Mountains or the Simyens,
- The echo of our voices, students' and teacher's, in the marble-walled chambers of the Sidist Kilo palace that had become the national law school,
- And everywhere people who walk and live with great selfrespect, and come to you in conversation proud of their individuality, their people, their history, ... never slouching in abject self-condescension.

But it is not my country.

The juxtapositions of two different lands presents some fundamental questions that law-trained professionals should ask themselves when coming to work in a setting like Eritrea or Ethiopia, bridging between two worlds, two different cultures, two different eras of civic development – questions of cultural relativity.

Cultural Relativity – the process of carrying one's personality, ideas, and professional knowledge sensitively and effectively from one cultural setting into another without allowing either to dominate to the detriment of the other.

This inquiry seems to have relevance beyond a review of expatriate experiences three decades ago. It may indeed be useful to a new group of Western-born law professionals who in the near future may be selected to go to work in Ethiopia and Eritrea. Just last month I attended a meeting in Washington DC which launched a planning effort to send a new generation of young law school graduates to teach in law schools in Ethiopia and Eritrea, doing what my cadre did in the 1970s. It may also raise some useful issues for young professionals who have come here to the West from the Horn of Africa to study and will return to their homelands with what they have learned here. Everyone sitting in this Harvard Law School conference hall is to

some extent Westernized, and that will always pose questions about what will and won't be relevant to one's homeland upon return.

Personal, Technical, & Political Cultural Relativity

Let me address three separate parameters of cultural relativity: Personal Cultural Relativity, Technical Cultural Relativity, and Political Cultural Relativity (there are undoubtedly more, but these three may be most significant.)

Personal Cultural Relativity

Personal Cultural Relativity is relatively easy to prescribe. No matter who we are, we should strive to be ourselves wherever we go, while being open and engaged with our context of place and people, wherever they may be. When foreign professionals go into a different culture, they are well advised for the sake of their own effectiveness and pleasure to relate to people with a sense of openness, attentiveness, and respect, and people will generally treat them as human beings. Trying hard to prepare, before one goes, to be good at what one will do, learning as much as possible about the culture, history, languages, and people of a place, everything will become richer and more effective. Moreover, even if one makes gauche cultural mistakes, but one is obviously trying to be attuned, those mistakes will generally be forgiven. (I remember a reception planned by a new U.S. Ambassador to introduce himself to a hundred Ethiopian government officials. He hadn't realized that Ethiopians then largely abided by both the Jewish and Old Christian dietary laws, so he invited them on a Friday evening for hors d'oeuvres of lobster and ham. The honorable guests as a whole genially overlooked the ambassador's gaffe.)

Technical Cultural Relativity

As to Technical Cultural Relativity, let me tell a short story:

After teaching Public Law – agencies, administrative process, and constitutional law – for two years I was moved to another course assignment, and a newly-arrived professor from Germany came to take over my Public Law course. Professor "Hans" came to me before classes started and said to me:

"I am taking over your Public Law course. Please to give me a copy of the Administrative Code."

"There is none," I replied.

"Then please to give me a copy of the basic Administrative Process statute."

"There is none."

"Then please to give me a copy of the Constitution's Administrative Part."

"There is none."

"Then please to tell me the Ethiopian *Grundesnormen* [defined fundamental principles of the legal system]."

"There is none."

"Then how do you teach your students this Public Law?"

So I explained that my predecessors and I went into the ministries and collected information and illuminating examples of how in actual practice issues were raised and handled effectively, or not so effectively, and then we studied them to find what worked best. We reviewed old Ethiopian legal texts including the Fetha Negast and the Nomocanon, and modern descriptions of complex social dispute resolution, and, coupled with case studies from other countries that seemed relevant, we wove these into a corpus of materials that could teach logic, analysis and relevant doctrinal norms.

“You call zat *Law*?!” he protested. “I vill teach no such thing! Instead I vill from my embassy get the students copies of the world’s finest Administrative Code, the West German Administrative Code, and they vill study that!”

I suggested that this might not be very useful to Ethiopian students, but he insisted. A week later I heard that his students, understandably, were rebelling. But when I asked the following week, he said there was no longer any problem: “The students were very cross with me at first, but now all is vell, because I said all students vill get an ‘A’ no matter what.”

Professor Tecola Hagos was in that class. (Now you know how he got an “A” in Public Law!) But I doubt he found much use for whatever he learned of the West German Administrative Code.

In this setting, most unaccommodated foreign doctrines and structures will be baldly useless and inappropriate in addressing the realities of Ethiopia or Eritrea, and some Western concepts, with sensitive adaptation perhaps, will be useful and welcome. Cultural relativity – sensing the needs of the context and the appropriateness of principles from abroad – requires a serious continuing effort to understand the elements and workings of the host nation and the points at which foreign doctrines and structures do and don’t serve fitting, useful purpose.

Sensitivity to the host country can be carried too far, however. I remember during my Peace Corps law training in Addis being told by a trainer who had been in India about the experience of a group of young American professionals being trained likewise in India. Over the course of several weeks they learned some Hindi, and insisted on wearing saris for the women, national dress for the men, eating only Indian food, and to the best of their abilities replicating Indian manners and ideas. An official of the Government of India came to visit, and observed the group with circumspection. “This is quite amazing,” he said. “But do you know, in inviting you to our country, the last thing we thought we needed was more Indians!”

So one must strike a balance between the Professor Hans stance and the Indigenous Clones model. For foreigners and Western-educated nationals operating in the developing country context, the balance is a bit like the Japanese concept of *gai-atsu*. Foreign experts can be welcomed for their ability to bring external expertise, but in fact their technical or intellectual offerings are to be incorporated or ignored according to the extent that their knowledge can be made appropriate to the new terrain. Slavish adoption of foreign concepts is likely to produce transplant rejection. Flexibility in shaping and applying new concepts to old lands is likely to serve the host nation’s needs far better.

And then there is the inexact but useful question, "Who is the client?" For foreigners and Western-educated nationals operating in the developing country context, it is important to seek a functional definition of just who it is for whom you are doing what you are doing.... For me as a teacher, my self-crafted client definition was easy: My clients were my students, who wished to gain a corpus of doctrine, structure, and functional analytical ability with which to proceed through their years ahead. Others who work for an embassy or corporation have similarly clear client definition. But what of us who worked in a ministry, or an NGO? For us the client is only technically defined as our supervisor. Beyond those persons often looms a grander client, but how to define it?: "The Nation," in the sense of all the people who are in the polity? The citizens of the Nation in the future? Some expansive concept of human progress and perfectability? This client-defining inquiry is informative and necessary but typically is not easily or straightforwardly resolvable.

Political Cultural Relativity

Political Cultural Relativity: Let me address two different political settings: geopolitical and internal political....

Geopolitical:

For at least most foreign professionals coming to Ethiopia or Eritrea, geopolitics is probably an inappropriate sphere, while being extremely relevant and significant for foreign-trained Ethiopian and Eritrean professionals returning to their home territory.

The geography of the Horn of Africa carries its own inherent conundrums. In terms of soil, topography, and climate, there are a number of geophysical parameters that impose their own imperatives. Moreover, in terms of population, Ethiopia is now, I believe, the world's largest landlocked nation. Eritrea is small in size and population, low on resources, and spreads its territory along the seacoast to Djibouti. For millenia these two land areas were integrally linked in terms of trade, culture, chromosomes, and religions. Today they are more isolated one from another than ever before. Others in this symposium, perhaps particularly Prof. Tecola Hagos, may address this geopolitical situation, but not I.

Ethnic divisions and federalism are likewise not realms for the foreign-born professional. Ethnic divisions play a significant role in the geopolitical life of all lands in the Horn of Africa. They have been largely institutionalized in the jigsaw puzzle of federal states carved out of the Ethiopian land mass by the 1994 Constitution. The homogeneity of ethnicity-based states has its strengths, but also fissiparous tendencies and potential intolerance of internal minorities, but these issues too are best avoided by foreign-born law and policy consultants. (And the puzzles are never easily resolved. Upon returning to the USA my Africa-opened eyes were struck by the discovery of tendentious tribes in my native republic: the Sun Belt tribe, the Frost Belt tribe; the super-rich tribe and the rest; the evangelical tribe and the non-evangelicals; black and white; environmentalist and industrial polluters; and so on, all behaving like fractionalized, self-identified tribes.)

Religious divisions are far less problematic, comparatively speaking, since in my experience the distinctions between Muslim, Christian, and other religious creeds were not an overtly tangible obstacle course in the Horn of Africa as they are in so many other societies.

War is a geopolitical as well as social calamity, and the Horn of Africa experienced a frustratingly foul example of war in 1998-99. Whether spawned by long-percolating antagonisms, as some say, or the cynically-opportunistic diversion motivations of leaders with personal animosities and a desire to deflect criticism of domestic shortcomings, à la Margaret Thatcher and George W. Bush, the war was a tragedy. The potential war that soon may occur following today's ongoing saber-rattling deserves intensive foreign and domestic effort to stop this nonsense.

But that too is beyond the jurisdiction of most of us. Yet there are useful correlative issues that may be obliquely addressed. If indeed a new generation of expatriate law teachers will be sent into Ethiopia and Eritrea, and perhaps nine more Ethiopian law schools created in various federal states (not at all a wise move, I think, adding daunting new requirements in staffing, funding, and logistics to a surfeit of six schools already in operation, but it may happen), the design of curriculum can have significant societal effects. It would be important, I think, to have the curriculums include extensive training in negotiation, mediation, and alternative dispute resolution techniques, rather than the adversarial attack-mode lawyering too-often characterizing modern legal training.

Political Cultural Relativity: internal domestic politics

For foreign-based professionals and consultants, and for Western-educated nationals operating in the developing country context, domestic politics are less easily avoided. Sometimes they will be thrust upon you, as trucks lumber by filled with arrested demonstrators, or, as happened to me, several of the cars of your government-employed evening students are blown up by Molotov cocktails thrown by some of your young politically volatile day students. By being there, and by holding a particular professional position, one's presence inevitably has political connotations and reverberations. No matter what the regime – Haile Sellassie, Mengistu, Isaias or Meles – your acquiescence in being there involves implicit political statements and choices. Some of the implications of this will be unpleasant, and you must address them with cultural relativity.

Here's one example on point – "Free Speech." The individual right of Free Speech is not a unitary concept. The Universal Declaration of Human Rights promulgated by the United Nations in 1948 proclaims something that looks like a right to free speech:

"[T]he advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people..."

In practice, however, freedom of speech varies widely even in centuries-old industrial democracies as well as in most countries now moving toward democracy, and while it is an aspiration widely held, it also will often be found in cultural contexts where it is honored only in the breach.

Three stories:

One of my young law students in Ethiopia decided, perhaps in an excess of Western learning or adolescent hormones, to exercise his free speech rights by mimeographing a screed headlined “Tagel” (“Struggle”) calling for students to unite in calling for Emperor Haile Sellassie to step down from the Throne of Kings. “Sibu” was unsuccessful in his experiment in participatory democracy, and I had to go every Sunday to bring him food in the mud-pit concentration camp styled the local prison. It is clear that in the setting of Ethiopia, merely to have an open expression of opposition to the sitting government raises an implication of fundamental civil disorder that the government will instinctively interpret as posing a “clear and present danger” justifying repressive constraint. In fact it has been reported that one of the reasons the CUD Kinijet received many of its votes in Ethiopia’s May election, especially in outlying districts, was disquiet amongst voters who had never before heard dissenting voices in the Ethiopian press. Hearing opposition candidates speaking publicly in criticism of the EPRDF during the runup to the election, they assumed that the government party had lost control of governance, and so they transferred their affiliation to the bloc that apparently had the power to challenge the government with impunity. That instinctive reaction against a leadership that tolerates open dissent replicated an ancient highland cultural phenomenon – (historically, in conflicts between negus leaders, including the confrontation between Lij Yasu and the adolescent Ras Tefari before he became Haile Sellassie, armed blocs would shift their loyalties when it became clear from verbal counter-challenges, “shillelah,” that another leader was stronger than theirs). It also illustrates sensitively how much evolution must occur in a population starting out on the democratic road before it is able to consider a Western conception of civil rights. But as for me in the 1970s, it should be noted that I never seriously considered resigning my law teaching position in solidarity with my wronged young student Sibu.

Then there was “Dapper Dan,” the newly-arrived young law professor from California who was deeply offended when he heard about Sibu’s incarceration and other similar restraints on free speech. Dapper Dan looked at me with disdain, saying that “by your silent acquiescence in the face of this violation of free speech rights, you are as guilty as the police.” Then he bolted off to lead a group of students on a march from Sidist Kilo to Arat Kilo. He did not make it to Arat Kilo. His students joined Sibu in prison, and Dan found himself back in southern California. Was I indeed approving an authoritarian regime by acquiescing? Should I have joined Dan (on his march, I mean, not his trip back to California)? One makes a constant series of judgments, deciding where and how one’s fundamental principles can be held and exercised with cultural relativity in a setting that in other contexts would impossibly contradict those principles. In gauging the sometimes indiscernible progress of the nation toward a modern somewhat democratic polity in Ethiopia, one often hears the familiar mantra, “Qes beQes inQulal be Igru yihedal” – roughly, “Slowly, slowly, little by little, even the egg will hatch out feet and learn to walk.”

But there was indeed a time that I did feel obliged to take direct action in violation of Imperial law, although I felt no need to do so overtly. The student who lived in our house, “Zeberga,” had had a typically amazing life story. He had been raised in the South of Ethiopia, out in the fields at the age of five guarding his father’s goats with a

spear against the gyb hyenas. He had walked barefoot to Addis at the age of ten to join his brother as a streetboy shining shoes, sleeping at night under scavenged construction materials. By the age of twelve he had learned to read from poring over tattered schoolbooks with his brother who had worked his way into night school classes, and he won a scholarship into the sixth grade in a government school. At the age of seventeen he was a senior in high school and had been elected president of the All-Ethiopia Students Association. Protected while he was in my home during the year of student strikes and protests, it was clear that he was targeted for arrest and disappearance. Three of his friends were grabbed from the streets and killed. His family had been roughly questioned about him, and told there was a death warrant issued for him. Through several illegal manoeuvres I was able to get him out of the country on an early morning plane to Israel, and 15 months later he was enrolled in this great university. From barefoot spear-carrying shepherd boy facing gyb, to Harvard freshman facing the world, in the space of 9 years. Zeberga's instinctive skills in cultural relativity had to be far more developed than mine.

The issue of free speech civil rights illustrates a spectrum of such demands upon all who travel between two worlds. When you work in a nation that is early on its road to democracy, you are part of a building process, a work-in-progress. You cannot expect a nation newly emerging into a constitutional era to become an instantly coherent constitutional democracy. (As recent developments indicate, we in the USA still are in the process of defining our constitutional democracy.)

In sum...

Moving between legal systems we, inevitably, constantly, and dynamically, have to make situational judgments and choices. As a wise man once said, for persons of integrity the guiding principle must be "This above all, to thine own self be true." In some cases we may find it necessary to make public or private oppositional choices, or choose to step away from our position, as a matter of principle. It would seem to be anathema to professional integrity, for instance, to acquiesce in a legal system that applies the international legal term "genocide" – carrying a threat of death by hanging for the 131 journalists, elected officials, educators, lawyers, and other citizens so accused – for acts merely deemed threatening or insulting to the government!

In other settings, however, as you pursue a life path accompanying an imperfect nation on its bumpy progress toward modernity, you may choose to live according to the old country adage – based on the realism of farmers jogging behind their string of animals heavy-laden with grain on the way to market – "Ahiya yeneda, fess yesmama."... "If you are going to run along behind the donkeys you must learn to tolerate the farts."