

TRADITIONAL LAW - COURTS OF ERITREA

By Emnetu Tesfay

For generations the Eritrean people had a unique judicial system of their own that is still practiced in the highland countryside. The administration of fair justice in these traditional law courts have attracted law students to write thesis and research on them.

Eritrea has its Supreme Court which imitates western constitutional jurisprudence. This court has jurisdiction in all important cases, such as those which involve murder and inheritance disputes. After it come the District Law Courts, which try more petty cases. Their judges are choosen for the most part from among villege officials, in whom the government vest power to administer justice. Such officials may in turn, delegate judicial powers to two worthy inhabitants as assistants.

These `Village Courts`use no regular court building, But meet for trials on any convinient street corner or open-air plaza. There, they may sit down and wait for cases to come. Because of the incessant haggling common in all Eritrean trade transactions, these street courts have to wait seldom long before litigants appear.

Any citizen who feels he has been wronged may demand, In the name of Justice that his offeneder go with him to the nearest judge. Such a challenge is usually accepted at once. Should an alleged offender refuses , a plaintiff may go to the judge, who will then assign two sturdy citizens to bring the other party, by physical force if need be in the interest of "Ethics".

Both disputants have to produce a guarantor before deliberation starts. Accuser and accused each has the right to give a detailed account of his case, and bring all witnesses to the spot who may verify his statments, and also to question such witnesses. He, who,for any reason, can not conduct his case alone may take a lawyer. Many self- made lawyers, litsening eagerly and freely commenting on the case, are always found in street crowds, attracted by these open-air courts.

It is customary that all speakers start by adresing the judge. "May God guide you and Christ lead you"(to find out the truth) The noisy, free-for-all courts permit endless oratory, on themes relevant and irrelevant, in which both plaintiff and defendant may also distinguish themselves. Innumerable witnesses may be called by either side and questioned at lenth. Speeches may dissect any topic, from private scandal to national affairs.

Another reason for the popularity of these law-courts is that the native passion for gambling is officially linked with the search of truth and justice. Either or both plaintiff and defendant, when he has made a statement, may lay a bet that he is right, and that the court will so find. A sheep, a goat and sometimes a horse may be waghered, depending on the importance of the dispute. If one litigant offers such a bet, the other can only "take the bet" or else retract his own statement, and thus lose the suit. Often, in the end, these bets are worth more than the trifling object which started the quarrel. Judges in these street courts receive no salary. They live solely from the proceeds of wagers. Whosoever loses may pay their fee.

In cases where decisions can not be given immidietly, as when distant witnesses have to be called or special inquiries arranged, plaintiff and

defendant may be confined in the same room until the end of the trial. In some districts it is also customary, during the trial, to tie both parties together by their garments, until a verdict is reached. Should a litigant lose, yet not be able to pay his bet, he must remain in the house of the judge until payment is made. Fear of such confinement seems a deterrant to excessive betting.

Having confidence in the justice administered by their district courts, the people are usually willing and anxious to submit to trial, and cheerfully accept the judges verdict.

At most of such courts the crowd seeking justice is so large that trials are held daily, without interruption from 9.00 am to 5.00 pm. It can be said that in these districts litigation is a national outdoor sport. A visit to such courts is, for the Eritrean, not only amusing but also a source of political and judicial orientation.

At most of such courts the crowd seeking justice is so large that trials are held daily, without interruption from 9.00 am to 5.00 pm.

(This article was printed in the Trondheim local paper ADRESS AVISEN.)