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[Book Review] Völkerrechtliche Beziehungen zwischen Äthiopien und Italien im Lichte des Vertrages von Uccialli/Wuchale (1889), written by Hatem Elliesie

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Hatem Elliesie: Völkerrechtliche Beziehungen zwischen Äthiopien und Italien im Lichte des Vertrages von Uccialli/Wuchale (1889), Cologne 2017, 232 p. (Studien zum Horn von Afrika, vol. 5) [Public International Law and Diplomatic Relations between Ethiopia and Italy in the Light of the Treaty of Ucciali/Wuchale/ዉጫሌ (1889)]

Languages matter – also for historians of international law. It is said that each language opens a window to a different interpretation of the world. As self-explicatory as this basic hermeneutical insight may sound, as strange is it that a great deal of historical research on international law limits itself to primary and secondary sources in merely one or perhaps two European languages – even when historical developments beyond Europe are analysed.

Hatem Elliesie's book on the Ethiopian-Italian treaty of Wuchale (1889) (ital.: Ucciali/ amhar.: ዉጫሌ [Wəčale]) embarrasses these works in more than one respect: It is rare to see a book in which on every single page of the main part letters other than the Latin alphabet are printed (namely Amharic, Arabic, Hebrew, or Russian). And it is equally rare to find a book using literature in 9 (!) languages (Amharic, Arabic, Russian, Turkish, Italian, Portuguese, French, German, and English). A trained lawyer, semitist, and expert of Islamic law at the Max Planck Institute for Social Anthropology Halle an der Saale, Elliesie makes the challenges and advantages of interdisciplinarity in legal history thus visible and readable. His objective is to lay out the text of the bi-lingual international treaty of Wəčale and – with reference to the classic study by Sven Rubenson of 1964[1] – to further "deepen" our historical knowledge about the political and linguistic context of this treaty (xiv) that stood at the center of the conflicting diplomatic relations between Ethiopia and Italy in the last quarter of the nineteenth century.

This context is foreign to most readers of this journal and merits some historical details: Since the early 1880s, Italy had shown ambitions to create a protectorate at the western Red Sea shores south of the Egyptian sphere of influence. Subsequently, Italian officials

[1] Rubenson, Sven. *Wuchale XVII. The Attempt to Establish a Protectorate over Ethiopia* (Addis Ababa: Institute of Ethiopian Studies, 1964); see also the debate between Rubenson and Giglio: Rubenson, Sven. 'The Protectorate Paragraph of the Wichale Treaty', in: Journal of African History, 2 (1964), 243-283; Giglio, Carlo. 'Article 17 of the Treaty of Uccialli', in: Journal of African History, 6/2 (1965), 221-231; Rubenson, Sven. 'Professor Giglio, Antonelli and article XVII of the Treaty of Wichale', in: Journal of African History, 7/3 (1966), 445-457.

also came into contact with the rulers of the Ethiopian highland, one of whom, the *negus* of Shewa, the future Emperor Menelik II, had already, in 1884, concluded a treaty with the British. The latter were concerned about their position in the Sudan and thus wanted to protect their 'back', including free access to the Red Sea. At the same time, the French were carving out a protectorate at the strategic Bab el Mandeb (later called Djibouti). Considering this ongoing "scramble for Africa," the government of Italy was concerned about French and British advances in East Africa, as they seemed to permanently exclude Italy from any expansion. The Italians were thus eager to secure not only the southwestern coast of the Red Sea (Eritrea), but also (parts) of the Ethiopian highlands. For this end, they tried to install a pro-Italian Ethiopian ruler, who would be capable to inherit the Solomonic throne from Emperor Yohannes IV (r. 1871–10 March 1889). The Italians believed to have found him in the *negus* of Shewa. Having agreed with the British on their respective spheres of influence, he was willing to come to terms with the Italians as well, and concluded the Treaty of Wuchale (*Uccialli*) on 2 May 1889 – even months before he was in fact crowned to be the King of Kings (*Negusä Nägäst*) of Ethiopia.

The treaty committed the parties to peace, friendship, and commerce, apparently based on equality and reciprocity. The language used was comparable to similar intra-European treaties. Article 2 established diplomatic and consular exchanges between Ethiopia and Italy. The functionaries involved in these exchanges were to enjoy all privileges and immunities according to the "customs" (*consuetudini*) of European governments. Article 3 defined the course of an "Ethiopian-Italian border" thus granting Italy rights over the coastal region (Eritrea), but it did not mention explicitly Italy's recognition of Ethiopia's sovereignty. Rather, article 17 included a provision that soon led to conflict. The Italian text stipulated that the Ethiopian emperor, the King of Kings agreed to use the services (*consente di servirsi*) of the Italian government for all its foreign affairs. The new King of Kings Menelik II would thus be obliged to refer all foreign requests to the government in Rome. The Amharic version of the text, on the other hand, employed a phrasing indisputably meaning that "the *Negusä Nägäst can*" use the services of the Italian government to correspond with European monarchs (144). The Ethiopians thus retained their right to govern their own foreign policy and independent diplomatic initiative, but for this purpose were *optionally* able to communicate with third powers in Europe through the Italian government. Until today, article 17 is thus a prime example of poor legal workmanship due to linguistically overstrained councillors – though it is clear by now that the Italian negotiators created the "confusion" on purpose.

The Italians subsequently assumed that Menelik II would eventually accept the Italian interpretation of this treaty according to which Ethiopia was now a protectorate of Italy with no independent foreign policy (similarly to other "treaties" concluded between "native chiefs" and colonial officials). But the Ethiopians protested against this insinuation and cancelled the treaty. In 1896 the Italians tried to force their "protectorate" into submission. In the battle of Adwa (March 1, 1896) Emperor Menelik II beat General Baratieri decisively. In a subsequent treaty (1896) Italy fully recognized Ethiopia's independence and absolute sovereignty.

All this is well-established not only among experts of North-East African history. This African victory against colonial intruders and the subsequent European recognition by treaty of African sovereignty had – already in the eyes of contemporaries – a global historical (*weltgeschichtlich*) significance, as Elliesie correctly emphasizes. He quotes a British eyewitness who observed: "The suggestion has been made – absurd as it appears at present – that this is the first revolt of the Dark Continent against domineering Europe" (4). "Ethiopianism" became a new catchword that concerned colonial governors across Africa and had repercussions also in the USA and the Caribbean.[2] Also, international lawyers early on wrote about this conflict and the subsequent developments – in 1935 Mussolini would take brutal revenge, when he ordered the invasion of Ethiopia.[3]

Strangely enough, over the last twenty-odd years, the wave of historiography of international law has, conversely, more or less overlooked the history of the 'survival of Ethiopian independence'[4] – even though it would have provided authors with ample source material. The *Oxford Handbook of the History of International Law*, for example, does not even mention 'Ethiopia' in the index, and also the book series on the history of international law has not yet published a monograph on Ethiopia. However, change is imminent, as not only Elliesie's book indicates. Using the example of Ethiopia from 1890 to 1936 (and ample references to the 'process of international legal reproduction today'), Rose Parfitt meticulously analyses the paradoxical relationship between sovereign equality and inequality[5] – unfortunately, she did not include in her literature

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[2] Nurhussein, Nadia. *Black Land. Imperial Ethiopianism and African America* (Princeton: Princeton University Press, 2019).

[3] See e.g. Fedozzi, Prospero: Le droit international et les récentes hostilités italo-abyssines, in: Revue de droit international et de législation comparée 28 (1896), p. 580-613; La Pradelle, Albert Geouffre de: Le Conflit Italo-Èthiopien, Paris 1936.

[4] Sven Rubenson, The Survical of Ethiopian Independence, Addis Ababa/London 1976.

[5] Rose Parfitt's The Process of International Legal Reproduction: Inequality,

the works of Elliesie.

What is Elliesie's contribution to this growing field? What further insights can linguistics offer for a better understanding of the context of the Treaty of Wuchale? His remark that the Horn of Africa is ‘dominated’ by languages, which generate linguistic barriers for ‘academic circles’ (he means those in the 'West') in their endeavours to study the history of the region, hints at his chance to offer new insights. Through his command of Amharic, Tigrinian, and Arabic he can add already existing, but hitherto excluded African research that goes beyond the Italian historiography ‘widely adopted’ by Western historians so far (xiii).

However, Elliesie's book, though he refers to the critique of Eurocentrism in the writing of the history of international law, regrettably does not aim at connecting with the more recent attempts to write critical histories of international law. Referring to Grewe and the dangers of anachronism, Elliesie rightly warns against the analytical ‘influence of present-day sympathies’ (*heutige Sympathien*) (10) for historiography; but there is no reason to assume that in their narratives researchers can only choose between either anachronism or positivistic reiterations of source materials. Elliesie, however, throughout his work, remains thoroughly positivistic, as can be seen already from the structure of the book. It is subdivided in five main sections: 1) the description of the historical context, 2) the draft treaty text, 3) the treaty text, 4) an analysis of its linguistic and legal peculiarities, and 5) an appraisal of the treaty under international law and its military ramifications.

In this structure, the treaty text is not – as could have been expected – an appendix, but also physically the centre of the entire book. Each section of the draft of the treaty (71-104) is reprinted as a facsimile of the Amharic original document. Added to it is a transcription, a transliteration, and a German translation. Each article of the final bilingual treaty (105-153) is reprinted seven times: facsimiles of the Amharic and Italian original document, transcriptions, transliteration of the Amharic text, and a German translation of both versions – making the discrepancies between the two originals most comprehensible. Some readers may find that Elliesie went too far in his indulging in linguistic details (e.g. 163 on the ‘perpetuity’ of the treaty and the insufficient translation in Grewes *Fontes Historiae Iuris Gentium* 3/1 [1992]); but it is only fair to remind them

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Historiography, Resistance, Cambridge 2019; see also Jakob Zollmann: Ethiopia, International Law and the First World War. Considerations of Neutrality and Foreign Policy by the European Powers, 1840–1919, in: Shiferaw Bekele, Uoldelul Chelati Dirar, Alessandro Voltera, and Massimo Zaccaria (eds.): The First World War from Tripoli to Addis Ababa (1911-1924), Addis Ababa 2019, p. 115-152.

that this is the work of a lawyer who is also a linguist and who stated his interdisciplinary aims right at the beginning.

One could well describe this book as a valuable critical and annotated edition of the treaty of Wuchale/ዉጫሌ. However, it is not. There are major flaws in this edition that can be summarized under one question : How does Elliesie know what he wrote about and reprinted? His book lacks archival references and thus Elliesie has sinned against some of the most basic rules concerning historical critique and heuristics. Even if the book is not a dissertation written in a history or law department (instead it was submitted to the Seminar for Semitic Studies at Free University Berlin), the academic standards for a transparent referencing system must be at least comparable. Readers need to be enabled to know how the author knows about what he or she writes – and the readers need to be able to verify all claims made.

Elliesie mentions in his foreword that he was able to locate the Amharic source material (of the treaty and its drafts?) and previously neglected secondary literature in non-European languages during research visits to Ethiopia, Eritrea, Sudan and Egypt (xiii). He also mentions the 'particular challenge' that the primary sources relevant for his book – i.e. the treaties and their drafts -– are only fragmentarily indexed in the archives he visited. However, by far most of the specific treaty articles he reprints or quotes have no references at all that could give the slightest hints where the author located them. Even worse, the book contains a 'bibliography' and an 'index', but no list of archival sources. Readers do not even know which archives Elliesie visited in Ethiopia, Eritrea, Sudan and Egypt. Only the national archives in the capitals, or also regional, local, municipal, private, or ecclesiastic archives?

Only on three separate occasions does Elliesie cite a reference to his primary sources but problems remain: Elliesie cites a source for the agreement of subordination between King of King Yohannes IV and Menelik (while he was still only King of Shewa) of 1878. It was reprinted in Ethiopia already in 1982 (47 FN 286; 161 FN 477), but the reader still does not know where to locate the original. For article 3 of the treaty of Wuchale the author refers to a 'manuscript 46' in the National Archives in Addis Ababa, but if one compares the version of the transliteration printed on page 118 and the one discussed on page 166 it becomes evident that there are two different Amharic versions of this section of the article, one of which remains unaccounted for. Finally, Elliesie reprints a facsimile (published by the Italian Foreign Ministry in 1972) of an Italian document from 1888 that attests that Rome was eager to see Menelik ascending to the throne in order to conclude a treaty with him – while the King of King Yohannes IV was still alive (66). Elliesie, making it not easy for his readers, presumably comes back to this

document almost 100 pages later (162), but this time without any reference – not even to his own previous pages. What is also missing is an overview of the editorial history of the treaty text (rather than a mere recapitulation of the state of the art of nineteenth-century Ethiopian history in general, [4-7]) that would enable the reader to assess what new findings Elliesie's archival research has added to the field. Given these editorial shortcomings of this edition of the treaty of Wuchale it seems questionable if one can recommend working with Elliesie's transliterations.

Doctrinal aspects are not completely absent from Elliesie's analysis. He points to the older literature by internationalists on the 'protectorates' and the 'Abyssinian question'.[6] It is, however, not convincing to cite merely German authors like Blumerincq and Zorn – but not Italian contemporaries – when discussing the relevance of consuls and consular jurisdiction in article X of the treaty of Wuchale (168f.). Elliesie cites Dionisio Anzilotti's *Corso di Diritto Internazionale* regularly in its German translation of 1929, but does not critically discuss what relevance Anzilotti's explanations have for the conclusion of a treaty forty years earlier.

Apart from this criticism of the formalities of this book, also the rather short historical analysis of the treaty text cannot convince. Elliesie stops short of writing a history of the treaty of Wuchale. He gives a 50+ pages introduction to the 'historical context' (15-69), which explains why and how the Italians came to Ethiopia. But this summary of secondary literature only seems oversized in a rather slim book that has as its focus the treaty of Wuchale and its context. In stark contrast to this broad first section, the analysis of the treaty's linguistic and legal peculiarities (155-179) barely offers a sense of chronology. It is only in passing that the reader learns of a 'first Italian draft of the treaty text from 1888'. Given the reprint of article 17 of this Italian draft (171, again without references) it is incomprehensible why the entire section G of the book ('treaty draft', 71-104) contains only the Amharic version of the draft.

Also, Elliesie barely mentions the protagonists of the treaty, nor does he describe the actual negotiations, the setting, the disputes, the duration, etc. This is rather disappointing given his objective to further contextualize the treaty through new sources and their linguistic interpretation (xiv). Thus, does one have to go back to Rubenson's classic account of 1964? But what was then the purpose of detecting all the new Amharic material if it does not change or at least enrich the narrative? To be sure, Elliesie recounts that Menelik (who was not yet coronated as *Negusä Nägäst)* was a capable negotiator who succeeded to negotiate the Italians out of several regions and monasteries, pushing

[6]See e.g. George F. H. Berkeley, The Abyssinian question and its history, in : The Nineteenth Century 53 (1903), p. 79-97.

northwards the borderline proposed by the Italian negotiator count Antonelli in his draft. A look at the map (167, compiled by Rubenson in 1976) even indicates that Menelik gained access to the sea – later, he lost this; a painful issue for subsequent generations of Ethiopian leaders up to the present day. However, Antonelli and Menelik's 'Amharic scribe' and translator, Yosēf Nəguśe, mentioned several times, remain more or less faceless. Information about these key figures remains scattered throughout the text. We learn that through his linguistic analysis of the Amharic text Elliesie has a 'hypothesis of the influence of the Tigrinian language' on the treaty (170) and we understand that Nəguśe did not speak or write Italian (165), but French and therefore had to rely on oral translations of the Italian draft text into French by count Antonelli (71 FN 378; 188). Yet, where is the contextualisation and interpretation of these findings? Is the language barrier key to understand the origins of the frustrations about article 17? Elliesie is clear that he follows Rubenson's 1964-interpretation in his refutation of older claims by Italian authors that the different wording of article 17 was due to a mistake and not bad faith (173). Rather he concludes based on long-available sources that Antonelli, who knew Amharic, 'consciously deceived' Menelik during the negotiations and therefore the treaty was 'legally invalid'. Menelik could not be expected to accept his reign being 'degraded as a protectorate'. Antonelli's aid-de-camp A. Salimbeni admitted privately that 'A[ntonelli] non ignorava quel pasticcio' [A. did not ignore this mess] (190/1). Given Salimbeni conceded the 'pasticcio' this treaty was, it would have been possible for Elliesie with this material to add a historical dimension on the debate about the 'dark side of international law' in a proto-colonial context.7 And why not offer the reader at least the knowledge of these actors as it is available in the *Encyclopaedia Aethiopica*? Not everyone has these volumes readily at hand.

In short, this book merely lays out treaty-context that is well-known to experts in the field. It is a book of missed opportunities.

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[7]See Ryder McKeown, 'International law and its discontents: Exploring the dark sides of international law', Review of International Studies 43(3) (2017), 430-452.

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