Proceedings of the Two Days

Conference
Held to Mark the 50th Anniversary of The Ethiopian Lawyers' Association

Desalgne Hotel

July 31st and August 1st, 2015

I. Introduction

The Ethiopian Lawyers Association organized a two day conference on July 31 and August 1, 2015 to commemorate its 50th year anniversary. Six different researches related to rule of law and the legal services were presented. The issues were related to rule of law, the legal service sector and the role of bar associations.

The research papers were presented and discussed by different legal professionals including two scholars form the IBA (International Bar Association).

Members of the association as well as invited guests from different governmental and non-governmental organizations, other domestic and international stakeholders as well as media were present in the conference.

Day one

Morning Session

II. Welcoming Address

The conference was started by the welcoming speech of Ato Tamrat Kidanemariam, president of the Ethiopian Lawyers' Association. In his speech Ato Tamrat highlighted the history of the Association by stating that the Association before getting its professional association status was first established as an advocates' welfare association in 1965 and grew into a professional association a year later in 1966 through registration at the then Ministry of Inland affairs "Yehager Gezat Minister" under the name of Ethiopian Bar Association. Immediately after the 1974 revolution the Association's Amharic name was changed to "Ye Ethiopia yehig balemyawoch Mahiber "which literally means the Ethiopian Lawyers Association. But then in 2005 the general assembly of the Association decided to restore the original Amharic name and continued functioning as a professional association. In 2009the Association reregistered as an Ethiopian society in accordance with the Charities and Societies Proclamation No. 621/2009 under the name "The Ethiopian Lawyers' Association" or "Y ethiopia Yehege Balmuyawoch Mahiber" the objectives and the activities remaining the same. He explained that during the past 50 years the Association has been functioning as the main professional association for the legal profession and has been contributing its own inputs to the development of the profession as well as the legal system as a whole. He stated that the Association has been rendering legal aid services in addition to

organizing trainings for members, preparing research papers and also publishing a lawyers' magazine which was started in 2005.

He clarified that the purpose of the conference is to commemorate its 50th establishment anniversary through presenting varies researches on different topics. The president announced that the conference has an objective of raising awareness of the members, society and other invited stake holders.

He pointed out that the development of the legal system will strengthen investment and development. This calls for establishment of law firms and statutory bars. Different activities have been taking place as part of the celebration; including moot court competition, a memorial magazine and a panel discussion held at the Ministry of Justice. The association is also planning to have an exhibition and commemorate grate personalities in the legal history of the country as upcoming plans of the celebration.

Next Ato Tamrat invited Ato Fikadu Demisse, representative of his Excellency the Minister of Justice, to open the conference with a speech.

Ato Fikadu started his speech by saying that he was honored to open the 50th anniversary memorial conference. He acknowledged that in order for Ethiopia to reach its goal of becoming a middle income earning country lots of work needs to be done in every sector. He stated that as GTP I have been implemented successfully and now a new phase of GTP II is coming in to action, the growth of the justice sector is vital to development and peace. Fikadu explained work is done by the justice sector to prepare new laws fitting the new situations of the country. Ato Fikadu stressed the duty of the legal professionals to ensure the implementation of the Constitution and the objectives of the justice sector. The Association, Fikadu said, should work towards the achievement of rule of law and for the development of the justice system. He congratulated the Association for reaching its golden jubilee and wished it success in the conference and in its future activities.

III. Presentation One

The Development of Modern Legal System in Ethiopia

Following the opening speech, Ato Tamiru Wondimagnehu, the moderator took the floor and briefly introduced the firstspeaker, Ato Girmaselassie Araya to the participants, and invited him to present his paper.

Thanking the Association for giving him the opportunity to share his idea on the subject, Ato Girmaselassie begun the presentation by stating that before introduction of modern law in to the country there were religious laws and in addition every clan had customary laws and rules. He stated that Fetha Negest was also used by the King and around the palace. But the application of the Fetha Negest was difficult and couldn't be practiced widely as it was complicated.Therefore, the application was limited to priests and literate people. This trend continued until the introduction of modern law by Emperor Minilk II in 1900.

In 1901 Ministry of Justice was established and it was promulgated by law that all courts should base their decisions on the Fetha Negest. In 1922, on the other hand, the first criminal law was promulgated by Emperor Hailesilasse. Before the coming into action of this law judgments were given by custom and Fetha Negest

In 1923, continued Girmaselassie, the first Constitution was written which provided for regular hearings and judgments based on written laws. At the time Ethiopian Orthodox and Islamic Courts existed. Although the Orthodox Court used to deal with family matters, this authority was taken from it and given to ordinary courts in 1936. The Islam (Sharia) Courts are still functioning at present time and deal with family and succession issues.

In 1934 a new proclamation came into action which established Woreda and Awraja courts.

In 1948, the Constitution was revised /reenacted. This constitution gave judges the authority to check constitutionality of administrative actions.

In his overview of the history of the judiciary in the Derug regime, Ato Girmaselassie stated that the administration in the regime tried to get educated and experienced judges by hiring educated legal professionals from other organizations and letting them keep their high salaries they are paid at the organization they worked previously. Although the regime was dictatorial, the repressive acts were committed outside the formal judiciary.

Coming to the major changes in the current regime Ato Girmaselassie pointed out that federalism has made courts available in each locality. However, courts do not check constitutionality. The power of reviewing constitutionality has been given to Council of Federation (part of the Parliament). However, Ato Girma expressed concern that the house is made of electorates and hence cannot be independent.

Ato Girmaselassie invited the gusts to read the paper for details and went straight on to discussing the current challenges in the judiciary and the legal system. He pointed out that the

main persisting problem currently is lack of efficient and experienced judge. He said lack of respect for the profession is noticed being a judge is looked as a stepping stone to becoming a lawyer. He remarked that such problem is very concerning and that it is decreasing the standard and growth of the judiciary.

After the conclusion of the presentation by Ato Girmaselassie, the moderator Ato Tamiru thanked the presenter for briefly concluding the presentation and added his own remarks on the subject as follows.

He remarked that the history of the judiciary and legal system especially before the coming of the modern system is not studied properly. He said Ethiopia has a long legal history that starts with the "Kibra Negast "1000 B.C. He also pointed out that in 320 A.C Christianity came in to the country which brought the application of Christian laws and in 615 Islam entered Ethiopia as yet another source of law to the country.

In addition to the above, he underlined the "Fetha Negest" in Emperor Zera Yakob's rein was used as law for the proceeding years until the 20th century. He pointed out that it was the Zufan Chilot" of the king which had the ultimate judgment power.

Therefore, Ato Tamiru underlined that this history needs to be given attention and needs be studied exhaustively instead of focusing only on the 100 year modern legal history of the country.

Coming to the modern legal system, Ato Tamiru stated that Emperor Minilik II's regime in 1908 entered into a mixed system agreement with the French. He stated that at the time, there was a great foreign interest on the country due to the Adwa victory.

In 1934, Proclamation number 2/1934 issued, the first proclamation regarding courts in the country, Ato Tamiru recalled. It recognized legal profession (advocacy) as a profession and was effective until 1958.

Coming into the current situation, Ato Tamiru recaptured the problems Ato GIrma pointed out in his presentation. He stated that lack of professional training is a major issue as there is lack of professional experience of those who are appointed as judges.

After the conclusion the moderator opened the floor to questions and remarks by the participants.

Discussion

The following questions and remarks were raised.

A participant commented that he does not agree that the old judges were completely better than the new ones as judges used to be illiterate or had only "yeqes timhirt" (basic training). The participant also disagreed with the statement made by the presenter that the quality of judgment and judges is lower currently when compared to the previous times. He stated that the availability of courts at regional levels ensures access to justice and even though this might create a little compromise on the quality of education and trainings of judges on the overall increases the quality of judgments. He also asked how the presenter being unhappy with the qualification of the judges, demands them to interpret the constitution.

Another participant remarked on the beginning of the Ethiopian modern legal system. The participant said that the way the Ethiopian legal system begun was problematic as it completely avoided the traditional and customary system and adopted an alien foreign system directly copied from western civilization. The participant stated that this is to blame for most of the issues the current legal system is facing.

IV. Presentation Two

The Role of the Judiciary in Ensuring Rule of Law in Ethiopia

The moderator Dr. Getachew Assefa introduced the presenter Associate Prof. Assefa Fiseha and the title of the paper "The Role of the Judiciary in Ensuring Rule of Law in Ethiopia" who then started his presentation.

Introduction

Associate Prof. Assefa Fiseha began by congratulating the members of the Association on the anniversary. He then stated that the papered dressed the central issue of the role of the judiciary as a third branch of government in Ethiopia within the existing constitutional frame work, both from a theoretical and empirical perspective. He stated he has also highlighted the purposes of courts in relation to separation of power as bodies which are in charge of dispensing justice and ensuring the manifestation of rule of law. And finally he has based his assertions with practical cases by looking into the ones that are most relevant

to the subject.

He began his presentation by stating that one of the major duties and function of courts is rendering a decision that is free and fair, upholding rule of law and setting limitation to power.

He remarked that even though rule of law is one of the main purposes of courts higher courts of the country miss this purpose as most of the decisions of the casession benches, instead of implementing rule of law, bent towards the needs and wants of the ruling party. In interviews made with judges the presenter noted that judicial activism and judicial abdication are not clearly understood and there is a significant confusion of the meaning of the two words. He pointed out while judicial activism is taking the power of the law maker by the judiciary in disguise of interpretation, some judges to the contrary consider activism refusal to exercise judicial control over the organs of government. A number of other judges claim activism is prohibited in Ethiopian system when confronted with the question. However, what is observed in the courts is abdication which is failure to use the appointed power by courts and failure to react when such authority is taken by the executive or the legislature.

Features of Separation of Power

According to Associate Professor Assefa separation of power requires that the three organs of the state (the legislative, executive and the judiciary) have different mandates which are distinct to themselves and separate from the others. Second, when the three organs are exercising their mandates they should not interfere with each other; meaning they have their own autonomy.

He stated that efficient court system supports the government in its development endeavors as foreign investors consider the existence of strong courts that give quality, impartial and expeditious decisions in their decision to invest in a particular country. Hence courts play a big role on the realization of developmental state ideology the government is trying to advocate. The first thing investors look into before risking their money is the existence of stable political system and strong judiciary. These factors are also the pre conditions for the existence of sustainable development.

Erosion of Power of Courts

In this section the presenter reviewed the need for separation of power. He highlighted that when all power is held by one government body, it leads to corruption as absolute power corrupts.

The professor stated that in out parliamentary system the legislator and the executive body are together, and on the other hand currently there is only one dominant political party in the country .In addition he said there is a lack of strong administrative law and the cumulative effect of these factors opens doors

to corruption of power and infringement of rights and the main way to remedy this is the existence of strong judiciary.

However, the presenter illustrated, judges don't react when power is taken and don't work to have their autonomy respected.

Circumstances of Power Erosion

The first circumstance that causes the absence of separation of power and erosion of power of courts by an executive body is where power of courts is eroded through enacted legislation. Associate Professor Assefa illustrated, the first legislation that eroded the power of courts to be Banks Foreclosure Proclamation that gives banks the power to sell mortgaged properties without court's decision when the debtor fails to pays .According to the presenter this Proclamation gave quasi-judicial power to banks. This poses a threat as the individuals making decisions are not legal professionals and might not have any legal background whatsoever. Also, he added, they do not have tenure unlike judges and are not obligated to follow due process of law.

Another example is, Housing Agency Establishment Proclamation which gives eviction mandate to the executive body whenever it believes that the possession is illegal. There is also Land Lease Proclamation which allows a board established by the body to decide on issues of expropriation of private property. On the other hand, the Ethiopian Revenue and Customs Authority (ERCA) has the power to sell properties of tax payers who failed to pay tax.

The presenter stated that the above examples show instances where the power of the judiciary is clearly eroded by the acts of the legislator and that this reverses the separation of power principle as the same body becomes the one that sues, decides and executes.

However, the presenter continued, this does not mean such system does not exist in other legal systems. But the decisions of such bodies are, in other legal systems, subject to review by courts. In our case, although the Federal Supreme Court can review the decisions of such bodies, ithas so far failed to do so claiming it does not have jurisdiction over the decisions of administrative bodies.

The Professor mentioned the second circumstance that causes the erosion of judicial power to be judicial abdication. He stated that there have been many cases where the Supreme Court refused to revise and quash decisions of administrative bodies even in the absence of legislations that give judicial power to administrative bodies or deny judicial review; by calming that they don't have jurisdiction over administrative decisions. However, by revising and quashing defective administrative decisions, the Supreme Court should fight to regain its power and independence.

Conclusion

Assistant Professor Assefa in his concluding remark pointed out that higher court such as supreme courts have constitutional duty to implement rule of law and separation of power. In particular, both the Federal Supreme Court and the Constitutional Inquiry Committee are expected to do a lot in fulfilling such and other constitutional duties. The presenter stressed on the responsibility of courts, in addition to presiding over and deciding on ordinary cases, to make land mark decisions that can be referred as precedents and forward the development of the jurisprudence of the country.

Following the end of the presentation the moderator Dr Getachew Assefa thanked the presenter and opened the floor for discussion.

Discussion

The following questions and remarks were made in the discussion session.

A participant remarked that we should not always compare our system to the US because there is check and balance as opposed to clear cut separation of power in the US. Also, he added, there isn't a clear cut separation of power and that such direct comparison isn't feasible for Ethiopia.

With regard to the separation of executive and the legislator, the participant commented that law and politics aren't separate things that laws come after policy which is adopted by the leading party. Therefore, the presenter remarked we should not expect the law to be completely free of politics as politics is the source of law.

Concerning the remark made by the presenter on the Foreclosure Proclamation, the participant commented that if there is a contest about the existence of the loan contract the one who mortgaged his house has the right to take the case to court, and thus the right of the individual is still protected to some extent.

The second speaker stated that there is no such thing as absolute separation of power however the situation in our country is concerning

The third participant pointed out that review by the courts is a good idea, however the existence of administrative quasi judicial bodies vents the work load of courts.

4th courts for instance the fore closure proclamation the courts fail to use the power they have and fight for the ones eroded by them

The Professor responded to the remarks made and the session ended.

Afternoon session

V. presentation three

Rule of Law Guidelines for Politicians

The moderator Ato Gedion Weldeyohannes introduced the presenter Ato Tamrat Kidanemariam (president of ELA) and the title and gave the floor to the presenter.

Ato Tamrat started his presentation by explaining that the guideline was inspired by discussions within the Interaction Council of Former heads of states and governments and prepared by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University, Sweden, and the Hague Institute for the Internationalization of Law (HiiL), the Netherlands. Tamrat explained that the guideline has been translated into different languages. Tamrat got an offer to translate to Amharic by the former director of the Raoul Wallenberg Institute at the 2014 Tokyo international conference of lawyers organized by the IBA which he accepted happily.

He stated that on the guideline there is a definition of rule of law which states that everyone should respect the law weather an ordinary citizen or a government officials. He pointed out that there is a confusion of rule of law and rule by law in some developing countries. Rule of law prevails not only when the law is applicable against ordinary citizens but the government and its officials too.

The presenter listed and explained the requirements listed in the guideline needed for the existence of rule of law as follows:

A. The first thing listed is constitutionalism which according the presenter means limitation of governmental power.

B. The second is laws have to be published. Laws have to be made available to the public. He said in this regard it is difficult to find regional laws in Addis Ababa. Even Addis Ababa City

Administration laws are difficult to find. The concept also requires that concerned public sector should have knowledge of the law.

C. Clarity: The presenter explained laws should be clear, so as the public could understand and implement it. The language of the law should not be vague and ambiguous. Not only has the law to be written in plain language but the terms used should be consistent and compatible with older existing laws .He added that in a system where precedents are binding, decisions of the cassation bench should be clear and their decisions with regard to similar issues must be consistent as much as possible. Contradicting decisions will create confusion which in turn would erode rule of law.

D. Non retroactivity: is the forth requirement according to the presenter and it means that laws should not be applied backwards. The concept is in particular sensitive in criminal law although there are certain exceptions in relation to crimes against humanity. This principle reminds parliaments to update the law on time.

E. Stability: this is listed as the fifth requirement and is supposed to mean, according to the presenter, laws shouldn't be changed every time. If the laws in a particular subject keep on changing the concerned groups and the public would not be in a position to know the current law. In addition, it would be difficult to lead one's life and business in plan. Laws that affect long term planning should not to be changed every now and then. At least they should not be substantially changed.

F. According to Ato Tamrat, the sixth requirement in the list says that wided is cretionary power should not be given to anyone. Especially the executive body of government should not be given such power. Parliamentarians should ensure that unnecessarily wider discretion is not given to a government body or official. One of the purposes of rule of law is to subject the powers of the state officials to laws. The people should not be exposed to arbitrary decision of officials. Although reserving certain decision making power is inevitable it has to be restricted by a rule of law.

G. The seventh requirement is separation of power: the presenter stated that according to the rule of law principle, a government organ should not, in principle, own more than one of the legislative, executive and judicial powers. After all, one of the main objectives of rule of law is limiting the power of officials and its abuse.

H, Independence and impartiality of courts is the eighth requirement discussed. The presenter explained that independence refers to being free from influence and pressure by another government body or official specifically the executive and it includes being independent financially and in tenure.

On the other hand, he stated, impartiality refers to being free from prejudices based on religion, sex, race and the like and includes influences caused by corruptions and related practices. Access to justice could be a part of this as justice should not be costly and inaccessible location wise. In other words, the court should make sure that it is reachable to the poor and powerless sector of the society and remote areas. If a court full of impartial judges is inaccessible to the poor and disadvantage groups, justice would not be achieved. Lastly he noted that free legal aid plays a major role as it also insures access to justice.

He highlighted that all of this is included in the rule of law guideline for politicians

Roles of politicians to ensure rule of law

The presenter stated the following as roles politicians can play to ensure the rule of law:

1. Parliamentarians should ascertain the clarity of laws, both in terms of language and consistency to prior laws. They should involve qualified legal professionals during drafting process of laws.
2. They should as much as possible not let broad powers be given to any official or organ of the state.
3. Parliamentarians should establish drafting schools or they should get some training on law drafting skills and processes.
4. Parliamentarians should ascertain that sufficient number of laws are published and make sure the concerned executive employees and the general publics are aware of them.
5. Parliamentarians must make sure laws are up-to-date and compatible with changing times and with exciting laws.
6. Parliaments should check whether courts are performing efficiently, disposing cases with expected quality and expeditiously.
7. Parliamentarians should, when drafting new laws, make sure the new laws do not contradict with international laws the country is a party to. Due attention should be paid especially to human right issues.

The moderator Ato Gedion highlighted the discussion points as the need for politicians to be aware of the principle of rule of law and opened the stage for discussion.

Discussion

The following questions and remarks were made in the discussion session.

The first participant remarked that the parliament members lack legal knowledge, but they have the responsibility of drafting laws. Therefore the laws drafted by these parliamentarians might contradict with the constitution. Thus theory of rule of law must be thought for politicians. He recalled before sometime there used to be a television and radio program aimed at creating legal awareness. The program played a great role in creating awareness on the general society. He remarked that this needs to be done again by collaborating the Ethiopian Lawyers' Association, courts, public prosecutors and law schools.

The second participant commented that he notices lack of legal knowledge among parliamentarians and this needs to be rectified. As they are lawmakers legal awareness is a necessity. He added for application of principle of rule of law, basic legal knowledge needs to be mainstreamed as a precondition.

The same participant asked whether a state, in order to be categorized as a democratic country, need to apply this principle and the requirements listed.

The third participant informed the participants and the presenter of a new order given to the legal departments of government offices that requires for legal awareness to be given to the employees and stated that this has been added into the New Year's (2008 E.C.) agenda.

The forth participant gave his reflection regarding the process of initiation of laws. He stated that the initiation is the activity of a ministry concerned with the specific issue and that the parliamentarians are not necessarily the ones that initiate laws. However, he added there is lack of public involvement in the process of initiation and drafting of laws.

The fifth participant remarked that the executive body puts pressure and undue influence on the judiciary and that they enact regulations that are contrary to the constitution and pre-existing laws. He also remarked Judges also make decisions that are contrary to laws and the constitution. He continued as this is the persisting condition in the country, it needs to be corrected and the principle of rule of law be comprehended by legal professionals, politicians and the society.

Conclusion

The presenter agreed with the raised comments and gave his word that the Association will try to work on using television and radio for creating legal awareness among the society by collaborating with different stakeholders. He also responded that rule of law is indeed a precondition for the application of democracy. Democracy cannot be implemented in situations in which power is exercised arbitrarily and not restricted by rule of law.

He concluded that laws should be generally understandable to the people they aim to govern, and should not contradict. Contradictions created between laws is one of the major concerns currently. Prior legislations are not taken in to consideration. Each government organ for example reenacts criminal offences from its own perspective despite the existence of sufficient laws in the criminal code. Tamrat concluded effort should be made to meet the standards presented and listed in the guideline.

Day two

The president of the Association Ato Tamirat Kidanemariam welcomed the gusts and presenters and opened the second day conference.

Presentation one

A Study on the Contribution of the Legal Profession to UK's Economy and Points Relevant to Emerging Least Developed Economies

The first presenter of the day Mr. Robert Millard a guest and presenter from the IBA (International Bar Association) introduced by Ato Mihreteab Leul (legal consultant, attorney at law and former executive committee member of ELA) started the presentation by asking the question what kind of law firms does Ethiopia need to be sustainable middle income earning country by 2025 ?

He went on saying the country will not achieve its plan of becoming a middle income earning country by 2025 without law firms. Mr.Millard gave an example of the UK where in value of legal profession to UKs economy for every pound spent on legal services 2.49 pounds is generated for the economy. He stated this as a direct effect of legal spending for the economy of the state.

Moving to the indirect effect on the other hand the presenter pointed that 0.41 pound is generated to the economy due to purchase of goods and services by employees of the firms. The Induced effect according to the presenter due to demand from increased house hold expenditure is 0.98 pounds. Therefore, the presenter concluded total of 2.49 pound is generated for the economy for every pound spent on legal services.

Next he looked into the jobs created due to the existence of law firms in the UK economy. He stated that for every 100 jobs created in the legal sector 167 jobs are created in the wider economy.

Mr. Millard noted that strong legal sector in the UK is responsible for London being one of the top three global financial centers in the world today. He pointed that UK is the fourth largest recipient of FDI(foreign direct investment) in which the strong law firms are responsible for advising investors

He also stated that UK eighth in the world for ease of doing business as opposed to Ethiopia who is eighth from last.

He noted that as the economy grows and diversifies the amount and type of legislation grows as well .According to Mr. Robert this in turn calls for specialization and making it challenging for an individual lawyer to master all. He brought the case of most African countries who were at a similar stage Ethiopia is currently in but then discovered gas and brought in complex tax laws which created the question of how do to apply these new laws.

Finally Mr. Robert concluded his presentation by raising questions such as:

1. What will the middle income economy of the country look like (what will industries be like in relation with other African countries?
2. Who is investing and the laws that govern it?
3. How important is FDI?
4. How will government relations with other governments take place?
5. Given all of these, what does the legal sector need to look like in 2025 and what are you going to do about it?

The moderator Ato Mehertetab thanked the presenter and opened the floor for discussion.

Discussion

1. The first participant noted that the Ethiopian government is currently working on attracting more FDI which results in the diversification of legal areas and laws. This in turn creates the need for specialization by lawyers in a certain field. This is demanded because the investors need a quality service with someone who has a direct knowledge and experience on the specific subject. However, the participant continued, investors working or showing interest to work in Ethiopia claim that Ethiopian legal environment is unpredictable.

In addition the participant remarked the government should be beneficiary of law firms too. But the government prefers to use its own legal departments. So how do we encourage the government to use the private firms?

The second participant remarked that maybe law firms do not exist because there is no need for them. Therefore, the participant noted, firms will appear when there is a demand for them by the system of the country. In addition the participant added in his own experience he has observed that foreign investors look for people with connections instead of those with good legal knowledge. He stated that foreigners are not interested in using Ethiopian lawyers even if the lawyer is skilled.They would prefer to use lawyers from their own country or look for lawyers with connections who could get them what they need in an illegal way.

Mr. Millard reflected on the above questions and comments as follows:

He responded that he is not saying that Ethiopia needs to have a firm that is big and has 100partners.However, he continued there is an existing demand and the country and legal professionals are losing income because of non-existence of legal firms and it has to be started right now.

The moderator Ato Mehretab added that from his personal experience he has noted a demand for law firms. Multi-national companies and investors give lawyers tax, labour, contract and other similar legal assignments and it is impossible for an individual lawyer to deal with these efficiently. In addition, he stated, these foreign investors do not rely in individual lawyers and ask what if something happens to the individual lawyer. This is a valid reason because if they are working with an individual lawyer and something happens to him there might be an instance where they might not even be able to recover their files.

Drawing from his own experience with the African Development Bank, he recalled that a bank official told him that the bank will not retain Ethiopian lawyers as they are only individual lawyers which they do not have confidence in.

Going back to the question and comment section, the third participant remarked that the Ethiopian government is trying to bring about economic development and the movement is somehow successful, however, he stated, the development needs to be parallel with the development of the legal profession as well. He concluded such growth requires establishment of law firms that are capable of providing quality service to investor and multinational companies.

The forth participant remarked that foreign companies he tries to work with always ask him if there exist law firms in the country and to put them at ease he tells them that he has partners he works with and a number of associates that work for him which puts them at ease. He also stated, when he is working with other foreign law firms they want to know his area of specialization so that he can give them reliable advice. Therefore, he concluded these instances are proof enough for a demand for law firms and their establishment is vital for the development of the country and its legal system.

This ended the question and comment section and Ato Meheretab concluded that the presentation has shown the need for establishment of law firms if Ethiopia is indeed to achieve the plan of being a middle income earning country by 2025.

Presentation two

Law Firm Management Innovations in Increasing Efficiencies and Reducing Liabilities

The next presenter Dr. Hermann J. Knoot introduced by Mihreteab Leul went on to his presentation by defining law firms as a group of partners sharing responsibility, profit and governance of law firms.

Characters of law firms

According to Dr. Hermann the following are the characters of law firms:

1st Size

He started considerable size is important for a partnership to be considered a law firm.

2nd Specialization

Specialization is demanded by international clients. Specialization starts with legal education. It enables to decrease risk of liability. Errors made are substantially reduced which help minimize liability

3rd Technology

Using database (knowledge database) to store work, increases efficacy and productivity, and decreases risk and liability

4thLanguageSkill

Dr. J. Knoot continued there might be cases were you need to work with a foreign firm and might be a necessity to use foreign law and a need might arise to use a foreign language.

5th Project Management Skills

Dr. J.Knoot pointed out that for the big projects step plan with time and team schedule is necessary and that the clients would appreciate to have one contact which would inform them of the updates of the case

6thBuilding Reputation

The presenter noted that in order for a law firm to be well known and recommended by others a firm culture of motivation and team sprit needs to be created. This would make the firm a good environment for the employees and partners which would lead to the performance of activities efficiently resulting in the good reputation of the firm. The firm should be known for ethical standard and integrity.

Regarding the issues of size, the presenter stated that crucial size does not come overnight as you can only hire people if you have work .Therefore, he remarked the successful implementation of tasks will lead to acquiring more work which will in turn result in the increment of size.

Limitation of liability

I. specialization

II. Use of precedent

III. Use of engagement letter used to explain the terms of engagement such as fees projects team and most importantly the scope which shoes the things we do and we don't do and things we don't do is important as we cannot be liable for things we don't /didn't do .

Quality control

Insure against liability risk

Discussion

The first participant asked a question regarding limited liability partnership, how revenue is divided among members of the firm with different seniority and contribution and whether the firm or the partners pay tax.

Dr.J.Knoot answered there are two models of income sharing which are:

A. **Lock step model:** the presenter stated that this model is mostly used in English firms and that it is done by moving up from step to step with seniority. This is called the traditional model. In this model, he stated, each partner in the same step earns the same which requires the partner in the same level to perform similarly more or less. According to the presenter in order to use this model, the firm needs to be financially successful

B. **Eat what you kill model:** Dr. Herman noted that this model is mostly used in US firms**.** Looks in to how many client work each partner brings and how much income they bring. The presenter appreciates the first one because in the second there is less incentive to work in cooperation with other partners.

Regarding the question raised concerning tax, Dr. J.Knoot stated that this usually depends on the local laws. However, he noted in most cases the partnership does not pay tax and it is called tax transparent because the tax goes to the partners attributed to them to their levels.

Also, he added, annual profit is shared after the salaries, rent and other expenses are paid. The amount left is distributed among partners in accordance to their unit.

Mr. Millard added to what Dr. J.Knoot has stated above that in small firms it is easy as partners sit and decide a way they think is fair to share the income.

After the above elaboration, the moderator Ato Mehreteab asked for further ideas of discussion on the issue of risk management and tax issues by sharing his experience that when he was trying to get professional indemnity insurance, no insurance company was willing to sell him although it is a legal requirement for practicing lawyers.

The next participant stated that currently lawyers pay tax on 10% of their income as the 90% is considered an expense. Regarding indemnity insurance he recalled that the rule came in to existence some years ago and it is still not being applied as it singled out lawyers from other professionals such as medical professionals and the like. Also the participant added the fact that no implementing legislation has been enacted has hindered the implementation of the law.

However, the participant continued, the requirement of professional indemnity insurance will increase price for legal services by transferring the amount paid as premium to the client. He stated still the concept should be applied to all professionals such as medical professionals and the others .Regardless of the above mentioned points, the participant stated the concept is alien to insurance companies and some kind of resistance is expected.

Coming to limited liability partnership, the same participant remarked, tax is not paid by the partnership rather the individual partners and no dividends and declaration is made by the limited liability partnership. This means, the participant elaborated, we cannot use the commercial code to establish and administer such kind of partnerships .Which shows the need to have a new legislation administrating the matter concluded the participant.

Another participant noted that the importance of communication skills has not been covered in the presentation and asked the presenter for his input with regard to communication within the firm, with clients/public and in press conferences. And the issue of firms and lawyers taking number of cases they cannot handle is not included, the speaker commented.

Dr. j.Knoot replied that communication is key and that in his firm they have internal news letters to communicate to clients. He also added that there is a person in charge of press releases.

With regard to the question asked about lawyers taking too many cases the presenter replied project management is essential. Especially in smaller firms meeting should be held to discuss what work will come in and who will be responsible for it.

The next questions raised were concerning professional insurance and how it makes legal services expensive. The issue of ethical responsibility was also raised in relation to conflict of interest.

In response Dr. J.Knoot stated that ethical issues are in his firm checked by one person responsible. There is also a database that makes sure there is no conflict of interest when accepting new assignments.

To the question asking what preparatory activities are needed to form a law firm, The presenter stated that the main preparatory activity to be implemented by Ethiopia is empowerment of lawyers

Dr. J.Knoot concluded the existence of sufficient demand has been established. Now the next step is to make sure the supply exists i.e. law schools should be able to produce graduates that are qualified and other related institutions such as the insurance should make it possible for firms to exist. He also added to battle ethical issues, soft skill trainings that focus on team building, producing qualified and ethical teams are necessary.

The moderator Ato Meheretab concluded the discussion by stating that lawyers need to update their knowledge and improve themselves. They should for instance use the continuous legal education opportunity provided by the Ethiopian Lawyers' Association.

The president thanked the presenters Mr. Millard and Dr.J.Knoot and the moderator Ato Miheretab .

Afternoon session

Presentation four

The Role of Legal Professional Associations

The moderator Ato Semeneh Kiros introduced the presenter Ato Wondimagegnehu Gebereselassie, the former president of the Ethiopian Lawyers' Association (January 2013 to January 2015), and the title and invited him to make the presentation.

Ato wondimagegnehu took the stage and started his presentation by briefly highlighting the issues he will be covering in his presentation.

- **Types of legal professional associations**

1. Voluntary

2. Statutory

- **Experiences of different countries**

US, UK, Wales inns of courts, Zurich, Bulgaria, Indian bar council, African and neighboring countries jurisdictions are considered in the study.

- **General characters of professional associations**
- **Ethiopian experience**

After the brief highlight he started the presentation by identifying types of legal professional associations as follows:

1. Voluntary

He stated that in these types of associations, legal professionals come together and establish it voluntarily. In various legal systems such associations were prior to the establishment of statutory bars.

Examples of such voluntarily established associations, according to the presenter are: English Bar Association (established in 13th century) and the American Bar Association (ABA)(established in 1778) with the aim of developing the jurisprudence of legislations, respect to the profession and communications between legal professionals. Currently the association organizes exhibitions, publishes a newspaper named Washington Summary and communicates issues raised in the parliament to the public. Washington Summary is a newspaper which evaluates the government's decisions, regulates law schools standards and approves law schools.

Going over to the associations in Europe Ato wondimagegnehu pointed out that there are other non-statutory bars in London Germany and so on in addition to the one in UK.

He also noted that there are international associations established voluntarily such as the IBA and Commercial Bar Association.

2. Statutory Bars

Coming to the second types of Bar Associations, the presenter noted that establishment, development and authority of these associations is dependent on the jurisdiction they are established. However they all are established by law and members are obligated to be a part of them.

The presenter pointed that these types of bars are usually found in continental legal systems. Others such as the ones in the UK mentioned above are established by custom and then latter by law. They function under the Ministry of Justice or Supreme Court. According to the presenter, mostly their main functions are giving licenses, regulating law schools and the disciplining practicing lawyers.

England

In England, the Bar Council was established in 1894. The council administers four associations under it. In 2007 new act reestablished legal service board which composes of lay persons. According to the presenter, this board regulates the legal profession and controls the bar council which in turn regulates the four bar associations. The board has 15 members most of whom are lay persons due to the intention of keeping it free and fair.

The Californian Bar Association

Looking into the Californian Bar Association, Wondimagegnehu pointed out that the bar is part of the Supreme Court and is administrated by a board which regulates the profession and the professionals. The Bar has 250,000 lawyer members, run by 19 board members and is administered by members contribution

Europe

Ato wondimagegnehu reviewed Zurich and Bulgaria as other European states and he explained that most of these Bars have the same functions i.e. regulation and discipline

Indian Bar Council

He also reviewed the Indian Bar Council which he pointed performs the same activities as the previously stated ones and is established by law. It has 18 members which include the Ministry of Justice, Supreme Court, Public Prosecutor and the General Solicitor and the rest are lawyers.

Africa

In his brief over view of the African Statutory Bars he highlighted the following important features of the bars as follows:

Kenya: the Bar was established voluntarily in1904and by law in 1948.

Tanganyika: the Bar was established in 1954 and further strengthened in 2002

Uganda: the Bar was established in1956 and further developed in 2000

Rwanda: The Bar was established in 1997 (the most recently established) and has similar activities as the previously stated ones. It is also statutory.

The difference between mandatory and voluntary Bars

The main difference between the mandatory and voluntary legal Associations/Bars according to the presenter is the fact that the mandatory/statutory bars have the authority to administer and discipline members

Ethiopia

Finally the presenter took a brief moment to highlight the Ethiopian perspective on the issues. He stated that the Ethiopian Lawyers' Association, the Ethiopian Women Lawyers' Association, the Ethiopian Young Lawyers' Association, and others exist in Ethiopia. However none of them are established by law. He recalled that the Ethiopian Lawyers' Association being the oldest with relatively broader membership base was first founded as an advocate's welfare association in 1965 and later changed to a professional association in 1966.

He remarked that the above mentioned professional associations are doing all their mandate allows them to. He noted that they are mostly active on issues such as rule of law ,women's rights ,due process of law, improvement of legal system, improvement of legal profession, increasing capacity of legal professionals, improving ethics and discipline of professionals, respect rights of professionals, expansion of basic legal knowledge throughout the society, research and study about the profession,

Regarding the establishment of Statutory Associations, the presenter noted, two laws could be mentioned.

1. Federal Courts Advocates Licensing and Registration Proclamation No. 199/2000.

The legislation according to the presenter mentions lawyers association and states the association should be a part of the Disciplinary Board. The law also mentions bar association and that there will be another law for the establishment of such bar.

2. The Charities and Societies Proclamation No. 629/2009

The presenter continued, when Charities and Societies Proclamation No. 629/2009 came in to action the Ethiopian Lawyers' Association was reregistered its name changed from the Ethiopian Bar Association to Lawyers' Association. However the Ethiopian Lawyers' Association should be like in many other countries be part of the justice system and established by law.

Challenges

The presenter highlighted the main challenges in the Ethiopian legal system that hinder the establishment of Bar Associations

- ✓ No Bar established by law
- ✓ Historical value given to the profession does not weigh much and isn not positive .

- ✓ Lack of initiative of professionals

However, the presenter concluded, their needs to be a Statutory Bar that regulates and administers the profession. He noted that this will not be a new experience to the country as Chamber of Commerce sets a good precedent.

The moderator Ato Semeneh thanked the presenter Ato wondimagegnehu and before opening the stage for discussion recapitulated the presentation as follows.

Ato Simeneh summarized that there are two types of legal professional associations which are either voluntary or mandatory. He noted that different countries' experiences in the legal professional association were reviewed. He also recalled that their major functions were stated as regulating and governing the profession plus disciplining professionals.

He underlined that in Ethiopia, the currently existing different legal professional associations are all voluntary

Regarding the issue of negative attitude toward lawyers, he stated that Lawyers are perceived as corrupt, liars and cheaters by some members of the community. He pointed that legal professionals, especially lawyers should work hard to change this attitude into a positive one and the establishment of a statutory bar which regulates disciplines of lawyers will help achieve a positive perception.

He also noted that there is lack of motivation and initiation to work on development of the association and lack of culture of volunteerism which could be seen as one of the reasons that is hindering the formation of Statutory Bars.

He finally concluded that even though the voluntary association should definitely continue, there needs to be a statutory one which will help improve the image of lawyers by regulating the discipline and other aspects of the profession. Economic development calls for the development of the profession by statutory bar with the involvement of the government.

Discussion

The first point raised in the discussion was that the association needs to identify whether it is a charitable or a Professional Association and it should stop representing professionals with different (opposing) interests such as the public prosecutor and the attorney. As shown in the name, it should be

a advocates association only and not be open to all legal professionals. In addition, before asking for the establishment of a Statutory Bar we should all work on our individual skills and improve ourselves.

The issue of volunteerism was raised by another participant who stated that lack of volunteerism and selflessness is a challenge to the association. Hence people should, in order to join the association, know what they can get by joining the association.

Regarding the negative attitude towards lawyers, one participant remarked that this perception is not totally far from the truth as lawyers that are unethical and corrupt who abuse the power endowed to them by the profession exist. Therefore he concluded that the association needs to work to improve this.

With this the discussion ended, and Ato Tamrat Kidanemariam, president of the association closed the conference by reading out 12 stands drawn from the research papers and studies presented in the conference. Ato Tamrat remarked that the association would endeavor to include the stand points in its 5 years strategic plans. Finally the president thanked on behalf of the association all the presenters, discussants, participants and members that financially contributed for the celebration of the 50th anniversary including Bunna International Bank.