



TEMUAGACH

ጥያቄ

THE ETHIOPIAN LAWYERS' ASSOCIATION NEWSLETTER

"*Temuagach*" is an Amharic word for litigant, advocate, barrister.

Volume 8 N° 1

October 2015

Editorial

Ethiopian Lawyers' Association is celebrating its Golden Jubilee in different activities. One of the programs is a two days conference under the theme "The Role of Lawyers' Associations and Law Firms for Justice and Rule of Law" held on July 31 and August 1, 2015 at Desalegn Hotel. Based on the papers presented, the Association has drawn 12 stands. Especially, regarding courts' jurisdiction, the point which provides that, the courts' jurisdiction should not be reduced as far as possible and the courts themselves should not abdicate jurisdiction given by the constitution, unless expressly stated by law has to be stressed. Rule of law will be realized only when all government and non-government organs obey the law and act in accordance with the law and obliged by independent judges to obey it when they act contrary to what the law says.

When we talk about rule of law, it is not only about applying the law equally in the relationship between citizens and government or government officials, but also among individuals in their private relations. People will obey the law while in their personal engagements and relations only if they have information about the law. In this respect, the inaccessibility of regional laws in capital of the country, Addis Ababa is a concern. Let alone regional laws, Addis Ababa city administration laws are difficult to find. Each Government organ has to create awareness in the concerned sectors and the people about the laws it enforces. Regarding this, the Ethiopian Revenue and Custom Authority is doing exemplary job in informing the people about tax laws via public media. Especially, Courts, Ministry of Justice, the Ethiopian Lawyers' Association and other legal professional Associations should cooperate and work hard in informing the society about the laws and conduct awareness creation programs to enable it to obey the law.

Finally, as our country is growing fast, we have to be aware that the current individual attorney based legal service is backward and does not match the fast growing economy; hence law firms that enable group service should be established. In this regard, though the Advocates Licensing and Registration Proclamation No. 199/2000 provides about the establishment of law firms in the country, since there are no enforcing regulations and directives, the concept of law firm could not be realized so far. Thus, the required regulations should be enacted and law firms be established so that the legal service will be satisfactory to investors. On the other hand, the judiciary and the justice sector should be modernized and strengthened in terms of human resource, money and materials so as to match the economic growth. Besides, a system has to be designed that monitors whether the justice system is accessible, fair, impartial and corruption free.

Finally, the legal profession can truly develop and provide high standard service demanded by the public and the economy, if the Ethiopian Lawyers' Association is like in many countries reestablished by legislation, participates in licensing of lawyers, issues professional code of conduct, disciplines professionals that violate ethics, regulates and develops the profession in general. ■

ELA Among Invited Guests in the Dinner at the National Palace Prepared in Honor of Barak Obama

Barak Hussine Obama is noted to be the first American president to visit Ethiopia while in office. About 300 individuals including renowned personalities attended the dinner prepared at the National Palace on July 28th, 2015 by Prime Minister Hailemariam Desalegn in honor of

President Barak Obama. The President of the Ethiopian Lawyers' Association was among the invited guests. Some professionals considered this a proof of increase of the importance given by the government to the association and other professional societies.

(See page 2)

The Ethiopian Lawyers' Association Held a Half day Conference at Hawassa; The Free Legal Aid Center Visited

The Ethiopia Lawyers' Association (ELA) organized a half-day conference on October 2nd 2015 in Hawasa, capital city of the Southern People Nations and Nationalities Regional State. Ato Semere Assefa, legal consultant and attorney at law (both federal and regional level) presented research papers about the problems and practices in the Southern Regional Courts, and lawyers' ethics. Tamrat Kidanemariam, president of ELA, on the other hand presented research paper about Lawyers' Ethics. The Vice-president of the Southern Region Bar Association, Nega Kebede, made a

speech about problems in the region in the taxing of lawyers. Abebe Asamere, Vice-president of ELA, led discussion that invoked wide participation. Fikadu Demisse, director of

(See... page 3)

Brazilian Law Helping to Reveal Grand Corruption and Restore Public Money

Many individuals are held accountable under a corruption investigation labeled "operation car was" by the Brazilian Federal Police. The amount of

(See... page 5)

Stands

1. The legal profession has a greater contribution to realize Ethiopia's plan to become a middle economy by the year 2025. The contribution of the profession to the Economy has to be studied in detail.
2. The Ethiopian economy can effectively achieve its development goals if rule of law is ensured step by step. In addition, the legal service has to be improved. The one attorney based service has to be transformed and organized in to group.
3. The Ethiopian Lawyers' Association must conduct a research about the prevailing and prospective role of the legal profession for the national economy.
4. The concerned organ (the Ministry of Justice) has to consider the contribution of law firms for the growth of the legal service and the economy. Law Firm Regulation has to be issued as provided under Proclamation 199/2000. The Ethiopian Lawyers' Association and lawyers should involve in the legislative process.
5. The Ethiopian Lawyers' Association should work to raise the awareness of lawyers about law firm management through preparing continuous workshops.
6. The judgments of Ethiopian courts in general and Federal Supreme Court in particular have to be predictable. The Ethiopian Lawyers' Association must support the judiciary by conducting research, organizing workshops and preparing research papers on controversial and unsettled legal issues.
7. The House of Peoples Representative, FDRE Ministry of Justice and concerned organs must work to ensure that legislations are clear and in conformity with international treaties ratified by Ethiopia. The Ethiopian Lawyers Association should contribute its part in the legislative process.
8. The Ethiopian Lawyers' Association should cooperate and work with concerned governmental and non-governmental organizations to increase awareness about rule of law. The Association should together with courts and the Ministry of Justice work to disseminate basic legal education to the public. The education should address the concerned persons in each area of law.
9. The judicial jurisdiction of courts guaranteed under Article 37 of the Constitution should not be restricted as much as possible. Courts should not on the other hand abdicate the judicial power granted by the Constitution unless the law clearly denies them.
10. The Ethiopian Lawyers' Association has to be reestablished by legislation and membership should be compulsory. The FDRE Ministry of Justice has to encourage each lawyer to become a member of the association, take part in trainings and pay monthly contributions.
11. Legal professional associations should cooperate between themselves.
12. The Ethiopian Lawyers' Association should be made regulate the legal profession, issue disciplinary code of conduct and discipline the professional by involving the government. The association, members and lawyers in general should prove their capability to undertake such responsibility by participating actively. Continuous panel discussions and workshops have to be held with a view to reach common understanding. ■

ELA Among Invited ...

(Continued from page 1)

Meanwhile the House of peoples Representatives honored the international civic societies day on September 16th, 2015 under the theme "Space for Civic Societies". Ato Eshete Gebre, Vice Commissioner of Human Rights Commission, presented a research paper on Democracy and the Role of Civic Societies, which provoked wide discussion. Civic societies including the Ethiopian Lawyers' Association and representatives of political parties attended the discussion. ■

The Ethiopian Lawyers' Association Celebrated its 50th Anniversary upon Various Activities: The Celebration will continue with other Activities

The Ethiopian Lawyers' Association established as a welfare association in 1965 upon the initiation of certain lawyers' After one year it registered in the then Ministry of Homeland Affairs as a professional association under the name the Ethiopian Bar Association. In 1974, its name was changed to the Ethiopian Lawyers' Association. Again while its memorandum of association was amended in 2005, the former name i.e. The Ethiopian Bar Association restored. Finally when Charities and Societies Proclamation 621/2009 enacted, the association reregistered under the name the Ethiopian Lawyers' Association.

When evaluating the association it cannot be denied that the achievements made so far do not much the age of the association. Nevertheless, the time spent under Marxism, which does not encourage freedom of expression and association and the fact that democracy is at its initial stage has to be considered.

The association has contributed for a respect of professional code of conduct and lawyers' ethics by participating in disciplinary board at the Ministry of Justice. Significant contribution has been made by the association to the nation, government and people by participating in important national issues. Considerable work has been done to upgrade the skill of the legal professional through organizing multiples of workshops and panel discussions on controversial

and complex legal issues. Through indicating gaps in the prevailing legislations and practices, the association has contributed its level best for the amendment of the existing legislations and the enactment of new laws. Further contribution has also been made to the legislative process through commenting on draft laws, whenever invited. As of 2006 the association is attempting its level best, to enhance the jurisprudence development of Ethiopia by publishing a bi annual journal.

The association currently constitutes about 700 members despite problems in attending annual meetings and settling membership contributions.

In the celebration of the 50th anniversary the following activities have been done. 1/Awareness raising moot court litigation conducted on July 23rd 2015 in one of the unsettled and controversial legal issues at the Federal Supreme Court of Ethiopia. The issue is related to circumstances under which an inheritance (succession) claim may be barred (expired) due to failure to be brought with in due time (period of limitation). Informative litigations held by practicing lawyers: W/ro Abeba Mengistu & Ato Yoseph Alemiro on one part and Ato Assefa Ali & Ato Tesfaye Deresse on the other side. Various analytical approaches and strong arguments, which upgrade the skill of the professional, were

(See... page 4)

The Ethiopian Lawyers' Association Held...

(Continued from page 1)

the Lawyers' Affairs Directorate at the Ministry of Justice replied to the issues raised about

Ministry of Justice. More than 45 participants attended the conference half of which are from courts; prosecution office and other governmental organs in the region. Form was distributed to participants interested to join the association. Professionals that volunteered to be focal persons registered.

The free legal aid center run in partnership with the Ethiopian Young Lawyers' Association was visited. The South Regional Supreme Court deserves appreciation for providing office room. Nevertheless, there are many persons at the Woreda and High Court level who require the service. The need to acquire offices at the law courts level was thus understood. The need to cooperate for the free legal aid centers around Hawassa was identified. The leadership and management of ELA will continue to visit other centers in other regional state and attempt to solve problems.■

Temuagach-EIA Newsletter

Published Every Two Months

Tel : 251-11-553-0122

P.O. Box : 700

Fax : 251-11-515-2047

Addis Ababa, Ethiopia

E-mail : eba@telecom.net.et

Website : www.ethiopian-bar.org

The Ethiopian Lawyers' Association Celebrated ... (Continued from page 3)

forwarded. Ato Filipos Aynalem presented a research based opinion as an amicus curie". A panel constituted by Ato Tesfaye Hailemariam (previous Supreme Court judge and a senior attorney and legal consultant), W/ro Zenaye Tadesse (Executive Director of the Ethiopian Women Lawyers' Association), Ato Tewodros Mihret (Treasurer of the Ethiopian Lawyers' Association, attorney and Legal consultant & lecturer of A.A.U. College of Law and Governance), W/ro Martha Belete (Lecturer at A.A.U. College of Law and Governance) and Ato Metassebia Hailu (Young Lawyer) gave by a unanimous vote a reasoned judgment that can be used an input to develop the prevailing jurisprudence on the issue.

2/On July 25th, 2015 the association in cooperation with the Ministry of Justice held a panel discussion about lawyers' ethics, in commemoration of the 50th anniversary upon the sponsorship of the European Union Civic Society Fund II. The discussion was held at the Ministry of Justice hall, presenters being Ato Abdella Ali (Attorney at law and legal consultant) and Ato Fikadu Demissie (Director of the Lawyers' Affairs Directorate at MOJ) and discussants Ato Abebe Assamere (Vice-President of ELA) and Ato Filipos Aynalem (Executive member of ELA). Fikadu stressed that lawyers who have complains against the disciplinary committee constituted by two representatives from lawyers, one from courts and two from the Ministry of justice should not put the blame on the Ministry of Justice. Some participants, however, commented that if the Ethiopian Lawyers' Association were invited to send a representative at the disciplinary committee, as used to be in the past, the complaint would be reduced and the opportunity of admitting mistakes will be increased. Ato Fikadu Demisse also expressed amendment of the Lawyers Licensing Proclamation being under consideration by MOJ and the association will be invited to contribute in the process. Various interesting practical and hypothetical issues were raised by the presenters, discussants and participants.

Ministry of Justice's (MOJ's) provision of the discussion hall and transparent presentation and EU's support was highly appreciated by the lawyers and encouraged MOJ to continue such practice.

3/In memory of the 50th golden jubilee, a special bulletin was also published. It includes an interesting article by Ato Tameru Wondimagegnehu (a former President of

ELA (Jan 2007-Jan. 2009) about the initiation and growth of lawyering and the legal profession in Ethiopia. Names and photographs of members who served as President is exhibited. Among legal professional artists, Abebe Balcha (film actor), Assaminew Barega (writer) and Tewodros Mosissa (singer) (all legal consultants and attorneys') are interviewed. A binding and classic decision of the Federal Supreme Court of Ethiopia Bench of accession is included which was given on June 11th, 2013 on file no. 84623 on a criminal litigation between Applicant G. Ari Pack PLC and Respondent Ethiopian Revenue and Customs Authority Awassa Branch in which the Court confirmed basing itself in the Constitution & the international human rights treaties ratified by Ethiopia, that failure to pay tax imposed by an estimation of the authority entails only a civil liability and should be distinguished from a criminal act of deliberately hiding one's property with a view to avoid payment of tax upon on income declared by oneself. Other informative and entertaining articles have also been included. In particular, Ato Elias Tewoldeberhan's (attorney and legal consultant) article about lawyers' price fixing, Ato Solomon Guangul's criticism entitled "Justice VS Law" on the Supreme Court, Cassession Bench's denial of benefit to persons who retired before the enactment of the 2003 Pension Law which repealed the prohibition of pension rights to persons who have been punished with more than 3 years regorious imprisonment; are included.

Bulletin Committee members a/Ato Tameru Wondimagegnehu 2/Ato Ababayehu Legesse 3/Ato Abdulfetah Abdellah and 4/Wrt Lensa Biyena (from the secretariat) have devoted their time for the outcome of the publication.

4/ The fourth activity of the 50th year anniversary was a two days special conference held at Desalegn Hotel on July 31st and August 1st, 2015 under the theme "Legal Professional Associations and Legal Firms for Rule of Law and Justice". The conference opened by the delegate of His Excellency Ministry of Justice, Director of Lawyers' Affairs Directorate Ato Fekadu Demessie. Discussion was held on 6 research papers namely;

A/ The Ethiopian Modern Justice System: From where to where, by Ato Girmaselassie Araya, discussant Ato Tameru Wondimagegnehu. B/ The Role of Court in Ensuring Rule of Law; by Associate Professor Assefa Fisseha, discussant Dr. Getachew Assefa. C/Rule of Law Guidelines for Politicians;

The Ethiopian Lawyers' Association Celebrated ... (Continued from page 4)

By Ato Tamrat Kidanemariam, discussant Ato Gedion Woldeyohannes; D/ A study on the Role of the legal Profession for the National Economy of UK; Its Implication for Emerging Least Developed Economies; by Mr. Robert Millard invited from the International Bar Association- IBA), E/How to Increase Efficiency and Reduce Liability through Innovation of Law Firms Management; by Dr. Hermann J. Knott (invited from the International Bar Association -IBA), discussant Ato Mihreteab Leoul F/Facts about Ethiopian Professional Legal Associations and the Experience of Other Countries; by Ato Wondimagegnehu Gebreselassie, discussant Ato Simeneh Kiros. Hot discussion was held by the participants in all topics.

Considering its historical significance the conference has been video recorded. In addition, since most of the discussion was held in Amharic language translators were employed together with headphone service, to translate from Amharic to English and vice versa. Hence, there was full participation in all of the discussions. At the end 12 main goals (stands) drawn from the research papers and believed to be incorporated in the future plan were read and the conference ended. (see page 2 to read the stands). In addition to members, invited guests from House of Federation, Federal Supreme Court, Council of Constitutional Inquiry, FDRE Ministry of Justice, EU Civic Society Fund II, USID and other organizations attended the conference.

5/ The 50th golden jubilee will continue to be celebrated in several other activities including documentary & photograph exhibition and honoring individuals who made significant contribution for the development of the legal profession and justice.

6/ The 50th Anniversary Golden Jubilee Committee is led by the former President of ELA Ato Wondimagegnehu Gebreselassie (Jan. 2013-Jan. 2015), and includes Ato Seleshi Ketsela (President of ELA from Jan. 2009-Jan. 2011) (Chairman of the Fund Raising Sub Committee), Ato Tamiru Wondimagegnehu (President of ELA from Jan. 2007-Jan. 2009) (Chairman of the Publication Subcommittee), Ato Manyawkal Mekonnen (Chairman of the Conference Committee); and other members including Ato Wondawik Ayele, Ato Sintayehu Bahiru, Ato Bisrat Mekonnen, Ato Assefa Ali, Ato Abdulfetah Abdallah, Ato Abebayehu Legesse and Ato Abdella Ali. ■

Brazilian Law Helping...(continued from page 1)

embezzlement proved by evidence until last May 2015 had exceeded 315 million USD, of which police succeeded to return more than 157 million USD (50%). The investigation revealed bribes paid by many Brazilian Construction Companies to win millions or billions of dollars construction tenders by Petrobras (a Brazilian public oil corporation).

The crime chain revealed in connection with investigation of a black market currency dealer Alberto Yussef giving an expensive imported car to Petro Bras Public Corporation Director, Paulo Roberto Costa. In Brazil the suspect and the public prosecutor can enter into a collaboration agreement to be approved by court. The suspect can on the one hand agree to reveal the identity of his accomplice or organized groups or return fully or partly the proceeds of the crime etc. and the public prosecutor to reduce up to 2/3 penalty, substitute prison with lesser penalty or ask the court for judicial pardon. The collaboration agreement becomes valid and effective after approval of court.

Accordingly the exchange dealer told the details of the crime in 100 hrs. collaboration testimony given to the police. The Petrobras Director also gave testimony under same arrangement. Various Petrobras Corporation officials, construction company managers, government officials and pro-government party members arrested. They are also confessing under the collaboration agreement.

Had it not been for the collaboration agreement entered with the suspects under Brazilian Criminal Law and the Organized Crime Law of 2013 (Law 12.850), the chain of corruption would have remained uncovered according to the Brazilian Prosecutors' Office.

Some Brazilian lawyers are however suspicious of the subjective nature of the collaboration agreement system and recommended detail rules to be enacted about the right to benefit from the regime. The idea of liberating oneself from his crime through revealing the crime of others is not appreciated by some Brazilian lawyers. Nevertheless the advantage of the collaboration in revealing chains of crimes and criminals cannot be denied. It is also effective in restoring public property. More than anything else, it may teach the generation that corruption may ultimately be uncovered and result in loss of what has been acquired.

Don't you think detailed collaboration agreement would help to overcome corruption problem in Ethiopia? All the best! (Source The International Bar Association; Global Insight Newsletter, April/May 2015.) ■

Members of Ethiopian Lawyers' Association Dead since September 2009

- | | |
|--|---|
| 1. Ato Yetnagashaw Haile | 18. Ato Haileselassie G/Medhen |
| 2. Ato Mebrahtu Yohannes | 19. Ato Hailu Negu |
| 3. Ato Mulu Mega | 20. Ato Yehuntsahaye Beyene |
| 4. Ato Mulat Feleke | 21. Girazmach Aweke Aemero |
| 5. Major Erepesa Dera | 22. Aser Aleka Feleke |
| 6. Ato Alemayehu Eshete | Alemayehu |
| 7. Ato Alebachew Zewde | 23. Assistant Professor Selamu Bekele |
| 8. Ato Bekure Asefa | 24. Girazmach Aman Husen |
| 9. Ato Yohannes Hirue/
Ethiopian Bar Review
Editor-in-Chief/ | 25. Ato Negatu Tesfaye |
| 10. Ato Yegezu Damete | 26. Ato Molla Mengistu/Law
School Teacher/ |
| 11. Ato Dagne Reda | 27. Ato Begizew Azeze |
| 12. Ato Webet Tefera | 28. Ato Mohammd Yakut |
| 13. Shambel Debebe Kasa | 29. Ato Kasaye Tekelaregaye |
| 14. Ato Alemu Gebyehu | 30. Ato Metassibia Fekadu |
| 15. Ato Mulugeta Tsegaye | 31. Ato Asefa Liben |
| 16. Ato Wede Damane | 32. Colonel Mengistu
Hailemariam |
| 17. Ato Tesfamichael
Tekelemariam | |