



Book Review of Federal Democratic Republic of Ethiopia, *Comprehensive Justice System Reform Program: Baseline Study Report*

K. I Vibhute¹

Addis Ababa University (AAU), Addis Ababa, Ethiopia

Federal Democratic Republic of Ethiopia, *Comprehensive Justice System Reform Program: Baseline Study Report* (Justice Reform Program Office, Ministry of Capacity Building, Federal Democratic Republic of Ethiopia, PrimaveraQuint, Amsterdam, The Netherlands, 2005), Pp 531, Price: Not mentioned

In 2002, the Government of Ethiopia, under the authority of the FDRE Ministry of Capacity Building (MOCB) established, the Justice System Reform Program (JSRP) for ‘assessing the performance of the various institutions of justice and ‘proposing’ appropriate reforms.

The Director of the JSRP in his presentation in a workshop on Justice System Reform in Ethiopia organized in May 2002 highlighted the most blatant deficiencies in the existing justice system in Ethiopia. According to him the major problems are: (i) insufficient number of qualified judges and public prosecutors, (ii) outdated and inefficient methods and procedures of the justice delivery system, (iii) lack of clarity and coherence in the existing laws, (iv) lack of access to justice information, and (v) lack of sufficient number of institutions of legal education and their inability to produce the required number of professionals. He also hinted at the ‘measures’ and ‘reform programs’ that need to be undertaken to overcome the problems.² However, he felt that ‘fragmented and piecemeal approaches in reforming and building the capacity of justice institutions could not solve all problems and bring the desired results’. ‘Effective resource utilization in the justice sector’, he stressed, ‘could only be achieved by working towards a comprehensive justice system reform program, which looks at the system as a coherent whole’.³

Plausibly, the suggestive opinion of the JSRP Director initiated the move of the Ethiopian Government to ‘consult’ experts of international repute for overhauling its entire justice system. In May 2003, the Government of Ethiopia, through its MOCB,

¹ Professor of Law, Addis Ababa University (AAU), Addis Ababa (Ethiopia) and Professor Emeritus, National Law University (NLU), Jodhpur (India). Email: vibhutek@yahoo.co.in

² Ato Mandefrot Belay, Justice System Reform: Preliminary Reform Profile, Program Contents and Objectives, in Justice System Reform Program, *Justice System Reform in Ethiopia* (Ministry of Capacity Building, Addis Ababa, May, 2002) 35.

³ *Ibid.*, at 41.

engaged the Netherlands-based Center for International Legal Cooperation (CILC) for reviewing its justice system, identifying shortcomings of the system and suggesting apt remedies.

The CILC, in turn, formed five different Working Groups⁴ of international experts for collating required information, studying relevant documents and interacting with officers from various segments of the justice system in Ethiopia. After having intensive interactions with national experts in the field (identified by the JSRP) and stakeholders in the Ethiopian justice system, and looking into relevant documents and Proclamations, the Working Groups formed their own opinions about 'deficiencies' in the justice system and the possible 'remedies'. These Working Groups also arranged frequent inter-Working Groups meetings for exchanging their opinions and benefiting from their respective analyses.

In May 2004, the CILC forwarded its final draft report to the Director of the JSRP, who circulated it to various stakeholders in the justice system for comments. Ultimately, in the joint meeting held in January 2005 between the JSRP Director and representatives of the CILC, the Ethiopian authorities approved and accepted the draft study.

The book under review⁵ (hereinafter referred to as *the baseline study*) is an outcome of the CILC's Report. It offers, with critical appraisal, the structural and functional anatomy of the justice system in Ethiopia and highlights its major shortcomings.

'Justice System', as perceived by the CILC, comprises not only of the judicial institutions (courts), the institutions of law enforcement (the police & the prosecutors), and custodial penal institutions (prisons) but also the institutions that enact law (the Legislature) and teach law (University Law Schools/Law Colleges).⁶

With a view to having a comprehensive look at the Ethiopian justice system as a whole and to knowing its shortcomings, the CILC resorted to 'vertical' as well as 'horizontal' analysis of these institutions. The former concentrated on the description and analysis of each of the constituent institutions - the Legislature, the judiciary, the prosecuting agencies, the police, the prisons and the institutions of legal education- of the justice system,⁷ and identifying and highlighting of their shortcomings, while the latter concentrated on the penetrating analysis of inter-institutional relationship, system-related issues, and shortcomings and barriers for co-operation in the system.

The *baseline study*, through 'vertical analysis' of the institutional components of the Ethiopian justice system, exhibits structural and operational facets of these institutions and the constraints - institutional, structural, and physical - within which they operate. In the

⁴ They were: (1) Working Group on Law Making and Law Revision, (2) Working Group on Judiciary, (3) Working Group on Law Enforcement (Prosecution, Police and Penitentiary System), (4) Working Group on Legal Education, and (5) Working Group on Information Flow within and outside the Judiciary.

⁵ Federal Democratic Republic of Ethiopia, *Comprehensive Justice Reform Program: Baseline Study Report* (Justice Reform Program, Ministry of Capacity Building, Federal Democratic Republic of Ethiopia, PrimaveraQuint, Amsterdam, the Netherlands, 2005).

⁶ However, the present reviewer has his own reservations for placing the law-making institution and the law-teaching institutions under the justice system and thereby undertaking their 'vertical' and 'horizontal' analysis in *the baseline study*. Their 'inter-linking', in the present submission, does not justify their 'analysis' and 'assessment' in *the baseline study*. It is also quite unconventional to include these institutions in the justice system.

⁷ See, chap 9: Assessment of Each Justice Institution, *supra* n 5.

light of an in-depth analysis of each one of these institutions, the CILC has made some pertinent ‘observations’ about, exhibited some ‘major’ fundamental ‘shortcomings’ of, each one of the institutions.⁸ It also, in the form of ‘recommendations’, has offered a set of specific proposals for reform.⁹

Through ‘horizontal analysis’ of the justice system,¹⁰ the CILC has highlighted some pertinent system-related aspects, such as mixed civil and common law legal and judicial system, regular judicial system with parallel system of social courts and the police system with militia, independence of the judiciary and of the Public Prosecution Service (PPS), and lack of adequate human and financial resources.

A reading of *the baseline study*, thus, reveals the structural and functional paradigm of the justice system in Ethiopia. It also highlights some pertinent ills, inbuilt weaknesses, and shortcomings of the Ethiopian justice system.

The CILC, in the backdrop of its ‘observations’ about, and ‘major shortcomings’ of, the justice system, also offers an intelligently designed comprehensive institution-wise and action-oriented ‘Implementation Strategy, Work Plan’ (along with the estimated financial resources)¹¹ to be executed between 2004 and 2010.¹² The whole task of overhauling the justice system, as estimated by the CILC, requires the Ethiopian Government to spend 55,748,600 Euro. It is indeed a Herculean task claiming reasonably a big share of the country’s limited financial resources. It also involves the difficult policy-prioritization choice of the State-Managers between the suggested overhauling of the entire justice system and other equally, rather more, pressing needs of the hour, such as eradication of poverty, food security, potable water, public health, and so on. It requires the Government to formulate a long-term policy-perspective plan and strategy. The Government of Ethiopia has either to make necessary budgetary allocations every year for undertaking reforms in one or two identified institutions of the justice system or to explore the possibilities of raising requisite funds for undertaking simultaneous reforms in all the justice institutions and thereby to speed-up its quest and zeal for a better justice system.

Meantime, the Government may, nevertheless, take appropriate steps, on priority basis, to give effect to some of the recommendations made in the baseline study that do not involve any financial implications, such as carrying out appropriate amendments in the FDRE Constitution and other relevant Proclamations and/or enacting new apt Proclamations. In fact, its latest moves led to the establishment of the Ethiopian Human Rights Commission and Ombudsman 210/2000), of the Institution of Judges’ Training Center (JTC), and strengthening and revitalizing the existing institutions, like the Police Training Center, unequivocally exhibit its ‘serious concern’ for the justice system and its reforms. Similarly, some of its latest legislative efforts culminated in the Prison Proclamation (365/2003) and the Prison Manual in the making and the Proclamation No. 454/2005¹³ give very strong positive indicators of the quest and zeal of the Government

⁸ See, chap 10: Observations and Major Shortcomings, *ibid.*

⁹ See, chap 11: Recommendations, *ibid.*

¹⁰ See, chap 8: Observations Relating to the Justice System: Horizontal Analysis, *ibid.*

¹¹ See, chap 12: Implementation Strategy, Work Plan and Costing, and Annex A: Implementation Work Plan and Costing, *ibid.*, pp 292-294 & 296-351.

¹² It would be a worth exercise to take stock of the follow-up actions taken by the Ethiopian authorities between 2004 and 2007 in pursuance of *the baseline study*.

¹³ Federal Courts Proclamation Re-amendment Proclamation No. 454/2005 mandates the Federal

for bringing reforms in the justice system. Further, the ongoing efforts of the MOCB, through the Justice and Legal System Research Institute (JLSRI), for improving standards of legal education in the country are ostensibly motivated with the idea of building, in due course of time, human resources (in the form of qualified judges, prosecutors, and lawyers) for efficient and effective justice delivery system in Ethiopia.

However, the Government of Ethiopia still has to walk a long way to reach its intended destination. If it has 'determination', 'will' and 'means' to undertake the journey, *the baseline study* furnishes a road map of success.

Supreme Court to publish and distribute decisions of its Cassation Division that contain binding interpretation of laws to all its subordinate courts. [vide art 1(3)]