

SAMARA UNIVERSITY

SCHOOL OF LAW



Extern ship report

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regional state malkaballo warada first
instance court

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PART - ONE

1. NTRODUCTION

This report paper is a short explanation of my externship program carried out in oromia regional state in malkaballo woreda first instance court

In the first part of this report, I will discuss about mission, vision, aim, values and principles of ethical services that is being followed by the Court. I will also raise my activities and experience gained from the practice I have been assigned in the second part. The challenges I have faced during the externship will be discussed under part three.

Part four deals about strong sides of the Court, its gaps and practical problems. Finally, under part five, conclusion and recommendation will be discussed

1.1. OBJECTIVE OF EXTERNSHIP PROGRAM

1.1.2. GENERAL OBJECTIVE

- The overall objective of externship program for law school students is to provide legal practice, educational experience, professional skill for their future carrier.

1.1.3 SPECIFIC OBJECTIVE OF THE EXTERN SHIP PROGRAM

- To know procedural courses
- To know court procedure from pretrial up to appeal process
- To develop legal skills and ability to solve legal disputes
- To improve and enhance justice system

- To change the theoretical knowledge in to practical skills
- To encourage sense of professional responsibility
- Develop student ability to reflect and learn from experience

PART - TWO

2. THE DESCRIPTION ABOUT THE COURT

2.1. STRUCTURE OF THE COURT

According to article 78 sub article 3 of the FDRE constitution, states shall establish State Supreme, High and First – Instance Courts. To achieve this end, the State of oromia Regional State has established many high courts in the region. Among them, one is the east hararge first instance Court of malkaballoworeda. The Aw first instance Court of dubti woreda first instance Court is found in awsirasw Zone. The court is composed of one criminal bench and one civil bench the ultimate objectives of dubti woreda court is to realize the justice system, strengthening the already started improvement program, modernizing the organization and working methods of the courts of the Zone; ensuring the a judiciary which is independent and free from any influence other than the law of the country; by giving transparent, public interest based, expedient, impartial and quality judicial service

2.2. VISION OF DUBTI WOREDA FIRST INSTANCE COURT

To see independent, impartial, transparent, efficient, accountable, expeditious and model courts in the Zone that ensure public confidence

2.3. AIM AND ULTIMATE GOAL OF THE DUBTI WOREDA COURT

Giving accountable, transparent, efficient, trusted by public, independent, impartial and qualified judicial service by strengthening the courts' and public service's improvement programs.

2.4. VALUES

- ❖ Transparency
- ❖ Loyalty
- ❖ Integrity
- ❖ Being led by plan
- ❖ Independence and accountability
- ❖ Fairness
- ❖ Saving
- ❖ Exercising leadership
- ❖ Respecting the law
- ❖ Confidentiality

2.5. FUNDMENTAL PRINCIPLES OF ETHICAL SERVICE OF THE COURT

The court is accustomed to:

- ✓ Serving the public interest

- ✓ Exercising legitimate authority
- ✓ Responsiveness
- ✓ Honesty
- ✓ Accountability
- ✓ Impartiality
- ✓ Integrity
- ✓ Loyalty
- ✓ Transparency
- ✓ Confidentiality
- ✓ Respecting the law
- ✓ Exercising leadership

PART - THREE

3. MY ACTIVITIES AND EXPERIENCE OBTAINED FROM THE WORK I HAVE BEEN ASSIGNED

3.1. READING ACTIVE AND DEAD FILES

In the first week, my task was reading dead files by taking long time. This helped me to know about the court procedure. Then, I continued reading active files which doesn't get final decision, conducting oral arguments, asking questions on unclear idea to the disputant parties, case clarification about the issues raised by the party was my major tasks which was performed in the first week. .

3.2. HEARING OF CASES

These is one the prominent tasks I have performed during my stay at the court. I have been trying to hear cases by using

different mechanisms such as by asking the parties to the case, from the trial or by reading files. by giving comments on the issue of the case at hand in the party and also I have been moving both to criminal and the civil bench to hear cases. This also has helped me a lot to know court procedure and develop legal skills,

3.3. WORKS OF THE REGISTRAR OF THE COURT

As we know, registrar is one of the working areas within a court. Its activities or works are many among them the following are included: writing order of court, preparing summons, writing application of bail, preparing stay of execution application, and opening files. I also participated on those activities.

3.4. APPEALED CASES

There is separate office within the court that is entrusted with evaluation of appealed cases. This office evaluates whether each appealed cases are worthy of appeal before trial of a case by court. After the evaluation, it approves or rejects the appeal. I also had a chance of evaluation and decision on the fate of cases of appeal in the case of Mr. Ali Mohammed and wr/o Zebiba Adem

3.5. LEGAL ADVICE FOR DISPUTANTS

During my stay at the Court, I used to give a legal advice to parties to a case when I found them in the court compound. This also has thought me patience to hear the clients when they talk, skill of raising relevant questions and proper

handling of clients. My clients were feeling very happy when I give free legal advice and I had passed nice time with disputants and other staff members of the court like judges, prosecutors, registrar and other communities.

PART - FOUR

4. CHALLENGES I HAVE FACED DURING EXTERSHIP PROGRAMME

4.1. TIME CONSTRAINT

As you known before we had no the culture of practicing the law in institutions like court during our stay in Samara

University except during clinical course like pretrial and skill courses. I think the time given to learn by doing is too short because law can fully be understood when the theory and the practice go side by side and it needs over practice and practice for a long period of time.

4.2. EMBARRASSING ADJOURNMENTS

This is also another challenge that I faced during my externship program. Some judges are in the bad culture of giving many adjournments even for very minor issues that have no negative impact in the outcome of a case raised by the disputant parties. When many adjournments are given to the case, there will be a less chance to see the final outcome of the case with in the time given for the case decided to be so it led to delay of justice

4.3. RESEARCH

Research was the main challenge that takes more time in addition to my externship program and another huge task that I have been doing at the same time with externship. Therefore, it had an influence on the externship program since it had limited my time that should be spent in practical learning.

4.4. WORK LOAD OF JUDGES

Judges of dubti woreda first instance court were over crowded in doing works of the court room and they had little time to assist me. I have recommended that even if the judges are busy they have to be doing in rest days and holydays in order to improve justice and solve disputes of the parties.

4.5. NON COMPUTERIZATION

The works of the Court are not supported by computer. They told us that once up on a time the works of the institution was computerized. Currently, however, it is out of service. The absence of computerization had a negative influence on my learning by doing, because without computerization it is burdensome to find files.

PART- FIVE

5. STRONG SIDES, PRACTICAL PROBLEMS AND GAPS OF THE COURT

5.1. STRONG SIDES OF THE COURT

The Court has many strong sides to be raised. Among those strong sides, the following are the most important:

- It has competent judges and officers in the court they decide the case
- It protects the rights of accused: As stated under article 20 sub articles 5 of the FDRE constitution, accused persons have the right to be represented by legal counsel of their choice, and, if they do not have sufficient means to pay for it and miscarriage of justice would result, to be provided with legal representation at state expense. Accordingly, the court is making available legal counsels from its own office;
- The judges are diligent and committed to do their job in a proper time
- The court has its own legal awareness creation program to its clients: I have noticed that assigned judges were giving legal awareness creation twice in a week in most critical crimes and other related issues.
- The judges are efficient enough and ready to do their work effectively
- The Court is staffed by lawyer's prosecutor and judges
- Civility between them and among the judges;

- Proper handling of litigants or disputants and their lawyers, and witnesses as well.
- The judges are smart enough in proper leading or facilitation of court proceedings.
- There is good interaction among judges, prosecutor and other staffs

5.2. PRACTICAL PROBLEMS AND GAPS OF THE COURT

5.2.1. WORK LOAD

Lack of man power is the first cause for work load of courts; Judges, Prosecutors, and advocates are being assigned more cases than they can handle which is causing undue delay on the path of justice. Accordingly, simple cases are taking long period of time to be decided. Specially, when suspected person denies the charge he/ she is accused, the file gets solution after very long period of time and this in turn imposes great work load on the judges.

5.2.2. DELAY OF JUSTICE

It is known that rendering effective and timely justice is one of the mandates of the courts as long as cases are not settled on the right time they will open way for injustice. “Justice delayed is justice denied”. I observe that delay of justice is the biggest obstacle in the path of justice. Innocent persons are arrested for very long period of time until the court passes final

decision. Most of the time court orders immediate release of a convicted criminal at the day of judgment because the he /she has already stayed at prison more than the time the court sentenced him/ her while the case was pending.

5.2.3. EFFECTS OF DELAY OF JUSTICE

Delay of justice always has negative effects on the rights of the accused in particular and in the justice system in general.

5.2.4. VIOLATION OF THE RIGHT OF THE ACCUSED

Many times, because of internal problems of courts, human right of accused person is affected. This accused person is either who committed the said crime or innocent. At a time of trial, because of the limitation on the right of bail and delay there are times where the suspect will be released free after spending one or more years in jail. This affects human right of innocent and it is against the purpose of criminal code.

According to the article 1 of FDRE criminal code, the purpose of the Criminal code is to ensure order, peace and security of the States, its peoples, and inhabitants for the public good. The code further aims at the prevention of crimes by giving due notice of the crimes and penalties prescribed by law and should this be ineffective by providing for the punishment of criminals in order to deter them from committing another crime and make them a lesson to others, or by providing for their reform and measures to prevent the commission of further crimes.

Therefore, delay of justice is one of the major impediments for this clear provision of the Criminal Code.

5.2.5. DISTORTION OF EVIDENCE

As times pass, evidences of both the defendant and the prosecutor in criminal cases or the plaintiff and the defendant in civil case might be lost or deteriorated and witness might forget what they saw and heard. This affects justice considerably. Because a judge decides a case by observing evidence and if it is distorted, it may lead a judge to an incorrect judgment.

5.2.6. LACK OF TRUST AND CONFIDENCE

Lack of trust and confidence emanates from the delay of justice because people need timely and effective decision. That is why the saying, “justice delayed justice denied”, is used by the people of the country.

Delay of justice may lead people to an illegal way of searching justice. In other words, people do not want to claim its right from the court; rather, it prefers illegal way or takes justice in its hands. This in turn leads the country to chaos and instability and civil strife among the communities

5.2.7. ABSENCE OF VOICE RECORDING TECHNOLOGY

The judges are wasting their precious time by writing each and every speech of the disputing parties by their pen. The help of this technology is significant, especially, during taking of the word of the witness and to coup up with the current interrogation and investigation process of witness in the court room and or the proper handling of the case in a proper manner.

5.2.8. INCIVILITY OF AMONG ATTORNEYS WITH THE COURT

Some attorneys were acting outside of their ethical principles and judicial goal of conduct, Civility among the judges, attorneys, public prosecutors and other stakeholders is of paramount importance for the proper dispensation of justice and public confidence in the decision making process and effective execution of decision.

5.3. CASE1 PRESENTATION

TO Awusersu dubti worda first instance court

Dubti

Plaintiff; Jemila Indris

Defendant; no

Statement of claim; succession

Mr. Mulugeta Tekele while he was employed in Ethiopian construction working of water irrigation development as a driver he was died on December 29/04/ 2010 E.C and his funereal ceremony was conducted in A.A st Gebreal church, while deceased was alive he was the father of Samson and having son called Eyobe Mulugeta whose age is 6 year so the wife of the husband requested the honorable court tutor and grantor of child based on article 205 of the civil code, and to let the court decide that the child is the legal successor of his father based on article 842 of the civil code and also to prove me that am the wife of the deceased based on article 700 of the civil code of Ethiopia.

Decision of the court

In the first hearing within the presence of the three witness based on rule and regulation after providing their oath the witness give the following testimonies, all of the three witness testifies that Mr. Mulugeta Tekele was the husband of Jemila indris. Finally when the court hear the testimonies of the three witness of the plaintiff. It gives the power of grantor based on article 205 of the civil code and decide that the child is the legal successor of his father based on article 842 of the civil code and also decide in favor of jemila that she is the real wife of the deceased as clearly provided based on article 700 of the civil code.

PART- SIX

6. CONCLUSION AND RECOMMENDATION

6.1. CONCLUSION

During the time of externship which took place at dubti woreda first instance court Court, I have learned skills and knowledge that will help me in my future life I also have got the opportunity of practicing what I have learned in theory in the class room. So, I can say that the externship was successful and important for pre legal practitioner before enter in to normal bench

In the report paper I have raised issues that explain my stay at the Court. As I try to discussed in the above the dubti woreda first instance court, which is situated in Awsirasw zone is one of the first instance courts established in the Afar regional State in accordance with article 78 (3) of the FDRE constitution. The court is doing its entrusted job by following principles of ethical services and its own mission, vision, aim and values.

My stay at the court was performed with reading both active and dead files, hearing of the cases, practicing the works of the registrar of the Court, evaluating appealed cases from the Woreda courts and giving legal advice to the disputants found in the court's compound.

Shortage of time, preparation of thesis, work load of judges to contact us, non- computerization of the works of the court are among the challenges that I faced during the externship stay,

I have, finally, raised the strong sides of the Court, its gaps and practical problems. Work load, delay of justice, absence of voice recording system, and incivility of some attorneys with the court are among the gaps and practical problems of the court.

6.2. RECOMMENDATIONS

As the law has high impact in the life and property of individuals, taking care is necessary to protect the right of accused and victims should be respected

An interaction among law school, the Ministry, bureaus, departments of law with Samara University and other offices of the justice and courts should develop to enable the practitioners to know more about the law and practice

To avoid unnecessary delay of the justice and work load, more judges and other officers should be appointed and recruited respectively.

Voice recording technology and computerized work should be in place to reduce the burden of judges and to give expedient justice for the public.

Well organized structural arrangement is needed to the court for proper handling of the case

Well organized training program should be prepare to the judges and other staff members