



Socioeconomic and legal analysis of court fees structure and payment system in Ethiopia: Towards a policy-oriented approach

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ABSTRACT

Court fees in Ethiopia are governed by the Court Fees Regulation Number 177/1945. Although many things have changed over the past 67 years, none of the consecutive governments attempted to revise the court fee system. The user charge on judicial litigation (court fees), is justified for the existence of negative externalities that each user (litigant) generates to society. This is generated by the existence of incomplete markets, where the private benefits of litigation differ from social benefits. The charge has to match both benefits (private and social) and reach a social optimal equilibrium. The argument is that when private litigation costs are less than the social costs, there will be an inefficiently high level of litigation. Methodologically, a total of 44 legal professionals with most frequent contact with the court and individuals undergoing trial were interviewed for operational purposes of the study. Key findings revealed that most respondents identified a problem with the existing court fee structure and payment system including controversies with respect to specified and unspecified claims. The new court fee will fill the gap that has existed since 1945. Thus, the court fee regulation should be amended in some respects according to the recommendations and steps based on this proposal across the three levels of federal courts.

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INTRODUCTION

Almost all countries in the world undertake legal and judicial reforms as part of their overall development programs. Such needs of improving the once established provisions result from growing recognition that economic and social progress cannot sustainably be achieved without modifying and maintaining respect for the rule of law and effective human rights protection, each of which requires a well-functioning judiciary system that can interpret

and enforce the laws equitably and efficiently. From an economic perspective, one can look at the prospect of a market for legal services. The sector consists of the producers and consumers of legal services, and the legal services themselves. According to a study by Alula and Getachew (2008) and World Bank (2010a), several problems are identified as major causes of denying access to justice and efficiency of the court. These include the problems of caseload per judge, the duration of proceedings, cost per case, clearance rate, inaccessibility, customer unfriendly services,

corruption, low budget, delayed judicial service provision, shortage of facilities, acute lack of legal information, case backlog and congestion, shortage of manpower, shortage of lawyers, lack of legal aid, and lack of training.

Judicial congestion has clear negative impacts on economic performance. As part of a solution to this congestion problem, court fees system is believed to be a potential deterrent mechanism that causes a reduction of litigation by increasing the costs to the litigant, thereby reducing court congestion (He, 2011; Tahura, 2021a). Court fees are necessary to deter frivolous litigation or to direct different types of cases to appropriate courts or other non-judicial dispute resolution forms, such as counseling, mediation, or arbitration. In line with this, civil proceedings tend to involve claims for money or property. Money claims can be either specified (i.e. for a specific sum of money) or unspecified (i.e. for an amount to be decided). Claims in respect of property, a separate category, often involve possession claims in which a lender or landlord seeks possession of residential property due to unpaid mortgage or rent arrears (Mery, 2015). For instance, in Ethiopia from 2002 to 2012 Ethiopian calendar (EC), approximately 113, 759 and 31, 287 cases of cassation and judicial reviews were administered respectively in the form of specified money claims, unspecified money claims, and possession claims (FSC, 2020). The Ethiopian calendar (EC) is eight years behind the Gregorian calendar (GC, Western).

Court fees in Ethiopia are governed by the Court Fees Regulation Number 177/1945 EC. Ethiopia has seen three regimes over the last eight decades. These successive regimes adopted different policies for the development of each sector in the country according to the political ideologies governing the economic principles of their time. Although many things have changed over the past 67 years, none of the consecutive governments have attempted to revise the court fee system. Currently many lawyers, courts and legal bodies encounter a number of problems at work in relation to money (specified) claims and non-money (unspecified) claims which are not covered by this regulation. An unspecified claim is a tort claim "where the amount to be awarded is left to the Court to determine." Examples of unspecified claims are unspecified damages for personal injuries, such as from a motor vehicle accident (MVA) or medical malpractice, and interpersonal and/or collective

violence among others. Also, due to devaluation of Birr over a long period of time, the current court fee for some cases does not cover even a fraction of the administrative costs of the judicial process.

The current amount of court fee payable by litigants is extremely low and disproportionate to the value of the claim. Given that courts are a limited and expensive public resource to operate, it is appropriate to seek recovery from users of some of the costs of their operation. Almost every country in the world charges its citizens for the use of its courts. Given the existing costs of administration of justice, civil and criminal, it is advisable to revise the existing court fee. The aim of the study is to assess the court fee structure and payment system in Ethiopia, as well as to identify areas of improvement. In particular, it has the objective of examining and proposing how court fees, which have not been revised for the past 67 years, can be raised without hampering the basic guarantee of access to justice.

The court fee changes proposed in this assessment report are intended as a first step towards making the judiciary financially self-reliant. In light of this, the study outlines the legal limits and restrictions for court fee system. Therefore, the study seeks to undertake a comprehensive review and economic analysis of the existing fee structure and payment system of federal courts, in light of the experience of other countries, and to provide recommendations for a new court fee structure and payment system that will address current problems and foresee future challenges. Therefore, this paper needs to achieve a number of policy objectives.

RESEARCH METHOD

The analysis was based on the primary data collected from key actors at different levels of practitioners. In particular, the legal professionals who had most frequent contact with the court and individuals undergoing trial were one category of users of the public justice service. There were also lawyers registered at the Bar Association or outside its district but occasionally acting for clients there, and various professionals belonging to the court and the public prosecution service: judges, court officials, and key informants. A total of 44 responses were received. Not all of the respondents answered the questions set out in the questionnaire. Some respondents provided an indirect response to the questions. These responses

were analyzed to make the study appropriate. Key informant interviews were also conducted with five clients of the court for triangulation purpose.

The questionnaires were administered to 44 participants (Table 1). When we see the profile of the 44 respondents in the questionnaire, 48% were lawyers/attorneys, 15 (34%) were judges, 8 (18%) were legal experts. Then, 14% of them had work experience of < 5 years, 33% had work experience of 5-10 years, 41% had work experience of 11-20 years, 12% had work experience of > 20 years. In terms of gender, 14 (32%) are women while 29 (68%) are men. In terms of age, the respondents who participated in the study were between 22 and 61 years and the average age of the respondents was 35 years. When we look at the educational background, 4 had PhD, 3 were PhD candidates, 16 had secondary degree (LLM) and the remaining 21 had first degree (LLB).

Table 1. Demographic characteristics of respondents

Category	Frequency	Percentage
Judges	15	34
Practicing lawyers/attorneys	21	48
Legal expert	8	18
Total	44	100

Besides, secondary data were compiled on the basis of the existing regulations on court fee structure and payment system in light of the experience of other countries and the five years (2010-2019) court fee related data from the three levels of federal courts (FFIC, FHC, FSC) covering a range of issues such as non-payment of debt, personal injury, breach of contract, property, bankruptcy and family proceedings. Due to the descriptive nature of the study, the researcher adopted non probability (purposive sampling) method with a view to gather valuable data by selecting respondents with knowledge and direct experience regarding the area of the study.

Regarding the method of data collection, the interviews were conducted virtually (via email), face-to face with staff at offices, and through telephone communication. Information was collected through a questionnaire with open ended and close-ended questions based on reviews of relevant literature and incorporation of court fees related variables and

important demographic information adopted based on Likert Scale for respondents rating.

The data collected from different primary and secondary sources were recorded, edited, organized, analyzed, interpreted and presented quantitatively and qualitatively by using descriptive statistical tools such as tables, percentages and graphs. In the analysis, the numerical values range from 1-5. The scale's range is 1: strongly disagree, 2: disagree, 3: neutral, 4: agree and 5: strongly agree. This range gives the weight of the responses. For example, in this study the total number of respondents was 44 people. If 5 people 'strongly disagree', the value would then be $5 \times 1 = 5$; if 7 people 'disagree', then $7 \times 2 = 14$, if 8 people 'neutral', then $8 \times 3 = 27$, if 10 people 'agree', then $10 \times 4 = 40$; and if 13 people 'strongly agree', then $13 \times 5 = 65$. The total score was $5 + 14 + 27 + 40 + 65 = 151$ Points $= 151 / 44 = 3.43$. It can be concluded that the respondents 'neutral' agreed to the question. Number one which is the least value in the scale was added in order to identify the maximum of this cell. The length of the cells was determined as follows: (i) mean score from 1 to 1.80 representing strongly disagree, (ii) from 1.81 to 2.60 representing disagree, (iii) from 2.61 to 3.40 representing neutral, (iv) from 3.41 to 4.20 representing agree, and (v) from 4.21 to 5.00 representing strongly agree.

RESULT AND DISCUSSION

Socioeconomic and Budgetary Background

According to World Bank (2020) the Gross Domestic Product (GDP) per capita in Ethiopia for the years 2010 to 2019 was US\$341.0 in 2010, US\$389.9 in 2012, US\$449.4 in 2014 and in US\$514 in 2016. The GDP per capita in Ethiopia was last recorded at US\$602.20 in 2019. This is a growth of 56.7% in nine years. Ethiopia's economy experienced strong, broad-based growth averaging 9.9% a year from 2007/08 to 2017/18. Higher economic growth brought with it positive trends in poverty reduction in both urban and rural areas. The share of the population living below the national poverty line decreased from 30% in 2011 to 24% in 2016. According to World Bank (2019), Ethiopia's main challenges are sustaining its positive economic growth and accelerating poverty reduction, both of which require significant progress in job creation as well as improved governance.

Inflation is one of the key assumptions for revising the current court fee structure. The value of Birr has

depreciated considerably especially during the last five decades. However, the rate of court fees has never been revised, and it tended to increase a bit dramatically in the years of 2000 through 2019. In 2019, inflation rate for Ethiopia was 15.8% (Gudina et al, 2018; African Development Bank, 2018).

The Judicial Budget and Court Fee

Determining budgets for the justice sector is a contentious process in many countries including Ethiopia. In general, there was a steady increase of the court budget since 2007 and the total judicial budget allocated to all courts was 1,473,914,607 Birr for the past five years (Annual Report of Federal courts, 2011/12 EC). This statistical budgetary overview shows that the Ethiopian government spends a large share of its total budget on the courts. This study reveals that none of the court budgets has been recovered from the court fee generated income and as a matter of fact, this minuscule sum of money obtained from court services directly goes to the coffers of the Ministry of Finance (World Bank, 2010b). This study highlights a need to reconsider this court fee management system so that it is changed to enable courts make use of the money collected from court fee and related payments.

Nowadays, almost all countries charge a fee for the use of the judicial system unless otherwise stated. Court fees are payable at the time any claim is filed to commence a legal process requiring a fee (Kassay, 2018). The court fees of the Federal courts in Ethiopia are prescribed by Regulation Number 177/1945 EC. They are calculated on the basis of the amount claimed in the suit. For example, the court fee ranges on a gradual increasing schedule from as low as 0.50 cents for an amount of claim worth 10.00 Birr to as high as 3,350.00 Birr for an amount of claim worth 100, 000.00 Birr in case of direct suits.

Jurisdiction of any country requires its people to pay a court fee, unless people are found to be poor when they sue in court. The law that is still in force in Ethiopia is the 1945 regulation, which states that court fees must be paid for any service rendered by the court, no matter how small the amount can be. While the purpose of charging clients is to pay for the services rendered by the court, the reason given for charging a court fee is to ensure accountability of the party to the lawsuit.

Alejandro Esteller-Moré (2002) developed a simple model to explain why and under what conditions it is

efficient to charge a court fee. The argument is that when private litigation costs are less than the social costs, there will be an inefficiently high level of litigation. The opposite can happen if the private costs outweigh the social costs. Therefore, the court fee can be positive or negative, i.e., in the form of a bill to lower the levels of litigation or a subsidy in order to increase it, if they are inefficiently low from the social perspective. Whatever the case, the court fee has always the same goal: to reconcile the social and private incentives to litigate (Tahura, 2021a). By the same token, Dari-Mattiacci and Saraceno (2020), Gabuthy, Peterle, and Tisserand (2021), and Massenot, Maraki, and Thöni, (2021) conducted an experiment in order to explore how the legal fee arrangement (i.e. flat or contingent fees) and the trial costs allocation rule (i.e. American or English rule) may shape the efficiency of the litigation process, via their effect on the lawyer's effort, the deterrence of frivolous lawsuits and the plaintiff's incentives to go to court.

In a judicial system without or with very small court fees, the litigants only cover their private costs and the State finances the system's costs. That generates excessive litigation, increased congestion, and delay in conflict resolution (Lupo and Bailey, 2014; Maxeiner, 2010). The charges of court fees permit the internalization of litigation costs, and serve as a barrier to entry into litigation (Mery, 2015). This is achieved by approximating the social costs to the private costs.

It is a fundamental element of maintenance of the rule of law in a civil society that citizens have fair and reasonable access to the courts. Dari-Mattiacci & Saraceno (2020) found that when adjudication is not perfectly accurate, litigants with unmeritorious cases may benefit from court errors, which in turn may result in a dilution of incentives for primary behavior and frivolous litigation. Kayuni (2015) argued that this increase is excessive and contravenes the constitutional right of access to justice, as poor litigants cannot afford the fees and thereby cannot access the justice system.

Potential Increase and Revision to Court Fees

This section outlines findings on how respondents (participants) view the revision of the court fee structure and payment system in civil and family cases. All responses received were fully considered in undertaking this assessment and recommending the way forward (Table 2). Many respondents believed

that the current court fee should be reviewed. The majority of the respondents (73%), strongly agreed on amending and raising the amount of court fee whereas 9% of respondents disagreed with the proposal. The respondents who agreed with the proposal commented that: (i) it would encourage the use of alternative dispute resolution and will reduce congestion; (ii) it will be modest and proportionate.

Besides, 61% of respondents also agreed that the current court fee regulation which was issued 67 years ago does not reflect the current reality, and 84% of the respondents strongly agreed that the existing court fees are low and not commensurate with the time's entire expenditure and living standard and thus the fee need to be revised. In addition, 68% of respondents strongly agreed with the proposed amendment of the court fee structure to take into

account the inflation. Also, it is important to develop a new regulation on court structure and payment system (He, 2011).

Among the major arguments made by the respondents who disagreed with the proposal was that the fees would restrict access to justice, and that they would deter people from bringing claims. On the other hand, six responses out of 44 strongly disagreed that no increase in fees was needed at all. They also emphasized that the existing level of the fee is even excessive and unreasonable. They frequently used the words 'unfair', 'prohibitive' and 'disproportionate'. The increased fee would act as a barrier, deterring and discouraging individuals access to justice. Generally, and statistically, there is no significant difference between respondents regarding the proposed revision or improvement of the existing court fee.

Table 2. The Views of Respondents on Potential Increase and Revision to Court Fees

No	Items	1	2	3	4	5	Mean
	 %					
1	Do you agree to the proposal to amend the court fee?	9	-	-	18	73	4.45
2	Given the fact that this regulation was issued 67 years ago, stating that the cost stated therein do not reflect the current reality is better	61	23	5	11	-	1.66
3	In your view, will improving (enhancing) court fees have a significant positive impact on the performance of the judiciary?	11	9	11	50	20	3.66
4	No amendments were made to the Court Payment Regulation issued 67 years ago. In addition, in light of the current purchasing power (inflation), economic development and other realities, it is important to develop a new regulation on court structure and payment system.	-	-	-	32	68	4.68
5	It is important to provide the highest quality court service, payment structure and system in accordance with needs of the 21st century.	-	-	-	14	86	4.86
6	Citizens' access to justice is considered a fundamental human right by international standards, and modernization of court fees does not infringe on citizens' right to justice. Therefore, the court must be careful not to infringe on this huge right.	-	-	-	25	75	4.75
7	Existing court fees are low and not commensurate with the times. The fees need to be improved and revised.	5	-	-	11	84	4.70
8	Enhancement of court fee will have a positive effect on reducing unconfirmed cause of action, minimizing court congestion, speeding up the administration of justice, and avoiding undue harassment of the other party, as well as preventing the courts from engaging in congestion.	5	-	-	20	75	4.61
9	Do you believe that the amount of court fee set out in Court Regulation No. 177/1945 is reasonable?	34	27	-	11	9	1.80
10	Do you believe that the amount of judicial fees should only be increased if the judicial service quality has improved from its current state?	9	5	7	18	61	4.18
11	Increasing/improving judicial fees will not have a negative impact on access to justice the judicial process.	7	7	5	11	70	4.32
12	Proportional increase in court fees may lead the client to choose between litigation and alternative dispute resolution (ADR).	5	-	7	61	27	4.07
13	It is reasonable to charge high court fees (fully cost recovery) for high-profile commercial disputes	7	5	7	36	45	4.05
14	The court should use the court fee collected from clients for court administration (i.e cost recovery) rather transferring the money to the Ministry of Finance	7	-	5	18	70	4.45
15	Under the current system, government institutions are exempted from court fees. Do you believe this practice should continue in terms of legitimacy?	7	9	18	66	-	3.43
16	Court fees are being paid for filing cases to the Cassation Division. In light of the nature of cassation, should court fees be paid in the at the Cassation level.	34	20	-	41	5	2.61

1: Strongly disagree, 2: Disagree, 3: Neutral, 4: Agree, 5: Strongly agree

By the same token, respondents were asked about how much of an increase should be made and there was some difference between the responses received. The majority (57%) of respondents agreed with the proposed increase as much as 1- 5% of the value of the claim in specified money case. Interestingly, 29% agreed with the proposed increase of 6-10%, while only 14% of the respondents agreed with the proposed increase of 11-20%. During the interview, there was strong support for increasing the amount of court fee. It was considered that increasing the amount of court fees will have a significant positive impact on the performance of the judiciary and tribunals in the future. Those 84% of the respondents who agreed with this statement justified that it is important to provide the highest quality court service, payment structure and system.

Most importantly, 61% of the respondents strongly agreed that the amount of judicial fees should only be increased if the judicial service quality is going to be improved from its current state. This finding implies that for the future the court fee income needs to directly go into and be part of the judicial budget. 52% of the respondents also agreed that the court should use the court fee collected from clients for court administration rather than transferring the money to the Ministry of Finance. In line with this, two key informants explained that enhancement of court fee will have a positive effect towards discouraging applications with unconfirmed cause of action, reducing court congestion, speeding up the administration of justice, and avoiding undue harassment of the other party and to improve the performance of the court.

A key informant stated that courts incur significant costs in hearing and ruling on civil and family cases, and that claimants and applicants should contribute towards these costs. There was also some acknowledgement that the current fees did not cover all the costs involved in administering court cases. Although many of the respondents did not demonstrate clear support for an increase in fees, there was little strong opposition either. However, a common unprompted view from the respondents was that the court service need to be modernized to be more efficient, and a recognition that the process of change would require additional funding. A small number of participants reported that if there were to be an increase in court fees they would like to see the

money invested in improving court services. They need to give courts the resources that would enable them to speed up the process of service provision. This particularly related to improving the efficiency in the resolution of cases, and also the quality of information and service they provide.

Regarding high court fees for high-profile commercial disputes, those respondents in support of this proposal gave such comments as the nature of these cases warranted charging a higher fee, the fees were reasonable, especially for cases that have significant monetary value, and it was preferable to charge higher fees in these cases to ensure the commensurate cost recovery rate rather than charging higher fees in other types of disputes. 45% of the respondents agreed that those who bring very large claims in relation to commercial, financial, property and other business matters in any level of the Federal Courts, whether in Addis Ababa or Dire Dawa, should pay the full cost of the proceedings.

Government organizations which have disputes in courts are exempted by law from the obligation of paying the court fee in a form of money or in kind. With regard to the exemption, 16% respondents argued that there should be no exemption. And, the majority, i.e., 66% of them, argued that Government organizations should be exempted from court fees. It was observed that 18% of respondents were neutral to answer this particular question. Experience of some countries showed that courts may exempt certain persons or classes of persons from payment of the user fee, including indigents, bankruptcy case of trustees, pro bono attorneys, and pro bono alternative dispute resolution neutrals among others.

With regard to the nexus between increasing the amount of court fee and alternative dispute resolution (ADR), the majority (61%) of respondents agreed that the proportional increase in court fees enables the client to resort to ADR instead of litigation. In this regard, it is expected that an ADR method would be preferred. Back in the 1980s, experts and executives alike heralded ADR as a sensible, cost-effective way of keeping corporations out of court and away from the kind of litigation that devastates winners almost as much as losers.

Respondents were also asked about cost recovery fee and respondents who agreed with the proposal for an increase did so based on the notion that the fee would be proportionate to the sums that were being

claimed. Most respondents (70%) accepted the principle that fees charged in the courts should be set at a level to recover the full cost of the service. It can therefore accept the justification for charging "increased fees" to generate income from fees beyond what is needed to cover the basic cost of providing the service in the courts. Calculations to determine the cost of the services have been made under the assumption that all fees would be paid in full in every case. The term "cost recovery", therefore, refers to the setting of fees at the cost price calculated before fee remissions are taken into account. Many of the respondents who supported the proposal commented that this was a logical step if the fee was to be increased.

The other controversial issue related to court fee is judicial review. Judicial review is a process by which individuals, businesses and others can ask a court to review the lawfulness of a decision, act or omission of a public body. Such proceedings can be brought, for example, to decide whether a public body has acted outside its powers, has followed a lawful process, or has come to a rational decision. The judicial review process is, therefore, a critical check on the powers of the state and is a key mechanism for individuals to hold the executive accountable. However, the current fees for judicial review are found out to be controversial and debatable by many respondents. Regarding court fees for judicial review cases, 34% of the respondents supported the abolition of the fees charged at the cassation/judicial review stage. The cassation bench is not established for the purpose of judicial review. It is established to correct fundamental

error of law; therefore, it is better to replace the word judicial review by correcting fundamental. However, 41% of the respondents agreed that court fees for judicial review work in the High and/or Supreme Court are modest and relatively insignificant in the general context of costs and fees.

An Economic Analysis of Court Fee

Court fee collected at federal courts shows an increase between 2010 and 2019 (Table 3). The amount of court fees collected increased from 28 million Birr in 2010 to 129 million Birr in 2019. The average annual growth rate in this period was 17%. There was a mild fluctuation in the value of fees collected from courts. However, in 2017, there was a surge in the value of fees collected. According to a linear trend forecast, the court fees are forecasted to increase by 18 million Birr annually.

The five years' federal courts budget in Ethiopia is shown by Figure 1. The budget allocated from Ministry of Finance shows a persistent and sharp increase between 2015 and 2019. The allocated budget increased from 184.2 million Birr in 2015 to 389.8 million Birr in 2019. The average annual growth rate of the budget allocation was 18%. The court budget is forecasted to increase by 52 million Birr annually. The total number of cases at federal courts in Ethiopia is shown by Figure 2. The total number of cases at federal courts showed a surge between 2010 and 2019, with an increase from 10,602 in 2010 to 19,454 in 2019. The average annual growth rate in this period was 7%. According to the forecast, the numbers of cases are forecasted to increase by 860 annually.

Table 3. Court Fee Collected from The Three Levels of Federal Courts in Ethiopia, 2010-2019

Year	Federal First Instance Court	Federal High Court	Federal Supreme Court	Total
	Birr			
2010	10,511,520.66	11,767,463.36	5,883,731.68	28,071,715.70
2011	12,339,979.97	12,402,956.72	6,201,478.36	30,944,415.05
2012	13,408,192.24	10,728,170.24	5,364,085.12	29,500,447.60
2013	15,889,248.10	36,681,755.40	18,340,877.70	70,911,881.20
2014	18,747,634.65	28,429,638.10	14,214,819.05	61,392,091.80
2015	21,074,863.92	25,916,139.26	12,958,069.63	59,949,072.81
2016	22,198,992.31	31,191,172.02	15,595,586.01	68,985,750.34
2017	28,441,332.09	157,254,485.36	78,627,242.68	264,323,060.13
2018	61,508,871.48	72,672,414.92	36,336,207.46	170,517,493.86
2019	67,459,653.25	41,350,074.28	20,675,037.14	129,484,764.67
Total	271,580,288.37	428,303,269.66	214,197,134.83	914,080,693.16

Source: Federal Courts of Ethiopia (2020)

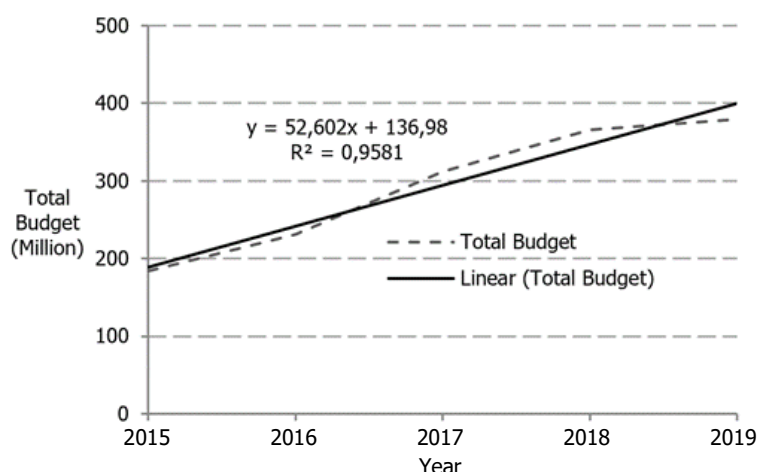


Figure 1. The Budget of federal court in Ethiopia, 2015-2019
(Federal Court of Ethiopia, 2020)

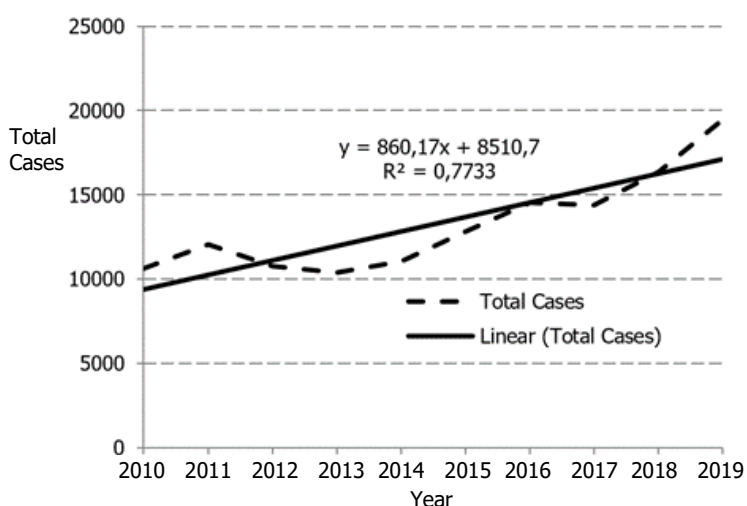


Figure 2. The total number of cases of federal court in Ethiopia, 2010-2019
(Federal Court of Ethiopia, 2020)

In particular, this survey identified some of the most common types of cases to appear in civil courts: disturbance of possession, tax evasion/avoidance, and/or loans, moral and material damage, inheritance, husband and wife property division of marital (common) property, housing disputes, farmland, enforcement, contractual disputes, construction contract, insurance money, warranty, loan agreement, stock share, contract, lease, VAT, interest & property estimate, government money, business, and some others.

Fees, fines and other payments get revised periodically to match with the changing socio-economic condition. Although the total values of fees

collected by the Ethiopian Federal courts is significant and covers significant portion of the budget of the courts, the claim values and fees are paid based on the 1945 court fees regulation. The study considered the following justifications for court fee and claim value revisions.

On average, as mentioned above, the number of cases increases by 860 annually. This surely brings high volume of workload to the courts. Court fees have a role to play in the number of cases that will be brought to the courts. Generally, higher court fees are likely to reduce the number of cases and minimize workload.

According to Index Mundi, inflation between 1965 and 2017 in Ethiopia increased from 4.7 to 249 (2010=100). This means that the inflation indicates 53 fold increase for the stated period. Given this persistent increase in the overall prices in the country, fee and claim value estimates revision is rational.

Considering the increasing number of cases, the persistent inflation and the anticipated contribution that the fee revision will have to the budget of the courts, the following rates have been suggested. The fee value rate starts from 10% and falls to 0.05% to account particularly for inflation and large number of cases that would be brought to the courts (i.e., services). As discussed above, there is a wide margin of discretion for the lawmaker or the respective state organ which determines the court fee structure. Yet, this model can show what structures can be chosen to establish a court fee system that is in line and compatible with the aforementioned standards, particularly right to access justice enshrined in the 1995 Constitution.

Court Fees and Cases To The Civil and Family Courts

Accordingly, the affordability and in particular willingness to pay increased court fees are also linked to the different motivations claimants and applicants had in seeking redress through courts. Clients/participants who strongly opt for going to court (particularly for family related matters) will still decide to go to court even if they have to pay the hypothetical increased court fee. Four out of five participants felt that their determination to pursue their case meant that an increased fee was not a barrier to them, with some reporting that they had to pay it as they already tried alternative methods to resolve their dispute and felt they had no other choice.

Participants reported that they would consider the cost and benefit of starting court proceedings, taking into account the increased fees. Civil claimants in specified money cases said they would consider the higher court fees and calculate it against the claim amount and their chances of winning. Whereas, civil money claimants acknowledged that they took into account the risk of not winning the case. For some, this and a higher fee raised doubts as to whether they would have felt it was worth taking a case to court. Three out of five key informants stated that they would have still proceeded to take their case to court with the increase in fees although some reported that

they would be unwilling to pay much more than 10% of the claim value.

Three out of five interviewed clients/customers in the study felt that they could afford the increased court fee, and that the proposed fee amounts would not have deterred them from bringing their cases to court. This view was linked to their ability to pay legal and court fees, their representation status and their primary motivations for starting court proceedings which partly depended on the type of case they were bringing to court. Five out of eight clients in this study stated that participants bringing civil and family cases to court typically felt that court fees were affordable, and they would not have been deterred from starting court proceedings if court fees had been set at the higher levels they were asked about in the study. The research found that participants were motivated by a number of factors to use courts. Court fees were not a key factor when most participants considered deciding to take their case to court. Participants expressed strong belief in the validity of their cases and typically believed that they would win the case. One key informant typically saw court fees within the broader context of overall legal costs. Those who paid for their own representation perceived court fees to be a low proportion of their overall costs, and court fees were less important in their decision making.

On the whole, participants who paid for legal representation felt that they could (and would) pay the increased court fee as it was seen as a marginal increase in the overall cost of their case, which they felt they could afford. "I would have paid because it is small money compared to the other costs". However, individuals with fewer financial resources – many of whom had either not paid for their representation or litigated in person – were more likely to report that the proposed increased fees would have made them consider the affordability of the fees when deciding whether to bring the case to a court, although they also felt that the hypothetically increased fees would still have been unlikely to deter them from seeking redress through courts.

Participants were asked about their views on specific changes to court fees, whether they would be willing to pay 5-10% of the claim. They mentioned that more than 10% of claim value would be too much and would stop them from proceeding.

The increase in court fees potentially lessened appetite to proceed with a case for some civil claimants making specified money claims, who

reported that the decision to go to court was influenced more by financial concerns and an analytical assessment of costs, risks and benefits. These claimants reported that they would need to consider whether the increased court fees they were presented with would be too high to justify bringing proceedings. A few of these participants felt that, on weighing the costs and benefits of bringing a case to court under the proposed scenario, they would no longer consider it worthwhile bringing their case to court. Most civil claimants reported they would not be prepared to pay much more in excess of 10% of the claim value. Overall, most claimants and applicants in the study felt that they could afford the increased court fee that was put to them, and that the proposed fee amounts would not have deterred them from bringing their cases to court. The key findings of this research revealed that court fees were not considered to be a primary factor in influencing decisions to take cases to court.

Research Implication

An increase of the court fees in Ethiopia is undoubtedly justified. Increasing fees should not be done arbitrarily, but must be well reasoned and follow some general principles which are shown in the following text. The new court fee will fill the gap that has existed since 1945, which needs amendment in some respects with the following research implications.

First, the proposed regulations set out new proposed fees. The researcher proposed the amendment of the court fees of the Federal courts in Ethiopia prescribed by Regulation Number 177/1945 EC. The proposed regulations aim to set fees that (i) encourage the optimal use of court services, (ii) are based on efficient and transparent costs, (iii) do not impede access to justice, and (iv) introduce fees and fee structures that are easier for users to understand, and for the Supreme Court to administer.

Second, court fee should be sent income directly into the judicial budget. As shown above, it is a legitimate goal to levy court fees for the purpose of fully or partially recovering the expenses of the court system. It is, however, not legitimate to levy court fees just to generate an income for the general state budget. All or some percentage of the income collected from the court fees should directly go to the judicial budget. Ethiopia, like most other countries, should have an independent budget for the courts,

which is independently administered by the Federal courts.

Third, court fees should be increased at least for inflationary adjustment. Regarding the specific amount of the court fees, the critical issue is, that fees shall not be so high, that the access to justice is put at stake. This question, however, is inextricably linked with the economic situation, especially with the monthly minimum wage and the monthly average salary. Concerning the issue of access of justice, it has to be taken into account that in the specific case of Ethiopia, a functioning legal aid, an ADR and a well working mediation system do not yet exist. Additionally, there is no litigation insurance in Ethiopia, which, if applied, could ease the financial burden of going to court. This means that the amount of court fees charged is highly sensitive and still the most important factor regarding an access to justice. So, any increase must be handled with care.

Fourth, special exemption or reduction of court fees should be applied. Based on the types of plaintiffs, some can be exempted from court fees right from the beginning. This can be people who only receive the minimum wages or who may receive lower amount of state pensions or social welfare subsidies and benefits. When such exemption is made, people may be obliged to bring forth evidences from pertinent offices such as district administration or what we call Kebele or Woreda as proof for their incapability to cover the court fee. Regarding this group of people, some guidance may be sought from the exemption rules as provided by the new federal court fee (work invalids, war veterans, blind persons). In such cases, the respective privileged status must be proven by documentary evidence according to the respective social law. There should be a possibility to exempt them from the court fee or to grant them a reduction of the court fee or to charge the court fee exceptionally not in advance but after the court proceeding has ended or to pay fees in installments. Respective regulations can be included in the Law on Legal Aid (which in its current form does not comprise any provision on court fees) or in the context of the abovementioned Civil Procedure Code provisions. Such a proceeding will require an application by the plaintiff and sufficient documentary evidence that no financial means are available to pay the court fee.

Fifth, court fee rate should be set as a flexible decreasing percentage of claim value. A court fee can be determined which not only amounts to a set of fixed

percentage of the claimed value but also shows a varying degree of percentage to make sure that in the end regular plaintiffs cannot financially afford any more to file claims for high amounts of money (see for example the British and German court fee). It can be reasonable to have a 5% starting fee for a certain amount of claim value which is subsequently declining down to 0.5% for the highest claim values. To strengthen this statement, De Mot & Miceli (2019) found that when trials involve a contest over liability, the adjustment may exceed plaintiff litigation costs. A larger adjustment increases litigation costs but offsets the less-than-certain probability of plaintiff recovery.

Sixth, higher court fees for types of cases involving economically stronger plaintiffs should be set. When we look at the socioeconomic background, it seems reasonable to charge higher court fees from plaintiffs who -unlike ordinary plaintiffs- can afford to pay based on their economic situation. Commercial cases involve their very nature private business companies and registered entrepreneurs. These kinds of plaintiffs can regularly afford to pay any reasonable court fee. In administrative cases on construction permits, regularly higher sums are at stake, and someone who has enough money set aside for building a house or bigger structure can also be asked to contribute a higher share to the court budget. To charge higher court fees for these types of cases will not infringe the constitutionally enshrined basic right of equal treatment. By the same token, Qin, Yang, He & Sun (2021) found that the relation between litigation risk and cost of capital attenuates among big companies, state-owned companies, informationally transparent companies, and companies is located in regions of higher social trust.

Finally, there is no doubt that any effort made to utilize and enhance digitization (Tahura, 2021b). If the government is serious about taking advantage of the potential digital payment systems have, then efforts should be made on developing a clear strategy for digitizing. This attempt needs a holistic view of the changes required across the organization, including payment processes, the supporting technology and the activities and resources required to achieve this plan of modernizing the court system. Moreover, realizing the direct impact these changes can have on all parties involved is a critical lesson learned from previous unsuccessful digitization initiatives, particularly on adoption and behavior towards these payments.

CONCLUSION AND SUGGESTION

Most respondents identified a problem with the existing court fee structure and payment system including controversies with respect to specified and unspecified claims. An effective justice system that interprets and applies the law fairly, impartially and without undue delay is fundamental to citizens' rights and a well-functioning economy. This study provides a summary of the responses for the court fee revision proposal at the federal courts of Ethiopia. Revising the court fee structure should contribute towards the recovery of the costs of running those services. In making the case for an increase in court fees, it is important to note that Ethiopia has not applied an inflationary increase to civil fees since 1945. The fees have remained static, whilst significant changes have taken place across the political and economic platforms of the country.

Basically, measuring the effectiveness of justice systems is not an easy exercise. An effective justice system thus requires taking into account three essential aspects, namely the quality of the justice system, its independence, and the efficiency with which it operates. Cognizant of the fact that these three factors are inseparable, a court fee revision is prepared with a view to have an objective, reliable and comparable data on justice systems to achieve more effective justice in all Federal courts of Ethiopia.

In order to ensure access to justice right of citizens, it is vital that judicial branch continues to be funded properly. Income raised through fees payable by users will necessarily play a significant role in the funding of the system. Overall, the findings of the assessment shows that these fee increases will not prevent people from bringing proceedings. We recognize, however, that the increases may make some litigants reconsider whether they wish to pursue litigation in light of the cost and the prospects of success, including the likelihood of recovering a judgment against the respondent

Additionally, due to large number of cases every year, there is a need to increase the court fees to achieve a higher degree of cost recovery. Indeed, it is important to keep in mind that the high degrees of recovery can be achieved by improving the overall infrastructure of the court. The Ethiopian court system, however, lacks these special characteristics. Such a goal will not be illegitimate and would rather be considered healthy within the framework of the

practice of other countries as bench mark. All in all, the new system in Ethiopia aims encouraging or discouraging litigation of the dispute with a little burden to the system as much as possible. This study further recommends the implementation of the revised court fee to tackle the ever-increasing inflation and low purchasing power. By doing so, among other benefits, the number of cases in courts can be minimized.

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