

# **ASSESSMENT OF THE EXISTING LEGAL PROCEDURES AND MECHANISMS ON THE TREATMENT OF SEXUAL VIOLENCE CASES IN ETHIOPIA**



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OF SEXUAL VIOLENCE CASES  
IN ETHIOPIA**


**Ethiopian Women Lawyers Association  
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# List of Abbreviations/Acronyms

<b>AU</b>	African Union
<b>ACHPR</b>	African Charter on Human and Peoples Rights
<b>CCI</b>	Council of the Constitutional Inquiry
<b>CEDAW</b>	Convention on Elimination of All Forms of Discrimination Against Women
<b>CSOs</b>	Civil Society Organizations
<b>DEVAW</b>	UN Declaration on Elimination of Violence Against Women
<b>EDHS</b>	Ethiopian Demographic and Health Survey
<b>FDRE</b>	Federal Democratic Republic of Ethiopia
<b>FFI</b>	Federal First Instance Court
<b>GBV</b>	Gender-Based Violence
<b>HoF</b>	House of Federation
<b>HPR</b>	House of Peoples Representatives
<b>LHR</b>	Lawyers for Human Rights
<b>MoJ</b>	FDRE Ministry of Justice
<b>NGOs</b>	Non-Governmental Organizations
<b>OHCHR</b>	UN Office Of High Commission for Human Rights
<b>SV</b>	Sexual Violence
<b>UN</b>	United Nations

# Abstract

*Sexual violence is a pervasive and deeply concerning issue that poses significant challenges to the well-being and development of societies worldwide. Sexual violence in Ethiopia is a also complex phenomenon influenced by various factors, including inadequate legal and policy responses. Accordingly, the study investigates the responsiveness of the Ethiopian legal procedure's mechanisms for sexual violence cases and the role of concerned stakeholders in accelerating access to justice for victims of Sexual violence. Accordingly, it addresses the protection and treatment of victims of sexual violence at any stage of a justice system and the effectiveness of the existing legal procedures in responding to the concerns, needs, and rights of victims. In doing so, a qualitative research design was employed to answer the stated research objective and questions of the study. The qualitative data gathered from different judicial actors; CSOs; health offices and governmental organs working on the protection of victims of sexual violence, indicated that even though there are various promising practices in ensuring effective victim participation in the justice process, there are also various practical and legal challenges that limits the responsiveness of the exiting procedures and mechanism. In particular, the lack of effective protection of victims in the justice process and the absence of special procedures for sexual violence cases are the major factors that affect the responsiveness of the exiting legal procedures and mechanisms for such victims. In addition, the Ethiopian procedural laws fail to incorporate a comprehensive victim's compensation mechanism to ensure effective remedies. Apart from the legal gaps, victims' unwillingness to report sexual violence and lack of coordination between the formal and informal justice systems in Ethiopia pose a serious challenge to the rights of victims to effective access to justice. Consequently, the study recommends the government strengthen the exiting legal procedures and mechanisms by adopting special investigation and prosecution procedures for sexual violence cases as well as redefining the vague criminal code provisions dealing with sexual offenses. Besides, the study requires the concerned stakeholders and the judicial bodies to strengthen their cooperation in the advancement of victim protection and treatment in the justice system.*

# CHAPTER ONE

## INTRODUCTION

### 1.1. Background of the Study

Sexual violence is one of the most pervasive forms of violence in the world, with 7% of women having experienced sexual violence by someone other than an intimate partner during their lifetime. [1] As noted by OHCHR sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual enslavement, forced circumcision, castration, and forced nudity. It is associated not only with physical injury but with several adverse health, social, and economic consequences. Thus, Sexual violence is a profound human rights violation and public health concern. [2] It is a breach of fundamental rights to life, liberty, dignity, equality between women and men, non-discrimination, and physical and mental integrity.[3]

Violence against women as a human rights violation gained recognition following the Second World Conference on Human Rights in Vienna in 1993 when the UN adopted the DEVAW, the first document to provide a framework for national and international action on violence against women.[4]

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[1] World Health Organization, *Global Status Report on Violence Prevention*, 2014, P. 76.

[2] Elizabeth D, *Sexual violence against women: The scope of the problem*, Best Practice & Research Clinical Obstetrics and Gynaecology 27 (2013), P. 4.

[3] Declaration on the Elimination of Violence against Women, adopted under General Assembly Resolution 48/104, 1993, Article 1. [hereinafter cited as, the DEVAW]

[4] Hanna Binstock, *Violence within couples: legal treatment, review of progress, and results*, UN, Sep. 1998, P. 11.

Subsequently, the Beijing Declaration and Platform for Action in 1995 called for each state to take every necessary measure, including effective legal responses, to the victims of sexual violence to ensure gender equality.[5] the United Nations also adopted CEDAW on 18 December 1979 stress state obligations to ensure the fundamental human rights and freedoms of women through strengthening and enable their legal frameworks to respond to the victims of sexual violence effectively.[6] Therefore, implementing international law and standards on sexual violence at a domestic level is an important global step in systematically addressing the problem of violence against women and girls.

In Ethiopia, violence against women and girls continues to be a major challenge and a threat to women’s empowerment. The Ethiopian Demographic and Health Survey (EDHS) 2016 reported that 10% of women aged 15–49 in Ethiopia have experienced sexual violence at some point in their life.[7] Sexual violence are prevalent in Ethiopia commonly during armed conflict, economic crisis, or disease outbreaks and in the context of unequal gender dynamics.[8] The escalation in conflict in Northern Ethiopia has led to an increase in people in need of GBV services from 3.5M in 2021, to 6.7M in 2023 across Tigray, Amhara, and Afar regions. [9]

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[5] Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women, 15 Sep. 1995 (Beijing Declaration and Platform for Action), para 112.

[6] UNGA, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 Dec. 1979, Art. 3. [hereinafter cited as, the CEDAW].

[7] EDHS, *Key Indicators Report, Central Statistical Agency Addis Ababa, Ethiopia*, The DHS Program ICF Rockville, Maryland, USA. 2016, P. 292.

[8] Insecurity Insight, *Sexual Violence in Ethiopia*, Jan. 2022, P. 1.

[9] IMMAP, *Gender-Based Violence area of Responsibility; Ethiopia Secondary Data Review*, Feb. 2023, P. 4. [hereinafter cited as, IMMAP, (2023) *Gender-Based Violence area of Responsibility*]

In the context of international human rights standards, the Ethiopian government has taken various legal steps including the ratification of international and regional human rights instruments dealing with the elimination of sexual violence against women at all levels.[10] Besides, the FDRE Constitution enshrined the equality of women and men to prevent any form of violence as per international standards.[11] In addition to the formal legal systems at the national and local levels, there are community-based and religious legal structures, however, in the context of gender based violence both structures do not operate together.[12] Even though, the victims of sexual violence in Ethiopia struggle to access justice, due to various reasons the criminal justice itself may not be informed by or sensitive to the needs of the victims.[13]

Therefore, this study examines the existing legal procedures and mechanisms considering the situational context on the treatment of cases of sexual violence within the Ethiopian criminal justice system. Unlike other studies which focus on the magnitude, causes and legal frameworks, this study provides a special attention to the effective responses to the cases of victims of sexual violence from the context of both formal legal mechanisms and cultural systems. Thus, the general objective of the research is to assess the existing legal procedures and mechanisms on the treatment of the cases of sexual violence under the Ethiopian criminal justice system.

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[10] Ethiopia has ratified CEDAW and UNCRC on 10 Sep. 1981 and 14 May 1991 respectively.

[11] Constitution of the Federal Democratic Republic of Ethiopia, 21 August 1995, Art. 13(2) & 35. [hereinafter cited as the FDRE Constitution].

[12] IMMAP, (2023) Gender-Based Violence area of Responsibility, P. 4. See also, GBV AoR Ethiopia, situation of GBV in Ethiopia, Sep. 2022, P. 8.

[13] Aubree Smith, Sexual Violence in Ethiopia, and South Africa: A Policy Proposal, University of North Georgia, Pp. 14 -16. [hereinafter cited as, Aubree Smith, Sexual Violence in Ethiopia, and South Africa: A Policy Proposal]

## 1.2. Problem Statement

Even though, various international and regional human rights standards were adopted to combat gender based violences, the problem is still persistent and is a global pandemic that affects 1 in 3 women in their lifetime.[14] On a global scale, the law has consistently failed in providing justice, empowerment, status, or control to sexual violence victims, while simultaneously failing to adequately consider the complexities and individuality of sexual violence experiences.[15]

Gender Based Violence is a key concern within the communities affected by different emergencies in Ethiopia including conflicts, ethnic clashes/tensions, floods, and droughts. In Ethiopia, gender-based violence is highly prevalent with 35% of ever married women aged 15-49 experiencing physical, emotional, or sexual violence from their intimate partners.[16] In recent past, the escalation in conflict in Northern Ethiopia has led to a marked increase of gender based violences, especially sexual violence across the affected regions in Tigray, Amhara and Afar.[17] In particular, attempted rape; gang rape; insertion of different objects in the reproductive organs of girls; and other forms of sexual violences were recorded during the conflict.[18]

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[14] The World Bank, "Gender-Based Violence (Violence Against Women and Girls)", Sep. 25, 2019, online available at:

<https://www.worldbank.org/en/topic/socialsustainability/brief/violence-against-women-and-girls>, last accessed on 26 Oct. 2023.

[15] Asher Flynn, *Sexual Violence and Innovative Responses to Justice Interrupting the 'Recognizable' Narrative*, P. 92.

[16] GBV AOR Ethiopia: Situation of GBV in Ethiopia (September 2022), P. 1.

[17] *ibid*

[18] EHRC- OHCHR, joint investigation report of Tigray Conflict, 2021, p. 3.

At the national level Ethiopia has ratified some of international human rights treaties that obligate it to prevent and respond to sexual violence including CEDAW and the Beijing Platform for Actions (BFA), that requires the government to strengthen the legal mechanisms and effectively respond to the victims of sexual violence.[19] Accordingly, the Ethiopian government adopted legal and policy frameworks on gender based violence and enforcement mechanism to that effect. Ensuring that comprehensive legislation on violence against women is not only to be enacted but also to effectively implemented, it requires a better understanding of the deficits in the administration of justice that can be able to address its ability to respond to the exiting sexual violence.

In Ethiopia the problem is still persistent and requires swift legal and policy interventions to combat the exiting sexual violence. [20]In particular, the treatment and place of the survivors of sexual violence under the Ethiopian justice system is one of the main critical issues that is not well studied and needs to be addressed. Apart from the formal justice system the available indigenous informal mechanisms are also important in advancing opportunities and treatments for victims of sexual violence, but as the informal justice systems are not operate together with the formal legal mechanisms the issue of sexual violence is overlooked and failed to effectively respond for the case of sexual violence. [21]

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[19] Marew A. & Alemtsehay B, The Ethiopian Legal Frameworks for the Protection of Women and Girls from Gender Based Violence, *Pan African Journal of Governance and Development*, Vol. 2, No. 1, Feb. 2021, P. 6.

[20] Aubree Smith, *Sexual Violence in Ethiopia, and South Africa: A Policy Proposal*, Pp. 14 -16.

[21] IMMAP, at 9, P. 8.

To this end, examining the existing legal procedures and mechanisms in addressing the cases of sexual violence in Ethiopia is important to identify the existing legal gaps; strengthening the enforcement of laws and enhancing a fast-track judicial mechanisms. Therefore, this study is designed to provide a significant contribution through assessing the existing legal frameworks pertaining to the care and treatments for victims of sexual violence under the criminal justice system of Ethiopia.

## **1.3. Objectives of the Study**

### **1.3.1. General objective of the Study**

To assess the existing legal procedures and mechanisms on the treatment of cases of sexual violence under the Ethiopian justice system.

### **1.3.2. Specific Objective of the Study**

This research has also specific objectives intended to:

- To evaluate the Ethiopian legal procedures and mechanisms on the treatments of victims of sexual violence in line with international human rights standards.
- To analyze the gaps of the existing legal procedures and mechanisms in responding to the case of sexual violence in Ethiopia.
- To analyses how indigenous mechanisms have been used to approach and enforce the rights of sexual violence survivors.
- To examine the role of the concerned stakeholders in facilitating the treatment of victims of sexual violence under the Ethiopian justice system.

## 1.4. Research Questions

### 1.4.1. Central Question of the Study

The central question of this research is: how far the exiting legal procedure and mechanism respond to the treatment of cases of sexual violence in Ethiopia?

### 1.4.2. Specific Questions of the Study

In addition, the specific questions of the study are:

- To what extent the Ethiopian legal procedures and mechanism are responsive to the case of victims of sexual violence in line with international standards?
- What are the major legal gaps of the Ethiopian legal procedures and mechanisms in treatment of the cases of sexual violence?
- How far indigenous mechanisms approached and have been used to and enforce survivors' rights and strengthens the care of victims of sexual violence in Ethiopia?
- What are the roles of the concerned stakeholders in facilitating the treatment of victims of sexual violence under the Ethiopian justice system?

## 1.5. Research Method

### 1.5.1. Research Design

The study employed both doctrinal and a qualitative research approach to achieve and answer the stated objectives and questions of the study. Doctrinal research approach is found appropriate because its possibility of shifting the focus from producing new knowledge about the law to the rational reconstruction of law; validates, systematizes, but also shapes doctrinal knowledge including exposing its gaps.[22]

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[22]Mátyás Bódig, *Legal Doctrinal Scholarship: Legal Theory and the Inner Workings of a Doctrinal Discipline*, Elgar Studies in Legal Research Methods, 2021, P. 116.

The qualitative research method is considered appropriate as it is important for generating insight into the subject matter of the study from different contexts and to illuminate various perceptions and experiences of law enforcement organs on the protection and treatments of sexual violence survivors.

### **1.5.2. Source of Data**

The study employed both primary and secondary data sources to obtain the desired data that would answer the stated research objectives and questions. Obtaining rich qualitative data meant that research subjects should be pre-selected based on their level of knowledge, experience, articulation, and willingness to participate in the subject matter of this study. Accordingly, the primary data collection was achieved through analysis of the exiting legal instruments and cases; court observations, in-depth interviews (both structured and unstructured interviews). The key informants are targeted and selected based on their knowledge and the exposure they have on the treatment of cases of sexual violence victims. The interview has been conducted with Judicial Actors; governmental and non-governmental organizations working on the treatment and protection of victims of sexual violences. The secondary data sources are also achieved through analyzing different studies, documents, reports, publications, discussion, papers, conducted by individual researchers, government organizations, NGOs and documents from the internet were amply reviewed.

### **1.5.3. Sampling Techniques**

Judicial actors, police officers; concerned government officials, NGOs and CSOs have representative roles in the subject matter of the study.

Accordingly, the study employed purposive sampling technique to identify and select the informants of the study. As the informants of the study are primarily selected based on their knowledge and experiences on the subject matter of the study, the purposive sampling method is found appropriate for gathering relevant data.

### **1.5.4. Data Analysis**

The data obtained through the methods of data collection are organized in line with the objectives of the research and in line with the ongoing interpretation of the data. In this process a thematic analysis is employed through transcriptions and coding of the information from interviews and to use the data systematically. Furthermore, the data gained in the process of interviewing informants is analyzed using qualitative data analysis procedures that involve breaking down the information into different themes and categories. In this process, the researcher used a special form of coding which is a central activity in qualitative data analysis.

## **1.6. Scope of the Study**

In terms of thematic breadth (content), this research investigates the existing legal procedures and mechanisms, as well as the role of indigenous or cultural mechanisms in responding to the needs and cases of victims of sexual violence. Additionally, its subject matter scope includes international and regional human rights laws dealing with gender-based violence, with special reference to sexual violences. National legislation such as the FDRE Constitution, policies, criminal law, and procedure are also included in the subject matter area. The areal scope of the study is limited to Addis Ababa and Dire Dawa, it is due to the available

time for data collection and the security issues to collect in other regions necessitate to limit the study areas. In addition, as most of federal laws related to SV are implemented in Addis Ababa and Dire Dawa the areal scope of the study is limited to such areas.

## **1.7. Significance of the Study**

The study will have various significance as it adds literature to the topic. Accordingly, it contributes as a basic source for law enforcement officials with a view to ensure the implementation of the legal protection mechanisms for victims of sexual violence through the establishment of fast-track judicial mechanisms. Besides, by doing so it will also provide strong recommendations by identifying the gaps of the existing legal procedure and mechanisms in responding to the cases of victims of sexual violence under the justice system of Ethiopia. Furthermore, the study may serve as a tool for the international, regional, and national human rights institutions and CSOs in the protection and the implementation of human rights to give due attention to the problem and respond accordingly. Finally, it will serve as a steppingstone for further research in the subject matter of the study.

## **1.8. Limitations of the Study**

The researchers have faced a shortage of time and the unwillingness of some key informants to provide the required data and most of them refused to be mentioned in their names as an informant of study. Regarding the informants who were reluctant to provide the relevant data the researchers have used to contact other informants, who were willing to provide the required data, based on their level exposure on the subject matter of the study.

## **1.9. Ethical Consideration**

In conducting this research, the participants were informed about the purpose and significance of the study and informed verbal consent was obtained. However, most of the key informants requested the researchers to keep their names secret in the analysis parts of the study. Consequently, the researchers used a specific coding to the names of such informants in the analysis part of the study.

## **1.10. Layout of the study**

The study is organized into four chapters. The first chapter is about the general introduction of the study, which comprises the background, objective, scope, method, and significance of the study. The second chapter of the study is concerned with the conceptual and legal frameworks on sexual violence and the justice system and the situational analysis of the problem in the Ethiopian context. In this chapter, an attempt is made to see the nature and types of sexual violence, the concepts of access to justice from the perspectives of victims of SV. Besides, the chapter addresses the international, regional, and national legal frameworks focussing on the treatment of victims in the justice process. The third chapter of the assessment addressed the legal procedure and mechanisms for the treatment of sexual violence cases in Ethiopia. The chapter emphasizes the investigation and prosecution procedures and mechanisms for SV cases, the role and places of informal justice mechanisms in accelerating justice for victims of SV. The fourth chapter is concerned with the conclusion, recommendations, and/or implications of the study for the concerned government organs, CSOs, and judicial actors.

# CHAPTER TWO

## VICTIMS OF SEXUAL VIOLENCE AND THE JUSTICE SYSTEM: CONCEPTUAL AND LEGAL FRAMEWORKS

### INTRODUCTION

This chapter is designed to address the conceptual frameworks on victims of SV and the justice system. Accordingly, the first section of the chapter tries to address the meaning, nature, and theoretical frameworks of SV to clearly identify and understand what sexual violence means. Various situational studies in Ethiopia revealed that SV is one of the most rampant forms of gender-based violence with multifaceted consequences on the survivors of such violence. Thus, the second section of the chapter seeks to highlight the victimization and prevalence of sexual violence under the Ethiopian context. The section identified the root causes of SV in Ethiopia with specific focus on the contemporary SV cases in conflict context. Victims of SV require effective access to justice that provides fair and efficient legal mechanisms and is responsive to their special interest. The issue of access to justice from the perspectives of victims of SV is also addressed under the third section of the chapter. The final, section four of the chapter evaluates the role of indigenous mechanisms and concerned stakeholders (under multi-sectoral response approach) in responding the needs of victims of sexual violence cases in Ethiopia.

## 2.1. Definition; Nature and Types of Sexual Violence

Although widely studied by various scholars, the term violence and by extension sexual violence are defined with different scope and acts that constitute such violences.[23] However, the World Health Organization (WHO) in its report in 2002 provides a comprehensive definition of sexual violence by stating that: -

*any sexual act, attempts to obtain a sexual act, or acts to traffic for sexual purposes, directed against a person using coercion, harassment or advances made by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.[24]*

According to WHO`s definitions emphasized that sexual violence may be committed irrespective of the place (in private or in public places), the pre-existing relationship between the perpetrator and the victims, and any acts directed for sexual purposes/gratifications. Therefore, sexual violence includes not rape, but also includes any other physical violence and psychological violences intended to obtain sexual gratifications; inflict severe humiliation on the victims and diminish human dignity.[25]

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[23] Muehlenhard, C. L., & Peterson, Z. D., *Conceptualizing sexual violence: Socially acceptable coercion and other controversies*. A. G. Miller (Ed.), *The social psychology of good and evil* (pp. 240-268). New York: Guilford, 2004, Pp. 240 & 241

[24] WHO., *World report on violence and health*, World Health Organization, Geneva, 2002, P. 149.

[25] McDougall, Gay J. *Contemporary forms of slavery: systematic rape, sexual slavery, and slavery-like practices during armed conflict*. Final report of the Special Rapporteur, E/CN.4/Sub.2/1998/13, para. 21 & 22, P. 8.

It can thus entail several forms of non-consensual sexual acts, including unwanted comments, kissing, touching sexual parts of the body, forced masturbation, attempted rape and rape.[26]

Sexual violences are a profound human rights violation and it affects people of all genders, ages, races, religions, incomes, abilities, professions, ethnicities, and sexual orientations.[27] Compared to other forms of violence against women, sexual violence is often associated with stigma, victims rarely talk about it in public or report to the law-enforcement officials.[28] Sexual violence is a violation of survivors and society. It disrupts mental and physical well-being and devastates the fabric of social relationships.[29]

## 2.2. Theoretical Frameworks on Sexual Violence

Even though the conceptual framework on sexual violence is heavily researched, it receives comparatively little theoretical attention even among feminist perspectives.[30] However, Various theories have been developed to understand its nature and explain the root causes of sexual violence as well as the tendency of victimization risks for such violences.[31]

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[26] Willy B. & Rachel P, (2018), *Sexual violence*, P. 4.

[27] Aldona Kipane, *Criminological characteristics of sexual violence*, Int. Conf. Society. Health. Welfare., 2016, P.2.

[28] Tamar Dekanosidze *et al*, *the administration of Justice on sexual violence crime against women in Gorgia*, Council of Europe, Dec. 2020, P. 6.

[29] Thema Bryant-Davis, *Surviving Sexual Violence: A Guide to Recovery and Empowerment*, Rowman & Littlefield Publishers, Inc, 2011, P.1.

[30] Rennison, C.M., *Feminist Theory in the Context of Sexual Violence*. In: Bruinsma, G., Weisburd, D. (eds) *Encyclopedia of Criminology and Criminal Justice*. Springer, New York, NY, P. P. 1620

[31] Nontyatyambo P., *Victimization of Female Students at The University of Venda with Specific Reference to Sexual Harassment and Rape*, University of Pretoria, June 2004, P. 91.

In this section to advance better understanding of the root causes and consequences of sexual violence, a critical overview of relevant theories (The feminist theory; Social Control Theory; Anti-social and learned behavior theory; System theory and Exchange theory of sexual violence) from the perspectives of victims and the perpetrators of Sexual Violences are briefly discussed to guide the study.

### **2.2.1.Feminist Theory**

Over the years, the broad spectrum of feminist ideologies has been conceptualized sexual violence from different point of view.[32] The Feminist theory contextualize the concept of sexual violence through identifying the source of violence (unequal power between men and women) and its multi faced effects.[33] While the feminists defined sexual violence, they identified three basic question to address through. (1). How sexual violence is influenced by social historical and political contexts? (2).How do sexual violences related with the continuing system of inequality and discrimination and (3) how define sexual violence from the context of the exiting culture and social structure.[34] There are three main categories of feminist's theorists (Radical; Liberal and Marxist feminists) that contextualize sexual violence from different perspectives.

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[32] Sasha N. Canan and Mark A. Levand, *A Feminist Perspective on Sexual Assault*, Monmouth University, West Long Branch, NJ, USA, Springer Nature Switzerland AG, 2019, P.1.

[33] Carine M. Mardorossian, *Toward a New Feminist Theory of Rape*, the University of Chicago, PressVol. 27, No. 3 (Spring 2002), pp. 743-775.

[34] Sasha N. Canan and Mark A. Levand, *A Feminist Perspective on Sexual Assault*, Monmouth University, West Long Branch, NJ, USA, Springer Nature Switzerland AG, 2019Pp. 11 – 13. See also, Rachel H., *Crime, Social Control and Spatial Constraint: A study of Women's fears of Violence*, University of Edinburgh, 1993, P. 55.

## i. Radical Feminists

Radical feminism emerges in early 1968 as a response to deeper understandings of women's oppression instead of focusing only on discrimination.[35] Radical Feminist Theory finds that patriarchy is the key cause of gender inequality and sexual violence. Sexual violence from the perspectives of radical feminists is expressed the far-reaching inequality and oppression of women in particular society where they are unable to give their free consent.[36] Hence, women are subjected to patriarchal appropriation[37]. The source of most violences against women; rape; child sexual assault; domestic violence; sexual harassment and the routine nature of sexual violences against women are the result to patriarchy.[38] Therefore, according to the radical feminist's sexual violence is a part of the whole social system of gendered subordination of women and a tool to signify male dominance against women in respect.[39] The social context provides gender roles that men are dominant and aggressive while females are portrayed as victim and in a disadvantaged position when compared to men.[40]

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[35] Ti-Grace Atkinson, *The Descent from Radical Feminism to Postmodernism*, Panel Presentation paper, Boston University, Mar. 2014, P. 1.

[36] Igor PRIMORAC, *Radical Feminism on Rape*, The Hebrew University, Jerusalem, 1998, P. 497.

[37] Rebecca Jane, *Feminist Strategies to End Violence Against Women*, The Oxford Handbook of Transnational Feminist Movements, Mar 2015, P. 2. "Patriarchy refers to the system in which the male social group holds the economic and political power, whether in the family or within society, and has control over the female social group (over their bodies, their work, their sexuality, etc.), resulting in the total subordination of women to men."

[38] Robert Jensen, *Getting Radical: Feminism, Patriarchy, and the Sexual-Exploitation Industries*, *A Journal of Analysis of Exploitation and Violence*: Vol. 6: Iss. 2, 2021, P.3.

[39] Alletta Brenner, *Resisting Simple Dichotomies: Critiquing Narratives of Victims, Perpetrators, and Harm in Feminist Theories of Rape*, *Harvard Journal of Law & Gender*, Vol. 36, 2013, P. 515.

[40] Ibid.

## ii. Liberal Feminist Theory

Liberal feminism theory was developed in western countries and demands the development of equal access and recognition of women. According to this theory sexual violences committed against women are the result of lack of women political and civil rights recognition.[41] In this context, Liberal feminism pointed out that there are universal standards of humanity, equality and reason were not in fact universal because women were denied full social participation, public life, and education. It is often concerned with policy and legal changes that foster equal economic and social opportunities for women. [42] Through structurally equal treatment of the law, symptoms of women's oppression, which can include sexual assault, will be resolved. Thus, Liberal feminist efforts is all about to put forth new legislation and judicial policies that provides equal rights and protection of women from sexual violences in all social encounter. [43]

## iii. Marxist Feminist Theory

Marxist Feminist Theory finds that the primary basis of sexual violence is class inequality; gender is a secondary concern. Schwendinger and Schwendinger (1983) state that 'Women are said to be more vulnerable to violent victimization as a result of the social instability inherent in capitalist societies.[44]'

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[41] George Ritzer (ed), *The Wiley Blackwell Encyclopedias in Social Science*, (2016), Pp. 669 - 671

[42] Mohajan, Haradhan, *An Overview on Feminism and Its Categories*, MPRA Paper, 20 June 2022, P. 8.

[43] Rima Mardiyani & Tatan Tawami, *Gender Inequality and Feminism in Arundhati Roy's The God of Small Things*, Mahadaya, Vol. 2, No. 2, Oct. 2022, P. 169.

[44] Schwendinger J, & Schwendinger H., *Rape, Sexual Inequality and Levels of Violence, Crime and Social Justice*, No. 16, 1981, Pp. 3 & 4

Therefore the existence of capitalism by itself contributes for women's victimizations to various forms of gender-based violence including sexual violences.[45]

### 2.2.2. Social Control Theory

Any threat of sexual violence is an instrument of social control of women and keeping them in a state of anxiety and encouraging the self-imposition of behavioral restrictions in a quest for safety.[46] This theory defined sexual violence from the perspectives of perpetrators dominations against women through use of force. Recent trends in criminology also defined that social control theory is important to understand how structure inequalities affects the vulnerability of women to sexual violences.[47] The advocators of social control theories are feminists that defined the victimizations of women from the perspectives of space and violence.[48]

This theory mainly concerned with male violence against women and children. Male domination through employing sexual and physical coercion are the common techniques used to signal means control over women's lives. Consequently, the psychological fear of women's is considered as a factor restricting women's opportunities and keeping them under the subjections of males. Therefore, Sexual violence is used to perpetuate male supremacy, and is used as a tool to keep women fearful and subjugated.[49]

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[45] Rima Mardiyani & Tatan Tawami, *Gender Inequality and Feminism in Arundhati Roy's The God of Small Things*, Mahadaya, Vol. 2, No. 2, Oct. 2022, P. 169

[46] Stephaine R. & Margaret T., 'the fear of rape: a study in social control', journal of social issues vol.37, no. 4, 1981, P. 71.

[47] Rachel H., *Crime, Social Control and Spatial Constraint: A study of Women's fears of Violence*, University of Edinburgh, 1993, P. 55. P.6

[48] Ibid P. 7 & 8

[49] Jill Theresa, *The Social Control of Family Violence*, Journal of Women and Social Work, SAGE Publications, May 2011, P. 158

### 2.2.3. Social Learning Theory (Victim to Victimizer)

The social learning theory introduced by Albert Bandura in the early 1960s is a widely known psychological theory that proposes that behavior is learned through observation of others' behaviors, as well as the modeling of those observed behaviors.[50] This theory is based on the criminological principle that a child who have been physically or sexually abused are more likely to commit violent offenses as adults than children who have not been victimized.[51] Social learning theory described the acquisition of conforming behaviors in children, but the theory has been applied to a wider range of behaviors, including aggression and sexual offending.[52] Whether an individual engages in a particular observed behavior is dependent upon the three components of social learning: characteristics of the model, the actual observed behavior, and the consequences of the observed behavior.

First, a behavior is more likely to be imitated if the model is someone the individual trusts or to whom they relate. Second, the behavior will more likely be imitated if it is related to other learned behaviors. An individual is less likely to engage in an observed behavior if it contradicts existing behaviors. Third, observed reinforcement and punishment of the model's behavior influences the likelihood that the behavior will be imitated by the observer. [53]

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[50] Brittany S. Sharma, The Development of Sexually Abusive Behavior in Adolescent Males who have been Sexually Victimized, Undergraduate Honors Theses, 2017, P.4.

[51] Richard B. Felson & Kelsea Jo Lane, Social Learning, Sexual and Physical Abuse, and Adult Crime, *Aggressive Behavior*, Vol. 35, 2009, P. 489.

[52] Brittany S. Sharma, The Development of Sexually Abusive Behavior in Adolescent Males who have been Sexually Victimized, Undergraduate Honors Theses, 2017, P.4.

[53] Ráchael A. Powers, et al, Social Learning Theory, Gender, and Intimate Partner Violent Victimization: A Structural Equations Approach, *Journal of Interpersonal Violence*, 2017, P. 3 & 4.

## 2.3. Victimization and the Prevalence of Sexual Violence in Ethiopia

Sexual violence against women occurs in all societies, regardless of race, class, creed, status, or education and Ethiopia is not an exception on this regard.[54] As a major social problem and a violation fundamental human right of women in Ethiopia there is no sufficient studies and compressive information on the magnitude of sexual violence in Ethiopia.[55] Thus, it is difficult to state the extent of its prevalence of sexual violence in the country. However, the general Ethiopian database (2022) indicated that gender-based violence, including sexual violence, is highly prevalent with 35% of ever married women aged 15 -49 experiencing physical, emotional, or sexual violences form their partner.[56]

In Ethiopia there is no single factor to account for violence perpetrated against women. The existence of ethnic based violences, floods, droughts and familiar environment are the main factors.[57] However, conflicts and situations of instability exacerbate pre-existing patterns of discrimination against women and girls, exposing them to heightened risks of sexual violences today.[58]

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[54] Birye Dessalegn et al, Prevalence and associated factors of sexual violence experienced by housemaids in Ethiopia: a systematic review and meta-analysis, Department of Nursing, Teda Health Science College, 2022, P. 2.

[55] Mulugeta D. et al, Prevalence of sexual violence in Ethiopian workplaces: systematic review and meta-analysis, Department of Midwifery, College of Health Sciences, Debre Tabor University, 2020, P.1.

[56] AoR, Situation of GBV in Ethiopia, GBV AOR Ethiopia, Sep. 2022, P. 1.

[57] Medhanit Asfaw, Sexual Violence and its Consequence among Female Night School Students in Hawassa town, Southern Ethiopia: A cross-sectional study, Addis Ababa University, June 2010, P.6.

[58] Fisseha G, et al. War related sexual and gender-based violence in Tigray, Northern Ethiopia: a community-based study. *BMJ Glob Health*, 2023, P. 1.

Even though there are various contests on the extent of sexual violence committed in the Northern Ethiopia conflicts, at start of the conflict in Ethiopia November 2020 it quickly became clear that one of its main features was the widespread occurrence of sexual violence on girls and its devastating consequences.[59] The beginning of the northern conflict become the turning point where sexual violence are widely committed in Tigray and Amhara regions more than ever.[60]

The joint investigation of EHRC and the OHCHR also revealed that, sexual violence committed during the armed conflict in Tigray, Amhara and Afar Region were characterized by gang rape; rape in detention; and other sexual violence intended to degrade and dehumanized the victims and used the sexual violence as weapon of war.[61] Consequently, at the national level the number of people in need for GBV response as per 2022 increased from 3.5M in 2021 to 5.8M spread across the conflict, drought and flood affected regions.[62] In the current Ethiopian context, sexual violence has been directed to children, women and men at any ages that create multiple intersecting vulnerabilities of individuals, groups and communities as a whole.[63]

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[59] UKAID, Understanding Conflict related sexual violence in Ethiopia, Research report, 2022, P. 10.

[60] Insecurity Insight, Sexual Violence in Ethiopia, Geneva, Jan2022, Pp. 1 &2.

[61] EHRC & OHCHR, Report of the Ethiopian Human Rights Commission (EHRC)/Office of the United Nations High Commissioner for Human Rights (OHCHR) Joint Investigation into Alleged Violations of International Human Rights, Humanitarian and Refugee Law Committed by all Parties, March 2021, Pp. 40 -47.

[62] AoR, Situation of GBV in Ethiopia, GBV AOR Ethiopia, Sep. 2022, P. 1.

[63] UKAID, Understanding Conflict related sexual violence in Ethiopia, Research report, 2022, P. 33.

## 2.4. Access to Justice and Victims of Sexual Violence

The right to access justice is a fundamental right, as well as a prerequisite for the protection of all other human rights.[64] It is not just a right in itself but an enabling right where an individual or groups of individuals bring a claim before a formal and informal justice institutions (Who and where can access?).[65] It serves two basic purposes in a particular legal system-the system by which people may vindicate their rights and/or resolve their disputes under the general auspices of the state.[66] As a result, it requires not only the decision to be just and fair but also to go beyond to incorporate practical enforcement of decisions with civil society's oversight.

## 2.5. The Conception of Justice in Sexual Violence Cases

In the preceding sections the study explores that SV has a profound effect on the victim's sense of self perceptions and perceptions of others. This leads the victims to be emotional with grief; fears; difficulty to lead social life and even forced to change their living environment.[67] Justice in the context of SV is mostly equated with state-run criminal justice systems, premised on procedures and mechanisms of formal legality in a clearly structured pattern, from police investigations, to prosecutions, to judgment and punishment.[68]

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[64] Valesca Lima & Miriam Gomez, *Access to Justice: Promoting the Legal System as a Human Right*, Springer Nature Switzerland AG, Jan. 2020, P. 9.

[65] FRA, *access to justice in Europe: an overview of challenges and opportunities*, FRA-European Union Agency for Fundamental Rights, 2011, P. 3.

[66] Joel B & Austin S., "Access to Justice & the limits of law", *Law & Policy Quarterly*, 1981, Vol.3 no. 2, P. 125.

[67] Cheryl Regehr & Ramona Alaggia, *Perspectives of Justice for Victims of Sexual Violence*, Taylor & Francis Group, LLC, 2006, P. 33.

[68] Clare McGlynn & Nicole W., "Kaleidoscopic Justice: Sexual Violence and Victim-Survivors' Perceptions of Justice", *Social & Legal Studies*, Vol. 28(2), 2019, P. 180.

Asher Flynn (2015) argue that the conventional justice system failed to respond to the problem and does not follow the interest of victims. Asher Flynn (2015) stressed that:

*Formal criminal justice has had its chance . . . and has not proved effective for these sorts of crimes . . . It is reasonable to ask, therefore, whether there is something fundamental in criminal law that limits its potential to achieve justice and safety for women.[69]*

Thus, the inability of the conventional legal processes to respond to victims' needs or provide substantive justice has paved a pathway for the discussion, exploration, and integration of innovative, alternative responses to the significant social problem of SV.[70] Dianne Martin (1998) noted that the conventional justice system seeks to opt for custodial punishment for the harm committed against the victim.[71] It is considered that only the putative nature of justice system is the appropriate way to respond for the needs of victims of SV. The perception of justice in many parts of the world is a linear system or conventional system where the state-run criminal justice system, but far from the interest of victims.[72] Clare McGlynn (2017) even though there are different arguments on the responsiveness of the conventional justice system, currently it is widely accepted that conventional criminal justice systems fail to meet the needs and interests of sexual violence survivors.[73]

[69] Hudson, B. (2002) 'Restorative Justice and Gendered Violence: Diversion or Effective Justice?' *British Journal of Criminology*, 42(3), P. 7

[70] Asher Flynn, Sexual Violence, and Innovative Responses to Justice Interrupting the 'recognizable' Narrative, Sep. 2015, P. 97.

[71] Dianne L. Martin, Retribution Revisited: A Reconsideration of Feminist Criminal Law Reform Strategies, *Osgoode Hall Law Journal* 36.1, 1998, P. 170.

[72] Clare McGlynn, *Kaleidoscopic Justice: making sense of the lived complexities of justice for sexual violence survivors*, University of Leuven, Nov. 2014, P. 3.

[73] Clare McGlynn et al, *Seeking Justice for Survivors of Sexual Violence: recognition, voice, and consequences*, in Marie Keenan & Estelle Zinsstag (eds) *Sexual Violence and Restorative Justice: legal, social and therapeutic dimensions*, 2017, P. 1.

## 2.6. Key Elements of Effective Access to Justice

Access to adequate and effective judicial remedies is judged to be a principal aspect in protecting against sexual violence and to fully comply with obligations to act with due diligence regarding violence against women.[74] However, on the ground victims of SV may consistently suffer attitudinal, structural, and systematic challenges in the pursuit of accessing justice mechanisms in the formal or informal justice system.[75] Victims of sexual violence may also be unable to obtain effective justice due to lack of access to high quality gender competent legal advice, gender insensitive judgments and physical accessibility of the judicial system.[76] Therefore, it is important to identify the key elements of effective access to justice for victims of sexual violence in a particular justice system to curb the practical challenges faced by such victims. The UN Committee on the Elimination of Discrimination against Women under General Recommendation No. 33 identified six interrelated elements of effective gender responsive access to justice system.[77]

### i. Justiciability of the Justice System

The justiciability requirement includes two essential elements; (1) the accessibility of the justice system for victims of sexual violence; and (2) the ability of victims of sexual violence to claim their rights before the justice system.

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[74] Maria E. (2011), *Defining Rape Emerging Obligations for States under International Law?* P. 135.

[75] UN Women, *Situational Analysis of Access to Justice For Victims And Survivors Of Violence Against Women And Girls In East And Southern Africa*, (nd), P. 27.

[76] UN, *General recommendation No. 33 on women's access to justice*, UN Committee on the Elimination of Discrimination Against Women issued on the 23rd of July 2015, CEDAW/C/GC/33, [hereinafter cited as, *General recommendation No. 33 on women's access to justice*], Para 13.

[77] *General recommendation No. 33 on women's access to justice*, para. 13.

To this effect the government is expected to take every necessary step to ensure the justiciability of the justice system.[78] it includes, but not limited to, (1). Providing sufficient and gender responsive legal protection to access the justice system and adopting empowerment mechanisms. (2). Ensuring the judicial actors to handle the cases of victims of sexual violence in gender sensitive way. (3). Efficient mechanisms to ensure the impartiality and independence of the judicial system. and/or (4). Gender mainstreaming in the judicial actors (increasing the number of female judicial actors) and providing special measures for victims in need of it.[79]

## **ii. Availability of the Justice System**

Availability requires the establishment of courts, quasi-judicial bodies, or other bodies throughout the State party in urban, rural, and remote areas, as well as their maintenance and funding.[80] States are required to ensure the maintenance, establishments, and creation of judicial institutions in areas where victims of sexual violence can easily access the service and a mechanisms to follow up the established justice system.[81] It is also expected cooperate with all concerned organs working with sexual violence and establish a victim assistant fund, health service and other forms of assistance.[82]

## **iii. i. Accessibility of the Judicial System**

It requires that all justice systems, both formal and quasi-judicial, be secure, affordable, and physically accessible to women, and be adapted and appropriate to the needs of women, including those who face intersecting or compounded forms of discrimination.[83]

[78] Id. para. 15.

[79] id, para. 15 (a) – (f)

[80] id, para. 14(b) & 16.

[81] id, para. 16 (a) & (d).

[82] id, para. 16 (b).

[83] General recommendation No. 33 *on women's access to justice*, para. 14(c) & 17.

The accessibility of the justice system measured through; (1); physically accessible to victims; (2) economically affordable to victims; (3). Information accessibility for the victims; (4). The availability of one-stop-center to provide legal aid service and (5) removing linguistic barriers.[84]

#### **iv. Good quality of justice systems**

Good qualities of the justice system requires that all components of the system adhere to international standards of competence, efficiency, independence, and impartiality and provide, in a timely fashion, appropriate and effective remedies that are enforced and that lead to sustainable gender-sensitive dispute resolution for all women.[85] It also requires that justice systems be contextualized, dynamic, participatory, open to innovative practical measures, gender-sensitive and take account of the increasing demands by women for justice.[86]

#### **v. Provision of Effective remedies**

It requires that justice systems provide women with viable protection and meaningful redress for any harm that they may suffer.[87] The remedies awarded by the judicial bodies shall at least be adequate, effective, promptly attributed, holistic and proportional to the gravity of the harm suffered.[88] Remedies should. include, as appropriate, restitution (reinstatement), compensation (whether provided in the form of money, goods, or services) and rehabilitation (medical and psychological care and other social services).[89]

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[1] Id, para. 14(c) & 17.

[1] Id, para. 14(d).

[2] Ibid.

[1] General recommendation No. 33 *on women's access to justice*, para. 14(e & 19(b)).

[2] Ibid.

[3] Ibid.

## vi. Accountability of justice systems

It is ensured through monitoring to guarantee that they function in accordance with the principles of justiciability, availability, accessibility, good quality and provision of remedies. The accountability of justice systems also refers to the monitoring of the actions of justice system professionals and of their legal responsibility when they violate the law.[90]

## 2.7. Multi-sectoral Approach for Victims of Sexual Violence

UNFPA adopted a multi-sectoral response to GBV in 2015 to ensure effective protection and empowerments of victims of sexual violence in particular justice system.[91]The approach is adopted to replace the existing scattered response mechanism where the victims of sexual violences were not able to obtain integrated support and delaying in offering effective legal and other intervention mechanism.[92] The approach enhances the coordination of different stakeholders to facilitate the justice process of victims of sexual violence. Consequently, in the multi-sectoral approach the law enforcement (police, prosecutors, and justice departments) organs shall play a pivotal role in addressing and ensuring effective access to justice to the cases of victims of sexual violence through effective cooperation with relevant stakeholders.[93] The approach is flexible and open for the concerned partners, and it follows the principles and standards determined by the partners involved.

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[90] General recommendation No. 33 *on women's access to justice*, para. 14(f) & 20.

[91] UNFPA, *Multi-sectoral response to GBV: An effective and coordinated way to protect and empower GBV victims/survivors*, United Nations Population Fund, 2015. [hereinafter cited as, UNFPA, *Multi-sectoral response to GBV*]

[92] UNFPA, *Multi-sectoral response to GBV*, P.5.

[93]Ibid, P. 7.

It depends on seven basic principles for its implementations, that includes victim centered approach; partnership; participatory management; strategic planning; integrated services; prevention; accountability; and sustainability.[94]

## 2.8. Victim Center Approach to Sexual Violence Cases

A victim/survivor-centered approach places the rights, dignity of victims; wishes, needs, safety, dignity, and well-being of the victim/survivor at the center of all prevention and response measures concerning the type of violence they have experienced. [95]General Recommendation 35 of the CEDAW Committee stressed the concept as: -

an approach centered around the victim/survivor, acknowledging women as right holders, and promoting their agency and autonomy, including the evolving capacity of girls, from childhood to adolescence. In addition, the measures should be designed and implemented with the participation of women, considering the situation of women affected by intersecting forms of discrimination.[96]

Accordingly, the victim centered approach requires the existing laws and enforcement mechanisms related to the protection and treatment of sexual violence needs to be gender sensitive; comprehensive; non-discriminatory and focus on the special needs of victims.[97] The special forms of protection for such victims shall also be placed; including but not limited to the availability of support staff or specialized unites from both sexes;

[94] Ibid, P. 7.

[95] IASC, IASC definition and principle of victim/survivor centered Approach, IASC inter-agency standing committee, (nd), P. 1.

[96] General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992), CEDAW/C/GC/35, 26 July 2017, para. 28.

[97] OHCHR, *Protection of victims of sexual violence: Lessons learned, Workshop Report*, 2019, P. 3.

medical and psychological support centers; protection services that are accessible for victims.[98] On the investigation process victims needs and views should be given a highest priority, and the investigation process needs to be neutral and objective. Similarly, in the prosecution stages the processes must be neutral and independent from prosecutorial authorities.[99] Therefore, the principle is intended to create an enabling environment for victims of sexual violence to have active involvement in the justice process; speak their minds to the judicial body they trust and heard and feel supported and empowered by the existing justice system.[100]

## **2.9. Legal Frameworks on the Protection and Treatment of Victims of SV**

Ensuring effective legal response for victims of SV requires a legal and policy framework with sufficient mechanisms for the protection and treatment of victims. Thus, this section provides a brief overview on the international and regional legal frameworks on the treatment and protection of victims of SVs. Besides, as Ethiopia is a signatory to most of international human rights conventions on the treatment and protection of victims of SV, this section also examines the Ethiopian national legislation; policy framework and implementation mechanism in effectively responding to the needs and interests of victims under the Ethiopian criminal justice system.

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[98] Id, P. 3.

[99] Ibid. Pp. 3 & 4.

[100] IDLO, *Survivor-Centered Justice for Gender-Based Violence in Complex Situations* Research Report Informed by Case Studies from Afghanistan, Honduras, Papua New Guinea, The Philippines, South Sudan, And Tunisia, International Development Law Organization & the Global Women's Institute, 2022, P. 25.

### 2.9.1. International Legal Frameworks

International human rights standards are developed after the second world war to establish and re-affirm the rights of women and protect women from any forms of sexual violence; calls for prevention of violences against women (especially but not only sexual violence), and cares for victims of sexual violence.[101] International legal frameworks on SV have two basic dimensions: (1). Preventing the occurrence of sexual violence and (2). Preventing further impacts and secondary victimizations on the survivors of sexual violence.[102] The prohibition of sexual violences under international standards is the signal of international community condemnation of sexual violence acts and commitments to take necessary measures to prevent the act and respond to the needs of the victims.[103] However, the existing international standards on the protection of victims of sexual violences are scattered and developed through international case laws; general comments and resolutions.[104]

Despite historical movements in the condemnation of SVs, the UN general assembly adopted the first bill of women rights, named convention on the elimination of All forms of Sexual violence (CEDAW),[105]that failed to set out a specific reference to the gender-based violence.[106]

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[101] Malaika Rajandran, *Sexual Violence and International law*, 2004, Pp. 60 & 61.

[102] UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 Dec. 1979. [hereinafter cited as the CEDAW Convention]

[103] UN Women (2020), *Respect Women and Regional framework to end VAW*, P. 2.

[104] Maria´ A., 'Towards A Legal Reform of Rape Laws under International Human Rights Law', *The Georgetown Journal of Gender and The Law*, Vol. XXII:487, 2021, P. 505.

[105] The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3 September 1981 and has been ratified by 189 states.

[106] Jeni Klugman, *Gender based violence and the law*, Background paper for World Development Report 2017, P. 7.

As a result the issue of sexual violence remains out of the purview of international human rights standards for decades and the bill of women human rights failed at least to expressly mention the term. [107]

In 1992 the adoption of General recommendation No. 19 by the committee of CEDAW is a transformative amendment to the convention.[108] The recommendation makes the CEDAW to be adoptable to changing circumstances and provides additional priorities on the women's rights, namely VAW.[109] The recommendation extends the scope of discrimination defined under article 1 of CEDAW and establish a remarkable jurisprudence to extend an international obligation of states to take necessary measures and ensure the protection of women from any forms of sexual violence.[110] The principle contained under recommendation no. 1992 have huge influence in the history of human rights as it gains the status of international customary law. In December 1993 following the adoption of General recommendation No. 19 by committee on CEDAW, the UN general assembly adopted a declaration on the elimination of violence against women to strengthen the implementation of the convention and the recommendation.[111] Subsequent international conventions including the UNCRC and the Palermo protocol, requires the states to strengthen their national legal frameworks and implementation mechanism related to the cases of SV.[112]

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[107]Meiraf Girma, 'VIOLENCE AGAINST WOMEN: Inadequate Remedies under the CEDAW', *Mizan Law review*, Vol. 3 No.2, Sep. 2009, Pp. 353.

[108] *See generally*, CEDAW Committee, General comment 19.

[109]Rosalie C., *Violence Against Women as A Form of Discrimination: A Case Study of CEDAW*, (nd), Pp. 10 & 11.

[110] *Ibid*.

[11] *See generally*, UN General Assembly, *Declaration on the Elimination of Violence against Women*, 20 December 1993.

[112] *See generally*, UNGA, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000. *See also*, UNGA, *Convention on the Rights of the Child.*, 7 March 1990, E/CN.4/RES/1990/74.

In conflict situations, the 1949 Geneva conventions and the ICC statutes explicitly provides uses of SV as means of weapon is a violation of international humanitarian law and constitute crime against humanity.[113] As part of an international framework he Beijing Platform for Action is also recognized SV as a violation of women’s human rights and fundamental freedoms and as an obstacle to the achievement of equality, development, and peace. [114]

### 2.9.2. Regional Legal Frameworks

Protection from SV in Africa is encapsulated in various binding and non-binding legal instruments.[115] The Maputo protocol is the major regional legal instrument that provides protection for victims of SV. The Protocol was adopted 01 July 2003, with view to address the major human rights violations of women’s (including sexual violence) in the African context.[116] The Protocol under article 4 requires the member states to provide special attention to the protection of women’s form SV through underscoring that sexual violences violates the fundamental human rights and freedoms of women.[117] The protocol also focuses on the African context where sexual violences committed at the times of armed conflict to be considered by the state parties to take appropriate measures to that effect.

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[113] Theodor Meron, ‘Rape as a Crime Under International Humanitarian Law’, *American Journal of International Law*, Washington D.C.: American Society of International Law, 1993, vol. 87, p. 426

[114] UN, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 Oct. 1995, Para. 112.

[115] ‘*Sexual and gender-based violence in Africa: Key issues for programming*’, Population Council, 2008, P.2.

[116] See generally, *African Union, Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa*, 11 July 2003.

[117] Maputo Protocol, Art. 4 (1) & (4).

The African Charter on the Rights and Welfare of the Child (herein after referred as ACRWC/the Charter) that was adopted on 11 July 1990 address the issues of particular interest and importance to children in Africa.[118] Even through the charter does not define what SV and other forms of violence against the child, it requires state parties to strengthen their national legal frameworks to effectively respond to protect children from any forms of SV.[119] The charter provides a specific types of SV that member states are required to take measures including but not limited to the inducement, coercion encouragement of a child to engage in any sexual activities; the uses of a child in prostitution or other sexual practices or any other pornographic activities.[120]

The non-binding instruments in Africa also provide a general principle and guidelines for states to ensure effective treatments and protection of survivors of sexual violence. The African principles and guidelines on the right to fair trial rights is adopted in 2003 provides specific fair trial rights for the protection and treatments of victims of SV in a particular justice system.[121] The guideline and the principles stressed the substantive protections provided under the Maputo protocol and the due process rights contained under article 7 of the African Charter on human and people's rights.[122]

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[118] *See generally*, OAU, African Charter on the Rights and Welfare of the Child, 11 July 1990, Entry into force on 29 Nov. 1999. [hereinafter cited as The African Charter on the Right and Welfare of The Child]

[119] The African Charter on the Right and Welfare of The Child, art. 27. See also, Afrooz K & Julia S, 'Child protection, safeguarding and the role of the African Charter on the Rights and Welfare of the Child: Looking back and looking ahead, *African Human Rights Law Journal*, Pp. 644 & 648.

[120] The African Charter on the Right and Welfare of The Child, art. 1(2) & 27.

[121] Principles and Guidelines on the Right to A Fair Trial and Legal Assistance in Africa, African Commission on Human & Peoples" Rights, African Union, DOC/OS (XXX) 247, 2003, P. 21 and 22. [Hereinafter cited as AU Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa]

[122] OAU, African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981, art. 7. [hereinafter cited as the Banjul Charter].

It recognize both formal and non-formal (arbitration; mediation and/or etc..) procedures to ensure the right to access to justice and effective remedies for victims of SV.[123] Accordingly, the guideline set out a specific obligation of states to conduct the necessary investigations the cases of victims of SV, including sexual violences committed in private domain.[124] The guideline requires the state criminal investigations to encompass any perpetrators of sexual violence, including state sponsored sexual violences, sexual violences committed by state officials/agents and any other individuals.[125] It also requires that the victims of sexual violence to be treated with dignity at any stages of a proceeding.[126] To this effect states are required take every necessary measures to protect the victims of sexual violence not to be subjected for any other inhuman and cruel treatments in justice process.[127]

The African commission resolutions related to SV also serves as the source of African jurisprudence on the protection and treatments of victims of SV in Africa.[128] The African Commission on Human and Peoples' Rights meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007 adopted Resolution on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence,[129]

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[123] AU Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa, section P (g).

[124] *Id.*, section P(e).

[125] AU Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa, section P(e).

[126] *Id.*, P(a).

[127] *id.* P (c).

[128] General Comments on Article 14 (1) (d) and (e) of the Protocol to the African Charter on Human and Peoples'

Rights on the Rights of Women in Africa; General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article

14. 2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women

in Africa

[129] ACHPRs, Resolution on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence, Nov. 2007.

that call the state parties to the Maputo protocol to implement the provisions of the charter related to the protection of victims of sexual violence; ensuring access to justice and effective remedy. [130]

### 2.9.3. National Legal Framework

The issue of SV is a profound human rights violation and health problem in the world today and Ethiopia is not an exception on this regard.[131] Although Ethiopia has not enacted specific legislation on sexual violence, the Ethiopian government has taken various steps forward to strengthen its national legislation in line with international human rights standards. Accordingly, this sub section is designed to examine the Ethiopian legal frameworks and mechanisms on the protection and treatments of victims of sexual violence. [132]

International human rights standards are an integral part of Ethiopian laws and guide the chapter three of the constitution, including Women and child rights enshrined under the constitution[133] As the member of UN and AU Ethiopia ratified various international and regional human right instruments including but not limited to the world bill of women's right's (CEDAW).[134]

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[130] Resolutions of the African Commission on Human and Peoples' Rights relevant to the rights of indigenous women in Africa, forest peoples Africa, (nd), P.5.

[131] Valerie R. Cook, "Sexual Violence as a Weapon of War in Ethiopia's Tigray Region and the Developing Adjudication of Violations of the Protocol on the Rights of Women in Africa," American University International Law Review: Vol. 37, 2022, Pp. 370 & 371.

[132] Further Analysis of Findings on Violence Against Women from the 2016 Ethiopia Demographic and Health Survey, Ministry of Women, youth and Child, Sep. 2019, P. 4

[133] The constitution of the Federal Democratic Republic of Ethiopia, 21 August 1995, art. 9(4) & 13(2).

[134] Ethiopia signed the CEDAW on 08 Jul 1980 and ratified the convention on 10 Sep 1981.

CEDAW and by extension its committee General recommendations no. 19 and 35 as well as DEVAW imposes an international obligation on the Ethiopian government to take every steps to ensure effective access to justice to the victims and their participations thereof.[135] Ethiopia has also ratified the Maputo protocol the bill of women's right in Africa on 30 March 2018.[136] Incorporating the principles recognized under the international law prohibiting sexual violence is not sufficient requirement for Ethiopia to fulfill her obligations under the covenant. But it requires the government to create conducive environment for victims of sexual violence to participate in the judicial process and effective remedies. Ethiopia has also ratified the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime on June 22, 2012.[137] This protocol requires the Ethiopian government to provide effective access to justice for victims of sexual violence in cases of trafficking of persons.[138] As part of Ethiopian commitment to international human rights standards the government adopted various provisions related to the treatment and protection of survivors of sexual violence. The protections provided under the constitution, the criminal code and other policy frameworks are briefly discussed hereinunder to guide chapter three of the study.

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[135] CEDAW Committee, General Recommendation No. 19, para 6

[136] Proclamation to Ratify the Protocol to the African Charter on Human and Peoples Rights on The Rights of Women in Africa, Proclamation No.1082/2018, 24th Year No.33ADDIS ABABA March 30th, 2018.

[137]Ethiopia has signed the protocol on 20 Sep 2002 and ratified on 12 May 2004.

[138] The Palermo protocol, 6(2) (b).

## **i. The FDRE Constitution**

The Constitution of the Federal Democratic Republic of Ethiopia chapter three contains several rights which have direct relevance to the right of women to be protected from SV.[139] To ensure the rights of women in Ethiopia the constitution devoted article 35 to enlist the rights of women recognized under international law. Even though article 35 of the constitution does not provides any definition on what constitutes GBV and by extension SV, it provides provisions on the protection of victims of SV.[140] In fact, the constitution provides a way-out that any ambiguity on the rights of women under article 35, interpreted in with international human rights standards.[141] The constitutions do not have specific and explicit sub article that mention SV. However, it can be inferred for the scattered provisions of the constitution. The general human rights provisions of the constitutions provide women's rights liberty; body integrity and protection from inhuman and degrading treatment.[142] The provisions implies that women's have a freedom to protected from any acts (including sexual violences) that may cause physical, psychological impacts on their health.

On the other hand, article 35 of the FDRE constitutions provides equal protections of women with men without any discrimination. [143] This requires the government to take every necessary step to ensure effective protections of women's from any forms violences and eradicate any male dominances that violates women's fundamental rights and freedoms. It is also stressed under article 35(4) of the constitution that the government is expected to eliminate any violences that comes from the exiting traditions; culture and harmful practices.[144]

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[139] The FDRE Constitution, Art. 35.

[140] The FDRE Constitution, Art. 35.

[141] The FDRE Constitution, art 35 & 13(2).

[142] Ibid, art 16 -18

[143] Ibid, art. 35 & 25.

[144] Ibid art 35 (4)

One of the prevalent forms of SV in Ethiopia is Domestic violence and the constitution impliedly address the issue under article 35 (2) and 18 of the constitution.[145] The constitution also enshrined the rights of victims of SV to access to justice, where any victim may claim redress from the perpetrator of the violence through instituting a legal proceeding.[146] Besides the provisions of the constitutions on the protection of women's from any violences, the constitution is not far from the principles of international human rights law standards through the instrumentality of article 13(2).

## ii. The Revised FDRE Criminal Code

The Ethiopian criminal law was reviewed and amended in 2004 to provide enhanced protection to against SV\ and the code place sexual violences under, Part II (Special part), Book V, Title IV, "Crimes against Morals and the Family".[147] One of the main rational for the revision of the 1957 Ethiopian criminal code and necessitate for the adoption of the 2004 FDRE criminal code is SV and other forms of violences on women were overlooked under the 1957 penal code and so that to provide enhanced protection for the victims of sexual violences.[148] Unlike the 1957 Penal Code, the revised Code incorporated explicit provisions tackling VAW. [149] Thus, the code is intended to prevent any SV committed against women and impose the proportionate punishment on the perpetrators.[150]

[145] Megersa Dugasa, The Ethiopia's Legal Framework on Domestic Violence against Women: a Critical Perspective, *International Journal of Gender and Women's Studies*, March 2014, P. 54.

[146] The FDRE Constitution, Art, 37.

[147] The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414, 2004, Federal Negarit Gazetta, entered into force 9 May 2005, [hereinafter cited as the FDRE Criminal Code], Book V.

[148] The FDRE Criminal Code, P.1.

[149] Marew A. & Alemtseyah B., The Ethiopian Legal Frameworks for the Protection of Women and Girls from GenderBased Violence, *Pan African Journal of Governance and Development*, Vol. 2, No. 1, Feb. 2021, P. 13.

[150] The FDRE Criminal Code, art. 1 and Book V

However, the criminal code has not recognized marital rape as a criminal offence despite the violence is rampant in Ethiopia.[151] The criminal code define rape in narrow context and limited its scope to non-consensual sexual intercourse committed outside marriage, by excluding marital rape as one forms of sexual violence.[152] One may argue that the issue of SV in private domain is implicitly recognized under article 564 of the criminal code as a SV committed against a marriage partner or to a person cohabiting in an irregular union that cause physical; psychological effect on the victim.[153] Megersa D (2014) argued that the provision not only narrowed the types of domestic violence that constitute SV to marriage partner or co-habiting in an irregular union, it does not provide specific provision for the determination of conviction and punishments.[154] Moreover, the code limited the type of violence in domestic affairs to physical violence and excludes psychological and verbal abuses during sexual encounter. Besides, one can clearly infer from the provision that domestic violence under the code also exclude intimate partner (ex-partners and/or who are not living together and other family members) violences against women.[155]

### **iii. A Proclamation on The Prevention and Suppression of Trafficking in Persons and The Smuggling of Persons**

The protection afforded under the revised criminal code of Ethiopia for victims of SV due to trafficking in person is found ineffective in terms of its scope and punishment.

[151] Megersa Dugasa, The Ethiopia's Legal Framework on Domestic Violence against Women: a Critical Perspective, *International Journal of Gender and Women's Studies*, Vol. 2, No. 1, Mar. 2014, [hereinafter cited as, Megersa D. (2014, the Ethiopians legal framework on Domestic Violence], P. 58.

[152] The FDRE Criminal Code, art. 620 (1).

[153] The FDRE Criminal code, art. 564.

[154] Megersa D. (2014, the Ethiopians legal framework on Domestic Violence, P. 56.

[155] Rangita De Silva de Alwis, 'A Roadmap to Revising Ethiopia's Gender Discriminatory Laws: A Comparative Analysis, Faculty Scholarship at Penn Law, 2021, Pp. 36 & 37.

Besides the inconsistency of proclamation No. 909/2015 with other laws and to effectively protect the victims of SV necessitate for the promulgation of the new trafficking in person proclamation No.1178/2020.[156] The proclamation is intended to provide special protection for victims SV and takes into consideration the vulnerability of women and children to the multifaced sexual abuses.[157]

The victims of sexual violence in case of human trafficking are also granted the procedural rights obtain legal aid; the right to information on the nature of protection and support to be accorded, and status of the case during investigation and prosecution.[158] The judicial actors are also expected to provide the victims of sexual violence a special treatment in consideration of their vulnerability and the gravity of the sexual violences they have faced.[159] The main important aspects of the proclamation is the establishment of victims assistant fund intended to cover the cost of legal assistance; medial and psych-social support to the victims.[160] Even though the proclamation empowers the council of minister to enact the specific regulation to that effect, the council of mister regulation on victims assistant fund is not approved.[161]

#### **iv. i. The Revised Family Code of Ethiopia**

The Federal Revised Family of code of Ethiopia is also among the Ethiopian laws that provides protection against sexual violence acts committed against women.

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[156] Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation No.1178/2020, 26th Year No.31 Addis Ababa 1st April 2020. [hereinafter cited as, the TIP Proc. No. 1178/2020], preamble para. 2.

[157] The TIP Proc. No. 1178/2020, preamble para. 4 & art. 2(4).

[158] The TIP Proc. No. 1178/2020, art. 24(1) (c)

[159] The TIP Proc. No. 1178/2020, art. 24(3).

[160] The TIP Proc. No. 1178/2020, art. 27.

[161] NPCM, *National Voluntary Report on the Implementation of the Global Compact on Migration for the United Nations Economic Commission for Africa*, National Partnership Coalition (NPC) on Migration, Addis Ababa, Dec. 2020, P. 6.

The code was enacted in 2000 and intended to provide effective protection of familiar relationship based on the constitutional principle of equality.[162] The Code provides equal rights to men and women while concluding marriage contract and in the administration of their families.[163] Thus, it depends on the free consent of both men and women to conclude a marriage and it sets a prohibitory provision on child marriage. The legal age of marriage set out under the proclamation is 18 years old.[164]

## v. Policy Frameworks

Policies are vital instruments through which governments indicate focus areas and commitments to the protection and treatment of victims of SV. The Ethiopian MoJ adopted National Criminal Justice policy in 2011, a document envisaged different frequency and duration of crime investigation to be provided by law depending on the complexity and nature of the offence, including special protection for victims' SV.[165] The policy explicitly recognized that one of the rationale for its adoption is the need to provide special protection for the vulnerable groups of the community, in particular women and children's from different criminal violence.[166] Providing effective treatments for victims of SV, in particular women and children, is provided as one of the guiding principle in the criminal justice policy.[167] Sexual and gender based violence are one of the priority areas under the policy where the police officers and prosecutors are expected to provide special attention for investigation and prosecution respectively.[168]

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[162] *See generally*, Federal Negarit Gazetta Extra Ordinary Issue No. 1/2000, The Revised Family Code Proclamation No. 213/2000, [hereinafter cited as the Revised Family Code of Ethiopia].

[163] The Revised Family Code of Ethiopia, art 50.

[164] The Revised Family Code of Ethiopia, art. 7. See also, the FDRE Criminal code, art. 648.

[165] *See generally*, MoJ, FDRE Criminal Justice Policy, the FDRE ministry of Justice, [hereinafter cited as, the FDRE Criminal Justice Policy], 2011.

[166] The FDRE Criminal Justice Policy, P. IV.

[167] The FDRE Criminal Justice Policy, sec. 1.4 (i).

[168] The FDRE Criminal Justice Policy, sec. 3.1.4.

It also requires the judicial actors to establish special mechanisms in the investigation of sexual and other forms of violence against women and calls for additional legal regimes that provides special protections for such victims.[169]

Moreover, the policy takes into consideration the special needs and of victims of sexual violence into consideration. As a result, the policy requires the judicial actors to take every necessary measure to make the justice system (from investigation to final decision) responsive to the needs of the victims.[170] Victims participation on the judicial process is also one of the core principle of the policy and requires the police officers; judges and prosecutors to create conducive environment where the victims are able to access any progress information about their own cases at any stages of the proceeding.[171]

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[169] The FDRE Criminal Justice Policy, sec. 6.2.1 (c). and Sec. 6.5.

[170] The FDRE Criminal Justice Policy, sec. 6.2.1.

[171] The FDRE Criminal Justice Policy, sec. 6.2.1.

# CHAPTER THREE

## FINDINGS ON THE LEGAL PROCEDURES AND MECHANISMS FOR THE TREATMENT OF SEXUAL VIOLENCE CASES IN ETHIOPIA

### INTRODUCTION

SV is one of the fundamental human rights violations and the rampant forms of GBV in the world today. Ethiopia is not an exception on this regard. Even though the problem is increasing at alarming rate in the country,[172]there is no comprehensive studies that clearly indicates the prevalence of SV and the treatments of victims of SV under the Ethiopian justice system. Therefore, a Critical assessment on the responsiveness of the exiting legal procedures and mechanisms for the cases of victims of SV and its effectiveness in the protection and treatment of such victims in justice process are the main theme of this chapter.

The first section of the chapter emphasizes the responsiveness of the existing procedures dealing with the entry to the justice system through reporting. As the first step in the justice process is reporting SV cases, safe, easily accessible, and confidential reporting mechanisms are important in terms of addressing SV cases.[173] The second and the third sections of the chapter address the investigation and prosecution procedures and mechanisms for SV cases in Ethiopia.

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[172] Jenny Parkes *et al*, *Addressing SRGBV in Ethiopia: A scoping study of policy and practice to reduce gender-based violence in and around schools*, UCL Institute of Education, May 2017, Pp. 11 &12.

[173] PSEA, *Reporting Mechanisms and Community Engagement*, Protection from Sexual Exploitation and Abuse, P.2.

Victims' treatment and protections extends to the trial stages as well and the study also explores the role and participation of victims of SV at trial stage of Case. The fourth section of the chapter sets out the role and places of informal justice mechanism in accelerating justice for victims of SV. The last section of the chapter seeks to address the multi-sectoral approach as a means of accelerating the justice process for victims of SV through cooperation of the judicial actors, health sectors, psychological experts; CSOs and other concerned stakeholders.

The data presented under this chapter are based on the qualitative data collected from Federal First instance courts; Federal Prosecution Offices and Police Commissions in Addis Ababa and Dire Dawa City. In addition, the qualitative data were gathered from the Ministry of Justice; Ministry of Women and Social Affairs; Addis Ababa City Health Office; and Dire Dawa Administration Women and Child affairs office.

### **3.1. Reporting Mechanisms (Entry to the Justice system)**

In Ethiopia, GBV is highly prevalent with 35% of ever married women aged 15-49 experiencing physical, emotional, or SV from their husband or partner.[174] However, such victims lack access to legal aid services; effective referral systems and functional hotlines to report the SVs to the concerned authorities.[175] In particular, SV in conflict situations of Ethiopia is characterized by lack of effective access to justice and psych-social supports for victims.[176] In such circumstances many victims may have no prior experience with the legal system and do not know how to proceed in SV cases.

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[174] USAID, *Gender-Based Violence Landscape Analysis*, USAID/Ethiopia Transform: Primary Health Care Project, June 2019, P. 9.

[175] AOR, *Situation of GBV in Ethiopia*, GBV AOR Ethiopia, Sep. 2022, P.1.

[176] UKAID, *understanding conflict related sexual violence in Ethiopia*, Center for Human Rights Gender and Migration, research report, P. 52.

Lack of attention and insensitive attitudes of police officers may also deter women from coming forward or prevent them from pursuing a case.[177] Therefore it is important to explore the exiting legal procedure and mechanism environments for victims of SV in entering to the justice system.

The first step where justice set into motion is the availability of effective reporting mechanisms for victims of SV. On this regard, states are required to establish fair, accessible, and transparent compliant mechanisms that ensures confidentiality and security of victims while reporting sexual violence(s) they have experienced to the judicial bodies.[178] Moreover, the reporting mechanisms are also required to be supported with the referral system where the victims are kept in the protection centers or other necessary supports (medical examination or other psycho-social support) based on the case at hand to prevent secondary victimization. [179] Victims also needs the acknowledgment of their harm and their reports are properly received by the concerned judicial organ.[180] In the process victim centered approach shall be adopted where victims interest and dignity shall be respected and their options to the prosecution or other forms of justice mechanisms shall also be considered.[181] The Ethiopian legal procedures and mechanism on the treatments of victims of sexual violences are examined hereinunder with special reference to the promising practices and the exiting challenges in the reporting procedures of sexual violences to the justice bodies.

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[177] Feteah Demmelsh, *Police officers' attitude towards Gender Based violence in Kirkos sub city, Adids Ababa*, Addis Ababa University, June 2012, Pp. 81 & 82.

[178] Eliana Rubiano, *Preventing, Reporting and Responding to Sexual Assault and Sexual Harassment in Tertiary Education Institutions*, The World Bank, P. .5.

[179] UN, *United Nations Protocol on The Provision of Assistance to Victims of Sexual Exploitation and Abuse*, 12 Dec. 2019, P.2.

[180] Ibid. see also, Estelle Z. & Marie K. (ed), *Restorative Response to Sexual Violence, Legal, Social and Therapeutic Dimensions*, Routledge Frontiers of Criminal Justice, 2017, Pp. 183 & 184.

[181] Ibid

### 3.1.1. Promising Practices

#### i. Victims Empowerment and Legal Training Programs

In consideration of the vulnerability of survivors of SV to different forms abuses, empowering such victims is key step in easing their efforts to seek assistance for reporting and obtain effective redress in a particular justice system.[182] In this regard, Dire Dawa Police Commission[183] and Addis Ababa Police commission in collaboration with the Ministry of Justice (MoJ hereinafter); Women & Children Affairs office; Yeka Sub City Police office and Addis Ababa Health Office organized and deliver trainings for victims of SV as part of the investigation process with a view to empower them in reporting and/filing complaints to the concerned authorities.[184]

Women's empowerment and legal training package enables the victims of SV to understand how far reporting the harm they suffered to the concerned authorities helps them to be able to prevent any secondary victimizations.[185] On the other hand, the training package also aims to enhance the cultures of reporting SV cases to the judicial bodies, as most of sexual crime case are underreported in Ethiopia. Consequently, the courts close such files due to delays in reporting the cases immediately after the commission of the crime.[186]

[182]UNODC, *National Policy Guidelines for Victim Empowerment*, UN office on Drugs and Crime, (nd), P. 10.

[183] Informant 8, Crimes against Women and Children Prevention and investigation Department (Coordinator), conducted on 19 Nov. 2023. [ hereinafter cited as, Interview with, Informant 8, Dire Dawa Police Commission]

[184] Informant 17, Gender awareness and inclusion officer &Team Leader at Addis Ababa City Health Office, conducted on 9 Nov. 2023, [hereinafter cited as, Informant 17, Addis Ababa Health Office]. Informant 18, women rights and protection and response officer at Ministry of Women and Social Affairs, conducted in office on 10 Nov. 2023. [hereinafter cited as, Informant 18, Ministry of Women and Social Affairs]

[185] Interview with Informant 25, Women, and children affairs awareness creation expert at Addis Ababa Police Commission, conducted in office on 14 Nov. 2023.

[186] Informant 5, Police officer at Yeka Sub-City police commission, conducted in office on 13 Nov. 2023, [hereinafter cited as, Informant 5, Yeka Sub City Police Commission].

John Quattrochi et al (2019) noted that working on the attitude and beliefs of survivors of SV is an appropriate strategic intervention where the victims can defend for their rights and face any barriers that disempowered them from accessing a justice system.[187]

The key informants of the study from FDRE Ministry of Women and Social Affairs stressed that, the women's empowerment training programs organized in collaboration with MoJ is also supplemented by legal aid services and noted that:

*... most victims of sexual violence in Ethiopia fears to report the sexual crimes due to various factors. One of the main reasons is the victims are not aware where to go and report the harm they have suffered. To this end the Ministry of Women and Social Affairs and the Ministry of Justice organized various training programs, including creating legal awareness to such victims.... Accordingly, the training programs are intended to equip the victims with basic legal knowledges and the way of reporting any violence they have experienced... [188]*

WHO (2015) noted to enhance victims reporting the police officers shall cooperate with CSOs to provide professional, accessible, and sensitive medico-legal service for victims of SV during reporting of crime. This includes providing effective legal aid services on basic rights of victims and empower the victims to report the harm they have suffered to the judicial bodies.[189] Therefore, expecting the victims of SV to effectively approach the justice system without creating sufficient legal and procedural awareness is finding a pebble stone in an ocean.

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[187] Quattrochi *et al*, Effects of an empowerment program for survivors of sexual violence on attitudes and beliefs: evidence from the Democratic Republic of Congo, *International Journal for Equity in Health*, 2019, Pp. 1 & 13.

[188] Informant 18, Ministry of Women and Social Affairs.

[189] WHO, *strengthening the Medico-legal response to sexual violence*, Nov. 2015, Pp. 9 & 10.

Empowering the victims of SV and enhancing awareness of the duty bearers, who are working on the prevention and protection of SV, is also one of the fundamental pillars of a victim-centered approach. [190] Thus, it can be deduced that focusing on empowerments of the victims to approach the justice system is a positive step forward taken by the government in ensuring and facilitating accelerated reporting procedure in Ethiopia.

## **ii. Establishment of Women’s and Child Units and Officers in the Justice institutions**

Depends on the nature of sexual violences and victims fear of reporting the crime to the authorities, police commissions in Dire Dawa and Addis Ababa has established specific departments dealing with SV crimes and other GBVs.[191] In Addis Ababa all the 11 sub-city police commissions have “Women and Child Cases Unit”, with specialized police officers in the investigation of sexual crimes. They received complaints from the victims or other concerned individuals or groups.[192] Similarly, through establishing Women’s and Child Affairs Directorate the MoJ also provides special protections and treatments for victims of SV during reporting and provides necessary legal assistance for such victims.[193] The importance of establishing a dedicated units on SV cases in each police commission are an important step and it is a recognition how difficult it may have been for victims to report to the police and the risk they may face from the perpetrators of the violence because of reporting.

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[190] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Office of the United Nations High Commissioner for Human Rights, 2019. Pp. 4 & 5. [hereinafter cited as, OHCHR, *Protection of victims of sexual violence: Lessons learned*]

[191] Informant 18, Dire Dawa Police Commission. Informant 7, police officer at Lideta sub city police commission, on 15 Nov. 2023, [hereinafter cited as, Informant 7, Lideta Sub-city Police Commission].

[192] Informant 7, Lideta Sub-city Police Commission.

[193] Informant 15, Women and Children Cross-Cutting Directorate Director at FDRE Ministry of Justice, conducted in office on 16 Nov. 2023, [hereinafter cited as, Informant 15, FDRE Ministry of Justice].

The establishment of such a unit in the justice sector has various advantages to the victims and to the effectiveness of the justice system;[194] (1). Victims have more tendency to freely share the harm they have suffered to female police officers than male police officers; (2). As the police officers working on women and child cases unites are specialized on the manner of receiving complaints from the victims of SV, the victims could provide relevant evidence with the support of psychological services. (3). It is also important to easily identify by the specialized police officers whether the victims need further medical treatment; psycho-social support or other services to prevent re-traumatization of the victims. However, the key informants of the study noted that, even though such positive measures are taken, the underreporting of SV cases are still high in Ethiopia.[195]

One of the indicators of effective intervention mechanism to enhance the culture of reporting the cases of SV is the mainstreaming and increasing female police officers in the justice sector.[196] Thus, the availability of female trained police officers and “Gender Desks” to handle the complaints related to SV in Dire Dawa Administration Police Commission[197] and Addis Ababa Police commission and its 11 sub-city branch offices[198] is one of the indicator of promising intervention in accelerating victims access to justice.[199] It also enables the victims of sexual violences to report the harm they have suffered in a private place and an efficient approach to gather relevant evidence on such types of cases

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[194] Ibid. Interview with, Informant 5, Yeka Sub City Police Commission. Informant 18, Dire Dawa Police Commission.

[195] Ibid.

[196] UNFPA, *The Inter-Agency Minimum Standards: For Gender-Based Violence in Emergencies Programming*, 2019, P. 79.

[197] Informant 18, Dire Dawa Police Commission.

[198] Informant 7, Lideta Sub-city Police Commission.

[199] Albert Ndungu, *The Effectiveness of Police Gender Desks in Addressing Gender Based Violence: A Case of Nyandarua County – Kenya*, Kenyatta University, Nov. 2016, Pp. 1 & 2.

### iii. Medical and Psychological Assistance (Integrated Model)

Victims centered approach requires the victims of SV to obtain medical and psychological assistance to ensure effective access to justice while reporting.[200] Consequently, there are various instances where the victims need further medical and psychological assistance to properly report the harm they suffered. As sexual violences resulted in multifaced effects, including physical and psychological impacts, some victims are not willing to report the violence to the authorities due to the absence of psychological and medical assistance while reporting.[201] With the advancement of the criminal justice system in Ethiopia, the reporting mechanism for sexual violences cases are currently supplemented with psychological assistance for victims during and after the reporting process.[202]

The OHCHR (2019) report on the protection of victims of SV also stressed that victims centered approach is an important step where the victim's interest and needs are taken into consideration at any stages of justice process. It includes the cases when the victims require medical or psychological support than police officers' legal assistances, the justice system shall give a priority to the victims need and interest.[203] Thus, balancing the victims interest to justice and medical/psychological assistance enhances the entry point for victims to approach the justice system and increase the culture victims reporting.[204]

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[200] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

[201] Informant 17, Addis Ababa Health Office. Informant 15, FDRE ministry of Justice.

[202] Informant 36, Senior public prosecutor, and coordinator on national migrations at FDRE Ministry of Justice, conducted in office, on 14 Nov. 2023, [hereinafter cited as, Informant 36, FDRE Ministry of Justice].

[203] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

[204] Informant 17, Addis Ababa Health Office. *See also*, UN General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted by the General Assembly, 29 Nov. 1985, art 4(a).

Accordingly, one the important measures taken to strengthen victims' interest to pursue legal claims is the establishments of "One Stop Centers" parallel with legal assistance.[205] The centers are established to provide a multi-sectoral and integrated professional services for victims of SV.[206] Accordingly, the one-stop centers provide a medical service for free, and the cost is covered by the government. Non-governmental organizations also provide financial and technical supports for the centers. The WHO (2003) guideline on medico-legal service requires the government to provides priorities for the needs of victims to medical assistance while providing legal assistance in the cases of SV.[207] However, the key informants of the study noted that, the available one-stop centers in the study area are not sufficient in terms of addressing the reported SV cases and there is no sufficient budgets to provide all the required medico-psychological supports for the victims. [208] The victims of SV may be directed to the one-stop-centers if they are in needs of medical treatments either before or while providing evidence to the concerned authorities on case by case biases.[209] After victims are directed to the medical treatments at the one-stop-center by the concerned police officers, they may also be interviewed at the centers if they decided to pursue legal actions against the perpetrators of the violence.[210] However, some victims may even refuse or decide to file a complaint to the authorities even after taking the medical examinations in one-stop centers.

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[205] One stop centered destined in Addis Ababa are currently found in at Ghandi, Menlik, Saint Paulos, and Tirunesh Beijing hospitals in Addis Ababa. The One Stop Centers are also available in Dire Dawa at Sabiyan Hospital and Dil-Chora Referral Hospital.

[206] Interview with informant 15, FDRE ministry of Justice.

[207] WHO, *Guidelines for Medico-Legal Care for Victims of Domestic Violence*, World Health Organization, Geneva, 2003, P. 17.

[208] Informant 35, Women, and children affairs awareness creation expert at Addis Ababa Police Commission, conducted in office on 14 Nov. 2023. [hereinafter cited as, Informant 35, Addis Ababa Police Commission]. Informant 9, Dire Dawa Administration Police Commission.

[209] Ibid.

[210] Informant 5, Police officer at Yeka Sub City Police Station.

In such instances, the police officers inform the victims about their legal rights to report the violence while they are willing to do so.[211] It is based on the victims centered approach that requires the police officers working with victims of SV to avoid making assumptions about what is best for the victims and should respect victims' individual choices.[212]

#### **iv. Toll Free Telephones services**

Victims of SV may face a myriad challenge in accessing the judicial bodies and are ashamed to report sexual crimes. The nature of the violence may force some victims to let the case remain in their hands, due to the fear of disclosing each detail of the commission of the violence face to face with the police officers.[213] For this purpose, the Addis Ababa Police Commission provides an additional option for victims to obtain legal assistance or report the harm they suffered through calling to the toll-free phone number 991.[214] The toll free phone services are also destined for the victims to report immediately before or after the violence is committed that will help to obtain reliable evidence to the judicial process.[215] Collaboration and cooperation are key features of victim support provision and the strength of a comprehensive well-run victim support service lies in cooperation between the law enforcement and civil society providers. [216] Accordingly, the EWLA hotline service is also contributing an important step in ensuring effective access to justice for victims of SV through providing basic legal aid services for such victims for whom and where to report the crime.[217]

[211] Ibid. Informant 35, Addis Ababa Police Commission]. Informant 9, Dire Dawa Administration Police Commission.

[212] Ibid. See also, OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

[213] See generally, Weiss, K. G. (2010). Too Ashamed to Report: Deconstructing the Shame of Sexual Victimization. *Feminist Criminology*, 5(3), 286-310.

[214] Informant 35, Addis Ababa Police Commission.

[215] Ibid.

[216] WHO, strengthening the Medico-legal response to sexual violence, Nov. 2015, Pp. 9 & 10.

[217] UNFPA Ethio, Hotline service helping GBV survivors seek legal aid, protection, 27 Feb. 2023, online available at:

<https://ethiopia.unfpa.org/en/news/hotline-service-helping-gbv-survivors-seek-legal-aid-protection>, last accessed on 25 Dec. 2023.

### 3.1.2. Challenges During Reporting Stage

In Ethiopia the underreporting of SV to the justice system is the major challenges to ensure effective access to justice for such victims.[218] There are various factors for the underreporting of sexual violences to the authorities. (1). Most sexual violence is committed by intimate partners and other close families of the victims, as a result the victims fear to report the crime, in consideration of further attacks/violences by the perpetrators;[219] (2). Even though the violence is not committed by the family members, the victims and/or their representatives have no confidence in the justice system to give effective and accelerated justice.[220] This leaves the victims in a situation of distrust, a sense of insecurity and defenseless in the administration of justice. Thus, most of the time the victims opted for an informal justice system. [221] (3) the impact of the informal justice system by itself another challenge during the reporting process. The informal justice systems in Ethiopia requires the victims of sexual violence to solve the issue amicably through arbitration rather than reporting to the judicial system. Therefore, the victims are also more convinced and relayed on the informal justice system to obtain effective redress for the harm they have suffered.[222] Even though the informal justice systems are not victim-centered and overlooked the harm they have suffered; the victims are more satisfied with the acknowledgement of the harms by the community members.[223]

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[218]iMMAP, *Gender-Based Violence Area of Responsibility; Ethiopia Secondary Data Review*, Feb. 2023, P. 4.

[219] Informant 35, Adids Ababa Police Commission. Informant 8, Dire Dawa Police Commission. “According to the key informants of the study most of sexual crimes are committed by the intimate partners/family members or in marriage relationships, including, but not limited to, rape; sexual assault; and child sexual abuse.”

[220] Informant 9, Public Prosecutor at *Lideta* bench, conducted on 14 Nov. 2023. [hereinafter cited as, Informant 9, prosecutor at Lideta Bench]

[221] Interview with, Buzuayehu, advocate at any federal courts, conducted in his office on 14 Nov. 2023.

[222] Ibid.

[223] Ibid. See also, iMMAP, *Gender-Based Violence Area of Responsibility; Ethiopia Secondary Data Review*, Feb. 2023, P. 4.

The reporting culture of the victims and the community are also another challenge for the effectiveness of the justice system. Most community members accepted SV against women as a usual practice and perceived it not necessary to report for the authorities.[224] Consequently, sexual violences committed against the victims are overlooked by the community and there are no initiatives to motivate the victim's interest to report the crime to the authorities.[225] The perpetrators of the crimes also use physical and psychological threats against the victims to prevent victims reporting to the justice system. Most of the time the victims are offered by the perpetrators a certain amount of money to make them silent and as a systematic impunity technique against a criminal punishment.[226] As a result, the victims left with no choices and forced to take the violence a secret behind the justice system.

There are also instances where the victims have the interest to report and approached the police officers, but not willing to provide a detailed information and evidence. It is mainly attributed to the nature of sexual crimes that makes the victims ashamed to disclose the whole process of the commission of the crime.[227] This problem persists even when the victims obtain assistance from psychologists while reporting.[228] Furthermore, in cases of sexual violences committed by intimate partners of the victims, most of the time the victims fear to report how the crime was committed and by whom.[229] Consequently, where female sexuality itself is taboo, women may not be able to discuss sexual crimes with male authorities.

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[224] Interview with, Azeb Berehane, Public Prosecutor and Team leader of Women and Child affairs unit at Yeka Sub City, conducted in her office on 17 Nov. 2023.

[225] Ibid.

[226] Ibid, Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Administration Police Commission.

[227] Ibid. Interview 5 Yeka Sub-city police commission.

[228] Informant, 6, public prosecutor at Arada Bench, conducted on 16 Nov. 2023, [hereinafter cited as, Informant 6, Lideta Bench Prosecutor].

[229] Ibid. Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Administration Police Commission.

In addition, most victims also do not have the required knowledge on how and where to report the violences, even if police authorities are easily accessible in their localities. They also fear condemnation by their communities reporting sexual violences against their family members.[230]

## 3.2. Investigation and Prosecution of SV Cases

Once the victims are willing to provide the required evidence regarding the harm they have suffered, the investigation and prosecutions process may not be easy and responsive to their needs and interests. A simple and common example is that the police officers and public prosecutors may overlook the harm they have suffered and failed to conduct the necessary investigations to their cases. The African Commission on Human and Peoples Rights (hereinafter ACHPR) guideline on combating SV in Africa provides a minimum standard that the government to take any necessary measures to investigate the act of SV and the prosecution of the perpetrators with the accelerated justice process (with no unjustified delay; independence and impartiality of the procedures; and effective punishments).[231] Therefore, this sub section set out the major practical challenges and promising practices in the protection and treatments of victims during the investigation and prosecution process.

### 3.2.1. Investigation of SV Reports

The investigation of SV cases is the starting point to the victim's journey to justice they seek to obtain for the harm they have suffered. An effective investigation process is required to involve active participation of victims (victims-centered approach) at any stage of the investigation process.[232]

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[230] Ibid.

[231] ACHPR, *The Guidelines on Combating Sexual Violence and its Consequences in Africa*, adopted and entry into force, Nov. 05, 2017, Sec. 9.1. P. 18.

[232] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

A study conducted by the Human Rights Watch (2013) indicated that attitude of the police officers towards the victims and the ability to understand the trauma that the victims are experiencing is the key factors that determines the success of police investigations of SV cases.[233] Accordingly, the following are the major promising practices and the respective challenges in our context.

### 3.2.1.1. Promising Practices

#### i. Employing Special investigation procedures

The vulnerability of victims of SV for multifaced gender based violences necessitate the justice institutions to adopt gender sensitive and responsive legal procedures and mechanisms.[234] It includes either establishing a dedicated sexual violence investigation unit and/or supplementing and conducting the investigation with the support of the psychological experts.[235] On this regard, the investigation of SV cases are supplemented by psychological officers in Addis Ababa and Dire Dawa Police commissions and there are also a specific female police officers to investigate the SV cases.[236] These approach are employed to encourage victims' meaningful participation and willingness to provide further evidences to the police investigation procedures.[237] Psychological support in the investigation process is also important to prevent secondary victimizations and treats the victims with dignity.[238]

[233] HRW, *Improving Police Response to Sexual Assault*, Human Rights Watch, Jan. 2013, P.4.

[234] Abhilasha S. & Basit A., Summer 2020 Fellow: Police attitudes towards Gender Based Violence, Oct. 2021, online available at: <https://sjgur.elliott.gwu.edu/2021/10/11/summer-2020-fellow-police-attitudes-towards-gender-based-violence/>, last accessed on 23 Nov. 2023.

[235] UN Women, *The Handbook on Gender-Responsive Police Services: For Women and Girls Subject to Violence*, 2021, Pp. 101 -106. [hereinafter cited as, UN Women, *The Handbook on Gender-Responsive Police Services*]

[236] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[237] Ibid. Informant 5, Yeka Sub City Police Commission. Informant 7, Lideta Sub City Police Commission.

[238] Ibid. Interview with, Informant 8, Dire Dawa Police Commission.

Victims of SV usually fear to provide relevant evidence to the ordinary police officers. The police officers in the ordinary procedures may interview the victims without the consideration of their interests and their vulnerability to secondary victimizations. [239] There are also common instances where the police officers just framed investigative questions and restrict victims' participation in providing the relevant evidence.[240] However, the investigation procedures for SV cases are required to be victim centered and currently the investigation is conducted by the police officers in collaboration with psychological experts.[241] The UN Women (2021) also stressed that the investigation procedures to be responsive to the need and patterns of victim's reactions to investigation procedures.[242]

The first police officer(s) who comes in to contact with the victims of SV reposes will have the greatest impact on the victims trust on the police investigation and compliant handling procedures.[243] Thus, in Addis Ababa and Dire Dawa City Administration police commissions assigned experienced and independent female police officers to investigate and gather relevant evidence related to sexual crimes.[244] It is a crucial implication that the police officer as justice bodies provides special attention to the victims and demonstrate a commitment to combatting such offences and send a clear message that all victims are important, and that they and their complaints are being taken seriously. The UN Women also requires the government to recruit investigating officers with basic knowledge on the treatments of victims of sexual violence in the investigation process.[245]

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[239] Ibid. *see also*, OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

[240] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[241] Ibid.

[242] UN Women, *The Handbook on Gender-Responsive Police Services*, P. 101.

[243] UN Women, *The Handbook on Gender-Responsive Police Services*, P. 105.

[244] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[245] UN Women, *The Handbook on Gender-Responsive Police Services*, P. 105.

On the other hand, the Key informants of the study noted that, most of time victims of SV are the only witnesses on their own cases, as most of SVs are committed behind closed doors. Even if there are witnesses for some forms SV witness testimonies are limited to hearsay evidence.[246] Despite the exiting legal controversies on the admissibility of hearsay evidence under the Ethiopian justice system, the investigating police officers recorded and admits such evidence based on the nature and circumstances surrounding the commission of sexual crimes.[247] Public prosecutors also admitted hearsay evidence testified by victims witnesses as a sufficient evidence to frame a charge against the perpetrator.[248]

## ii. Confidentially of victim Complaints

The victim-centered approach in the investigation of SV cases require the investigator to explain to the victim the concept, scope, and limits of confidentiality of the evidences provided for the investigation at the earliest stage.[249] According to the key informants of the study, most victims are not willing to share their experiences related to SV, as a result of their fear that their stories will be disclosed to third parties.[250] According to Sara F. Ribeiro and Danaé S. Ponthoz (2017) the investigation procedures on SV needs to be conducted in a gender and age sensitive manner with due regards to the confidentiality of the investigation process.[251] Accordingly, the police officers informs the victims of sexual violence about the confidentiality of the investigation process to make them free and build trust on the investigation process.[252]

[246] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[247] Azeb Berehane, Public Prosecutor and Team leader of Women and Child affairs unit at Yeka Sub City, conducted in her office on 17 Nov. 2023.

[248] Ibid. Informant 6, prosecutor at Arada Sub City Bench.

[249] UNCHR, *Investigating Allegations of Sexual Exploitation and Abuse*, A Toolkit for Partners, 2021, P. 7.

[250] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[251] Sara F. Ribeiro & Danaé S. Ponthoz, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Best Practice on the Documentation of Sexual Violence as a Crime or Violation of International Law*, March 2017, P. 67.

[252] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

### iii. Victims and Witness Protection

One of the important pillars of effective investigation of SV cases are the investigation process ability to consider the safety and security of victims and witnesses through conducting a risk assessment and risk managing techniques.[253] Victims and witnesses of SVs cases security is one of the priority areas of victims while deciding to pursue their cases through the formal justice process. To this end the police investigation procedures are required to create a conducive environment for victims and witness securities that prevent secondary victimizations or further attacks.[254]

In Ethiopian there is no comprehensive victims and protection and treatment guidelines in the investigation process.[255] However, the key informants of the study noted that albeit the gaps on the exiting legal provision in providing effective protections for victims and witnesses of SVs cases, in practice the investigating police officers provides protections for the victims and witnesses of SVs cases based on the nature and circumstances surrounding the commission the violence.[256] In particular when SV are committed by the intimate partner/family members and/or close friends of the victims, the investigation police officer requests the superior authorities to grant protections for such victims to prevent further threat; intimidation or violences, as a result of reporting.[257] Consequently, the police officers takes the necessary measures to protect the victims through referring them to one-stop-centers established in the police stations.

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[253] UNODC, *Handbook on Effective Police Responses to Violence Against Women*, Criminal Justice Handbook Series, New York, 2010, P. 79.

[254] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

[255] Worku Yaze, Status and Role of Victims of Crime in the Ethiopian Criminal Justice System, *Bahir Dar University Journal of Law*, Vol.2, No.1, 2011, P. 131. [hereinafter, cited as, Worku Yaze, *Status and Role of Victims of Crime in the Ethiopian Criminal Justice System*]

[256] Rebeka Gebremariam, public prosecutor at Arada Sub City prosecution office, conducted in office on 14 Nov. 2023.

[257] Ibid. Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

This measure has two fundamental advantages: (1). Protect the victims from experiencing any other violence(s) due to their presence in the justice system.[258] OHCHR (2019) also required the justice system to take into consideration victims' security and should be accompanied with sufficient mechanisms to respond to the potential risks and threats of reprisal or any other actual damage resulting from victims' participation in the justice process. [259] (2). Keeping the victims in protection and one-stop-centers are also an important measure to keep the available evidence and providing essential medical examinations, which latter used as evidence before a court of law.[260] Most victims are threatened by their family members; perpetrators and offered monetary benefits to conceal the relevant evidence to the justice process. As a result, to prevent such type of risk factors that hinders the effectiveness of the investigation process, victims will be separated from their family members and kept in protection and one-stop-centers for a specific period based on the type of the case and the evidence required to that effect.[261]

### 3.2.1.2. Challenges in the Investigation of SV Cases

The following are the major legal and practical challenges in enforcing the exiting legal procedures and mechanism in the cases of sexual violences.

#### i. Victims and Witness Protection

The Ethiopian Criminal Procedure Code[262] does not effectively recognized victims-centered investigation procedures.

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[258] Ibid. informant 5, Yeka Sub City Police Commission.

[259] OHCHR, *Protection of victims of sexual violence: Lessons learned*, P. 8.

[260] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[261] Azeb Berehane, Public Prosecutor and Team leader of Women and Child affairs unit at Yeka Sub City, conducted in her office on 17 Nov. 2023.

[262] *Criminal Procedure Code of Ethiopia*, Proclamation No. 185 of 1961, 2 November 1961, arts, 11 – 39. [hereinafter cited as *the Ethiopian Criminal Procedure Code*]

The role victims of SV in the investigation stage is restricted to providing relevant evidences to the police officers and/or indicating the place where the violence was committed.[263] However, the victim center approach requires the legal procedures to ensure victims the control over the investigation process to some extent. [264] The Ethiopian Criminal Procedure Code for instance does not provides any indications that the victims of SV are able to request or force the police officers to commence investigation. The victims do not also have any power to consult the police officers on the manner how the investigation should be conducted.[265] Therefore, it is up to the decision of the police officers where the investigator independently choose the way of investigating the reported SV Cases.

The investigation of SV cases also requires to balance the interest of victims and effective investigation procedures prevent any further secondary victimizations on such victims.[266] According to the OHCHR (2017) report most victims are vulnerable to secondary victimizations and other forms of traumas due to the absence of effective consideration of their interests and expectations in the investigation processes.[267] However, there is no procedural provisions in Ethiopia that requires the investigating police officers to consult the victims interest on the methods that could be employed based on the harm the victim has experienced.[268] One may, however, argue that as the criminalprocedure code does not provides a specific forms of investigations for SV complaints, it is open for the police officers to consult the victims interest and conduct the required investigations.

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[263] Informant 7, Lideta Police commission. Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[264] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 3 & 4.

[265] Worku Yaze, *Status and Role of Victims of Crime in the Ethiopian Criminal Justice System*, P. 131.

[266] UN Women, *The Handbook on Gender-Responsive Police Services*, Pp. 76 & 106.

[267] OHCHR, *Protection of victims of sexual violence: Lessons learned*, Pp. 4 & 8.

[268] Worku Yaze, *Status and Role of Victims of Crime in the Ethiopian Criminal Justice System*, P. 132.

Even the victims of SV are not legally entitled under the Ethiopian Criminal Procedure code to express their views and interests in the investigation process and/or requires the police officers to adopt a victim's centered approach.

The absence of comprehensive guidelines on the treatment of victims for police officers in the Ethiopian context is the other factor that limits the effectiveness of the investigation procedures.[269] It resulted for treatments of victims without the required respect and dignity even within a particular police station.[270] Even though, some investigating officers have basic knowledges on the treatments of victims of sexual violence in the investigation process, there is no uniform victim's protection and treatment guidelines and programs to enhance the skills of police officers' capacity to implement victim - center approach in the investigation process.[271]

According to the UN Women (2010) report an effective SV investigation procedures provides high priority to the victims and witness protection and safety.[272] Likewise, a victim centered approach advocates victims' safety and protections from any further threats and attack form the perpetrators of the violence, because of victims report to the justice system.[273] However, one cannot find any explicit recognition of victims and witnesses protection for reporting and providing testimonies on sexual violences.[274] Even though, the witness protection proclamation provides the protection for that extends to serious crimes[275], most sexual violences where the victims reported and witnesses called does not fall under the scope of the proclamation.

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[269] Ibid. P. 131.

[270] Informant 7, Lideta Police commission. Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[271] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Police Commission.

[272] UN Women, The Handbook on Gender-Responsive Police Services, P. 106.

[273] OHCHR, Protection of victims of sexual violence: Lessons learned, Pp. 4.

[274] Informant 35, Addis Ababa Police Commission.

[275] Proclamation No. 699/2010, Protection of Witnesses and Whistleblowers of Criminal Offences, 17th Year No. 16 Addis Ababa, 11th Feb. 2011, Art. 3. [hereinafter cited as, Proclamation No. 699/2010].

## ii. Practical challenges

In addition to the lack of legal frameworks to provide an effective victim-centered approach to SV cases, there are a myriad of practical challenges in the investigation process. According to the key informants of the study the time gap between the reporting period and the commission of SV offences affected the investigation procedures. In particular, the victims brought their case to the attention of the justice system after exhausting the informal mechanism or after negotiating with the perpetrators of the violence.[276] Consequently, there are high possibility of losing reliable evidence(s) to proof victims complaints on SVs, where the forensic evidences are even certain if the sample could be taken immediately after the commission of a SV against the victim.[277] Moreover, the police are often unable to carry out the forensic investigation due to lack of skill and logistics.[278]

The police officers also indirectly face challenges from the perpetrators of the violence. when SVs are committed by intimate partners, the victims are forced to drop their compliant and/or threaten by the perpetrators to accept compensations instead of reporting to the police.[279] There are also instances where the investigation procedures are affected by unfortunate amicable settlements of the case between the victim and the perpetrators, albeit the victims are forced to do so.[280] Consequently, victims requires the police officers to decline the investigations for the mere reason that the perpetrators provides a certain amounts of money as compensation.[281]

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[276] Informant 8, Dire Dawa Police Commission. Informant 6, Arada Sub City police commission.

[277] Interview with informant 17, public prosecutor at Arada sub-city prosecution offices, on 18 Nov. 2023.

[278] Ibid.

[279] Informant 35, Addis Ababa Police Commission.

[280] Ibid. Informant 8, Dire Dawa Administration Police commission.

[281] Informant 6, Arada Sub City Police Commission.

The Ethiopian criminal procedure code does not entitles the police officers to continue its investigations on SV cases reported up on compliant, when the victims withdraw their interest in such cases. Thus, the investigating police officers does not have any options rather than respecting the interest of the victims. The absence of sufficient one-stop centers to provide medical support to the victims are also other challenges for the investigation process. Most of sexual violences cases have medical implications and thus the victims should obtain medical assistance to determine the extent of the harm.[282] The available one-stop-centers does not have sufficient professionals in comparison with daily reported victims of sexual violence, who need medical examinations.[283]

### **3.2.2. Prosecution of SV Cases**

The investigation process represents the entry point to the criminal justice system and a halfway to combat impunity of the perpetrators. The victim-center approach in the prosecution SV cases requires the prosecution process to be impartial; independent and responsive to the needs of victims (e.g., preventing re-traumatization's).[284] Thus, this section seeks to address the major promising practices and challenges in dealing in the prosecution process of SV cases in Ethiopia.

#### **3.2.2.1. Promising Practices**

##### **i. Gender Responsiveness and Psychological Support for Victims**

Victims of SVs are traumatized due to the harm they have suffered. Thus, the prosecutors are expected to appreciate the gendered base of the violence and adopt a variety of mechanisms to ensure effective prosecution procedures.

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[282] Informant 5, Yeka Sub-City police commission.

[283] Ibid.

[284] UNODC, Handbook on effective prosecution responses to violence against women and girls, Criminal Justice Handbook Series, New York, 2014, Pp. 69 & 70. [hereinafter cited as, UNODC(2014). Handbook on effective prosecution responses to violence against women and girls]

This includes establishing specific units or recruitment of Female prosecutors, who works on GBVs.[285] Accordingly, prosecution offices in Addis Ababa and Dire Dawa have an independent unit, named Crimes against Women and Child Prosecution Unit, working on the prosecution of SVs cases.[286] It indicate how far the justice system provides due attention to the cases of gender based violences (including sexual violences). At the national level, the FDRE Ministry of Justice, mandated to ensure effective access to justice, have also an independent organ working on the protection, prosecution and following up sexual violence cases.[287]

SV victims often experience a profound sense of shame and may require speaking to female prosecution officers, as a result the prosecutors are expected to consult the victim's interest, for whom they intended to share their experience for effective prosecution process.[288] Accordingly, the key informants of the study noted that, there are female public prosecutors, with basic knowledge and experiences on the treatment of victims of such violence are assigned in each units to provide conducive environment for victims, who prefer to speak with female prosecutors, to share their violent experiences without any influence.[289] According to the key informants of the study, Women's and Child units as working department in the prosecution offices are also supported with psychology experts, who provides consultation for the victims and helps them to remember the precise details of the violence.[290]

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[285] Kim T. S., *The Investigation and Prosecution of Sexual Violence*, P. 38.

[286] Interview with, Azeb Berehane, Public Prosecutor and Team leader of Women and Child affairs unit at Yeka Sub City, conducted in her office on 17 Nov. 2023. Informant 9, public prosecutor at Lideta-sub city prosecution office.

[287] Informant 15 & 36, FDRE Ministry of Justice.

[288] UNODC (2014). *Handbook on effective prosecution responses to violence against women and girls*, Pp. 69 & 70.

[289] Informant 15 & 36, FDRE Ministry of Justice

[290] Ibid.

## **ii. Victims Participation in the prosecution process**

Prosecutors need to ensure the victims' rights to express their views and needs to be respected and placed at the center of the prosecution process. Victims may lack confidence in the justice system due to their disturbed feelings after the violence and may not be willing to provide the required evidence in the prosecution process. In such instances public prosecutions are expected to deal with victims and puts empowerment of the victims.[291] The key informants of the study indicated that victims of SV are placed at the center of the investigation process where they provide all the necessary evidence with confidence.[292]

In most cases it is difficult for the police officers and prosecutors to obtain the required/sufficient evidence for prosecutions on sexual crimes. Thus, the only source of evidence to prosecute are victims and victims only.[293] Consequently, all the opportunities for the victims are provided at all stages of the prosecution process, where the victims can share their views and expectations on the prosecution process.[294] Consequently, victims participate in narrating the whole circumstances surrounding the commission of the violence and pointing out the potential witnesses on their cases. Therefore, there is no instances where the prosecutors overlook victims' interests and making unnecessary assumption about the interest of the victims.[295]

## **iii. Referral to Protection Centers**

The referral system in cooperation with the relevant stakeholders is an important step to ensure victims' security and accelerated justice for such victims.

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[291] UNODC (2014). *Handbook on effective prosecution responses to violence against women and girls*, P. 40.

[292] Informant 10, public prosecutor at Arada Sub City prosecution office.

[293] Interview with informant 7, women and children cross-cutting directorate at FDRE ministry of Justice, conducted in office on 16 Nov. 2023.

[294] Informant 10, public prosecutor at Arada Sub City prosecution office. Informant 12, Prosecutor at Dire Dawa Prosecution Office.

[295] Ibid. Interview with informant 15, FDRE ministry of Justice.

In particular, when SV are committed by family members or any other friends of the victims, the prosecution offices refer the victim to the protection centers, where the victims are able to obtain the required medical and psychological support.[296] Most of the time victims of sexual violences are threatened by the perpetrators of the violence and exposed to further attacks and intimidation, as a result of their active involvement in the prosecution process. In such instances the victims require psychological support and medical examination to follow up their effective participation in the process. [297]

#### **iv. Admission of Circumstantial Evidence**

In consideration of the nature and the circumstances in the commission of SVs against victims, the relevant evidence may only be obtained from the victims and/or other witnesses. However, most of the time victims witness are indirect testimonies, as most sexual violence is committed in private domain.[298] The evidence may also be depending on the results of medical examinations, that are inferred from medical reports. Consequently, the key informants of the study indicated that, there are no special procedures for the prosecution of SV cases in Ethiopia.[299] However, due to the significant difficulties in obtaining the required evidence, prosecutors admitted hearsay evidence and there are instances where they prosecute the case before the court of law based on hearsay evidence by corroborating with medical reports.[300]

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[296] Informant 35, Addis Ababa Police Commission. Informant 8, Dire Dawa Administration Police Commission.

[297] Ibid.

[298] Kim T. S., *The Investigation and Prosecution of Sexual Violence*, P. 39.

[299] Informant 10, public prosecutor at Arada Sub City.

[300] Interview with, Azeb Berehane, Public Prosecutor and Team leader of Women and Child affairs unit at Yeka Sub City, conducted in her office on 17 Nov. 2023. Informant 12, Dire Dawa Prosecution office.

### 3.2.2.2. Challenges During Prosecution

Prosecutors faced a myriad of challenges in the prosecution process and while dealing with victims of SV. The exiting challenges are attributed both to lack of effective protection of under the Ethiopian legal framework and other practical challenges. The absence of special procedures on the protection and treatments of victims in the prosecution process coupled with lack of comprehensive guidelines on the investigation of SVs cases under the Ethiopian criminal justice system pauses a practical challenge for the effectiveness of the prosecution process.[301] The exiting procedural law treats the investigation and prosecution of SV cases with other ordinary crimes. Besides, some forms of SV are not sufficiently protected under the criminal and some other forms (e.g., marital rape) are totally out of protection.[302] In addition, the requirements of the criminal code to prove ‘threats against the victims’ as one elements of sexual crimes committed against victims above the 18 years of age is one of the practical challenges in prosecution of sexual violence.[303]

Apart from the challenges paused by the exiting legal frameworks, public prosecutors are also faced with enormous challenges attributed to the victims and the perpetrators of the violence. though the prosecutors try to adopt swift evidence collection mechanisms, there are common instances where the victims are forced by the perpetrators to drop their accusations.[304] It is also difficult to obtain sufficient evidence form the victims in cases of SV committed against children.[305]

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[301] Informant 10, public prosecutor at Arada Sub City prosecution office. Informant 11. Prosecutor at Arada Sub City.

[302] Ibid. Informant 12, Dire Dawa Prosecution office.

[303] Ibid.

[304] Interview with informant 7, women and children cross-cutting directorate at FDRE ministry of Justice, conducted in office on 16 Nov. 2023.

[305] Informant 10, public prosecutor at Arada Sub City prosecution office, on 14 Nov. 2023.

Most of the time child victims are not willing to provide any evidences, as they were subjected to physical and psychological threats from the perpetrators of the violence. Victims may also willing to provide the required evidences even they are under pressure, however, in some instances the victims provided a false accusation against the perpetrators, that ultimately affects the outcomes the prosecution process.[306] The other practical challenge in the prosecution process is the absence of advanced technologies to provide effective evidence proving mechanism and lack of medical equipment's in Ethiopia to take medical examinations of forensic evidence like DNA.[307]

### 3.3. Trial Stage of SV Cases

Effective investigation and prosecution process leads to the trial stages where the perpetrators of the violence faced the criminal accusations before a court of law (also known the culmination of the truth-seeking process).[308] The trial stage requires effective victims' participation and opportunities to share their experiences to the trial judge and confront with the perpetrators of the violence. However, there are various legal and practical opportunities and challenges on the victims in Ethiopian justice system and such challenges are briefly discussed under this section.

#### 3.3.1. Promising Practices

The victims centered approach requires the whole judicial process to take victims interest at center and victims security and trust on the justice system needs to be maintained even at the trial stage.[309]

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[306] Ibid.

[307] Interview with informant 7, women and children cross-cutting directorate at FDRE ministry of Justice, conducted in office on 16 Nov. 2023

[308] Kim T. S., *The Investigation and Prosecution of Sexual Violence*, P. 45.

[309] Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power Adopted by General Assembly resolution 40/34 of 29 November 1985, para. 4 & 5.

The court structures are also required to be independent and impartial. It signifies that the justice system provides the required attention to the victims of SV through assigned judges and procedures to accelerate access to justice for such victims.[310] Accordingly, the key informants of the study in Addis Ababa and Dire Dawa FFIC indicated that an independent benches with experienced judges on SV cases are assigned to meet the specific needs of victims and helps the victims to freely share their experience and relevant evidence to the court.[311]

Enabling court environments at the trial stage is an important aspect for victims of SV to build trust in the justice system. If there is no good court environment it discourages victims from testifying and re-traumatizes those who choose to do so.[312] In consideration of the possible threats or further attacks by the accused person on victims of SV, the courts are also adopted electronic testimony procedures for such victims. This mainly includes through installing CCTV cameras where the victims are not necessarily expected to directly confront with the accused person in the courts room.[313] It also protect the victims from experiencing secondary traumatization's while facing the perpetrators in the court.[314] The courts also use psychological experts at the trial stages to enhance the truth-seeking process. Some victims may also fear to face the perpetrators face to face in the courts room. As a result, psychological experts are required to increase victims' confidence and abilities to explain their experiences to trial judge.[315]

[310] Principles and Guidelines on Legal assistance in Africa, Sec. P.

[311] Informant 4, Judge at Federal First Instance Court Dire Dawa Bench, conducted on Nov. 20. Informant 3, judge at Federal First Instance Court at Yeka Sub-City bench, on 12 Nov. 2023. "5th criminal bench of the FFIC of Yeka Bench is exclusively dedicated for crimes committed against women and children's. Accordingly, sexual crimes that are punishable more than 15 years are transferred to other benches (commonly known as 7th criminal bench) in the court) to be tried by experienced judges to accelerate the justice system for victims.

[312] UN Women, *Handbook on effective prosecution responses to violence against women and girls*, Criminal Justice Handbook Series, 2014, P. 119.

[313] Informant 4, Judge at Federal First Instance Court Dire Dawa Bench. Informant 3, judge at Federal First Instance Court at Yeka Sub-City bench.

[314] Ibid. Informant 1, Judge at Federal First Instance court at Lideta Sub-City.

[315] Ibid. Informant 4, Judge at Federal First Instance Court Dire Dawa Bench.

In addition, the courts also assigned interpreters to the victims of SV cases, to solicit the exact intentions of the victims that could be limited due to language barriers.[316] Even though, the victims participation at the trial stage is limited to be witnesses on their own cases, some courts provides an opportunity to the victims to forward their views while the victims request at any stages of the trial.[317]

### 3.3.2. Challenges During the Trial Stage

#### i. Legal Challenges

The challenges related to SV cases at trial stages are related to the role of victims at the trial stage and the absence of special procedures for sexual violence cases. A close examination of the Ethiopian criminal procedure code implies that the victim of SV can participate at the trial stage is only in providing testimonies on their own cases.[318] The victims of SV may have the opportunity to actively participate in the criminal proceeding only if there is a joinder of civil claims in addition to a criminal accusation for SV cases.[319]

Victims of SV may also face physical and psychological threats by the perpetrators not to cooperate with the justice system. Even in such circumstance the Ethiopian criminal procedural laws does not involve such victims at any stages of the trial and even in the decision whether the perpetrators released on bail or not.[320] The procedure left the issue to the police officers and prosecutors.

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[316] Ibid. informant 2, Judge at Arada Federal First instance Court.

[317] Informant 4, Judge at Federal First Instance Court Dire Dawa Bench.

[318] The Ethiopian criminal procedure code, art. 136(2). *See also, Worku Yaze, Status and Role of Victims of Crime in the Ethiopian Criminal Justice System*, P. 139 & 140.

[319] The Ethiopian Criminal procedure code, Arts. 151 and ffg.

[320] Informant 1, Judge at Federal First Instance court at Lideta Sub-City. Informant 3, judge at Federal First Instance Court at Yeka Sub-City bench. Informant 4, Judge at Federal First Instance Court Dire Dawa Bench.

The courts, however, in practice consult victims' views (fear of intimidations/further attacks) and their psychological experts on the possibility of victim's traumatization in the process of deciding on the bail rights of the victims.[321] In consideration of victims vulnerability to other forms of SVs, as a result of their decision to pursue through the judicial procedures, the courts also orders special protections by police officers and/or refer to protections centers[322] until the court provides a final Judgment on the case. [323] However, the criminal procedure code does not also provide such types of special protections for such victims.

The criminal code provisions related to sexual crimes are also vague and ambiguous to meet the actual circumstances of SV cases. There are also minimal punishments for some sexual crime in comparison with the health; psychological and physical effects against the victim.[324] The Ethiopian Criminal Procedure Code does not also provide at least a specific standard of proof for sexual violences cases (taking in to consideration the nature of the crimes and lack of evidences) and the admissibility of circumstantial evidence for SV cases.[325]

The principal challenge for victims of SV when deciding to pursue their cases on the judicial proceedings is the issue of effective remedies.

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[321] Ibid.

[322] Yeka First Instance Court work in cooperation with various victims' protection centers. Accordingly, for the safety of victims the court may order or through referral systems send the victims to the protection centers named *Ye Setoch Marefiya; Kebeb Tsehay Marefiya and Sle Enat Marfiya* Center until the court provides its final decision.

[323] Ibid.

[324] Informant 4, Judge at Federal First Instance Court Dire Dawa Bench. For instance, the criminal code under Article 565 prohibits FGM and punishable only with rigorous imprisonment from three years to five years. The code does not take into consideration the long-term health effects of FGM on the victims."

[325] Informant 4, Judge at Federal First Instance Court Dire Dawa Bench. "The informant recommended that the procedure code shall at least provide "reasonable doubt" standard, rather than the practical standards (not expressly indicated under the procedure code) of proof "Beyond Reasonable Doubt".

Even if there is a chance for systematic impunity exists because little is done to investigate these crimes, under the Ethiopian substantive and procedural laws there is no comprehensive legal framework on compensations for victims of SV.[326] Despite the existing legal lacunas on the Ethiopian legal frameworks, there are also a rare case where the victim requires the court to ensure their rights to effective judicial remedies through compensation.[327]

## ii. Practical Challenges

In addition to the exiting legal challenges, the judges also faced various practical challenges in the protection and treatment of victims at the trial stage. Among the practical challenges the majors are (1). Due to the nature of sexual crimes and the absence of sufficient evidence from the victims and their families, most of the time the trial process is delayed. Some victims even change their mind while testifying before the court and are unwilling to provide the required evidences. The victims and their witnesses most of the time provides false testimonies beyond the actual damage stated under the result of the medical examinations.[328] (2). Some victims are not willing to provide relevant evidence and/or change their mind when they appear before the court and requires the court to drop the case. This may be attributed to victims fears to threats; intimidations and other forms violences from the perpetrators, because of their cooperation to the court.[329] (3). There are also delays on medical examination reports to provide accelerated justice for victims. (4). The absence of an independent protection centers for such victims in Ethiopia is also another challenge at the national level.[330]

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[326] Ibid. See also, Godsend Konofa, 'Compensation to Victims of Crime: A Critical Analysis Of Ethiopian Legislative Framework', *International Journal of Legal Developments And Allied Issues*, Volume 4 Issue 4, July 2018, P. 360.

[327] Informant 1, Judge at Federal First Instance court at Lideta Sub-City. Informant 3, judge at Federal First Instance Court at Yeka Sub-City bench. Informant 4, Judge at Federal First Instance Court Dire Dawa Bench.

[328] Ibid.

[329] ibid

[330] Ibid.

Moreover, there is no legal framework that requires the government to establish protection centers for victims of SV to prevent such victims from further violence from the perpetrators.[331]

### 3.4. Strategic Litigation for Sexual and Gender-Based Violence: The Practice

The OHCHR (2007) study indicated that strategic litigation on SV cases has great potential to enhance victims' access to justice and can contribute to legislative or societal transformation. It also helps to enforce the existing legislation, regulations, or policies and by extension raise awareness to address the issue of SV in particular country.[332] The Strategic litigation process in the context of sexual violence is also required to meet certain minimum standards of protection from re-victimization, including protection from reprisals, stigmatization, traumatization, and discrimination of victims.[333] Accordingly, victims; lawyers and CSOs are the centers of successful strategic litigation on sexual violence cases.[334]

Currently in Ethiopia legal practitioners and Lawyers for Human Rights[335] devise various strategic litigation techniques and engages in accelerating access to justice for victims of SVs both in the armed conflict situations and peace time.[336]

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[331] Informant 4, Judge at Federal First Instance Court Dire Dawa Bench.

[332] OHCHR, Strategic litigation for sexual and gender-based violence: Lessons learned, 2010, P.1.

[333] Ibid. P. 1.

[334] IDLO, *Survivor-Centered Justice for Gender based Violence in Complex Situations*, Research report informed by case studies from Afghanistan, Honduras, Papua New Guinea, the Philippines, South Sudan, and Tunisia, International Development Law Organization, 2022, P. 72. P. 72.

[335] Lawyers for Human Rights (LHR) is an Ethiopian civil society organization registered by the FDRE Civil Societies Organizations Agency in accordance with Proclamation No. 1113/2019. The idea of establishing LHR by like-minded lawyers who are passionate about better protection of human rights in Ethiopia. One of its objectives is enhancing the culture of strategic litigations on different human rights issues (including sexual violence cases).

[336] Informant 16, strategic litigation coordinator at LHR Ethiopia, conducted on 17 Nov. 2023.

Therefore, under this section the strategic litigation initiatives by the lawyers and CSOs are briefly explored with the exiting legal environments for strategic litigations on SV cases.

### 3.4.1. Legal Framework Environment for Strategic Litigation

The FDRE Constitution requires the independence of the courts and provides issues related to the constitutional interpretation is vested not on the court but on the HoF.[337] This constitutional provision hinders effective strategic litigations on SV cases, where the strategic litigation process requires the court to interpret the constitutional provisions (Chapter III of the constitution in particular).[338] Even though the strategic litigation case(s) has been presented to the Council of the Constitutional Inquiry (hereinafter CCI), the council intake procedures require the council to identify justiciable and non-justiciable matters.[339] However, if the case identified for a strategic litigation is justiciable, the case must pass through a court of law or an administrative organ that has jurisdiction to entertain it. [340] In addition, the case that is justiciable before the court of law could be submitted to the CCI, only by the court and the victims concerned.[341] Therefore, CSOs does not have the possibility to file a case before the council for the purpose constitutional interpretations.

The Ethiopian Civil Procedure code also requires only individuals who have a vested interest on the sexual violence cases may bring a suit before a court of law.[342]

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[337] The FDRE Constitution, Art 83.

[338] Informant 16, strategic litigation coordinator at LHR Ethiopia, conducted on 17 Nov. 2023. See also, the FDRE Constitution, Art. 13 – 42.

[339] Proclamation No. 798/2013, Council of Constitutional Inquiry Proclamation, 19th Year No. 65, Addis Ababa 30th August 2013, Art. 3. [hereinafter cited as Proc. No. 798/2013.

[340] Informant 16, strategic litigation coordinator at LHR Ethiopia.

[341] Ibid. *see also*, Proc. No. 798/2013, art 4(1).

[342] Art. 33 of Ethiopian Civil Procedure Code.

However, article 37 (1) of the FDRE Constitution clearly provides in all forms of justiciable matters “everyone is entitled to bring the case to the attention of the court or to any other competent body with justiciable power”.[343] One may argue that through the instrumentality of Art 37(1) of the FDRE constitution any interested party may bring their cases to the attention of the court or any other judicial bodies in Ethiopia. However, the political nature of the HoF and CCI case intake procedures challenges the standings of CSOs working on strategic litigations on sexual violence cases.[344]

### **3.4.2. Practical Challenges**

Strategic litigations designed and implemented by the LHR have also faced various practical challenges. Currently LHR has involved on 2 strategic litigation interventions, that demands the government to enforce the existing laws for the accountability of perpetrators who have committed SV on various victims.[345] However, this strategic litigation process is not without a practical challenge. The challenge starts with the victim’s unwillingness to provide relevant evidence that could support the strategic litigation process. In fact, the victims face various threat and intimidations from the perpetrators not to cooperate with any judicial and non-judicial bodies for investigation and/or prosecutions.[346]

Even if LHR consult potential witnesses when the victims are not available for the investigation process, the witnesses also fear to provide evidence due to the absence of effective witness protection procedures in Ethiopia.[347] Although the strategic litigation process is successful and taken to the attention of the courts, the courts are not willing to apply ratified regional or international human rights treaties that significantly affects the outcome of the litigation.

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[343] The FDRE Constitution Art. 37 (1).

[344] Informant 16, strategic litigation coordinator at LHR Ethiopia.

[345] Ibid.

[346] Ibid.

[347] Ibid.

Besides, the courts provide unnecessary and prolonged adjournments to consider the cases.

### 3.5. The Role of Indigenous Mechanisms in Enforcing the Rights of Survivors of Sexual Violence

Victims' rights to access to justice includes not only providing access to the formal justice system but also the informal justice systems as well. Providing accessible justice is a state obligation under international human rights standards, but this obligation does not require that all justice be provided through formal justice systems.[348] Thus, states are also required to ensure effective remedies for victims of SV under the informal justice systems where the formal justice system are not accessible for such victims.[349] In addition, Getaneh Mehari & Getent Tadele (2015) noted that, the conventional justice system is not the only way to protect women's rights to be free from SV, rather it is one of the important options. Hence, strengthening the effectiveness of both customary and state justice systems is essential to provide abused women with justice. [350] Thus, it is important to explore the role of indigenous mechanism in enforcing the rights of victims of SVs and their complementarity with the formal justice system in Ethiopia.

Various studies indicated that due to various practical difficulties the courts faced (case overloads) and the inaccessibility of the formal justice system due to geographical limitations, it is imperative to use localized resource of the informal justice system. [351]

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[348] African guideline on legal assistance. Section P (d).

[349] UN, informal justice systems: charting a course for human rights-based engagement, (nd), P.9.

[350] Getaneh Mehari & Getent Tadele, Sexual Violence and Justice in the Context of Legal Pluralism: Lessons from the Gamo Cultural Setting, EJOSSAH Vol, XI, No. 2 December 2015, Pp. 136 & 137

[351] SPI, *Formal and informal justice systems in the context of SGBV, HP and SRHR in Zimbabwe: Building cooperation and complementarity*, The Spotlight Initiative, WLSA and the LRF, 2021, P. 4.

Some key informants of the study also provided that the informal justice system supports the formal justice system if they have been used as one party to the referral system.[352] As there is a high tendency of victims to disclose the whole evidence to the elders or their family members, the informal justice system could support the investigation and prosecution process of the formal justice system. [353]

However, the key informants of the study also noted that the informal justice system posed various challenges to the formal justice system investigation and prosecution process. Even for serious SVs the victims are forced to accept the decision the informal justice arbitrators or judges, that does not consider even the interest of victims.[354] Sadly, most victims choose to settle the case through the informal justice system than the formal justice system, to complement with their traditional values and respect their community orders.[355] In such cases, the victims agree with the perpetrators of the violence not to pursue the case through the formal justice system. The agreements made by the perpetrators and the victim may also occur at the middle of the formal justice system during the investigation, prosecution, and trial stage.[356] Consequently, the victims most of the time request the police; prosecutors and the trial judge to drop their cases (mostly sexual violence cases based on victims upon complaint) from being tried in the formal justice system.[357]

The Key informants of the study also argued that the informal justice systems in Ethiopia are not as such cooperative to the formal justice system, they would rather serve as a tool for the perpetrators to skip a criminal punishment.

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[352] Informant 6, Judge at Dire Dawa Federal First Instance Court. Informant 3, Judge at Federal First Instance Court Yeka Bench.

[353] Ibid.

[354] Ibid. Informant 1, Judge at Federal First Instance Court, Lideta District Bench.

[355] Ibid.

[356] Informant 6, Judge at Dire Dawa Federal First Instance Court. Informant 3, Judge at Federal First Instance Court Yeka Bench.

[357] Ibid.

There are various reasons raised by the key informant of the study; [358] (1). Even though the informal justice systems are an important pathway to support the formal justice system, in the context of sexual violence they provide a priority for communal values rather than the negative impacts of SV on the victims; (2). The informal justice system is not gender sensitive. As a result, the harm caused on the victims are overlooked and the victims are silenced by their family members or informal justice system leaders, as a respect to the values of the community; and (3). Informal justice system does not employ a victim centered approach, where the victims are not able to express their views at any stages of the informal proceedings.

### **3.6. The Role of Concerned Stakeholders in Accelerating Access to Justice for Victims of SV: An Integrated Approach**

Sexual violence has multifaced impacts on the victims including but not limited to physical, psychological and health problems. Thus, the treatment of victims of SV not only requires legal assistance but also other stakeholders to curb the long-term effects of such violences. Accordingly, an integrated approach, named a multi-sectoral approach is adopted in different countries to accelerate access to justice for victims of SV.[359] The multi-sectoral approach to SV is a holistic and coordinated approach aimed at harmonizing and correlating programmes and actions developed and implemented by a variety of institutions in the areas of psychosocial welfare, law enforcement (police, prosecutors and justice departments) and health sectors.[360] In this approach the coordination of judicial responses with other actors in the legal, medical, and advocacy communities can avoid inconsistent responses that undermine victim safety and batterer accountability.

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[358] Ibid.

[359] UNFPA, multi-sectoral response to GBV: An effective and coordinated way to protect and empower GBV victims/survivors, United Nations Population Fund, 2015, P. 5.

[360] Ibid.

Therefore, it is important to explore the expected and coordinated roles of the concerned stakeholders in the protection and treatment of victims of sexual violence.

### **3.6.1. Actors of Justice System**

#### **i. The Court/Judges**

The court or judges, like prosecutors and police, are a critical part for effective responses for sexual violence cases. The judges are the final authority to determine the fate of victims and the perpetrator. Thus, the role of judges in accelerating victims' access to justice takes a lion share, as the effectiveness of the investigation and prosecution process are determined by the presiding judge in a particular SV issue before a court of law.[361] The judges interpret the existing laws and establish a court room polices and could enforce such laws and procedure in a way that provides more protection for victims of SV. Judges are expected to be impartial and independent in examining the evidence and take testimonies from the perpetrators and victims.[362]

The court room is one of the places where the victims may experience secondary victimizations due to mistreatment and overlooking their harms by different judicial actors in the trial process. When seeking assistance through the legal system, many victims fear retaliation from the abuser, intimidation by an unfamiliar and complicated legal process, and disbelief by the presiding judge.[363] Judges can counteract those fears by demonstrating a willingness to listen, taking the women's words seriously, and considering her needs.

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[361] UNODC, *Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls*, United Nations, Vienna 2019, P. 57.

[362] See generally, National Judicial Education Program, *Understanding Sexual Violence: The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault*, The women's legal defense and Education Fund, (nd).

[363] Alissa P., *Violence Against Women: Synthesis of Research for Judges*, Sep. 2003 Pp. 8 & 9.

Judicial demeanor also sets the tone for the demeanor of other courtroom personnel.[364] If judges treat sexual violence cases seriously, other criminal justice personnel are more likely to follow this lead. Judges are also the key actors to effectively unitize the referral system in collaboration with different stakeholders. Survivors of SV may also require additional protection and further medical examinations. [365] Accordingly, it is the authority of the judges to provide such protections and medical examinations.

## ii. The Prosecution Office

The prosecution office plays a dominant role in guiding the investigation procedures to meet the existing criminal justice procedures and victim's interest. The prosecutors cross-check whether the proper evidence gathering is conducted considering the vulnerability and psychological makeup of the victims.[366] It is also the authority of the prosecution office to determine the availability of sufficient evidence to prosecute or not. In this regard they have an important role in applying special evidence gathering procedures for victims of SV than the ordinary prosecution procedures.[367] On the other hand, prosecutors do also have an important role in consulting the investigators to take special procedures while investigating and to enhance victims' participation in the criminal justice process. Finally, the MoJ and by extension the prosecution offices do have an important role in assigning female prosecutors, who can easily convince and treat the victims to share their experiences and in ensuring victims' interest.[368]

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[364] Eileen S. & Ariana Q, *Resource Tool for Prosecutors and Judges in Combating Violence against Women and Domestic Violence*, Council of Europe, Dec. 2020 P. 37.

[365] Ibid.

[366] COE, *Training Resource Tool for Prosecutors and Judges in combating violence against women and domestic violence in Kosovo*, Dec. 2020, Pp. 41 & 51.

[367] Ibid.

[368] AEQUITAS, *Model Response to Sexual Violence for Prosecutors (Rsvp Model)*, Vol. I, P. 20 – 21.

### iii. The Police

The police officers as they have the first contact with the victims, they have the dominant role in building victims trust in the justice system. The police officers may apply flexible procedures for victims of sexual violences and enhance the referral system in their investigation process.[369] Due to victims' vulnerability to various forms of threats from the perpetrators and/or family members, because of their cooperation with the police officers, the need for victims' protection is decided by the police officers. victims may also need medical examinations immediately after the incident is reported to the police.[370] Consequently, the police officers play a dominant role in strengthening cooperation with other concerned stakeholders (health offices and/or women's and child affairs offices) to effectively investigate all alleged incidents of the reported sexual violence. During the investigation process the police officers have also an important role in understanding victims needs and psychological makeup. Thus, they have a power to call for psychological experts during the investigation to meet victim interests and assign female investigators to ensure effective response to the needs of the victims.[371]

#### 3.6.2. CSOs

Apart from the judicial bodies CSOs play an important role in accelerating access to justice for victims' sexual violence. The CSOs play a key role in raising awareness on the legal procedures that the victims may follow to pursue their cases in the justice system.[372]

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[369]Deborah W. and Lesley M., [De]-Centering the Victim: Police Perceptions of Victims of Sexual Violence through a Comparative Lens of Evidence Collection and Processing, *Feminist Criminology* 16(5), P. 681.

[370] Ibid.

[371] UN WOMEN, *Working Paper Police as An Entry Point To End Violence Against Women And Girls Lessons From Civil Society Organizations Funded By The Un Trust Fund To End Violence Against Women*, Jan, 2020, P. 12.

[372] Ibid.

In addition, the CSOs plays an important role in following up pending SV cases before the justice system and calls the justice bodies to provide expeditious justice for such victims. CSOs advocacy movements also play an active role to strengthen the Responses for survivors of sexual violence.[373] For instance, LHR, EWLA and other CSOs in Ethiopia have played an important role in conducting various advocacy and legal aid services for victims of SV in different parts of the country.[374] The recent development where the CSOs are currently engaging is strategic litigation that requires the government to take extraditions and fair justice for victims of sexual violences.[375] Accordingly, CSOs play a pivotal role in representing the victims before the court of law and ensuring effective remedies for such victims. CSOs can also play a dominant role in strengthening the referral system procedures between the judicial bodies and health offices.

### **3.6.3. Health Sectors**

Health sectors are also the main stakeholders in accelerating access to justice for victims of SV. The finding of this study revealed that one of the reasons that hinders accelerated justice for survivors of sexual violence is the delay of medical examination reports for the judicial bodies.[376] Most of the time SV is committed behind closed doors and the opportunity of the judicial bodies to obtain sufficient evidence is low. Consequently, the justice system on SV cases mainly relies on medical evidence that is more conclusive and the only evidence the prosecutor obtains is to frame a charge against the perpetrator(s).[377]

[373] Babayo Sule & Usman Sambo, *The Role of Civil Society in Preventing and Countering Sexual Violence in Nigeria*, International Journal of Social Welfare Promotion and Management, Vol.8, No.1 (2021), P.42.

[374] Informant 8, Dire Dawa Administration Police Commission. Informant 5, Yeka Sub City Police Commission.

[375] Informant 16, Strategic Litigation Coordinator at LHR.

[376] Informant 8, Dire Dawa Administration Police Commission. Informant 5, Yeka Sub City Police Commission.

[377] Informant 12, prosecutor at Dire Dawa Prosecution Office. Informant 15 Directorate of crimes against women and children.

# CHAPTER FOUR

## CONCLUSION AND RECOMMENDATIONS

### 4.1. Conclusion

Sexual violence is one of the most pervasive forms of violence in the world, with 7% of women having experienced sexual violence by someone other than an intimate partner during their lifetime. SV against women occurs in all societies, regardless of race, class, creed, status, or education and Ethiopia is not an exception on this regard. In Ethiopia, GBV is highly prevalent with 35% of ever married women aged 15-49 experiencing physical, emotional, or SV by their husband or partner.

As a major social problem and a violation fundamental human right of women in Ethiopia, there is no sufficient studies on the magnitude and the availability of effective legal responses to SV in Ethiopia. International human rights standards require states to adopt legislative or other measures as may be necessary to give effect to provide effective protection and treatment of victims of SV in a particular justice system. One of the obligation imposed on states is ensuring accelerated access to justice through strengthening the existing legal procedures and mechanisms. Ethiopia is also the signatory to the international human rights instruments dealing with the prevention and protection of victims of SV, including the international bill of women's rights, CEDAW.

The victim centered approach requires effective treatment and protection of victims of SV in a judicial process. The responsiveness of effective access to justice for victims of SV starts from the point of entry to justice system.

On this regard, states are required to establish fair, accessible, and transparent compliant handling mechanisms that ensures confidentiality and security of victims while reporting sexual violence(s) they have experienced to the judicial bodies. There are various promising practices in the Ethiopian context to provide effective protections and treatment of victims while reporting. In particular, the establishment of Women and Child Units with female investigative officers in police compliant handling procedures, indicates how far the legal procedures practically provides more attention to the victims and a recognition that victims of SV need special protections and treatment. The availability of victim protection centers; psychological assistance and one-stop-centers in the reporting process are a positive measure that creates conducive environment for victims.

However, the existing legal procedures and mechanisms do not provide any special investigation procedures nor there exists a specific guideline for police officers on the protection and treats of sexual violence during the reporting and investigation procedures. Thus, lack of attention and insensitive attitudes of police officers in some circumstances also deter victims from coming forward or prevent them from pursuing a case. Furthermore, victims' unwillingness to provide the required information for police officers and threats by the perpetrators of violence against the victims, because of their cooperation to the justice process pauses a practical challenge on the effectiveness of the justice system. Even though there are awareness creation programs concerning the prevention of sexual violence, victims still do not have trust in the formal justice system and do not know how to proceed in SV cases.

The victim-center approach in the prosecution SV cases requires the prosecution process to be impartial, independent, and responsive to the needs of victims. Continuous involvement of victims in providing relevant evidence to the prosecution process and the admissibility of circumstantial evidence for SV cases are an important promising practice to provide special treatment for such victims. However, there are legal and practical challenges that affect the effectiveness of the prosecution process. The Ethiopian criminal procedure laws do not provide any special procedures in the prosecution of sexual crimes. Consequently, the existing procedural law treats the prosecution of SV cases with other ordinary crimes. Besides, some forms of SV are not sufficiently protected under the criminal and some other forms (e.g., marital rape) of SVs are totally out of protection. Although the public prosecutors also provide protection for victims and their witnesses, the existence of threats from perpetrators and/ family members of the victims, because of their participation in the prosecution process, forced the victims to drop the cases from the prosecution process.

On the trial and Post trial stage effective victims' participation and opportunities to share their experiences to the trial judge and ability to confront with the perpetrators of the violence is an important procedure to be taken into consideration. The availability of independent benches in FFICs in Addis Ababa and Dire Dawa that deals with the cases of sexual violence against children and women is an important step towards the treatments of victims of sexual violence. However, the absence of effective protection of victim's participation during the trial and post-trial stage myriad challenges for the victims. The Ethiopian criminal procedure laws restrict victims' participation in the trial stage only as a witness to their own cases.

As a result, there is no special procedures provided by the Ethiopian Criminal Procedure Code that requires the court to consult victims' views on the determination of sentencing. The Post trial procedures are also left to the decision of the public prosecutor, where the victims may not be consulted whether to appeal or not. Apart from the legal framework challenges, the delay on the medical reports and amicable settlements of SV cases through the informal justice mechanisms also creates a critical practical challenge on the courts.

Providing accessible justice is a state obligation under international law but this obligation does not require that all justice be provided through formal justice systems. Thus, victims' rights to access to justice includes not only providing access to the formal justice system but also the informal justice systems as well. The finding of the study indicated that the role of informal justice system in the context of sexual violence cases significantly affects the effectiveness of the formal justice process. Even though victims are willing to provide the relevant evidence and trust the informal justice system, most of the time the formal justice system investigation and prosecution process are discontinued due to the amicable settlement of the case through such justice system. The informal justice system is not a gender sensitive and mostly overlook the impacts of SV against victims.

Based on the consideration of the multifaced impacts of SV on the victims an integrated approach, named a multi-sectoral approach is necessary to accelerate access to justice for such victims. Accordingly, CSOs as dominant stakeholders on the issue, plays an important role through strategic litigations on selected SV cases in Ethiopia.

Currently, a strategic litigation initiative of LHR plays a dominant role in demanding the government to take necessary measures and ensure effective remedy for victims of SVs. However, the Ethiopian legal framework environment that limits CSOs standings before a court and the unwillingness of victims to provide relevant evidence to the strategic litigation procedures limits the commitments of CSOs in Ethiopia. Even though CSOs engages in supplementing the judicial process in various ways, still the involvements of CSOs in accelerating access to justice for victims of SV is not sufficient. It is mainly due to the absence of effective coordination and follow-up mechanisms between the concerned stakeholders and the judicial bodies.

## **4.2. Recommendations**

The forgoing findings of this study reveal that, the exiting legal procedures and mechanism on the protection and treatment of victims of SV have various legal lacunas and practical challenges beginning from the reporting procedures to post trial procedures. In the face of the forgoing challenges, the Ethiopian government and all other concerned organs needs to take positive measures to address the special concerns, needs, interests, and rights of victims of SV to strengthen the effective responsiveness of the existing legal procedures and mechanisms. Consequently, the study forwarded the following recommendations to the concerned governmental and non-government organs.

### **To the House of People Representatives (HPR) and House of Federation (HoF)**

- The exiting provision of the Ethiopian criminal procedure code does not provide special investigation and prosecution procedures for sexual violence cases, the legislative body of the

government shall amend the existing criminal procedure code and include under the upcoming draft criminal procedure code provisions that provides special protection and treatment of victims as well as active roles of victim at any stages of a judicial process.

- Most sexual crimes under the FDRE Criminal code are vague and ambiguous for effective implementations on the judicial procedures. In addition, as some forms of SVs are not effectively protected and lesser punishments are provided under the Revised Criminal code, the HPR shall amend the Criminal Code provisions that deals with sexual crimes to enhance effective protection of victims of SV.
- As the Ethiopian criminal procedural laws lacks an effective compensatory framework for victims of sexual violence, the house of people representatives shall adopt a comprehensive legal framework on crime victims' compensation mechanisms; implementation procedures and establish victims' assistance fund for victims of SV.
- As the CSOs do not have standings before the council of the constitutional inquires, the HPR and the HoF shall strive to provide a recognition for CSOs standing before the HoF to advance strategic litigation on constitutional matters through representing victims of SV.

## **To FDRE Ministry of Justice**

- As the victims of sexual violence require special treatment, the Ministry of Justice shall adopt special investigation and prosecution procedures in line with a victim centered approach. In particular, the Ministry shall enhance legal aid support for victims of SV at any stages of criminal proceedings; continuously follow-up the prosecution

procedures and enhance victims' participation at any stages of the prosecution process.

- As there is no comprehensive standards and guidelines on the protection and treatment of victims of SV, the FDRE MoJ shall adopt a standard and guidelines that requires the Prosecutors to enhance victims participation in the prosecution process; treat victims with dignity; provides special prosecution procedures (admissibility of circumstantial evidences); and cooperation with the concerned stakeholders to accelerate access to justice for such victims.
- Victims of SV have special justice interest; subject to various threats not to cooperate with the justice system and requires effective protections to provide the required evidence to the justice system. Therefore, the MoJ shall ensure the victims obtains effective protections during the prosecution process.

## **To FDRE Police Commission**

- As there is no comprehensive standards and guidelines on the protection and treatment of victims of SV, the FDRE police commission shall adopt a standard and guidelines that requires the investigative police officers to enhance victims participation in the investigation process; treat victims with dignity; provides special investigation procedures (with the support of psychological and medical experts); and cooperation with the concerned stakeholders to accelerate access to justice for such victims.

## **To the Courts**

- Establish strong coordination mechanisms between courts and one-stop centers through regular communication and

information exchange that helps to create a seamless and integrated response to cases of sexual violence.

- Allocate sufficiently designated courtrooms for sexual violence cases, ensuring a private and secure setting that minimizes potential re-traumatization for survivors.
- To prevent potential traumatization, the courts shall ensure that the victims of sexual violence are heard promptly and obtain speedy trial.

## **To Civil Society Organizations**

- CSOs and other stakeholders shall work to strengthen the strategic litigations initiatives, through enhancing cooperation to investigate SV cases and pressuring the government to provide special attentions for victims of SV.
- CSOs shall take part in mobilizing and motivating the legal professionals to create legal awareness/aids for victims of SV and for the advancement of one-stop-centers.
- CSOs involved in addressing sexual violence should prioritize and actively engage in conducting further research to deepen the understanding of both the prevalence and legal protections afforded to victims.

## **To Ethiopian Women Lawyers Association (EWLA)**

- To effectively communicate research findings to various stakeholders, EWLA shall engage and employ a mix of communication channels (reports, briefs, and press releases; social media, webinars, and infographics) to communicate the finding of the research and reach a wider stakeholder.
- Actively engage in advocacy efforts by using the research findings to influence policy decisions.

Develop advocacy materials, including policy briefs and recommendations, and establish a strong presence in relevant forums and policy-making spaces to ensure that the research informs decision-making processes.

- Conduct awareness campaigns that not only highlight the prevalence of sexual violence but also emphasize the importance of prevention, support, and the role each stakeholder (including the role of informal justice systems) can play in creating a safer environment for victims.

### **To FDRE Ministry of Justice; Addis Ababa and Dire Dawa Health Office**

- Since most of SV cases before courts are unsuccessful due to the delay on the medical examination reports and the absence of medical equipment to examine forensic evidence in Ethiopia; the health sectors shall follow-up and strive for accelerated medical examination reports for SV cases.
- The available one-stop-centers for victims of SV in Ethiopia are limited in number and services in comparison to the daily reported SV cases. Therefore, the health sectors shall strengthen the existing one-stop-centers to provide effective services for victims of SV and establish additional one-stop-centers to accelerate access to justice for victims.

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# Annex's

## በኢትዮጵያ ያሉ የጾታዊ ጥቃት ጉዳዮችን አያያዝን በተመለከተ ያሉትን የሕግ ሂደቶች እና ዘዴዎች ለማጥናት/ለመገምገም የተዘጋጀ ቃለ-መጠይቅ

### ውድ መላሻችን

የዚህ ቃለ-መጠይቅ ዓላማ በተለያዩ ደረጃዎች በጾታዊ ጠቃት ስለባ የሆኑ ተጎጂዎችን በተመለከተ የፍትህ ስረአቱ በጥቃቱ ተጎጂ ለሆኑ የማህበረሰብ ክፍሎች ምን ያክል ጥበቃ እና ምላሽ መስጠት እንደሚችል እንዲሁም የሚመለከታቸው ባለድርሻ አካላት ምን ያክል የሚተባብሩባቸውን ሚና እየተወጡ እንደሆነ ጥናት ለማካሄድ ነው።

በዚህም መሰረት ጥናቱ የሚካሄድበት ዋና አላማም በሃገራችን ያሉ የህግ ማዕቀፎች እና የማስፈጸሚያ ስረዓቶች በጾታዊ ጥቃት ለተጎዱ የማህበረሰብ ክፍሎች በቂ ምላሽ የሚሰጡ መሆናቸውን እና አለመሆናቸውን በመገምገም በሚፈለገው ደረጃ ለጥቃቱ ስለባ ለሆኑ ሰዎች በቂ ጥበቃ እና ምላሽ መስጠት የሚያስችል የህግ ማዕቀፍ እና የአፈፃፀም ስርዓት እንዲኖር አቅጣጫዎችን ማመለከት ነው።

ይህ ጥናት የሚከናወነው በኢትዮጵያ ሴት ሕህግ ባለሙያዎች ማህበር ሲሆን ለዚህም ጥናት የሚደረገው ይህ ቃለ መጠይቅ ለጥናቱ ዓላማ ብቻ የሚውል መሆኑን እየገለፀን ቃለ-መጠይቁን ለማድረግ ፍቃደኛ ስለሆኑ በቅድሚያ እናመሰግናለን።

## I. በጾታዊ ጥቃት ጉዳዮች ላይ ለሚሰሩ የፍትህ አካላት ባለሙያዎች (ለጠበቆች) የተዘጋጀ ቃለ መጠይቅ

### አጠቃላይ መረጃዎች

- ስም (በፍላጎት) .....
- ጾታ .....
- ዕድሜ .....
- የመስሪያ ቤቱ/ተቋሙ ስም.....
- በመስሪያ ቤቱ ውስጥ እርስዎ የሚሰሩበት የስራ ክፍል.....
- በመስሪያ ቤቱ/ተቋሙ ያለዎት ኃላፊነት ወይም የስራ ድርሻ .....

### ጥያቄዎች

1. በሚሰሩበት የህግ ሙያ የሚቀርቡ የጾታዊ ጥቃት አቤቱታዎች ወይም ጉዳዮች በአብዛኛው ምን ዓይነት ጥቃቶች ናቸው? (ም.ሳ. አስገድዶ የመደፈር፣ አላስፈላጊ ጾታዊ ትንኮሳዎች እና ወ.ዘ.ተ)

2. የጾታዊ ጥቃትን በሚመለከት ምን ያክል ተጎጂዎች ስለ ደረሰባቸው ጥቃት ፍትሕ እንዲያገኙ ምቹ ሁኔታዎች አሉ?
3. በጾታዊ ጥቃት ተጎጂ የሆኑ ሰዎች በፍርድ ሂደት ወቅት ምን የተለየ ጥበቃ ይደረግላቸዋል?
4. በጾታዊ ጥቃት ተጎጂ የሆኑ ሰዎች ምን ያክል ባቀረቡት አቤቱታ ከጠበቆቻቸው ጋር በፍትህ ሂደት ውስጥ ምን ያክል ተሳታፊ ይሆናሉ?
5. በጾታዊ ጥቃት ተጎጂዎች የተፋጠነ ፍትሕ እንዲያገኙ ከማድረግ አንጻር እንደጠበቃ ምን የተለየ የአሰራር ስልት ትተገብራላችሁ?
6. ለጾታዊ ጥቃት ጉዳዮች ለየት ባለ መልኩ የአቤቱታ የመቀበል ሂደት አላችሁ? (አብዛኛውን ጊዜ ወንጀሎቹ በድብቅ የሚፈፀሙ ከመሆኑ አንፃር፤ የወንጀሎቹ አይነት በአራሱ ተጎጂዎች ስለ ደረሰባቸው ጥቃት በግልፅ ከመናገር የመቆጠብ ሁኔታዎች ከመኖራቸው አኳያ)
7. ጾታዊ ጥቃቶችን በሚመለከቱ ጉዳዮች ላይ ከምስክሮችና ከማሰሪጃ ምዝና አንጻር በፍርድ ሂደት ላይ በተደጋጋሚ የሚገጥሟችሁ ተግዳሮቶች ምንድን ናቸው? መንስኤዎቹስ ምንድን ናቸው?
8. የጾታዊ ጥቃትን ለመከላከል እና የሕግ ተጠያቂነትን ከማሰፈን አንጻር ለአሰራር አስቸጋሪ የሆነባችሁ የሕግ ማዕቀፍ፣ ስነሰርዓት እና የአሰራር ችግሮች ካሉ ቢያብራሩልን?
9. አሁን ያለው የወንጀል ፍርድ ሂደት በተለይ የጾታዊ ጥቃት የተፈጸመባቸውን ተጎጂዎች የፍትሕ ፍላጎቶች ከማሟላት እና የወደፊት ቀጣይ ሕይወታቸው የተሻለ ከማድረግ አንጻር በቂ ነው ብለው ያስባሉ? ለምን ካልሆነስ ምን ዓይነት ተጨማሪ የአሰራር ስርዓት ያስፈልጋል? ቢያብራሩልን?
10. የጾታዊ ጥቃት ጉዳዮችን በሚመለከት የሚሰሩ በርካታ ባለድርሻ አካላት እንደመኖራቸው መጠን በሚሰጡት የህግ አገልግሎት ውስጥ ምን ያክል ከእነዚህ ባለ ድርሻ አካላት ጋር በትብብር ትሰራላችሁ? በተደጋጋሚ በአጋርነት የምትሰሩትስ ከየትኞቹ ባለድርሻ አካላት ጋር ነው? በምን ጉዳይ?
11. የጾታዊ ጥቃት ተጎጂዎች በቂ የሆነ ካሳ እና የተሃድሶ አገልግሎቶችን የማግኘት መብቶቻቸውን ከማረጋገጥ አንጻር የተሰሩ ስራዎች ካሉ ቢያብራሩልን? ከሌሉ ደግሞ ለምን እንዳለተሰሩ ምክንያታቸውን ቢያብራሩልን?
12. ለጾታዊ እና ወሲባዊ ጥቃቶች ጋር የተያያዙ ጉዳዮችን የፍትህ እልባት ለመስጠት ምን ያህል የተፋጠነ ስነ-ስርዓቶችን ትጠቀማላችሁ? ምንስ ዓይነት የተለየ ዘዴዎችን ትከላላችሁ?

**II. በጾታዊ ጥቃት ጉዳዮች ላይ ለሚሰሩ የፍትህ አካላት ባለሙያዎች (ለፖሊሶች) የተዘጋጀ ቃለ መጠይቅ**

**አጠቃላይ መረጃዎች**

ስም (በፍላጎት) .....

ጾታ .....

ዕድሜ .....

የመስሪያ ቤቱ/ተቋሙ ስም.....

በመስሪያ ቤቱ ውስጥ እርስዎ የሚሰሩበት የስራ ክፍል.....

በመስሪያ ቤቱ/ተቋሙ ያለዎት ኃላፊነት ወይም የስራ ድርሻ .....

**ጥያቄዎች**

1. በሚሰሩበት ተቋም በተደጋጋሚ የሚቀርቡ የፆታዊ ጥቃት አቤቱታዎች ወይም ጉዳዮች በአብዛኛው ምን አይነት ጥቃቶች ናቸው? (ም.ሳ. አስገድዶ የመደፈር፤ አለስፈላጊ ፆታዊ ትንኮሳዎች እና ወ.ዘ.ተ)
2. የፆታዊ ጥቃትን በሚመለከት ምን ያክል ተጎጂዎች ስለ ደረሰባቸው ጥቃት ለፖሊስ ሪፖርት እንዲያደርጉ ምቹ ሁኔታዎች አሉ?
3. በፆታዊ ጥቃት ተጎጂ የሆኑ ሰዎች ስለ ደረሰባቸው ጥቃት ሪፖርት በሚያደርጉበት ወቅት ጥቃቱን ካደረሱባቸው ሰዎች ምን ያክል ጥበቃ ይደረግላቸዋል?
4. በፆታዊ ጥቃት ተጎጂ የሆኑ ሰዎች ምን ያክል ባቀረቡት አቤቱታ የምርመራ ሂደት ላይ ተሳታፊ ይሆናሉ?
5. በፆታዊ ጥቃት ምክኒያት አቤቱታ የቀረበባቸው ተጠርጣሪዎች በምርመራ ሂደት ውስጥ የሚደረግላቸው ጥበቃ ምን ይመስላል?
6. ከተለያዩ የወንጀል ምርመራዎች በተለየ ለፆታዊ ጥቃት ጉዳዮች ለየት ባለ መልኩ የሚተገበር የወንጀል ምርመራ ሂደት አለ? (አብዛኛውን ጊዜ ወንጀሎቹ በድብቅ የሚፈፀሙ ከመሆኑ አንፃር፤ የወንጀሎቹ አይነት በእራሱ ተጎጂዎች ስለ ደረሰባቸው ጥቃት በግልፅ ከመናገር የመቆጠብ ሁኔታዎች ከመኖራቸው አኳያ)
7. የፆታዊ ጥቃት አቤቱታዎችን በማስረጃ ለማስደገፍ የተለየ የማስረጃ አሰባሰብና ምርመራ ዘዴዎችን ተጠቅማችሁ የተገኘ ውጤት አለ ወይ? ቢያብራሩልን።
8. ፆታዊ ጥቃቶችን በሚመለከት በሚቀርቡ አቤቱታዎች የምርመራ ሂደትም ይሁን የማስረጃ አቀራረብ እንዲሁም አሰባሰብ ሂደት ላይ በተደጋጋሚ የሚገጥሟችሁ ተግዳሮቶች ምንድን ናቸው? መንስኤዎቹስ ምንድናቸው?
9. የፆታዊ ጥቃት ጉዳዮችን በሚመለከት የሚሰሩ በርካታ ባለ ድርሻ አካላት እንደመኖራቸው መጠን በምርመራ ሂደት ውስጥ ምን ያክል ከእነዚህ ባለ ድርሻ አካላት ጋር በትብብር ትሰራላቸው? በተደጋጋሚ በአጋርነት የምትሰሩትስ ከየትኞቹ ባለድርሻ አካላት ጋር ነው?
10. ከባለድርሻ አካላት ጋር የተጎጂዎች የቅብብሎሽ ስርዓት አለ ወይ? ካለስ ምን ዓይነት ሂደትን ይከተላል? የተጎጂዎች የቅብብሎሽ ስርዓት መኖሩስ ምን ዓይነት ጠቀሜታ አስገኝቷል ብለው ያምናሉ? ቢዘረዝሩልን።

**III. በፆታዊ ጥቃት ጉዳዮች ላይ ለሚሰሩ የፍትህ አካላት ባለሙያዎች (ለዓቃቢያነ ሕግ) የተዘጋጀ ቃለ መጠይቅ**

**አጠቃላይ መረጃዎች**

ስም (በፍላጎት) .....

ፆታ .....

ዕድሜ .....

የመስሪያ ቤቱ/ተቋሙ ስም .....

በመስሪያ ቤቱ ውስጥ እርስዎ የሚሰሩበት የስራ ክፍል .....

በመስሪያ ቤቱ/ተቋሙ ያለዎት ኃላፊነት ወይም የስራ ድርሻ .....

**ጥያቄዎች**

1. በሚሰሩበት ተቋም በተደጋጋሚ የሚቀርቡ የፆታዊ ጥቃት አቤቱታዎች ወይም ጉዳዮች በአብዛኛው ምን ዓይነት ጥቃቶች ናቸው? (ም.ሳ. አስገደዶ የመደፈር፤ አለስፈላጊ ፆታዊ ትንኮሳዎች እና ወ.ዘ.ተ)
2. የፆታዊ ጥቃትን በሚመለከት ምን ያክል ተጎጂዎች ስለ ደረሰባቸው ጥቃት ፍትሕ እንዲያገኙ ምቹ ሁኔታዎች አሉ?
3. በፆታዊ ጥቃት ተጎጂ የሆኑ ሰዎች ስለ ደረሰባቸው ጥቃት ሪፖርት እና አቤቱታ እንዲያቀርቡ በሚያደርጉበት ወቅት ምን የተለየ ጥበቃ ይደረግላቸዋል?
4. በፆታዊ ጥቃት ተጎጂ የሆኑ ሰዎች ምን ያክል ባቀረቡት አቤቱታ የምርመራ ሂደት ላይ ተሳታፊ ይሆናሉ?
5. የፆታዊ ጥቃት ስለባ የሆኑ ግለሰቦች ምን ያክል ጉዳዮቻቸው ላይ በሚሰጡ ቅጣቶች እንዲሁም የይግባኝ ሂደቶች ላይ ተሳታፊ ይሆናሉ?
6. በተቋም ፆታዊ ጥቃትን የተመለከቱ ጉዳዮች ላይ ትኩረት አድርጎ የሚሰራ የሰራ ክፍል አለ? ካለስ በዋናነት የሰራ ድርሻው ምንድን ነው? ቢያብራሩልን።
7. ከተለያዩ የወንጀል ምርመራዎች በተለየ ለፆታዊ ጥቃት ጉዳዮች ለየት ባለ መልኩ የሚተገበር የወንጀል ምርመራ ሂደት አለ? (አብዛኛውን ጊዜ ወንጀሎቹ በድብቅ የሚፈፀሙ ከመሆኑ አንፃር፤ የወንጀሎቹ አይነት በእራሱ ተጎጂዎች ስለ ደረሰባቸው ጥቃት በግልፅ ከመናገር የመቆጠብ ሁኔታዎች ከመኖራቸው አኳያ)
8. የፆታዊ ጥቃት አቤቱታዎችን በማስረጃ ለማስደገፍ የተለየ የማስረጃ አሰባሰብና ምርመራ ዘዴዎችን ተጠቅሞችሁ የተገኘ ውጤት አለ ወይ? ቢያብራሩልን።
9. ፆታዊ ጥቃቶችን በሚመለከት በሚቀርቡ አቤቱታዎች የምርመራ ሂደትም ይሁን የማስረጃ አቀራረብ እንዲሁም አሰባሰብ ሂደት ላይ በተደጋጋሚ የሚገጥሟችሁ ተግዳሮቶች ምንድን ናቸው? መንስኤዎቹስ ምንድናቸው?
10. የፆታዊ ጥቃትን ለመከላከል እና የሕግ ተጠያቂነትን ከማስፈን አንጻር ለአሰራር አስቸጋሪ የሆነባችሁ የሕግ ማዕቀፍ፣ ስነስርዓት እና የአሰራር ችግሮች ካሉ ቢያብራሩልን?
11. አሁን ያለው የወንጀል ፍርድ ሂደት በተለይ የፆታዊ ጥቃት የተፈጸመባቸውን ተጎጂዎች የፍትሕ ፍላጎቶች ከማሟላት እና የወደፊት ቀጣይ ሕይወታቸው የተሻለ ከማድረግ አንጻር በቂ ነው ብለው ያስባሉ? ለምን ካልሆነስ ምን ዓይነት ተጨማሪ የአሰራር ስርዓት ያስፈልጋል? ቢያብራሩልን?
12. የፆታዊ ጥቃት ሰለባዎችን የፍትሕና ሌሎች ፍላጎቶች ከማሟላት አንጻር ኢመደበኛው የሕግ ስርዓት ለመደበኛው የሕግ ስርዓት ምን ዓይነት ሚና ሊጫወት ይችላል ብለው ያስባሉ? ቢያብራሩልን።
13. የፆታዊ ጥቃት ጉዳዮችን በሚመለከት የሚሰሩ በርካታ ባለ ድርሻ አካላት እንደመኖራቸው መጠን በምርመራ ሂደት ውስጥ ምን ያክል ከእነዚህ ባለ ድርሻ አካላት ጋር በትብብር ትሰራላችሁ? በተደጋጋሚ በአጋርነት የምትሰሩትስ ከየትኞቹ ባለድርሻ አካላት ጋር ነው? በምን ጉዳይ?
14. ከባለድርሻ አካላት ጋር የተጎጂዎች የቅብብሎሽ ስርዓት አለ ወይ? ካለስ ምን ዓይነት ሂደትን ይከተላል? የተጎጂዎች የቅብብሎሽ ስርዓት መኖሩስ ምን ዓይነት ጠቀሜታ አስገኝቷል ብለው ያምናሉ? ቢዘረዝሩልን።
15. የፆታዊ ጥቃት ተጎጂዎች በቂ የሆነ ካሳ እና የተሃድሶ አገልግሎቶችን የማግኘት መብቶቻቸውን ከማረጋገጥ አንጻር የተሰሩ ስራዎች ካሉ ቢያብራሩልን? ከሌላ ደግሞ ለምን እንዳለተሰሩ ምክንያታቸውን ቢያብራሩልን?

### IV. በጾታዊ ጥቃት ጉዳዮች ላይ ለሚሰሩ የፍትህ አካላት ባለሙያዎች (ለዳኞች) የተዘጋጀ ቃለ መጠይቅ

#### አጠቃላይ መረጃዎች

ስም (በፍላጎት) .....

ጾታ .....

ዕድሜ .....

የመስሪያ ቤቱ/ተቋሙ ስም .....

በመስሪያ ቤቱ ውስጥ እርስዎ የሚሰሩበት የስራ ክፍል .....

በመስሪያ ቤቱ/ተቋሙ ያለዎት ኃላፊነት ወይም የስራ ድርሻ .....

#### ጥያቄዎች

1. በሚሰሩበት ችሎት በተደጋጋሚ የሚቀርቡ የጾታዊ ጥቃት አቤቱታዎች ወይም ጉዳዮች በአብዛኛው ምን ዓይነት ጥቃቶች ናቸው? (ም.ሳ. አስገደድ የመደፈር፤ አላስፈላጊ ጾታዊ ትንኮሳዎች እና ወ.ዘ.ተ)
2. የጾታዊ ጥቃትን በሚመለከት ምን ያክል ተጎጂዎች ስለ ደረሰባቸው ጥቃት ፍትሕ እንዲያገኙ ምቹ ሁኔታዎች አሉ?
3. በጾታዊ ጥቃት ተጎጂ የሆኑ ሰዎች በፍርድ ሂደት ወቅት ምን የተለየ ጥበቃ ይደረግላቸዋል?
4. በጾታዊ ጥቃት ተጎጂ የሆኑ ሰዎች ምን ያክል ባቀረቡት አቤቱታ በፍርድ ሂደት ወቅት ተሳታፊ ይሆናሉ?
5. በተቋም ጾታዊ ጥቃትን የተመለከቱ ጉዳዮች ላይ ትኩረት አድርጎ የሚያስችል ችሎት አለ? ቢያብራሩልን። ከሌለ ደግሞ ተጎጂዎች የተፋጠነ ፍትሕ እንዲያገኙ ከማድረግ አንጻር ምን የተለየ የአሰራር ስልት ትተገብራላችሁ?
6. ለጾታዊ ጥቃት ጉዳዮች ለየት ባለ መልኩ የሚተገበር የማስረጃ ምዘናና ወይም የማስረዳት ሽክም ለውጥ አለ? (አብዛኛውን ጊዜ ወንጀሎቹ በድብቅ የሚፈፀሙ ከመሆኑ አንጻር፤ የወንጀሎቹ አይነት በእራሱ ተጎጂዎች ስለ ደረሰባቸው ጥቃት በግልፅ ከመናገር የመቆጠብ ሁኔታዎች ከመኖራቸው አኳያ)
7. ጾታዊ ጥቃቶችን በሚመለከቱ ጉዳዮች ላይ ከማስረጃ ምዘና አንጻር በፍርድ ሂደት ላይ በተደጋጋሚ የሚገጥሟችሁ ተግዳሮቶች ምንድን ናቸው? መንስኤዎቹስ ምንድን ናቸው?
8. የጾታዊ ጥቃትን ለመከላከል እና የሕግ ተጠያቂነትን ከማስፈን አንጻር ለአሰራር አስቸጋሪ የሆነባችሁ የሕግ ማዕቀፍ፣ ስነስርዓት እና የአሰራር ችግሮች ካሉ ቢያብራሩልን?
9. አሁን ያለው የወንጀል ፍርድ ሂደት በተለይ የጾታዊ ጥቃት የተፈጸመባቸውን ተጎጂዎች የፍትሕ ፍላጎቶች ከማሟላት እና የወደፊት ቀጣይ ሕይወታቸው የተሻለ ከማድረግ አንጻር በቂ ነው ብለው ያስባሉ? ለምን ካልሆነስ ምን ዓይነት ተጨማሪ የአሰራር ስርዓት ያስፈልጋል? ቢያብራሩልን?
10. የጾታዊ ጥቃት ጉዳዮችን በሚመለከት የሚሰሩ በርካታ ባለድርሻ አካላት እንደመኖራቸው መጠን በምርመራ ሂደት ውስጥ ምን ያክል ከእነዚህ ባለ ድርሻ አካላት ጋር በትብብር ትስራላችሁ? በተደጋጋሚ በአጋርነት የምትሰሩትስ ከየትኞቹ ባለድርሻ አካላት ጋር ነው? በምን ጉዳይ?
11. የጾታዊ ጥቃት ተጎጂዎች በቂ የሆነ ካሳ እና የተሃድሶ አገልግሎቶችን የማግኘት መብቶቻቸውን ከማረጋገጥ አንጻር የተሰሩ ስራዎች ካሉ ቢያብራሩልን? ከሌሉ ደግሞ ለምን እንዳለተሰሩ ምክንያታቸውን ቢያብራሩልን?

### V. በጾታዊ ጥቃት ጉዳዮች ላይ ለሚሰሩ የፍትህ አካላት ባለሙያዎች (ለሴቶችና ሕጻናት) የተዘጋጀ ቃለ መጠይቅ

#### አጠቃላይ መረጃዎች

ስም (በፍላጎት) .....

ጾታ .....

ዕድሜ .....

የመስሪያ ቤቱ/ተቋሙ ስም .....

በመስሪያ ቤቱ ውስጥ እርስዎ የሚሰሩበት የስራ ክፍል .....

በመስሪያ ቤቱ/ተቋሙ ያለዎት ኃላፊነት ወይም የስራ ድርሻ .....

#### ጥያቄዎች

1. ከጾታዊ ጥቃት ጋር በተያያዘ ድርጅትዎ የሚያከናውናቸው ስራዎች ምን ምን ናቸው?
2. ከጾታዊ ጥቃት ጋር በተያያዘ በሚሰጡ የፍርድ ሂደቶች ወይም ለጥቃቱ ስለባ የሆኑ ተጎጂዎች አስፈላጊውን ፍትህ እንዲያገኙ ሁኔታዎችን ከማመቻቸት አኳያ ምን ዓይነት ተሳትፎ እና ተግባራትን ታከናውናላችሁ?
3. ጾታዊ ጥቃቶችን በሚመለከት በምታከናውኗቸው ስራዎች ላይ በተደጋጋሚ የሚገጥሟችሁ ተግዳሮቶች ምንድን ናቸው? መንስኤዎቹስ ምንድናቸው ብላችሁ ታስባላችሁ?
4. የጾታዊ ጥቃት ጉዳዮችን በሚመለከት የሚሰሩ በርካታ ባለ ድርሻ አካላት እንደመኖራቸው መጠን በምርመራ ሂደት ውስጥ ምን ያክል ከእነዚህ ባለ ድርሻ አካላት ጋር በትብብር ትሰራላችሁ? በተደጋጋሚ በአጋርነት የምትሰሩት ስራዎች ባለድርሻ አካላት ጋር ነው? በምን ጉዳይ?
5. ከባለድርሻ አካላት ጋር የተጎጂዎች የቅብብሎሽ ስርዓት አለ ወይ? ካለስ ምን ዓይነት ሂደትን ይከተላል? የተጎጂዎች የቅብብሎሽ ስርዓት መኖሩ ምን ዓይነት ጠቀሜታ አስገኝቷል ብለው ያምናሉ? ቢዘረዝሩልን።
6. የጾታዊ ጥቃት ተጎጂዎች በቂ የሆነ ካሳ እና የተሃድሶ አገልግሎቶችን የማግኘት መብቶቻቸውን ከማረጋገጥ አንጻር የተሰሩ ስራዎች ካሉ ቢያብራሩልን? ከሌሉ ደግሞ ለምን እንዳለተሰሩ ምክንያታቸውን ቢያብራሩልን?

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