

Realization of Women Right to Access to Justice the Law and Practice: In Case of Oromia Region North Shewa Zone

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Abstract

This study examines women's right to access justice in Ethiopia's North Shewa Zone, highlighting legal and practical barriers that perpetuate gender inequality. Through qualitative methods including interviews and case reviews, the research identifies cultural, structural, and economic challenges affecting women's ability to seek justice. The study also evaluates gaps in legal frameworks and judicial practices, proposing targeted solutions for improved legal awareness, gender equality, and institutional reforms.

Keywords: access to justice, women rights

1. Introduction

Women face significant barriers to justice due to systemic discrimination, cultural norms, and institutional inefficiencies. This paper explores how these barriers limit women's rights in Ethiopia, with a specific focus on the North Shewa Zone Oromia Region. Access to justice is essential for the realization of all human rights and requires urgent attention in regions with pervasive inequalities. This study seeks to identify key challenges and provide actionable recommendations for improving women's access to justice.

1.1 Introduce the Problem

Over the course of history, women's concerns have consistently been overlooked in national policies and legislation. It is only in recent years that states have started to recognize women's rights, thanks to the implementation of human rights instruments facilitated by the United Nations. However, despite the existence of international and national laws protecting women's access to justice, the insidious issues of violence and discrimination against women persist, often remaining hidden from public view. Consequently, the realization of women's rights continues to be a formidable challenge. Tragically, women frequently find themselves trapped in a cycle of poverty, rendering them powerless and voiceless in all spheres of life. Throughout Africa, women are often denied the opportunity to make decisions. Even those who are educated often fail to advocate for their rights and contribute to societal development due to financial constraints and the patriarchal nature of African society. Consequently, they find themselves trapped in a cycle of daily struggles, desperately trying to provide for their starving families. This unfortunate reality has persisted throughout history (Gerendalyn p. ambrose, *democratization and the protection of human rights in Africa: problems and prospect*, 1st ed., Praeger Publishers, United States of America, 1995) Women in Africa face gross violations of their rights, ranging from assault to various other forms of abuse. Unfortunately, their cases are often disregarded due to the discrimination they encounter at every level, from society and police officers to higher judicial organs. This systemic injustice not only undermines the fundamental rights of women but also perpetuates a cycle of inequality and suffering. It is imperative that we address these issues with the utmost urgency and work towards creating a society that upholds the rights and dignity of all individuals, regardless of gender (Florence Butegwa, *The Challenge of Promoting Women's Rights in African Countries*, in Joanna Kerr, ed., *Ours by Right: Women's Rights as Human Rights*, Ottawa: ZED Books, in association with the North-South Institute, 1993, p. 40). In Ethiopia making the rights a reality has been difficult just as any other undeveloped countries with poor human rights protection and very low rates of female education and empowerment. The right to access to justice for women is violated day to day (National action plan for gender equality (nap-ge) 2006) By taking in to account the problems exist in relation to right to access to justice for women; this article explore the legal and practical gaps on implementation of women right to access to justice in general in Ethiopia and specifically in North shewa Zone.

- The problem which the author seek to address are;

- Whether the women is aware of her legal rights under international and national laws in a way that she can make her own case in case of North shewa zone,
- Whether duty bearers make a meaningful participation for women in the pursuit of her case
- Whether the process empowers women in having them engaged with the system and have them making their own choices.

1.2 Justification of the Study

The issue of women's rights is a highly sensitive matter due to their vulnerable nature. The right to access justice is a fundamental right that ensures equal participation for women. At the international, regional, and national levels, there are laws in place to protect women's rights to access justice. However, as, we have identified gaps in the legal framework, particularly in civil and criminal cases, and the non-implementation of signed and ratified human rights treaties, as outlined in Articles 9(4) cum to 13(2) of the FDRE Constitution.

In our preliminary assessment conducted in our study area, we have found that women are among the vulnerable groups whose right to access justice is violated. This is due to the historical cultural influences that have led them to accept problems affecting their human rights without disclosing or defending their right to access justice. There is also a lack of legal awareness regarding where to seek help, how to claim and defend their rights, and the administration of their common property. Additionally, economic problems prevent them from hiring private attorneys and covering legal costs. Furthermore, gender-based violence against women is prevalent in their homes, schools, and workplaces. Based on these existing problems, this article aim to cover the legal and practical challenges that hinder effective access to justice for women in Ethiopia, specifically in the North Shewa Zone Oromia Regional State. Author also strives to recommend possible solutions to the appropriate stakeholders to address these issues.

1.3 Review of Past Related Literature

The principle of women's legal rights as civil liberties stemmed from a long-standing battle versus the discrimination as well as marginal that ladies have actually encountered traditionally. The acknowledgment of women's legal rights as civil liberties is not just a statement however a dedication to make sure equal rights and also non-discrimination on the basis of sex. This understanding has actually been formed by numerous worldwide treaties and also systems which highlight the relevance of resolving the gendered measurements of legal rights plus justice.

1.3.1 The Universal Declaration of Human Rights (UDHR) of 1948

The Universal Declaration of Human Rights (UDHR) of 1948 was a landmark document in the history of human rights. Although not explicitly focused on women's rights, it set the foundation by asserting the principle of non-discrimination which includes sex as a ground of equality. This principle was further developed and specified in subsequent international treaties (Universal Declaration of Human Rights, United Nations, 1948)

1.3.2 The Convention on the Elimination of All Forms of Discrimination (CEDAW) 1979

One of the most significant milestones in the codification of women's rights was the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the United Nations General Assembly in 1979. CEDAW is often described as an international bill of rights for women, defining what constitutes discrimination against women and setting up an agenda for national action to end such discrimination (United Nations, 1979). The convention has been ratified by 189 states, which are bound to incorporate the principle of equality into their legal system, abolish all discriminatory laws, and adopt appropriate ones prohibiting discrimination against women (United Nations Human Rights Office of the High Commissioner, New York and Geneva, 2014).

The document provides the nature and definition of sex-based discrimination, and stipulates state obligations to avoid any form of discrimination and achieve substantive equality. In this regard, similar with other human rights treaties, obligation is placed upon states through ratification. However, the Convention articulates State obligations to address not only discriminatory laws, but also practices and customs, and discrimination against women by private actors.

1.3.3 The Fourth World Conference on Women, Beijing, 1995

Another seminal event was the Fourth World Conference on Women in Beijing in 1995, which adopted the Beijing Declaration and the Platform for Action. This platform identified twelve critical areas of concern, and it remains one of the most comprehensive policy frameworks for the advancement of women's rights. The Beijing Platform for Action called for a holistic approach to promoting the human rights of women and girls, demanding change at

both the national and international levels (Report of the Fourth World Conference on Women, Beijing, United Nations publication, A/CONF.177/20/Rev.1, Beijing 4-15).

It builds on the results of the previous three world conferences on women, but is considered a significant achievement in explicitly articulating women's rights as human rights. The Platform for Action includes a series of strategic objectives to eliminate discrimination against women and achieve equality between women and men. It involves political and legal strategies on a global scale based on a human rights framework.

The Platform for Action is the most comprehensive expression of States' commitments to the human rights of women. Subsequent reviews of the implementation of the Beijing Declaration and Platform for Action have revealed that although significant progress has been made in some areas of women's human rights, "discriminatory legislation as well as harmful traditional and customary practices and negative stereotyping of women and men still persist" particularly in family, civil, penal, labour and commercial laws or codes, or administrative rules and regulations.

1.3.4 The Sustainable Development Goals (SDGs) 2015

Furthermore, the adoption of the Sustainable Development Goals (SDGs) in 2015, particularly Goal 5, which seeks to achieve gender equality and empower all women and girls, reflects the ongoing commitment of the international community to women's rights as human rights (UNHCR (n11) p.15)

Despite these efforts, the actualization of women's rights globally remains uneven. Continued advocacy is necessary to address the systemic barriers that hinder the full realization of women's human rights. The work of scholars like Charlotte Bunch, who has argued that women's rights are integral to the universal human rights framework, has been instrumental in highlighting the importance of gender in all aspects of human rights discourse (Bunch, C., 'Women's Rights as Human Rights: Toward a Re-Vision of Human Rights').

Generally, the recognition of women's rights as human rights is the result of a dynamic and evolving process. International treaties such as CEDAW and the Beijing Platform for Action have been critical in this journey, providing a legal and policy framework for the promotion and protection of these rights. The historical development of women's rights within the human rights lexicon serves as a reminder of the progress made and the work that remains in pursuit of gender equality and justice.

1.4 *Inter-sections in Access to Justice*

Inter section refers to the interconnected nature of social identities, such as race, class, gender, sexuality, and disability, and how they intersect to shape an individual's experiences and opportunities within society. According to Kimberlé Crenshaw, inter sectionalist highlights that individuals may experience multiple forms of discrimination and oppression simultaneously, leading to unique and compounded disadvantages (Crenshaw, K., 'Mapping the Margins: Inter sectionality, Identity Politics, and Violence against Women of Color.' Stanford Law Review)

Inter sectionalist is highly relevant to women's rights as it recognizes that women's experiences of discrimination and barriers to justice are not uniform but vary depending on their intersecting identities. It acknowledges that women do not face discrimination solely based on their gender but also due to other aspects of their identity, such as race, class, and sexuality.

1.5 *Different Identities Can Have a Significant Impact on Women's Access to Justice*

1. Race: The intersection of race and gender can result in specific challenges faced by women of color. They often encounter racial bias, stereotypes, and systemic racism that can hinder their access to justice. For example, women of color may face racial profiling, discrimination in legal proceedings, and limited access to legal resources and representation.

2. Class: Socioeconomic status plays a crucial role in determining women's access to justice. Women from disadvantaged socioeconomic backgrounds may struggle to afford legal representation, navigate complex legal systems, or access necessary resources to pursue justice. Economic inequalities can create barriers that prevent women from exercising their rights and seeking legal remedies.

3. Sexuality: Lesbian, bisexual, and transgender women may face unique challenges in accessing justice due to intersecting forms of discrimination. They may encounter prejudice, bias, and lack of understanding within legal systems, which can impede their ability to access justice fairly. Discrimination based on sexual orientation can further marginalize these women and limit their options for seeking redress.

It is important to recognize and address these intersecting identities and their impact on women's access to justice. Inter sectionalist calls for an inclusive and holistic approach that acknowledges the complexity of women's experiences and seeks to address multiple forms of discrimination and oppression.

1.6 Barriers towards Women's Right to Access to Justice

Access to justice is a fundamental human right that ensures fairness, equality, and protection for all individuals within a society. Unfortunately, women around the world continue to face significant barriers when seeking justice, impeding their ability to exercise their rights and seek redress for violations. These barriers are deeply rooted in societal norms, cultural biases, and systemic inequalities. In this discussion, we will highlight some of the key barriers that hinder women's right to access justice.

1. **Socio-cultural Barriers:** Gender norms and cultural practices often perpetuate discrimination against women, limiting their access to justice. Traditional beliefs that prioritize male authority and dominance can undermine women's credibility, making it difficult for them to be taken seriously or have their experiences validated in legal proceedings. Social stigmas, victim-blaming, and stereotypes further deter women from reporting crimes or seeking legal remedies (Tooklit (n1) p.96, 99)

2. **Lack of Awareness and Knowledge:** Many women are unaware of their legal rights and the available avenues for seeking justice. Limited access to information and legal literacy prevents them from understanding their entitlements and pursuing legal recourse when faced with violations. This lack of awareness can leave women vulnerable to exploitation and hinder their ability to navigate the complex legal systems.

3. **Economic Barriers:** Economic disparities disproportionately affect women's access to justice. Financial constraints often prevent women from affording legal representation, filing fees, or the costs associated with court proceedings. Additionally, women who rely on their partners for financial support may fear economic repercussions if they choose to pursue legal action, further deterring them from seeking justice (M.& Garth, B., 'Access to Justice: The Newest Wave in the World Wide Movement to Make Rights Effective', Buffalo Law Review, Vol. 27).

4. **Institutional Barriers:** Institutional barriers within the justice system can impede women's access to justice. Biased laws, discriminatory practices, and inadequate gender-sensitive policies undermine women's rights and perpetuate injustice. Limited representation of women in decision-making positions within the judiciary and legal profession can also hinder women's access to fair and impartial justice (Toolkit n1 p 89).

5. **Geographical Barriers:** Rural and marginalized communities face unique challenges that hinder women's access to justice. Limited infrastructure, lack of legal aid services, and distance from courts make it difficult for women in these areas to access legal remedies. Cultural norms and societal pressures in these communities can further isolate women, making it harder for them to seek justice.

Addressing these barriers requires a multi-faceted approach. Governments, civil society organizations, and legal institutions must work together to raise awareness about women's rights, promote legal literacy, and provide affordable legal aid services. It is crucial to reform laws and policies to ensure gender equality and eliminate discriminatory practices within the justice system. Additionally, promoting women's participation and representation in legal and judicial institutions is essential for creating a more inclusive and gender-sensitive justice system.

Generally, overcoming barriers to women's access to justice is paramount for achieving gender equality and upholding human rights. By dismantling socio-cultural, economic, institutional, and geographical obstacles, societies can create a more just and inclusive environment where women can exercise their rights, seek justice, and contribute to the overall well-being and progress of society.

1.7 International Legal Frameworks towards Women's Right to Access to Justice

International law plays a crucial role in promoting and protecting women's rights to access justice globally. It establishes principles and standards that guide states in ensuring equal access to justice for women. Several international legal instruments explicitly address this issue, reflecting the commitment of the international community to uphold women's rights. In this detailed discussion, we will explore the international legal frameworks that protect and promote women's right to access justice, along with relevant citations.

1.7.1 Universal Declaration of Human Rights (UDHR)

The UDHR, adopted by the United Nations General Assembly in 1948, recognizes the right to a fair and public hearing by an independent and impartial tribunal. The declaration is considered as a milestone in the history of human right law development as it remained a pillar for the emergence of the civil and political rights in one hand,

and the economic, social and cultural rights on the other. As it was all inclusive, if not full-fledged, has tried to promote the basics of equality of women with men in every dimensions. It also emphasizes equality before the law and prohibits discrimination based on sex, ensuring that women have the same access to justice as men(UDHR)

1.7.2 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

CEDAW, adopted by the UN General Assembly in 1979, is a comprehensive treaty that addresses discrimination against women in all areas of life. It highlights the right to access justice as a fundamental principle and requires states to ensure women's equal access to legal remedies and protection before the law. (Convention on the Elimination of All forms of Discrimination against Women, New York, 18 December, 1979, Article 15).

CEDAW recommendation 33 (GR33): the recommendations gives emphasis to the essentiality of women's right to access to justice in general and the realization of rights protected under the CEDAW. Moreover, it capitalizes as to the need for the existence of rule of law, impartiality of judiciary, equal participation of women in judicial activities as well as implementation of laws. Furthermore, it examines the obligations of States parties to ensure that women have access to justice, and tends to show the barriers and obstacles which hinder the effectiveness of access to justice. The recommendation has made an attempt in showing the grounded barriers towards the implementation of principles, substantive and procedural elements within women's right to access to justice. Likewise it has endeavored to provide the possible way outs in applying those principles. (Committee on the Elimination of Discrimination against Women, General Recommendation no.33 on Women's Access to Justice, CEDAW/C/GC/33, 3 August 2015).

1.7.3 Beijing Declaration and Platform for Action (1995)

The Beijing Declaration and Platform for Action, adopted at the UN Fourth World Conference on Women, recognizes the importance of women's access to justice. It calls for the elimination of gender biases and the provision of legal protection and support services for women who face violence and discrimination (Beijing Platform (n13), Paragraph 124, p.51)

1.7.4 Rome Statute of the International Criminal Court (ICC)

The Rome Statute, adopted in 1998, establishes the ICC as a permanent international criminal court. It recognizes that acts of sexual and gender-based violence are crimes against humanity, war crimes, and genocide. The ICC ensures that victims, including women, have access to justice and reparations for such crimes (Rome statute of the international criminal Court).

1.7.5 United Nations Security Council Resolution 1325

The United Nations Security Council is among the global entities which extended its recognition and protection to the rights of women. Its Resolution 1325 addresses the impact of armed conflict on women and calls for the inclusion of women in peace processes, conflict resolution, and post-conflict reconstruction. It emphasizes the importance of women's access to justice, including the prosecution of crimes of sexual violence (United Nations Security Council resolution 1325 on Women peace and security)

These international legal frameworks, among others, provide a solid foundation for promoting women's right to access justice globally. They recognize the importance of eliminating discrimination, ensuring legal protection, and providing support services for women who face violence and injustice. However, effective implementation at the national level remains a challenge, and further efforts are needed to bridge the gap between international standards and domestic laws.

It is worth noting that many regional human rights instruments, such as the European Convention on Human Rights, the African Charter on Human and Peoples' Rights, and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, also contain provisions that protect and promote women's right to access justice within their respective regions.

1.7.6 National Legal Frameworks on Women's Rights to Access to Justice

Ethiopia has made significant progress in promoting women's rights to access justice through various legal frameworks. These frameworks aim to address the barriers women face and ensure equal access to justice. The following are some key legal instruments in Ethiopia that safeguard women's rights and enhance their access to justice, along with relevant citations:

1.7.7 Constitution of the Federal Democratic Republic of Ethiopia (1995)

The FDRE constitution is the significant document which opened a door for the promotion and implementations of women rights by recognizing and incorporating universally accepted treaties (Federal Democratic Republic of

Ethiopia Constitution, Proclamation no. 1/1995). Accordingly, attention is accorded to women's right to justice through the formulation of domestic laws in the light of internationally founded rules and principles. Here, national policies, laws, and implementation mechanisms are aligned to international laws ratified by Ethiopia. The Ethiopian Constitution guarantees equal rights for all citizens, including women, and prohibits discrimination based on gender. Article 35 specifically recognizes the right to access justice and emphasizes the importance of gender equality in all aspects of society.

1.7.8 Criminal Code of Ethiopia (2004)

The Criminal Code of Ethiopia is among the national laws which gives a great deal of emphasis as to the equality of women and men in general and protection of women's rights in particular. Previously the code (penal code) was highly influenced by socio-economic factors and remained behind the era modernization that hindered not to effectively promote and protect women's right effectively. Following the enactment of the new criminal code, however various changes have been brought into the ground. The 2004 Criminal Code criminalizes various forms of violence against women, including rape, sexual harassment, female genital mutilation, and domestic violence. It provides legal protections for women and imposes penalties for offenders (Ethiopian Criminal code).

1.7.9 Family Code of Ethiopia (2000)

The Family Code of Ethiopia attempts to address various aspects of family law and provides protection for women's rights within the family. It prohibits forced marriages, recognizes women's right to inherit property, and ensures the right to divorce and child custody. Furthermore, it has brought new dimensions against the previous traditional practices which affects and marginalize the rights and interests of women in different aspect (The revised Family code of Ethiopia).

1.7.10 National Policy on Gender Equality

The National Policy on Gender Equality aims to eliminate gender-based discrimination and promote women's empowerment in all spheres of life. It recognizes the importance of women's access to justice and commits to improving legal protection and support services for women. Ethiopia formulated its first policy on Women in 1993 and ever since then the country has witnessed many changes in various perspectives. In this regard, the enactment of the FDRE Constitution has changed things in regular manner, i.e., the previous policy aligned with many other international treaties were integrated as part of the law of the land(National Policy on Prevention of GBV).

Following the new millennium the government has shown attempt to propose short term as well as long term plan (Five and Ten years plan) incorporating women and gender based violence issues among other things. Recently the state has revealed a draft strategy to promoting and protecting women and children against violence. Similarly, in 2023 a nation-wide policy was enacted on prevention of gender based violence. Accordingly, the policy aimed at promoting gender equality and elimination of violence and discrimination against women.

These legal frameworks, among others, play a crucial role in safeguarding women's rights to access justice in Ethiopia. However, it is essential to ensure effective implementation, raise awareness, and provide proper resources to overcome the existing barriers and challenges that women still face in accessing justice. There has been no direct research conducted on the issue of access to justice for women in North Shewa Zone Oromia Region. However, there have been some indirect efforts to address these issues. For example, Mahider Mulugeta wrote a working paper titled "Gender-Based Violence, Women with Disabilities, and Access to Justice: A Comparative Analysis in Ethiopia and Kenya (Mahider Mulugeta Habtemariam, Gender based violence, women with disabilities and access to justice: Ethiopia and Kenya, Central European University Nov,2015)

In this paper, she specifically discussed access to justice in criminal matters, focusing on gender-based violence that affects women with disabilities. Unfortunately, the authors failed to address access to justice for women in general, including civil cases and identifying legal gaps.

The current research will specifically focus on the right to access justice for women in Ethiopia, addressing legal and practical gaps in implementation in North Shewa Zone by examining both civil and criminal cases.

Mizane Abate, Alebachew Birhanu, and Mihret Alemayehu, in their article titled "Realizing Access to Justice for the Poor and Vulnerable through Legal Clinics: The Experience of Ethiopian Law Schools," explored the status, operation, and effectiveness of legal clinics in Ethiopian law schools in providing access to justice for marginalized groups. Their article emphasizes the role of Ethiopian law schools in providing access to justice through legal clinics, rather than addressing the challenges face'd by vulnerable groups in accessing justice.

Therefore, this present research will be unique in its focus on the legal and practical implementation of women's rights to access justice in general, specifically in the Oromia Region North Shewa Zone courts. Given the lack of

sufficient literature in this field, this work aims to contribute to filling the gap on the right to access justice for women in general, and specifically in North Shewa Zone (Mizanie Abate et al 'Clinical Legal Education in Ethiopia: Challenges and Prospects', 2009, 2 Ethiopian Journal of Legal Education)

(Etegeget Kedir) has conducted research on the major gaps in women's rights in Ethiopia, with a specific focus on the prevalent issues such as stereotypical attitudes, female genital mutilation (FGM), early marriage, domestic violence, intimate partner violence, violence and abduction, and reproductive health rights (However, the current research differs by specifically examining the human right to access to justice, including civil cases in addition to criminal cases. The practical implementation of this research can be observed in North Shewa.

2. Method

The article conducted is a combination of both doctrinal and non-doctrinal research approaches, as the authors believe it is most suitable for this study. In order to achieve the objectives and address the research questions, qualitative research methods were utilized. The main focus of this study is to evaluate the realization of the right to access justice for women in the North Shewa Zone Oromia Region. The study sites chosen were Wachale, Gerar-Jarso, Degem, and Kimbibit.

Qualitative research methods such as interviews, focus group discussions, case reviews, and observations were employed to gather empirical data. Information was collected from various stakeholders including individual women, private attorneys, police, judges, public prosecutors, land administration office, and the Women, Children, and Youth Affairs office.

Furthermore, relevant international, regional, and national laws, policies, and strategies regarding the right to access justice for women were examined using a doctrinal research approach.

2.1 Data Type and Sources

Data collected for this study was obtained from both primary and secondary sources. Primary sources included interviews, FGD with key informants, legislations, and literature. Primary information was gathered from sources such as laws and individuals due to the limited availability of secondary data on women's access to justice in North Shewa Zone. The primary data collection process involved reviewing international and national instruments, as well as gathering information from key stakeholders in the North Shewa Zone.

Secondary sources of information were utilized to provide the necessary conceptual and legal frameworks on access to justice. They also helped in obtaining a general overview of the problem and obtaining specific information on various aspects of the study.

2.2 Documentary Analysis

The documents examined for this study include: case reviews, literature and research on access to justice in Ethiopia, reports from governmental and non-governmental institutions regarding women's access to justice, publications from UN treaty bodies, the CEDAW report, and fact sheets from organizations like UN Women. These materials were thoroughly reviewed and analyzed to provide a comprehensive understanding of the topic.

2.3 Data Collection Tools

The Necessary Data and Information Were Collected From Primary Sources Using The Following Methods.

2.3.1 Semi Structured Interview

The Author utilized semi-structured interviews to collect data from a variety of sources, including police officials, private attorneys, women's and child affairs offices, prosecutors, land administration offices, and judges. This method was chosen for its suitability in qualitative analysis, allowing for flexibility in the order of questions based on the direction of the interview.

An interview guide was employed as a framework, but additional questions were posed as deemed necessary by the interviewer. Author asked questions in a manner they believed to be most effective, seeking clarification when needed to ensure a thorough understanding of the responses.

2.3.2 Focus Group Discussion

Focus Group Discussion (FGD) is a well-established qualitative research tool that involves structured or semi-structured question formats, as well as semi-directed interviews, focus groups, and discussions. These methods are utilized to gather research data in a systematic and organized manner.

In this study, Author utilized FGD to collect information from a diverse group of participants, including individual women, police officials, private attorneys, land administration officials, child and youth affairs

officials, prosecutors, and judges in the courts of North Shewa Zone. By engaging with these stakeholders, The Author was able to gain valuable understandings and perspectives on the issues at hand.

2.3.3 Literature Review

This method employed to collect information from secondary sources.

2.3.4 Observation

A systematic observation of women involved in legal cases was utilized at Women's Affairs Office and judicial organizations to eliminate any evident biases and to address any uncertainties regarding hidden biases.

2.3.5 Data Collection Procedure and Method of Data Analysis

In order to gather accurate data necessary for the study, author utilized data collectors specifically hired for this purpose. The interview guidelines were initially created in English and then translated into Afan Oromo to ensure participants could easily understand the questions. Following this, the collected data was accurately analysed, interpreted, and evaluated using the thematic analysis method.

2.3.6 Sampling Technique and Sample Size

The Author employed a purposive sampling to select four woredas (towns) from North Shewa. The study sites chosen were Gerar-Jarso, Degem, and Kimbubit. The rationale for selecting these areas was the low incidence of reported cases related to women's issues, the proximity to Salale University for logistical convenience, and the ease of data collection.

Key informants were deliberately chosen based on specific qualities to ensure a representative sample or reach saturation points. This method is expected to provide a comprehensive cross-section of the population.

3. Result

3.1 General Challenge Obstructs Women Rights to Access Justice in Case of Oromia Region North Shewa Zone

3.1.2 Cultural Challenge

The historical influence of patriarchy has had a significant impact on cultural norms. In the past, men have held control over every aspect of society, leaving women with limited rights and opportunities. Women were often seen as incapable of claiming their own rights, restricted in their movements, and confined to domestic duties such as caring for children and cooking. They were often unaware of how to exercise their rights, where to seek help, and were financially dependent on their husbands. This lack of independence left women vulnerable to victimization, with many fearing retribution if they tried to assert their rights in court (Interview made with ms Almaz Getu, Zonal women, child and youth Affairs)

In many cultures, there is an assumption that women have no rights to inheritance, especially when it comes to immovable property. Women often accept this as the norm and are indirectly excluded from inheriting their family's assets due to a lack of legal knowledge. Additionally, when a woman gets married, her husband's family may count property to be common property of spouse, which can lead to disputes if disagreements arise between spouses (Interview with Judge Tesfaye Abate at Girar Jarso Wareda court). One of the main issues is that many property donations made to spouses as common property are not properly registered, which can lead to questions about their validity when disputes arise (The case of *Gannat Gannanaw v. Damxo Birhanu* (Case between *Gannat Gananew vs Damtew Birhanu*). The lower court reviewed that the land belonged to the family of her ex-husbands, and they gave to the spouse on the marriage days, and used the land for the livelihood of themselves the court overruled the intervention claim of the family of the husband. Under the judgment given in Wara Jarso Woreda, the court reasoned that the "family of a spouse gives land for spouse and the spouse used the land for a long period time, as well as family donates lands as per the culture of the society and due to this they decided land is property of the spouse and have an equal right to share the lands upon divorce." North Shoa Zone High court under file number 90917 overrides Wara Jarso Woreda's verdicts that land was given by the family to the spouse through donation, but such donation upon conclusion of marriage is not being registered in the land administration bureau, due to this land that was used for more than four years between husband and wife is decided for family of husband and this show that different view exists on the land issue and this affects women's right because she lives together for almost four years, use the land for their livelihood and the love, compassion, and tolerance from the family of husband on the day of marriage is lost during divorce and such rights affect women's right to own and use lands effectively as they use during the marriage.

3.1.3 Lack of women participation in Arbitration as Arbitrator

Furthermore, women are often not allowed to participate in arbitration as arbitrators, as this role is traditionally reserved for men. This cultural practice can have a significant impact on discriminating against women and their needs (Interview made with Birtukan Moges at Hambiso City).

It is important to address these cultural norms and legal issues to ensure that women have equal rights to inheritance and property ownership. By promoting gender equality and providing women with the necessary legal knowledge, we can work towards a more just and equitable society for all.

3.1.4 Economic Challenges in Accessing Legal Services

Formal litigation comes with various costs, including fees for pleading, hiring a private attorney, court fees, transportation, and more. When women become aware of their rights and seek to claim them, many find themselves without the financial means to hire a private attorney, pay for legal representation, or cover court fees. Additionally, many cases are referred to kebele administration or kebele land administration for various reasons, such as executing judgments or verifying boundaries and they ask money (Interview made with North Shewa High Court Judge Debele Asafa). The lack of financial resources often poses a significant barrier for women seeking justice and legal assistance. This financial burden can prevent them from accessing the legal system and enforcing their rights effectively.

3.1.5 Exclusion from Common Property

When women leave their homes, they often face challenges in claiming their rightful share of common property. Men sometimes hide the property or register it under a different name to exclude women from their rightful ownership. When women attempt to assert their claims, they are met with further challenges and obstacles

(Interview made with Ms Mulu Adugna, At Girar Jarso Wareda Court on 20 May, 2024).

This practice of excluding women from common property is not only unjust but also illegal. It is important for women to be aware of their rights and to take action to ensure that they are not denied what is rightfully theirs. By seeking legal assistance and standing up for their rights, women can overcome these obstacles and secure their rightful share of common property.

3.1.6 Challenge Related to Maintenance of Children and Pregnant Women

It is crucial to prioritize the best interests of the child, especially in cases of divorce. When a child is above 5 years old, they may have the opportunity to choose to live with either their mother or father. However, the final decision is made by the court, taking into consideration what is best for the child. In many cases, children tend to prefer living with their mothers.

Fathers are typically mandated to provide maintenance payments based on their income. Unfortunately, these regular maintenance payments are often interrupted, leaving women and children vulnerable to financial instability, forcing them into begging or even exploitative labor (Interview made with Ms Getuu Eshetu, At Girar Jarso Wareda Court on 20 May, 2024)

Another significant challenge is the legal gap in both federal and regional family laws when it comes to providing maintenance for unborn children. Pregnant women require special care and nutrition to ensure a healthy birth for their child. However, when disputes arise between spouses, maintenance for pregnant women is often determined through estimation or at the discretion of a judge, rather than through clear legal guidelines.

3.1.7 Challenge related to Use of Land Rights

Volume 22, File Number 138286 features a case between Calume Muleta and Calashi Qelbesa. This case highlights the equal rights that both men and women have in controlling, transferring, and managing land, ensuring gender equality (Cassation decision Volume 22 File number 138286 case between Calume muleta Vs Calashi Qelbessa). However, despite these rights, women often struggle to effectively utilize the land they acquire, whether through court litigation or arbitration, due to deep-rooted customary stereotypes.

Furthermore, women tend to only assert their land rights during divorce proceedings, lacking a sense of ownership while married. This is making worse by traditional practices that uphold male dominance in society, hindering women from fully exercising their rights.

It is crucial to address these issues to promote true gender equality and empower women to assert their rights in land ownership.

Currently, the Oromia rural land proclamation stipulates that for anyone, either woman or man, to have lands or to get lands after divorce, the spouse should have to wait for 10 years. Under Proclamation 248/2015 Article 10/4/

property of lands which is not owned individually or jointly by agreement becomes common property so long as they have been used for ten years as well as the spouses are subsisting on the income from the land for the time being (Proclamation 248/2015 Art 10).

under this law, The rationale behind this law is that both woman and man concluded marriage in previous times for the wellbeing of the family without bad acts, currently in need of land from both man and woman conclude a marriage, and due to this Caffee Oromia enact 10 years for a spouse to live together to share lands by aiming that improve land utilization and declining those who conclude marriage for the need of lands. As a researcher I argue and recommend that Land is the backbone of society's socio-economic and political phenomena ensuring access to land for the community. But waiting 10 years affect women right if the disagreement rose between spouses before the time limited.

3.1.8 Domestic Violence

While women are statistically more likely to experience severe physical abuse, it is important to recognize that men can also be victims of emotional, psychological, and physical abuse. Domestic violence can take on various forms, including but not limited to:

- **Physical violence** involves the use of physical force against another. Examples include hitting, shoving, grabbing, biting, restraining, shaking, choking, burning, forcing drug/alcohol use, and assault with a weapon, etc. Physical violence may or may not result in an injury that requires medical attention.
- **Sexual violence** involves the violation of an individual's bodily integrity (sexual assault), including coercing sexual contact, rape, and prostitution, as well as any unwelcome sexual behavior (sexual harassment), and including treating someone in a sexually demeaning manner or any other conduct of a sexual nature, whether physical, verbal, or non-verbal. Sexual abuse also includes behavior which limits reproductive rights, such as preventing use of contractive methods and forcing abortion.
- **Psychological abuse** is often characterized as intimidation, threats of harm, and isolation. Examples include instilling fear in an intimate partner through threatening behavior, such as damaging property or abusing pets, constant supervision, or controlling what the victim does and who they talk to. Spiritual abuse may be included as a type of psychological abuse. It involves the misuse of spiritual or religious beliefs to manipulate or exert power and control over an intimate partner (i.e., using scripture to justify abuse or rearing the children in a faith or religious practice the partner has not agreed to).
- **Emotional abuse** involves undermining an individual's sense of self-worth. Examples of emotional abuse include constant criticism, name-calling, embarrassing, mocking, humiliating, and treating like a servant.
- **Economic abuse** involves making or attempting to make the victim financially dependent on the abuser. Examples of economic abuse include preventing or forbidding an intimate partner from working or gaining and education, controlling the financial resources, and withholding access to economic resources.

The most prevalent form of domestic violence in North Shewa Zone is physical and psychological abuse. According to information gathered from relevant institutions, these are the most commonly reported types of domestic violence in the region (Interview with Damtew Tana, manager of public prosecutor's in North Shewa zone on Law and practice regarding the prevention of domestic violence Nov.13/032024) During the interview, it became evident that many victims of domestic violence choose not to report the abuse they endure due to the intimate nature of their relationships (Committee on the Elimination of Discrimination Against Women, General Recommendation 19 (11th Sess., 1992), accessed August 14, 2024, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recomendation>).

In numerous regions around the world, including Ethiopia, marital abuse is not considered assault because husbands are often seen as having the right to access their wives. This outdated mindset perpetuates the cycle of abuse and prevents victims from seeking help. In a significant move, the CEDAW Committee rejected traditional or customary justifications for domestic violence in their General Recommendation of 1992. This decision marked a crucial step towards recognizing and addressing the issue of domestic violence on a global scale.

3.1.8.1 Cases on Domestic Violence

Case 1

File No /58602/ case between public prosecutor and Mr Geleta Ketama; In the North Shewa Zone, specifically in a locality referred to as Commando. The Public Prosecutor formally commenced legal proceedings on the 7th of April, 2015, at the Gar Jarsoo Woreda First Instance Court. The allegations levied against the 80-year-old accused, Mr. Geleta Ketema, pertain to the recurrent sexual assault of his own 9-year-old daughter, Netsanet Geleta. It is

purported that these sexual assaults persisted until the victim attained adolescence, culminating in her pregnancy and exposing her to significant health risks. In light of the evidence presented by the Public Prosecutor and taking into account the defendant's advanced age and imminent mortality, the court adjudicated a sentence of 12 years of rigorous confinement.

Case 2

Bontu Kedir has represented by the public prosecutor on August 18, 2013. Gadisa Dera Hailu faced allegations of contravening Article 628 /a/ of the Criminal Code. As per the assertion of the public prosecutor, Ato Gadisa Dera Hailu, aged 17, residing in Girarjarso Woreda, Eyanta Danish Kebele, Korefidi village, committed the act of rape against 15-year-old Bontu Kedir, who suffers from mental illness, by forcibly entering her through a forest while she was engaged in play in the mud on February 17, 2013, at 4:00 a.m. In his defense, the accused, through his legal representative, appeared before the court, acknowledged his guilt, and invoked Article 63 in an effort to secure bail for the defendant.

Decision of the court

The court, taking into consideration the defendant's age, determined a financial penalty of 15,000 ETB and mandated that he remain in custody until the payment is fulfilled. However, due to the defendant's refusal to remit the 15,000 birrs, the court subsequently amended the sentence to duration of two years of imprisonment.

3.1.8.2 Criminal code of Ethiopia Response to Marital Rape

The current Criminal Code of Ethiopia does not classify marital rape as a criminal offense, leading to a lack of punishment for perpetrators. Article 620(1) of this code includes the phrase "outside wedlock," suggesting that consent is implied within marriage. This loophole essentially grants husbands the freedom to sexually assault their wives without facing any repercussions. The absence of legal remedies within the criminal justice system further deters victims from reporting such incidents. This legal gap not only fails to protect victims of marital rape but also perpetuates a culture of impunity for perpetrators.

3.2 Problem from the Demand Side

Problems from the demand side might be related to issues that affect physical accessibility which may be hindered for variety of reasons other than the physical appearance and construction of court rooms or it may be an issue that affect equality of outcomes. In this topic we intend to discuss problems that hinder women from going to judicial sectors or attain fair outcomes which might exist pertaining to the capacity of individual women herself, the effect of social and economic issues or at the level of the judicial and other government sectors

3.2.1 Lack of Knowledge About Official Procedures and Available Assistance

Women barely know the legal protections provided in countries legislations and when they do know the general legal protections provided in countries legislations either in common sense or through information from others, they do not know the proper official procedures they have to go through in order to take their case to court (Interview made with Ms Alemaz Tola, at Hambiso city on 23/May, 2024) This absence of knowledge about the proper mechanisms is something that is reflected from part of women that are educated and also uneducated members of society. A somehow sophisticated and bureaucratic nature of judicial systems is imagined by every woman and they believe the process is only understandable by people with legal education (Interview made with Ms Kidist Belay, At Fiche town on April 22/2024

). When it comes to knowledge of already institutionalized and available assistance mechanisms almost all women do not know that they have available mechanisms to take advantage of as of right. They do not know how they will be eligible for legal assistance and where to find it either. Absence of knowledge about the available assistance mechanisms might be the result of their own way of life with a sense frustration about getting to know the legal system or reluctance in finding a way to find support in legal cases or even the fact that judicial and other justice sectors do not present themselves as an institution working for every individual and not just the haves.

3.2.2 Reluctance to Make Use of The Formal Justice System

Majority of women are reluctant to approach the judicial system for many reasons. The judicial systems and other justice sectors are very complex and bureaucratic in the eyes of individual women. They perceive government sectors especially justice sector officers have a God given position and they say approaching these persons with a justiciable matter is scary and overwhelming and all they can do is leave the matter to God and pray that the worst does not happen. Even educated women that we have come to talk to in large government sectors are reluctant to take their case to justice sectors because it's difficult to understand the stand of the law in their specific issue because laws and rules are not put in a simple and specific manner so that they can be able to access laws easily

and be sure that they have a legal case before they waste their time and money. This whole problem and frustration undermines their trust in the justice system and they prefer to approach their problems in informal manner or leave them unresolved.

4. Discussion

Despite the existence of international instruments and national laws and policies regarding the right to access justice, this right is still poorly implemented, particularly affecting women. In the Oromia Region North Shewa Zone, women face numerous obstacles that prevent them from accessing justice. These obstacles include a lack of knowledge about their substantive rights, official procedures, and available assistance; a lack of trust in the judicial system or reluctance to seek justice through legal channels; financial constraints preventing them from obtaining legal representation and covering court fees; cultural challenge and other related issues.

While laws and institutions have been established to support women, they are not functioning effectively, and women are not fully benefiting from these mechanisms and institutions. This highlights the urgent need for improved implementation of existing laws and policies to ensure that women have equal access to justice

Recommendation

- Legal Awareness: Conduct regular, community-based training programs tailored to women's specific needs. Use interactive formats to address knowledge gaps.
- Pro Bono Services: Establish accountability mechanisms to ensure lawyers fulfill mandatory pro bono obligations effectively.
- Cultural Reform: Partner with local leaders to challenge patriarchal norms and promote women's rights in traditional dispute resolutions.
- Judicial Reforms: Simplify judicial processes, improve court accessibility, and reduce delays to build trust in formal systems.
- Economic Support: Provide subsidized legal services and financial assistance to enable women to pursue justice without economic constraints.

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