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ADDIS ABABA UNIVERSITY

SCHOOL OF LAW

**SEXUAL AND REPRODUCTIVE RIGHTS OF WOMEN PRISONERS:
THE CASE OF WEST SHOA ZONE PRISON ADMINISTRATION**

By

Merima Mohammed

Supervisor

Mizanie Abate (PhD, Associate Professor in Law)

June 2025

Addis Ababa, Ethiopia

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SENIOR THESIS SUBMITTED TO ADDIS ABABA UNIVERSITY, COLLEGE OF LAW AND
GOVERNANCE STUDIES, SCHOOL OF LAW IN PARTIAL FULFILLMENT OF LL.M IN HUMAN
RIGHTS.

June 2025

Addis Ababa, Ethiopia

Declaration

I, **Merima Mohammed Wolliyu**, declare that this thesis is my original work and has never been submitted in any other institution. I also declare that all sources used for the thesis have been duly acknowledged.

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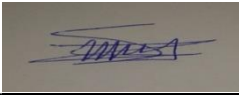
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Acronyms

UDHR- Universal Declaration of Human Rights

ICCPR- International Covenant on Civil and Political rights

ICESCR- International Covenant on Economic, Social and Cultural Rights

CEDAW- Convention on Elimination of All Forms of Discrimination against Women

FDRE- Federal Democratic Republic of Ethiopia

ICPD - International Conference on Population and Development

SDGs- Sustainable Development Goals

ICPD- International Conference on Population and Development

ACHPR- African Charter on Human and People's Rights

Abstract

This thesis examines protection of sexual and reproductive rights of women prisoners in West Shoa Zone Prison Administration. The work has shaded light on how far these rights have been exercised by women prisoners within the prison center. Using mixed quantitative and qualitative method of study, this work has identified that there are number of hurdles facing the women prisoners to effectively exercise their sexual and reproductive rights. Despite Ethiopia's progressive legal frameworks that recognize sexual and reproductive rights, this study further find out that in the context of West Shoa Zone Prison Administration, the effective implementation of these laws are obstructed by cultural thoughts, legal uncertainties, resource limitations, and weak enforcement mechanisms among others.

This study highlights the gap between Ethiopia's legal regime on the subject matter of sexual and reproductive rights and the reality on ground. The researcher has recommended among other, strengthening the enforcements of legal framework, promulgation of legislation that further clarify sexual and reproductive rights, intensifying access to sexual and reproductive health service, encouraging education and awareness, encouraging education regarding comprehensive sex education, the state's duty to follow up every steps of the local authorities regarding the implementation of sexual and reproductive rights.

Keywords: *sexual rights, reproductive rights, Ethiopian legal framework, international instruments, human rights, women prisoners;*

CHAPTER ONE

Sexual and Reproductive Rights of Women Prisoners: The Case of West Shoa Zone Prison Administration

1. Background of Study

Human rights are principal rights and freedoms that are inherent to all human beings, regardless of nationality, ethnicity, race, gender, religion, or any other status.¹ These rights are universal, indivisible, and inalienable, meaning they apply to every individual and cannot be taken away or given up.² Explained in another terms, human rights are inalienable guarantee by the virtue of humanity. Further, human rights are safeguarded under the clause of international instruments including Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Human rights are foundations for an impartial, peaceful, and comprehensive society in which all individual is treated with due respect. With respect to this, it is the duty of governments, organizations, and individuals to protect and progress these rights, guaranteeing they are honored and realized for everyone. When human rights are violated, it can result in discrimination, inequality, injustice, and conflict, indicating the crucial need to protect and promote human rights for the welfare of all individual.

Further, human rights can be seen as a guaranteed that outlined explicit benchmarks of human conducts and are consistently safeguarded as lawful entitlements national legislation and international legal framework. Numerous international human rights documents have provided a numeral of rights for all human beings in general and for prisoners in particular. Reserving for the entitlement to freedom, which would inevitably be limited due to incarceration, other fundamental rights should be respected for detainees under prison set up. This is because, human rights do not cease at prison boundaries, as correctional institutions are intended to reform and rehabilitate offenders. This is articulated under numerous international and regional human rights' instruments.

¹ Office of High commissioner for Human Rights (OHCHR), <https://www.ohchr.org/> 13 NOVEMBER 2023

² Ibid

Related to points at hand, sexuality is an essential feature of each person's uniqueness, and therefore, it is essential to foster an environment where everyone can fully enjoy their sexual rights as part of their development. Sexuality is a core component of personhood across all cultures. Consequently, guaranteeing and encouraging respect for human rights related to sexuality must be integral to the daily lives of all people, everywhere. Sexual rights are fundamental entitlement grounded at the heart of freedom, dignity, and equality of all individuals. These rights includes numerous entitlements associated with sexuality, derived from the broader principles of freedom, equality, privacy, individual autonomy, integrity, and human dignity.

Reproductive rights encompass specific human rights comprehended in domestic law, international treaty, and also various human rights instruments. Sexual and reproductive rights comprehended the indispensable freedom of all individuals and couples to make informed, responsible verdicts about whether to have children, when to have them, and how many to have. These rights also gave assure access to the information, services, and resources needed to support those choices. They comprise the right to attain the highest standard of sexual and reproductive health and to make decisions about one's body and reproductive life free from discrimination, coercion, or violence, as acknowledged by international human rights instruments. These rights shield access to comprehensive sexual and reproductive health information and services, the right to privacy and confidentiality, and the freedom to use safe and effective contraception and family planning. They also consist the right to safe and legal abortion, healthy and safe pregnancy and childbirth, and protect any discrimination and abuse.

Various global human rights treaty acknowledge and safeguard the rights of individuals, including convicts, and specifically address reproductive rights as part of broader human rights frameworks. For instance, International Covenant on Civil and Political Rights (ICCPR) highlights the right to life, freedom from torture, and the right to privacy, which can include reproductive rights. Added, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) explicitly focuses on women's rights, encompassing reproductive health and rights. More specifically, regional instruments like the African Charter on Human and Peoples' Rights, the American Convention on Human Rights, and the European Convention on Human Rights also encourage numerous entitlements that include reproductive rights.

Specific to the point at hand, in general context prisoner can be understood as any person who has been legally captive and kept under involuntary confinement or custody as a punishment for a crime.³ This is to mean that a person imprisoned is to be deprived from exercising some basic rights as a result of legal detention. The situation in prison center are usually non comfortable for the livelihoods of the mankind. This is because the prison centers specially the condition in countries where democracy is at its infant level are characterized by difficulties in prison centers such as high levels of overcrowding, disease, malnutrition, torture, ill-treatment of inmates and long-pre trials detention periods.

The situation for the women prisoners usually got worse in this case. The prisoner centers, especially the reality in developing nations rarely considers the biological needs of women prisoners. Until recent times the small proportion of women prisoners have been required to cope with similar provisions and routines as male prisoners, a situation that has culminated in a disregard for the distinct and complex needs of women prisoners and neglect of their human rights.⁴ The rights under consideration (sexual and reproductive rights) are ultimate, yet they are among undermined.

The reproductive rights may precisely refer to;

“The rights of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice; as well as other methods of their choice for regulation of fertility; which are not against the law, and the right of access to health care services that will enable women to go safely through pregnancy and child-birth.”⁵

Hence, entitlement to reproductive freedom fiercely advocates for strong decision making whilst being together from both side of couples. Further, explained in other words, reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and

³ Birhanu Gudissa Nurgi, *Challenges and Experiences of Women Prisoners in Assela Correction Center*, International Research Journal of Human Resource and Social Sciences ISSN(O): (2349-4085) ISSN(P): (2394-4218) Impact Factor 5.414 Volume 7, Issue 05, May 2020, p.36

⁴ *Sexual and Reproductive Health and Rights in Women Prisoners – A Study Guide for Training in Southern African Countries* p.7

⁵ Dr. Amrita Chowdhury, *Reproductive Rights Of The Indian Women: And Analysis*, P.2

responsibly the number, spacing and time as well as to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health.⁶

Added, this right also includes the exclusive right for women to make decisions concerning reproduction free of discrimination, coercion and violence.⁷ Ensuring human rights for those behind bars sometimes seems nearly impossible because of the isolation from the society and the lack of interest of the outside world and mostly because of sometimes conflicting goals that Correctional Law and Human Rights Law seem to have.⁸

Human rights law emphasize that prisoners retain some rights, including access to healthcare services that cover reproductive health. On the other hand, reproductive rights as human rights are increasingly acknowledged to be essential to fundamental rights, emphasizing the necessity of freedom over one's body and reproduction. This is reflected in various international declarations and resolutions. The 1945 United Nations Charter indeed promotes equality and human rights across different dimensions, establishing a foundation for subsequent treaties and conventions that protect individual freedom, that also consist gender and reproduction subject matter. Generally, acknowledging reproductive right as fundamental right encompass the importance of making sure every individuals including marginalized group like prisoners can access essential health care service and make informed choices about their reproductive health. This extra layer of protection is especially important for women in under prison centers.

In the Ethiopian context, the legal framework surrounding conjugal visits for prisoners which is a crucial aspect of rights under consideration for women inmates is still at its early stages. It is well established that Ethiopia's Constitution and related laws recognize the right of prisoners to receive visits from their spouses or partners. Additionally, international human rights agreements ratified by Ethiopia contain explicit provisions regarding family visits. However, it remains unclear whether these provisions encompass conjugal visits, which are essential for realizing the

⁶ Ibid.

⁷ Ibid.

⁸ J. Sarkin, *an overview of human Rights in Prisons worldwide* in J. Sarkin (ed.), *Human rights In African Prisons* (2008),p.4. see also F.Vilion, *The Special Rapporteur on Prisons and Conditions of Detention in Africa: Achievements and Possibilities*, *Human Rights Quarterly*, Volume 27, Number 1, February 2005, p.125-171; Association for the Prevention of Torture (APT), *Torture in International Law: A guide to jurisprudence*,(2008) Jointly published in 2008 by the Association for the Prevention of Torture (APT) and the Center for Justice and International Law (CEJIL).

sexual and reproductive rights of prisoners. It's vague whether this provision encompass to get married in the prison and breast feeding of the child is guaranteed under the domestic law.

The FDRE constitution does not explicitly permit or prohibit conjugal visits for prisoners, leaving a gap in understanding how it relates to the reproductive rights of women inmates. There has been no judicial interpretation given to clarify whether the Constitution implicitly denies or affirms these rights. Moreover, no subsidiary legislation has been enacted to grant the right to conjugal visits to prisoners. Despite Ethiopia being signatory of numerous human rights instrument and subsequent legislative steps that encourage women's rights, these efforts have not fully addressed the specific needs related to conjugal visits for prisoners. As a result, significant gaps remain in ensuring comprehensive sexual and reproductive rights for women incarcerated within prison setting.

2. Statement of Problem

Major fundamental entitlements are acknowledged under the various human rights instruments. Ethiopia like some other nations has ratified number of global treaties including Convention on the Elimination of All Forms of Discrimination against Women. Further, a country is signatory of The Protocol of the African Charter on Human and People's Right On the Right of Women in Africa. Through ratification of these instruments, the country assumed obligation to ensure promotion and protection of rights under consideration (sexual and reproductive rights) for women prisoners taking several measures. One of such measures is coming up with new legislations or amending the existing statutes in conformity with core human rights principles.

Those rights under consideration (sexual and reproductive rights) are promoted and protected in different human rights convention and treaty and agreements. Some key international instruments that affirm sexual and reproductive rights include: UDHR, adopted by the United Nations General Assembly in 1948, which recognizes the right to marry and found a family, as well as the right to freedom from discrimination based on sex, ICESCR, adopted in 1966, which also recognizes the right to the highest attainable standard of physical and mental health, that includes sexual and reproductive health, CEDAW, adopted in 1979 which calls for the elimination of discrimination against women in every aspect, International Conference on Population and Development (ICPD) Programme of Action, Adopted in 1994, which also

recognizes rights under question as fundamental entitlements, Sustainable Development Goals (SDGs) which was adopted by the United Nations in 2015 and the likes.

These international instruments affirm an importance of rights under question (sexual and reproductive rights) as fundamental rights. The rights are also recognized under international treaties and standards. The Bangkok Rules for instance specifically address a unique needs as well as rights of female prisoners which includes rights under consideration. Further, these rules highlight a need for gender-responsive approaches to solve the specific health necessities of women in detention, including access to health care services, family planning services, and prenatal as well as postnatal care.

Additionally, the Nelson Mandela Rules also recognize importance of providing adequate healthcare services to all prisoners. Overall, international standards and treaties dictates the necessity of upholding sexual and reproductive rights of female prisoners and ensuring that they have access to appropriate healthcare services while in detention.

The Ethiopia's Constitution and other subsidiary laws have recognized that prisoners have the right to be visited by their spouses or partners. Further, the international human rights instruments ratified by Ethiopia have also included explicit provisions for the issues of family visits. Though the domestic laws and international instruments that are ratified have recognized family visits, the issue as to whether this visit includes prisoners' conjugal visits or not? Which is a basic instrument for realization of rights under consideration (sexual and reproductive rights) which is not clear under domestic laws and human rights conventions.

Thus, under Ethiopian context, the jurisprudence of allowing conjugal visits for the prisoner is at an infancy stage or almost nil. The fact holds true in the case of West Shoa Zone Prison Administration. Although the domestic and human rights treaties are on the side of protecting women's reproductive right, the practice in the West Shoa Zone Prison Administration hardly allows the conjugal meeting which helps realization of reproductive right for women prisoners. Thus, this study is a focus on the giant problem of sexual and reproductive rights of women prisoners in Ethiopia, specifically the case of West Shoa Zone Prison Administration.

3. Objective of the Study

- ✎ The general objective of this study is to critically assess the status of implementation of sexual and reproduction rights of women prisoners at West Shoa Zone Prison Administration.

The specific objectives of the study include:

- ✎ Appraise the legal framework of Ethiopia pertaining to sexual and reproductive right of women prisoners.
- ✎ Assess the existing practice on the subject matter of sexual and reproductive right of women prisoners at West Shoa Zone Prison Administration.
- ✎ To sort out problems associated with women prisoners sexual and reproductive rights in West Shoa Zone Prison Administration.
- ✎ Forward recommended measures to improve and safeguard sexual and reproductive rights of women prisoner's in West Shoa Zone prison Administration.

4. Research Question

This legal research is targeted to answer the following questions:

- ✎ What is the level of recognition of the right to sexual and reproductive rights of women prisoners in Ethiopia?
- ✎ What the status of implementation of sexual and reproduction rights of women prisoners at West Shoa Zone Prison Administration looks like?
- ✎ What are the existing hurdles to the implementation of sexual and reproductive rights of women prisoners in West Shoa Zone Prison Administration?
- ✎ What measures are in need to improve and safeguard rights under consideration (sexual and reproductive rights) of women prisoner's in West Shoa Zone prison Administration?

5. Literature Review

The treatment of women prisoners is critical aspects of human rights that may vary across different countries. There is a wealth of literature written on rights under consideration (sexual and reproductive rights) globally, nevertheless there are limited literatures on subject matters in Africa as well as in Ethiopia. Here are some key works that addresses related issues. Women's rights in prison, a comparative study of United States and Ghana, the study conducted by

Jennifer Yanco which is targeted to comparing status of women's rights in prison in United States and Ghana is a significant one. This work traces out that both in United States and in Ghana women's in prisons faces significant challenges regarding women's rights in prison. Further, it added that while there are strengths in legal frame works and advocacy efforts in both countries fundamental gaps is mainly related to healthcare access, living condition and rehabilitation programs. Though this work is a related one to the subject matter at hand, it is a focus on general rights of women under prison and never addressed the context of our country.

Added, related to the subject matter at hand, a work by Angela Hattery titled, "women's in prison; a comprehensive analysis of the effect of incarceration on African American women's reproductive health", explores effect of incarceration on the reproductive health of African American women, reflecting the social economic and health different among the society. The work is good in that it emphasis on the marginalized society reflects the experience of African American women prisoners. It focuses on the challenges faced by this marginalized population. This work offers the important understandings into sexual and reproductive rights of women prisoners, reflect the need for policy changes, advocacy effort, and improved health care services by addressing the challenges they faced in prison center. The study also analyzes how gender socio-economic, race affect this right within prison center. The limitation of the work is that it mainly focuses on reproductive health without addressing other relevant concept like sexual health. The analysis also took place between two different ethical groups which may affect somehow one of them.

As stated earlier, there is limited literature which specifically focus on the sexual and reproductive rights of women prisoners in Ethiopia, though there exist some resources that touch other related issues. Here are a few instances: Jennifer Yanco's article titled "Women's Rights in Prison: A Comparative Study of the United States and Ghana", which is explained above, compares the treatment of women prisoners in the United States and Ghana which has no direct link to the situation in Ethiopia, but can still provide an insights into gender-based violence, healthcare access, and reproductive rights within the prison system. Added, a work written by Mr. Tsegaye Beru titled "Gender, Crime, and Criminal Justice in Ethiopia" explores gender issues in the criminal justice system in Ethiopia, including discussions on women prisoners. Though this work is not specifically focused on sexual and reproductive rights, it may provide

some insights into the broader challenges faced by women in Ethiopian prisons.⁹ Hence, though this work is related to the subject matter at hand it has never addressed the sexual and reproductive rights of women under prison.

Further, timely reports made by human rights organizations such as Human Rights Watch and Amnesty International on violations in various countries, including Ethiopia will be considered as an input while addressing the issue. Regarding these reports though they are not exclusively focused on women prisoners' sexual and reproductive rights, they can shed light on related issues within the Ethiopian prison system.¹⁰ Further, some scholars and researchers have conducted studies on women prisoners in Ethiopia that touch one way or another sexual and reproductive rights issues even though not deeply. While specific literature on the sexual and reproductive rights of women prisoners in Ethiopia is very scarce, exploring broader works on gender, incarceration, and human rights in the country can provide valuable understandings into the hurdles challenged by women prisoners in Ethiopia. Hence, the writer cannot access previous works directly related to sexual and reproductive rights of women prisoners in Ethiopia and the context of West Shoa Zone.

Related to the general condition of prisoners, Addisu Gulilat in his study titled, “The Human Rights of Detained Persons in Ethiopia Case Study in Addis Ababa”, concluded that, the treatment of detained persons in Ethiopia failed short of compliance to minimum expectations as it found challenges such as high levels of overcrowding, disease, malnutrition, unhygienic condition, lack of separate treatment based on sex, age, illness and nature of criminal; lack of organized and continuing education and training and absence of viable compliant hearing mechanism.¹¹ This, then implies the reality that the situations for women prisoners are the worst one for that matter. The work of this author has also no direct link to the subject matter at hand since the writer didn't answer the sexual and reproductive issue of female prisoners. Specific to the very topic of this research, no previous work has been done yet. Thus, though there are some works on similar subject matter at the country level, no work is yet tried specific to women prisoner's sexual and reproductive rights in the case of West Shoa Zone Prison Administration.

⁹ Tsegaye Beru gender, crime, and criminal justice in Ethiopia

¹⁰ Journal of Human Rights Practice, 2023, 15, p 138–155

¹¹ Addisu Gulilat, *The Human Rights Of Detained Persons in Ethiopia Case Study in Addis Ababa*, Faculty Of Law, School Of Graduate Studies, Addis Ababa University, (2012).

Hence, the writer is determined to study on this specific subject matter with specific emphasis to the women prisoner's sexual and reproductive rights in West Shoa Zone Prison Administration.

6. Scope of the Study

This research work is delimited to study the sexual and reproductive rights of women prisoners in the case of West Shoa Zone, Zonal Prison Administration only. Hence, the study will not consider another detention centers located throughout different woredas of the zone.

7. Research Methodology

This research work employs both doctrinal and empirical method of legal research since the research problem shows the implementation of a mixed research approach. The researcher will conduct the study on qualitative and quantitative basis. While conducting the work, considerations will be given to what the existing jurisprudence in general and Ethiopia's legal system have put in place on the subject matter of sexual and reproductive rights of women prisoners. Concerning to this primary and secondary sources will used as an input of information. Primary sources to be relied on includes statute laws enacted in Ethiopia at different time by federal government on the subject matter, international conventions that have been put in place with regards to the issue at hand, international soft laws and the likes. Secondary sources for the work include related literatures on the subject matter and these include books, legal journals, legal periodicals, writings of legal scholars, articles and the internet sources from reliable sources and authoritative sites and other related works. Concerning the secondary sources to be used, deep investigation of the authentic work is to be made by the researcher.

Further, for empirical parts of the work the researcher will have data which is going to be collected from women prisoners of West Shoa Zone prison administration center using purposive random sampling technique from women aged between 18 to 45 years since they are the most appropriate class of prisoners among the prison center to collect data concerning the right under question. As sources of data random interviews to be made among women prisoners within the said age range will be used. Further, factual observation to be made by the researcher on the subject matter within the prison administration center if any will be used. To collect the said data, the researcher will prepare an interview guide containing basic questions related to the right under question that can help achieve the objective set. As sampling strategy, the researcher will

approach those category of prisoners through their representatives if any or if this will not work, through having some usable information from the appropriate department of the prison administration that can help approach the right personnel from these women prisoners. Further, for sample size, the researcher will conduct an interview with 25 women prisoners aged between 18 to 45 years among 70 women prisoners living within the roof of the prison center which is of course to be determined by data saturation point. Lastly, data collected using the above-mentioned method is going to be analyzed with respect to how the right to sexual and reproductive rights of women prisoners used to be exercised within the prison administration.

8. Research Design

Research design implies the methods and procedures for collecting, processing and analyzing the required data. In this study, qualitative and quantitative research approaches were used in order to explore what women prisoners' experiences in the correction center shows. There is only one zonal prison administration center for that matter, which is the center of focus for this study. The quantitative data collected through interview and observation were analyzed using interpretive phenomenological analysis to analyze the experiences of women prisoners in West Shoa Zone Prison Administration Center. There are around 70 women prisoners within the center, among which women aged from 18 to 45 were purposively selected for the interviews since they are believed to be the focal person for the reproductive and sexual rights of women under consideration.

9. Organization of Study

This research work is parted into five chapters. The first chapter begin with introduction of the work. Under this chapter the most important introductory concepts related to sexual and reproductive rights of female prisoners are to be dealt with. These include definition, nature and special features of sexual and reproductive rights of female prisoners and other necessary introductory points will be addressed in detail. On the other hand Chapter two of the work deals with sexual and reproductive rights of women under international human rights instrument whilst chapter three of the paper deals with sexual and reproductive rights of women under Ethiopian laws. Further, the fourth chapter of the work will analyze implementation of the right to sexual and reproductive rights of women prisoners at West Shoa Zone Prison Administration. Lastly, Chapter five of the study will curb the work with conclusion and recommendations.

CHAPTER TWO

The Recognition of Sexual and Reproductive Rights under International Instruments Introduction

Among the very fundamental rights which received recognition from both global as well as domestic recognitions sexual and reproductive rights comes first. Though there is no single human rights instruments that is specifically dedicated to guarantee protection of the rights under considerations.¹² Expressed in another words, these are rights which base their foundation in different human rights frame works including numerous binding treaties made between sovereign states which establish respective states duties to safeguard fulfillment of these rights. This broader recognition of these rights on the other hand shows universal importance of these rights and provides legal basis for holding respective states liable for any kind of breach that can extend to prison settings. For instance universal documents including Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) cab be called first to refer to the very legal ground of these rights. Those important instruments extends protection to basic elements of rights under consideration like non-discrimination, the quest for highest attainable standard of health, the right to information and the likes.

To further the base of protection to these rights, different UN and regional documents shielded protection of these rights. Apart from these, different declarations and conventions also shielded the safeguard of these rights. To explain this reality it's understood that, great number of declarations and conventions adopted by consensus, practically all of the world's nations and further developed in the practice of the UN and regional human rights bodies confirm the diverse and rich nature of reproductive rights.¹³

Hence, in the coming section of this chapter we will see some the most important instruments related to the subject matter at hand.

¹² United Nations, A Handbook for National Human Rights Institutions: Reproductive Rights Are Human Rights (2014).

¹³ Ibid.

2.1. International Instruments

2.1.1. The Universal Declaration of Human Rights

Universal Declaration of Human Rights is the first most important human rights instrument and foundation for all international human rights law. The notion of sexual and reproductive rights is not explicitly mentioned in the Universal Declaration of Human Rights. Even though the guarantee for the rights under consideration is not explicitly meant, those basic rights which are very innate to the safeguard of rights under consideration including, the right to life, right to liberty and security and non-discrimination and other got a clear shield under this grand fundamental right instrument. The following section of the document can be understood as impliedly extending shields to sexual and reproductive rights of women. These includes;

Article 1: “All human beings are born free and equal in dignity and rights.”¹⁴

Article 3: “Everyone has the right to life, liberty and security of person.”¹⁵

Article 7: “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”¹⁶

As explained earlier the UDHR didn't explicitly used the term sexual and reproductive rights while guarding the fundamentals of these rights, but gave an emphasis to basic elements if these right that rages from the right to life to non-discrimination in any aspect which are the very basic aspects to enjoy the rights under considerations. To show this link we can take for instance a guarantee to non-discrimination aspect which is clearly there to foster non-discrimination based on any aspect in the case of sexual and reproductive rights, there by shielding the rights under consideration. Hence we can conclude that UDHR has put the very foundation for protection of rights under consideration.

2.1.2 International Covenant on Civil and Political Rights;

International Covenant on Civil and Political rights is a multilateral treaty with mandatory stipulation on state parties to respect and protect civil and political rights. It was adopted by United Nation General Assembly on December 1966 and entered in to force in 1976. Like the

¹⁴ Universal Declaration of Human Rights, 1948.

¹⁵ Ibid.

¹⁶ Ibid.

Universal Declaration of Human Rights context, those rights under consideration are not clearly meant by the covenant though several stipulation impliedly extends protection to these rights.

For instance, The Right to life which has got explicit protection under this covenant under article 6 stipulates that, “every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹⁷ It’s crystal clear that for someone who closely read this section of the covenant that some fundamental bricks of the right to sexual and reproductive rights are shielded thereby. For instance it can be concluded that the very stipulation made under this article can be interpreted to safeguard maternal healthcare and abandons some measures that provokes death connected to abortions.

Further, those pieces of rights which has got explicit recognition including, right to freedom of thought, conscience and religion under article 18 of the covenant provides that, “everyone shall have the right to freedom of thought, conscience and religion.”¹⁸ This stipulation of the covenant though cannot directly related to the protection of the rights under consideration have its own implication to safeguard them because it can go further to the extent of making one’s own free decision on owns body regarding sexual and reproductive rights. Hence, the very stipulation made under this article of the covenant can be understood as giving implied recognition to women’s sexual and reproductive right rights with no boarder.

Apart from those mentioned above, another fundamental piece of the rights under consideration which has given a safeguard is the right to privacy. Related to this art. 17 of the covenant clearly stipulates that, “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.” This wording of the covenant guarantees a shield from arbitrary interferences whilst pursuing their private life and this very stipulation can be meant to give protection to freedom to sexual and reproductive rights of women in the form of having an access to contraception, abortion ant the likes. Hence, we can also infer from the reading of this provision that ICCPR has shielded protection of these rights.

Added to the above assertions, the covenant has proved under Article 2 paragraph 1 that,

¹⁷ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 march 1976) 999 UNTS 171.

¹⁸ Ibid.

“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”¹⁹

This stipulation of the covenant deeply added another essential base where women should not be discriminated on different grounds while exercising their rights and this can work for our case.

To further the assertions made above, the covenant under article 26 states that

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”²⁰

These stipulation of the covenant in turn locks down a door for discrimination on any grounds that can include enjoyment of the rights under consideration.

In this aspect, similar to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) doesn't explicitly mention "Sexual and Reproductive rights", though it protects several bundle of bricks of rights that are crucial for ensuring the realization of these rights for women. As said earlier the ICCPR shields number of bricks of rights which are basic to protect sexual and reproductive rights of women there by, safeguarding the very aspect of these rights which are under considerations. Hence, ICCPR contributes significantly to shield women's sexual and reproductive rights, even without explicitly naming them.

2.1.3 International Covenant on Economic, Social and Cultural Rights;

The International Covenant on Economic Social and Cultural rights is fundamental international human rights treaty. This is a covenant adopted by the United Nations General Assembly on December 16, 1966 and come in to force by 1976. It is a parts of international bills of human rights which also consist Universal Declaration of Human Rights and International Covenant on Civil and Political Rights. The very idea behind ICESCR is to promote protection and promote

¹⁹ Id

²⁰ Id

social and cultural entitlements. Expressed in another words, the covenant emphasized on the importance of essential components of human dignity as well as development. As part of state duty article 3 of the covenant states that “state parties to the present covenant undertake to ensure the equal rights of men and women to the enjoyments of all economic, social and cultural rights set forth in the present convention.”²¹ One can easily understand from the wording of this provision that, the covenant is meant to safeguard enjoyment of components which got protection under the covenant between men and women with no discrimination.

Adding another essence to this wording art. 11 of the covenant provides that,

“The state parties to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvements of living condition.”²²

Added to the wording of the covenant expressed above, this stipulation made under the covenant also neatly put state parties are obliged to promote adequate standard of living for everyone. Expressed in another words, it’s understood that adequate standard of living includes an access to resources that are necessary to an exercise of reproductive health that attends to fulfillment of some basic aspects including housing and food for living.

The covenant further extended protection to reproductive rights as spell out under article 12 paragraph 1. Under this section the covenant stipulates that, “the states parties to the present covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”²³ This stipulation by promoting highest attainable standard of health under the covenant, it incorporates protection of sexual and reproductive health.

Adding further recognition to sexual and reproductive rights of women the covenant under Article 13 promote the right to education which incorporates comprehensive sexual education.”²⁴ Further, the right to education empowers individuals with knowledge about their bodies and make decision about their reproductive rights.

Alike other global fundamental human rights instruments, ICESCR didn’t explicitly recognize sexual and reproductive rights of women, but create a venue for promotion and protection for fulfillment of these rights.

²¹ International Covenant on Economic Social and Cultural rights (adopted 16 December 1966 entered in to force 3 January 1976) 993 UNTS 3, art 3.

²² Id art 11(1)

²³ Id art 12

²⁴ Id art 13

The covenant's articles addressing the right to the highest attainable standard of physical and mental health, the right to education, and the right to non-discrimination are essential building blocks for guaranteeing sexual and reproductive rights. By ensuring access to healthcare, information, and education, and by prohibiting discrimination, the ICESCR promotes a shield to the rights under considerations. Hence the ICESCR shields promotion of the rights at hand.

2.1.4 The Convention on the Elimination of All Forms of Discrimination Against Women

CEDAW is a forefront international convention focused on specific protection of women rights aimed at blocking discrimination made against women. Specifically related to the subject matter at hand article 12 of the convention provides that,

“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”²⁵

The above stipulation of the convention clearly gave a shield to promotion of sexual and reproductive rights of women. Added to specific stipulation made above, the convention under article Paragraph 2 provide that,

“Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”²⁶

Adding a further clearer stand to what has been provided under previous section of the convention it's made crystal clear that the convention shields the subject matter at hand. The convention also clearly requires state parties to eradicate discrimination in the field of health care, ensuring access to services, including those related to family planning and maternity care.

Adding another even clearer stand to aspect of sexual and reproductive rights of women, the convention under Article 16 guarantees women's rights in marriage and family, highlighting the need for equality in decisions regarding family planning and reproductive choices.²⁷ This stipulation has also sealed a shield to sexual and reproductive rights.

²⁵ Convention on elimination of all forms of discrimination against women, (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 12(1).

²⁶ Id, para 2

²⁷ Id, art 16

The very important thing as explained earlier is that, CEDAW comes first than other global instruments to explicitly recognize and shield those rights of women. Explained in other words, it puts a land mark grow up in protecting and promoting this rights whilst acknowledging women's right to family planning, access to health care service and other components of sexual and reproductive rights.

2.1.5 Convention on the Rights of Persons with Disabilities

This is another convention which is adopted by UN general assembly by the year 2006. It had a goal to promote enjoyment of peoples with disabilities to enjoy equal right with others. Among those specific stipulation made under the convention article 16 has contributed to protection of sexual and productive rights of women. The provision has guaranteed rights of person with disabilities, freedom from exploitation, violence and abuse.²⁸ A closer inspection at this provision highlights the necessity to guard persons with disabilities from any sort of exploitation, violence and other forms of exploitation which can include protection of rights under question in our case.

Related to our case in addition to what has been discussed previously, Article 23²⁹ protects right of these group of people to marry and form family with no discrimination with others which has clearer implication to sexual and reproductive rights. Adding another ground of protection to rights at hand, article 25, of the convention which promotes the right to health,³⁰ reflects rights of these group of peoples to possible highest standards of health which includes access to health care service which is crucial to address sexual and reproductive rights.

Specific to protection and promotion of sexual and reproductive rights of women, CRPD makes significant contributions to protect group of women within the disability group of society. The convention has a focus on addressing the inherent dignity and autonomy of persons with disabilities. It calls for access to sexual and reproductive health services, information, and education and the likes. Hence, CRPD also contributes importantly to a more inclusive understanding and protection of rights under consideration for all women.

²⁸ Convention on rights of persons with disabilities, (adopted 13 December 2006, entered into force 3 may 2008) 2515 UNTS 3, art 16

²⁹ Id, art, 23

³⁰ Id, art25

2.1.6 The Cairo Program of Action

The Cairo Program of Action which was adopted in 1994 by 179 governments at United Nation International Conferences on Population and Development in Cairo is another area worth visiting. The conference has resulted in the Program of Action adopted by number of governments that was determinant in protecting as well as promoting rights under consideration. It's crystal clear that the action has no binding force though, it signifies meeting of minds on importance of promotion and protection of the rights. The most important aspect of the action was recognition of women's autonomy in reproductive decision making and access to highest attainable standard of sexual and reproductive health. The ICPD laid groundwork for future advancements in the field and continues to be a key reference point in discussions about promotion and protection of rights under considerations. In addressing the mandate of this program action the participant set about 15 principles to guide by them. Among those principles two principles recognized sexual and reproductive as fundamental human rights. It reflected women's autonomy in decision regarding family planning and reproductive health, and rights to highest attainable physical and mental health. In nutshell, the Cairo Program of Action is a landmark agreement that emphasis sexual and reproductive rights as fundamental rights.

2.1.7 Beijing Declaration and Platforms for Action

This action was adopted by September 15, 1995 at the end of the fourth world conference on women in Beijing. The action is aimed to ensure with objective and purpose of united nation and international legal documents, guarding respect of fundamental entitlements and freedoms of everyone among which those rights which are under consideration can be counted first. The action has some important stipulations which are vital for promotion of rights under questions.

It advocated for, fundamental right of all couples to reproductive freedoms. Moreover, it guaranteed the rights to attain highest standards of sexual and reproductive health.³¹ Similarly, rights including a control and freedom to decide matters that relates to sexual and reproductive rights, free of coercion discrimination and violence are shielded.³² Hence the action has granted explicit recognition for the right to sexual and reproductive health.

This Platform, while not legally binding, holds significant political weight and has served as a crucial framework for advocating for these rights. Further, the declaration's explicit recognition

³¹ Fourth world conference on women(Beijing,4-15 September1995)UN Doc A/CONF.177/20 Rev.1 (1996), para 95

³² Id, para, 96

of these rights was a major step forward and continues to shape the international discourse on gender equality.

2.1.8 Sustainable Development Goals

SDGs include targets destined to ensure universal access to Sexual and Reproductive Health (SRH) rights. Among different targets set under SDGs the following has been linked to the rights under question.

Sustainable Development Goals Target 3.7, in particularly, provides that

“Countries are committed to ensuring universal access to sexual and reproductive health services by 2030, including family planning, information and education, and integrating reproductive health into national strategies.”

This statement made under SDGs clearly promotes and guarantee the recognition of sexual and reproductive health rights.

Added to this, SDGs Target 5.6 provides about the barriers and human rights-based dimensions of rights under consideration. It includes indicators that measure Sustainable Development Goals Indicator 5.6.1 which provides that “women can decide on their sexual and reproductive health and reproductive rights, regardless of the country's legal framework.” Hence, The Sustainable Development Goals has also extended protection for rights under consideration.

2.2. African Regional Human Rights Instruments

Beyond the existing global human rights convention and organization, Africa too developed its own human rights system that particularly address rights under question (sexual and reproductive rights). These instruments are primarily binding within respective areas and also it serves as valuable reference within Africa. Hence in coming part of this work we will see some of crucial human rights documents recognizing rights under question (sexual and reproductive rights) for women.

2.2.1 African Charter on Human and People’s Rights

Under the umbrella of the African Union and its predecessor, the Organization for African Unity, important agreement have been established. The charter comprise clause that are identical to the clauses in the UN human rights treaties that have served as to articulate reproductive rights. On the other hand, the charter does not explicitly mention those rights under consideration, but lays foundation for fundamental rights that can be interpret to comprise those rights. Here are some provisions of the charter that highlights this right. Article 2 of the document provides that

“Every individual shall be entitled to the enjoyments the rights and freedom recognized and guaranteed in the present charter without distinction any kind such as race, ethnicity group, color, sex, language, religion, political or any other opinion, national and social origin, fortune and birth or other status.”³³

As one can easily understand from the reading of this article, the charter has given guarantee to the rights to non-discrimination on any ground that includes reproductive rights.

Added. Article 16 paragraph of the charter provides that “every individual shall have the rights to enjoy the best attainable state of psychical and mental health.”³⁴ This article has also shielded promotion and protection of those rights under considerations,

Apart from those stipulation stated above, Article 18 paragraph 3 of the charter dictates that,

“The state shall ensure the elimination of every discrimination against women also ensure the protection of the rights of women and child as stipulated in international declaration and conventions.”³⁵

A closer reading this provision also indicates that, women’s reproductive rights has been shielded. On the other hand, while the Charter does not explicitly mention sexual and reproductive rights, it has been interpreted to provide implicit protection for these rights, particularly concerning women. This implicit protection is grounded in several stipulations of the charter.

Those broader commitments made under the charter has been viewed out under different regional instruments African Charter on Human and Peoples' Rights on the Rights of Women in Africa, a protocol which explicitly accept women’s right to reproductive freedoms.

These days, we are witnessing wider recognition of sexual and reproductive rights of women as essential components of inalienable rights between and among African states and civil organizations. This shift reflects a broader understanding that empowering women in their sexual and reproductive choices is crucial for achieving gender equality, improving public health outcomes, and fostering sustainable development. Overall, while the African Charter didn’t

³³ African charter on human and people’s rights, (adopted 27 June 1981, entered into force 21 October 1986), OAU Doc CAB/LEG/67/3 Rev 5,21 ILM 58(1982) art 2

³⁴ Id. art, 16 (1)

³⁵ Id. art, 18 (3)

explicitly outline rights under questions, its implicit shield toward these rights laid a groundwork for advancing these rights.

2.2.2 Maputo Protocol

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) is the significant legal instrument that aimed to promote and protect women's rights across Africa. This Protocol commonly known as the Maputo Protocol, is indeed a significant legal instrument aimed at promoting and protecting women's rights within African continent. Further the protocol adopted by 2003 has explicitly recognizes and affirms female's sexual and reproductive rights.

Some of the clause of the protocol meant to shield these rights. For instance, Article 2 of the protocol dictates that, "States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measure."³⁶ It's crystal clear that this stipulation guards women's rights under consideration through combating discrimination. Added, Article 4 of the protocol provides also dictates that, "all cruel, inhuman or degrading treatment shall be prohibited."³⁷ We can also infer from the reading of this provision that states are under duty to combat discrimination against women through having legislation which are meant to safeguard these rights.

Further, the protocol has also guarded the right to education and training for women,³⁸ which reflects the need of education for women that in broader case includes those educations which are there related to those rights under question for women. Here also we can infer how far the protocol has gone to safeguard women's rights without any discrimination.

Further, adding a level to stipulations explained above, Article 14 of the protocol provides that, Rights under consideration should be "respected and promoted"³⁹, these component of the rights are outlined including;

- (a) The right to control their fertility;
- (b) The right to decide whether to have children, the number and spacing of children;
- (c) The right to choose any method of contraception;

³⁶ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, (adopted 11 July 2003, entered into force 25 November 2005), art 2.

³⁷ Id, art 4

³⁸ Id, art 12

³⁹ Id, art 14

(d) The right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;

(e) The right to be informed on one's health status, particularly if affected with sexually transmitted infections, including HIV/ AIDS, in accordance with internationally recognized standards and best practices;

(f) The right to have family planning education

Moreover stipulation under the provision dictates that,

“states shall provide health services, accessible also in rural areas and including information and education; shall secure pre-natal, delivery and post-natal health and nutritional service during pregnancy and breast-feeding; and shall authorize medical abortion”

At all, those stipulation of the protocol we used to discuss above are there to witness the recognition of rights under consideration as fundamental entitlements. Added to this, the Maputo Protocol serves as a crucial framework for advocating for policies and practices that promote gender equality and empower women in their reproductive choices across Africa.

In nutshell, we can conclude that, international instruments we have discussed above had extended a shield to sexual and reproductive rights of women.

Added, apart from what has been discussed in detail under previous sections, it's very important to see the scope, elements and expected states duties to realize these rights. From this perspective, margin of these rights encompass, Reproductive Independency, an element of the right that gave freedom to individuals to determine number of children they want, even and how far apart to have them. Further, it also encompasses the right to have access to the information about their reproductive health. Apart from this the rights under consideration also comprises with itself, an entitlements to receive full range of health care service. Added to this, the right also consists family planning, access to contraception, fertility treatments, prenatal and postnatal care, and abortion service. Further, the scope of sexual and reproductive right also covers, the notion of Free Consent, which is at the center of sexual and reproductive right illustrates that, individual should be informed about their rights under consideration. Explained in another words, individuals should be let free to provide adequate information without any coercion. It's also attached to privacy and confidentiality which is inherent right to mankind.

Rights under question also covers, an access to comprehensive sex education; a progressive form of sex education that goes beyond the teachings of the past. “CSE (Comprehensive Sex Education) entails a curriculum-driven teaching process about the physical, cognitive, emotional, and social aspects of sexuality.⁴⁰ The core underlying factors are well-being, dignity, and respectful sexual and social relationships.” This means covering” topics like “what, when, and how” about intimacy and relationships, sexual identity, gender roles, body image, sexual decision-making, sexually transmitted infections, reproductive health, and contraception.” CSE differs from abstinence-based education, which withholds certain truths about sex-related issues. Lastly, rights under question also cover an aspect of Protection from Violence and Discrimination; a notion that advocates for freedom from coercion and discrimination and preventing rights from violence. Under this part the idea is that, everyone should have equal access to promotion and protection of the rights under question without any form of discrimination.

Apart from the scope of rights under question we have discussed above, the elements of these rights are worth discussing. The rights includes some important elements including, an entitlement to health that promote right to highest standard of physical and mental health, which is thoroughly related to access to sexual and reproductive health services. Added to this, the rights also includes with itself bodily independence which dictates that individuals have rights to control over their bodies, including decisions related to marriage, sexual relationships, and reproduction. Apart from this, the right also includes, Protection from discrimination which connotes that these rights should be without discrimination. Further, it advocates to create equal access to the individuals.

Added to discussions made above, whilst rights under question contains components mentioned, international instruments we have discussed above gave mandates to states to safeguard and preserve the rights. Accordingly, state duties to protect the rights can be explained as three fold responsibility under international instruments. These include; duty to respect, protect and fulfill. The notion of state obligation to respect connotes that a given state should free itself from interfering with individual enjoyments of the rights under consideration.⁴¹ Further, related to the

⁴⁰ <https://scholarsforsociety.org/the-lack-of-comprehensive-sex-education/>

⁴¹ United Nations Human Rights Office of The High Commissioner, Your Health, Your Choice, Your rights, International and Regional Obligation on Sexual Reproductive Health and Rights’(2021)

an obligation of state to protect dictates them a given individual or group of them against the human rights abuse,⁴² not only from individual violation but also from government's authorities and government body. Lastly, an obligation to full fill of states emphasize the idea that, state must take positive action to facilitate the enjoyments of basic human rights that includes rights under consideration. Explained in other words, through ratification of international and regional human rights treaties, states undertake to put into place domestic measures and legislation compatible with their treaty obligation and duty. State can however protect rights beyond these minimum standards too.⁴³ Hence, in nutshell states responsibility with regard to promotion and fulfillment of the rights under question can be summarized as duty to respect, protect and fulfill.

⁴² Ibid

⁴³ Ibid

CHAPTER THREE

The Legal Protection of Sexual and Reproductive Rights of Women Prisoners in Ethiopia **Introduction**

Tracing history of prisons in general and women's prisons in Ethiopia has been challenging because of unavailability of written documents on prisons and lack of data on the conditions of women prisoners.⁴⁴ Historically, prisons were not designed for women in Ethiopia. Rather, prisons were designed to incarcerate men, and most of the prisons were established as warehouses for military and administrative units before they were converted to prisons.⁴⁵ Despite difficulties in locating primary evidence on the history of prisons, most of the prisons in use today were established during the Emperor Haile Selassie, Derg, and Ethiopian People's Revolutionary Democratic Force regimes. Incarcerating women was not a new phenomenon in Ethiopia, but separately incarcerating women prisoners from their men counterparts was started following the adoption of the 1957 Penal Code. In terms of facilities, Addis Ababa Central Prison had separate cells for men and women political prisoners. Before this period, however, mostly women prisoners were incarcerated with men prisoners, and prisons were not guarded by women prison staff.⁴⁶

To be in prison is to be ignored, shunted aside, and "Treated as garbage," as one long-termer remarked. People in jail generally recognize suffering in solitude and without recourse as violent and humiliating.⁴⁷ Poor health care, or withholding adequate health care, can be in effect a form of punishment. This is especially true when poor health care is rampant, routine, and even institutionalized. Prison violence thus cannot be limited simply to intentional physical abuse by other incarcerated people or by a specific guard or guards, but involves institutionalized forms of mistreatment, including poor health care.

Women's rights are a significant parts of human rights, and which rights under question (sexual and reproductive rights) are determinant ones. These rights are among those rights which got promotion and protection as per national as well as international agreements. There are number

⁴⁴ Behailu T Weldeyohannes, 'Reforming Prison Policy to Improve Women-Specific Health and Reforming Prison Policy to Improve Women-Specific Health and Sanitary Care Conditions of Prisons in Ethiopia' (November 2017), 102

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid, p 9

of basic fundamental rights treaty protecting rights under question that our country has ratified. Here comes some fundamental statutes in Ethiopia that recognize rights under consideration.

3.1 The 1995 Federal Democratic Republic of Ethiopia Constitution

The constitution of FDRE often called the 1995 constitution, is the country's supreme law and took effect by August 21, 1995. The law has dedicated over a third of its content to promotion and protection of fundamental mankind rights, offering a thorough framework that covers basic rights containing rights under consideration at both domestic and international arena.

Accordingly, FDRE constitution provides that:

Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce. Laws shall be enacted to ensure the protection of rights and interests of children at the time of divorce.⁴⁸

This stipulation of the supreme law is aimed to protect individuals from any kind of discrimination on any ground and giving equal rights for everyone when it comes to the institution of marriage. The stipulation guarantees the right to marry and start family as a constitutional rights for everyone including women prisoners by supporting the broader principle of reproductive autonomy or freedom through several ways. Thus, the Ethiopian constitution treats rights under consideration as basic rights. It further sets up legal shield to defend these rights and outline how they should be enforced.

Further, the constitution has stipulated that, "Marriage shall be entered into only with the free and full consent of the intending spouses."⁴⁹ Here, though the provision is stipulation about marriage, it reflects the need for free consent for the formation of valid marriage which is foundation for reproductive rights. Added, The FDRE Constitution dictates that, "Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right with men."⁵⁰ Added, given the Ethiopia's history of denied equality against women, the constitution advocates for affirmative actions to women which is believed to help them compete

⁴⁸ Federal Democratic Republic of Ethiopia Constitution ,8 December 1994 article 34 para 1

⁴⁹ Id, para 2

⁵⁰ Id art, 35 (1)

and take parts in all areas of life in public as well as in private life.⁵¹ These measure also help fortify and safeguard women's rights at issue.

Further, The FDRE Constitution states that women have the rights to family planning education information, support to protect their health during pregnancy and child birth.⁵² It guarantees women equal treatment and protection from discrimination, especially regarding reproductive health, and requires the governments to make sure women can access health service and are protected from harmful traditional practices.

Speaking further, the FDRE constitution dictates the government to keep increasing its investment in public health, education, and social services.⁵³ Making sure every Ethiopian has the rights to a decent standards of living which comprises a facility to fulfillment of rights at issue which has a notion of safeguarding these women's right at constitutional level

Specific to women prisoners, stipulations of the constitution can be curbed as:

1. Protecting the basic rights of individuals, including prisoners such as dignity, health and medical care.
2. Stipulating specific clauses safeguarding women's rights and gender inequality so women in prison must get proper healthcare, including reproductive service.
3. Mandating that health service are provided to all citizens, which covers sexual and reproductive health for women prisoners.
4. Reinforcing these rights by being parts of international treaties that support the rights of women prisoners.

In summary the Ethiopian constitution sets a legal foundation to protect rights under questions that includes women under prison settings affirming their dignity and access to necessary health services. Overall, the Ethiopian Constitution provides a framework that recognizes and seeks to protect those rights of women, including those who are incarcerated, affirming their dignity and access to necessary health services.

⁵¹Id art, 35(3)

⁵² Id art, 35 (9)

⁵³ Id art, 41(4)

3.2. The Oromia Regional State Family Code

The Oromia Family Code is the set of law that governs family matters in the Oromia region. Under article 25(1) of the code postulated that “a marriage is only valid if both partners give their complete and voluntary consent.”⁵⁴ This clause of the code has an implication to the reproductive right of women since it highlights free consent for the formation of valid marriage which is crucial for the decision regarding the reproductive rights

Further, the code has added that, under article 48(1) “Neither a man nor a woman who has not attained the full age of eighteen years shall conclude marriage.”⁵⁵

The provision of the code has an aim to ensure the protection of minor from early and forced marriage which has impact its own their reproductive rights too. In summary, though the Oromia Family Code does not explicitly recognize sexual and reproductive rights of women, the law has addressed numerous features that are related to family matters which intersects with rights under question and also outline provisions to protect women’s from gender based violence and helping to safeguard aspects of sexual and reproductive rights. Hence the code also shielded the right at issue.

3.3 The 2004 Ethiopian Criminal Code

The Ethiopian Criminal Code is an inclusive document that comprise offense and penalties within country. The criminal code was enacted by 2004, replacing the previous of 1957 penal code that had been in effect since then. The Criminal Code address dozens of aspects related to rights under questions. As an example, it stipulates that, anyone who forces a woman to have sex outside of marriage using violence, serious threats or by making her unable to resist can be sentenced to five to fifteen years in prison.⁵⁶

This clause of the code criminalizes sexual intercourse without consent. Added, it highlights the importance of consent which is foundation for reproductive rights. However, the Criminal Code does not explicitly outline sexual and reproductive right, but covers issues of gender based violence. Added there are also another provisions that are connected to sexual and reproductive rights. The law bans marriage under 18 years for both boys and girls, allows marriage with the

⁵⁴ The Oromia Regional State Family Code, 2004 article 25(1)

⁵⁵ Id, art 48(1)

⁵⁶ Federal Democratic Republic of Ethiopia Criminal Code 2004, art 620 (1)

full and free consents of both parties. Hence, it acknowledges several gender-based violence that aims to prevent women from abuses. Further, the law is aimed at shielding marginalized groups and stipulates need to protect different vulnerable groups among which women come first.

Furthermore, the code also makes rape, sexual assault, and other types of gender based violence illegal, protecting individual's sexual autonomy and well-being. Hence, in nut shell the Ethiopian criminal code comprise provision meant to promote and safeguard rights at issue which are to be extended to women in prison.

3.4. Oromia Regional State Proclamation to Reorganize and Redefine the Power and Duties of Executive Organ no. 242/2021

Oromia Regional State Proclamation to Reorganize and Redefine the Power and Duties of Executive Organ no. 242/2021 is a law enacted with the main objective of reorganizing and redefining the power and duties of Oromia Region Executive bodies. The law encompasses 75 clauses in general, among which under article 12 (29) of the proclamation the Oromia Regional State Prison Commission is established and thereby acquire legal recognition. Further Article 42 of the proclamation outlines the responsibilities of the prison commission toward prisoners, as well as the obligations of detainees themselves. Specifically, article 42(1) states that prisoners' rights must be upheld without discrimination during their incarceration, which directly relates to women's rights.

Additionally the proclamation addresses reproductive rights. Such as, Article 42 (9) that enumerated, "The commission should provide sufficient food for prisoners with the allocated budget make special treatment for pregnant women and children made to be detained in the prison with their imprisoned mother". The law further added that, the Commission shall allocate the budget necessary for the special treatments of pregnant women which granting reproductive rights of women prisoners. Deeply examined, this provision of the proclamation has the provisions of granting protection to reproductive right of women prisoners.

In nutshell, the proclamation reflects the concepts promotion and protection of rights under consideration (sexual and reproductive rights) whereby it acknowledges them as basic rights for women under prison settings.

3.5. Oromia Region Prisoners Administration Regulation no. 48/2005

Oromia Region Prisoners Administration Regulation no. 48/2005 is a law enacted by 2005 regulating a bulk of legal issues related to prisoners during their stay at prison. This law, similar to the former proclamation, includes provision about rights under consideration (sexual and reproductive rights). For example article 23(2) states that prisoners are entitled to health care service. And also law has provided that prisoners have the right to be treated within the prison center accessible facilities and further up to other governmental hospital facilities. Further, the law under article 23(12) stipulates that, the prison administration center has responsibility to provide special food and nutrition for breastfeeding women. Linked to this, the regulation under article 23 (13) provide that, Pregnant women owes the right to access to health care service and the prison administration should provide nutritional food that is essential for mother as well fetus.

In short, the regulation clearly acknowledges various sexual and reproductive rights for women prisoners that must be upheld inside the prison.

3.6. International Commitments

Ethiopia has signed several international agreements that promote and protect rights under consideration (sexual and reproductive rights). As per to Article 9(4) of Ethiopia's Constitution, any international treaty Ethiopia ratifies automatically becomes part of the country's law. Following this, Ethiopia has approved key human rights documents like UDHR, which includes the right to marry and start a family; ICESCR an instrument which ensures access to the highest standard of physical and mental health, including rights under consideration (sexual and reproductive rights) and ICCPR, which also protects the right to marry.

Further, Ethiopia ratified CEDAW by 1981, which specifically safeguards women's reproductive rights of women. The Maputo Protocol, as part of the African Charter on Human and Peoples' Rights, which emphasizes women's sexual and reproductive health rights and is recognized as national law under Ethiopia's constitution.

In nutshell, Ethiopia's 1995 constitution and 2004 criminal code form the legal basis for rights under consideration (sexual and reproductive rights), guaranteeing health and equality without discrimination. Related to this further, article 25 of the Constitution ensures that everyone is equal before the law and protected regardless of race, sex, religion, or other status which includes

women prisoners' sexual and reproductive rights. Beyond the Constitution, other national laws also protect these rights, making sure women's rights under consideration (sexual and reproductive rights) are well safeguarded across the legal system.

CHAPTER FOUR

The Implementation of Sexual and Reproductive Rights at West Shoa Zone Prison

Administration

Introduction

Sexual Rights are a subset of fundamental human rights that comprise entitlements associated to sexuality and reproduction. They are meant to give a shield to individuals from violence and discrimination and further guarantees access to reproductive health service, and support the right to make informed decision about one's sexual life and body. These comprise access to sexual health care, education, and the freedoms to choose partners and family planning.⁵⁷ Overall rights under consideration (sexual and reproductive rights) support individual dignity and freedom in these important aspects.

On the other hand, Reproductive Rights refers to the legal entitlements and freedoms connected to reproduction and reproductive health, such as access to contraception, abortion, fertility treatment, and through sex education.⁵⁸ These rights ensure that people can make informed decisions about their reproductive health without facing discrimination or coercion. Hence, recognized them as fundamental human rights under international conventions, promoting equality and health care access for everyone regardless of genders and background.⁵⁹

Related to the issue at hand, by the year 2019, two major important milestones were celebrated in reproductive health. The 50th anniversary of the United Nations Population Funds and the 25th anniversary of the groundbreaking International Conference on Population and Development held in Cairo.⁶⁰

⁵⁷ What is sexual rights'(HIV language compendium)< <https://hivlanguagecompendium.org/sexual-rights.html>> (2024)

⁵⁸ What are reproductive rights? WebMD <https://www.webmd.com/sex/what-are-reproductive-rights> (2024)

⁵⁹ J.N.Erdman and R.J Cook International encyclopedia of public health,(2008)

⁶⁰ Reproductive health and rights the history and future Dec 14 2021< <https://givingcompass.org/article/reproductive-health-and-rights-the-history-and-future#:~:text=The%20year%202019,ICPD%20to%20date>>

The establishment of the first UN agency focused on population and reproductive health, along with the global pledge to support rights under consideration (sexual and reproductive rights), has deeply influenced women, families, and societies. Thanks to the tireless work of activists, advocates, and health experts, we've seen major progress, but there's still a lot to accomplish. The direction we take with population trends, contraception, and reproductive rights will shape how fully women and girls can flourish in their societies.⁶¹ A big parts of what depend on how well the world builds on the successes and tackles the gap left by the ICPD so far. The state of rights under consideration (sexual and reproductive rights) varies around the globe, shaped by each country's culture, politics, and laws.

Ethiopian legal regime on rights under consideration (sexual and reproductive rights) is shaped by 1995 FDRE Constitution which guarantee the right to equality, rights of women and health rights. Added, there is a progress regarding the adoption of legislation which extends protection to sexual and reproductive rights of women prisoners. Coming to specific area this thesis has focused on, West Shoa Zone Prison Administration is located in Oromia Regional State, West Shoa Zone in Ambo Town. The prison administration was established by 1940 during Imperial regime by Fitawurari Habtegorgis Dinagde. The prison administration from the date of its establishment to this date is serving as center of prison.

Further, the prison administration is serving as a center for different Woredas within the Zone and prisoners from 22 Woredas existing within the Zone were incarcerated in this prison center. There are about 1,750 prisoners living within the prison center, among which 70 of them are women prisoners and 16 children living with their moms. To collect data that shows implementation of protection of sexual and reproductive right of women prisoner within the prison administration center, the researcher has prepared interview guided tool in order to guide data collection procedure and present in person to the prison administration and have collected data from selected women prisoners aged between 18 years to 45 years, using a random selection method. Further, the researcher has also used actual observation whilst collecting the said data within the prison administration. Hence, the researcher in the coming section of this chapter will

⁶¹Ibid

assess the realization of sexual and reproductive rights within the prison center using the collected data.

4.1. Implementation of Women Prisoners Sexual Rights under West Shoa Zone Prison

Administration

All human rights are interdependent and indivisible. This is to mean that one set of rights cannot be enjoyed fully without the other and one cannot fully exercise one rights without considering the others. Hence, infringements of one right can negatively impact the applicability of the other.

In order to assess the condition of execution of rights, the researchers has collected data through interview from 20 women prisoners aged between 18 to 45 years and conducted an observation using observation check list at the prison center. Hence, we will assess those data collected through interview guided means from the said women prisoners and the result of observation checklist separately for each right within the prison center.

4.1.1. Implementation of the right to have Sexual Intercourse

Sexuality comprise fundamental components of personhood of every individual. Concerning implementation of sexual rights of women prisoners within the prison center, the data collected through interview showed that, the implementation of these rights are undermined.

Concerning this right, all prisoners who gave a response replied that, this right is hardly exercised. For instance, one of the a women prisoner named Birtukan Birhanu stressed that, in the condition where women prisoners were not allowed to meet any men, including male prisoners how can someone think of an exercise of this right? Added, Lelo Kefana, one among the prisoner also added that, this right cannot be imagined to be exercised by women prisoners within the prison administration, since women prisoners were not allowed to meet any male, including our husband. In addition, Kebene Tolasa a woman among the prisoners, shyly added that, she never know that she had the right to have sexual intercourse as human right. Further, she added that, even though she could have known recognition of such rights under Ethiopian legal framework, the difficult bottle neck is hurdles to allow implementation of the right from the authorities and also cultural thought beside other hurdles.

The response of these respondents represents the whole stand of women prisoners, since all of them has responded that the right to have sexual intercourse has not been implemented within the prison center even with their own husband for those who have got married before. Further, the observation made by the researcher also witness that nothing within the facility of the administration shows that women prisoners were allowed to exercise the right. Added, the observation of the researcher reveal a concerning lack of access to sexual intercourse right for women prisoners within the observed facility. Related to this, there is no evidence whatsoever that the administration acknowledges or facilitates an exercise of the right in any way. Several key barriers contribute to this deficiency. Firstly, a significant lack of awareness among the prisoners themselves regarding their sexual and reproductive rights prevents them from even demanding these entitlements. This is compounded by the absence of clear policies and guidelines within the prison system addressing these rights. Furthermore, the staff appear to be inadequately trained, demonstrating a lack of knowledge on the subject. Crucially, they also seem unaware of the legal framework within Ethiopia that recognizes and protects these rights, further hindering their implementation. This combination of factors creates a systemic failure to uphold an exercise of the right to have sexual intercourse. Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is not implemented

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to have sexual intercourse has never been implemented within the prison center.

4.1.2. Implementation of the Right to Choose Partner

The other component of sexual rights is the freedom to choose partners. As data shows, within the prison administration women prisoners are unfamiliar with this concept. They thought that

how could they choose their partners where it is not allowed to them to meet with any outsider as well as any men privately within the prison administration? Further, they have a concern that this right is by far difficult to exercise since their life is limited to the compound of the prison administration. Added, they also responded that they lack awareness about having the right itself. For instance, Tajitu Setegn, one among those who have served long years within the prison administration responded that, this right is not totally implemented, which shows that the right to choose one's own partner which is recognized under FDRE constitution and Oromia Regional State family code as one form of expression of consent to choose male partner is not being exercised.

Added, Kumale Regasa, one among the women prisoners stressed that, choosing a partner need facing the one to be chose as partner. She added that, within the prison center this is not allowed and then we the prisoners are not allowed to choose a partner of our own. Concerning this so long it's concluded that the right has a legal base to be exercised by women prisoners, it's legal to claim an exercise of the right by women prisoners and its duty of the prison administration to facilitate the exercise of this right. Hence, as conclusion, freedom to choose partners which is a single component of sexual right is not being implemented within the prison administration. Added to the conclusion made from the data collected through interview, the researcher's observation also reveals that the concepts of freely choosing one's partners is not well acquainted to the incarnated women. The absence of clear policy and guidelines within the prison system that addresses this right, and a pervasive lack of awareness among the prisoners concerning their sexual and reproductive rights in general are among the hurdles confronting the exercise of this right. Without the explicit recognition and protection within the prison center guidelines and without rendering education empowering the women to understand and assert their entitlements, the freedom to choose a partner remains an abstract and unattainable ideal. This underscores the urgent need for both policy reform and educational initiative to address this fundamental rights deficit. Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is not implemented

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to choose partner has never been implemented within the prison center.

4.1.3. Implementation of the Right to Protection Against Violence and Discrimination

Another key aspect of sexual rights is safeguarding individual from violence and discrimination. Violence against women refers to any gender based act that causes, or could cause, physical, sexual, or emotional harms or suffering including threats, coercion, or unjust loss of freedom whether it happen in public or private setting.⁶² The violence is not only about the physical harms as the concept connotes very broader aspect. Regarding this the collected data tells that the women prisoners in the West Shoa Zone Prison Administration are vulnerable to the violence. With respect to this, for instance, Sinke Tariku, one among the women prisoners responded that, women prisoners within the prison administration are not free from violence at all.

Relating to the Non-Discrimination aspect, prisoners should have the rights access to the health care service, free from without prejudice on gender, age or any other factors. The rights to have access to the health service depends on the economic capabilities of the prison administration. Concerning this, the data collected through interview shows that the prison administration has single mid-level clinic and if there is any serious issue beyond the capacity of the clinic happened, the prisoners used to be referred to other government hospital. Relating to the discrimination based on gender, age and other factor within the prison administration, all

⁶²Department of social service,*what is violence against women ?* <https://plan4womenssafety.dss.gov.au/resources/what-is-violence-against-women/> (2024)

prisoners responded, that “prisoners are equally treated”, hence, women prisoners within the prison center in this regard asserted that there are no problems exercising non-discrimination aspect of sexual rights. Related to this, regarding the violence and non-discrimination, the researchers' observations highlight a crucial understanding of violence which extends beyond physical harm. Within the prison setting, the neglect of women prisoners' sexual and reproductive rights inflicts significant psychological harm. This suggests that the denial of these fundamental rights constitutes a form of violence in itself, contributing to the overall suffering and disempowerment experienced by these incarcerated women. The inaccessibility of necessary facility, information, and autonomy regarding their reproductive health creates an environment of vulnerability and distress, compounding the inherent challenges of imprisonment. This emphasizes the importance of comprehensive approach to addressing infringements of women’s rights in prison, recognizing the profound impact of neglecting their sexual and reproductive well-being. Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	3	17	15 of them responded that there exists violence in some aspect, while two of them answered no violence, whereas all of them responded there is no discrimination.

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to be free from discrimination is being implemented while, 80% of the respondents asserted that there are violence against women prisoners, while 20% of them responded that they encounter no cases of violence.

In summary, the prison center demonstrably fails to uphold the majority of the international and locally recognized sexual rights. This widespread deficiency indicates a significant gap between established standard and the lived reality of incarcerated women. In other words, related to implementation of sexual right of women prisoners within West Shoa Zone, the data showed that bundle of the components of the sexual rights are not being implemented as expected. This lack of adherence to international and local norms necessitates urgent action to address these shortcomings and ensuring the protection of these fundamental right within the prison centers.

Furthermore, the researchers' observations reveal a systemic failure to implement a range of rights within the prison centers. This suggests that the issues extend beyond individual violations and point to a broader disregard for the fundamental entitlements of incarcerated individuals. This lack of implementation underscores the need for comprehensive reform and oversight to safeguard that prisons uphold fundamental rights of prisoners within the custody.

4.2. Implementation of Women Prisoners Reproductive Rights under West Shoa Zone Prison Administration

As we mentioned above, all human rights are interdependent. One supports another one. In fact, protection of sexual rights precedes reproductive rights. Reproductive rights of women are fundamental entitlements recognized under international as well as regional human rights instruments. Further, reproductive rights of women is recognized under article 35 of the FDRE Constitution. Further these are set of rights that encompass an access to contraception, abortion, fertility treatments, comprehensive sex education, and family planning, access to healthcare, and access to information, breastfeeding, and protection from discrimination. In the coming part this section we'll analyze how implementation of reproductive rights looks like within West Shoa Zone Prison Administration.

4.2.1. Implementation of the Right to Contraception

The Right to Access to Contraception is one among the component of reproductive rights. Within West Shoa Zone Prison Administration, there exist a clinic established for the purpose of treating prisoners within the prison center. Respondents asserts that every women prisoners are allowed to have an access to the contraceptive pills via the clinic though, the supply of these pills depends on the financial capability of the prison administration. Related to this, one of the respondent named Rahel Ishetu responded that women have access to contraceptive pills within the clinic. She further added that accessibility of these pills serves nothing in the situation where women are not allowed to meet men. Hence, one way or another, this component of the reproductive rights is being served within the prison administration though an exercise of the right has been hindered by denial of another related right. The researchers' observation also asserted the same fact. Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is implemented within the center

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to access to contraception has been executed within the prison center.

4.2.2. Implementation of the Right to Fertility Treatments

The fertility treatments is other components of reproductive rights. Fertility treatments encompasses the medical procedure that helps pregnant women which include fertility drugs and embryo screening. Though the concept of fertility treatments is very broad, the definition we put above is enough to describe the context of this study. For a given pregnant women prisoners,

access to medical treatment when in need is very crucial for the development of embryo and screening the embryo until she gives birth and postnatal treatments is equally important for survival of the mother as well as the child. Regarding the fertility treatments, for women prisoners those who have child with them asserts that, within the limit of resources of the clinic the prisoners have free access to the facility. Related to this for instance, Sutani Shantama, a women prisoner who was a pregnant when sentenced to a jail and gave birth to a child while serving the sentence, responded that she had an access to the facility of clinic pre and post natal procedure though she stressed that the clinic has a shortage of facilities, including poor medication supply, inadequate necessary working staffs like nurses, inadequate clean environment, inadequate patient beds and the likes.

Hence, one way or another the fertility treatments component of reproductive right has been exercised by women prisoners. While the prison administration provides healthcare services for pregnant women, including prenatal care, contraception, and STI testing, along with the assistance of qualified nurses and midwives through delivery, the researchers' observations raise concerns regarding the comprehensive executions of rights under consideration (sexual and reproductive rights). While pregnancy-related care seems to be available, the study's focus appears to be on a broader spectrum of sexual and reproductive rights, including access to contraception and fertility treatments independent of pregnancy. The availability of these services for pregnant women does not necessarily equate to access for all inmates seeking to implement reproductive rights. The study likely aims to investigate whether the full range of services, such as family planning options beyond pregnancy and access to fertility treatments, are available to all prisoners, aligning with international standards.

Furthermore, the scarcity of resources within the country presents a significant obstacle to providing adequate healthcare services, including sexual and reproductive healthcare, within the prison setting. This challenge, however, is not confined to the prison system but reflects a broader national issue, highlighting the systemic limitations affecting healthcare provision across the country. This underscores the need for increased resource allocation and strategic planning to address these broader healthcare deficiencies, which in turn would positively impact the quality of care available to incarcerated individuals. Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is implemented within the center

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to fertility treatments component of reproductive right has been implemented within the prison center, though the scarcity of resources within the country presents a significant obstacle to providing fully fledged adequate healthcare services, including sexual and reproductive healthcare, is yet under question within the prison setting.

4.2.3. Implementation of the Right to Comprehensive Sex Education (CSE)

The other components of reproductive right is comprehensive sex education (CSE) which aims to provide young people with the understanding, ability, mindset and values necessary to confidently explore and enjoy their sexuality both physically and emotionally, whether in relationships. It views sexuality holistically, as a part of young people's emotional and social development. It recognizes that information alone is not enough. Young people need to be given the opportunity to acquire essential life skills and develop positive attitudes and values.⁶³

CSE covers a comprehensive range of matters concerning to the physical, biological, emotional and social aspects of sexuality. This approach recognizes and accepts all people as sexual beings and is concerned with more than just the prevention of disease or pregnancy. CSE programs should be adapted to the age and stage of development of the target group.⁶⁴

Relating to the comprehensive sex education, the collected data shows that the prisoners are totally unfamiliar with this concept. Women prisoners responded that they had never had an

⁶³ Guttmacher institute, demystifying Data toolkit comprehensive sexuality education (Guttmacher institute) www.guttamcher.org 20 October 2023

⁶⁴ Ibid

access to such kind of education within the administration. Related to comprehensive sex education, all respondents asserted that nothing like that has been given for them as part of rehabilitation.

The researchers' observations too expose a critical gap in staff training within the prison: A lack of knowledge and understanding of comprehensive sex education. This deficiency hinders the effective provision of crucial information and support to inmates regarding their sexual and reproductive health. Without adequately trained personnel, the prison cannot fulfill its responsibility to ensure the well-being of its population in this vital area. This highlights the urgent need for comprehensive staff training programs on sexual and reproductive health, encompassing both factual information and the development of sensitive communication skills.

These rights are barely implemented within the prison center. This indicates a significant failure to uphold fundamental entitlements related to sexual and reproductive health, highlighting a serious deficiency in the prison's operations. The lack of implementation necessitates urgent action to address this systemic issue and secure the protection of these basic rights.

Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is not implemented

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to access comprehensive sex education has never been implemented within the prison center, which necessitates urgent response from the prison administration.

4.2.4. Implementation of the Right to Abortion

Abortion is other components of reproductive rights, whenever the health of mother or child are in risk mother has the rights to terminate embryo. Related to this, family planning is the other components of reproductive rights. Family planning allow women to attain their desired number of children and allow them to decide the spacing of their pregnancy. In this aspect, the collected data shows that in the prison administration the rights to determine number of children and spacing the pregnancy is hardly exercised. Women prisoners for instance, Kuleni Mideksa responded that, without having sexual intercourse how can we talk of pregnancy and family planning? She further asserted that it's hardly possible to exercise this right as things stands. Hence, data shows that this right is also undermined by denial of another related right within the prison administration. Regarding the abortion subject matter, the researchers' observation also asserted the response given by women prisoners.

Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is not implemented

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right abortion has never been implemented within the prison center.

4.2.5. Implementation of the Right to Access to Health Care and Access to Information

The other components of reproductive rights are the right to access to health care and access to information as enumerated under article 42(5) of the Federal Democratic Republic of Ethiopian Constitution. Related to this, state has an obligation to allocate resource to provide health care

service and education. Women prisoners have the rights to have an access in relation to health care and have access to information relating to reproductive health.

The researcher's observation indicate that while there is an access to healthcare services within the prison system, the quality and adequacy of these services for instance, accessibility of strong and continuous antenatal and postnatal care procedure for pregnant prisoners, accessibility of enough medical supplies within the clinic of the prison center, standard of medical service given within the clinic itself, accessibility of trained staffs specifically working on enforcement of women prisoners right to healthcare and the likes fall short of what is necessary for proper health management. This disparity underscores a critical issue: Access to healthcare is not merely about physical availability but is deeply intertwined with the resources and capabilities that support effective service delivery. In many cases, even when healthcare facilities are present, they lack essential medical supplies, adequate infrastructure, or trained personnel to provide comprehensive care. This inadequacy can lead to significant gaps in treatment and preventive care, leaving inmates vulnerable to untreated health issues.

Moreover, the access to health information within the prison environment is severely limited. Effective healthcare relies not only on physical access to services but also on the availability of accurate and timely information regarding health practices, disease prevention, and available treatments. The lack of implementation of informational resources within prison compounds exacerbates the problem, as inmates often remain unaware of their health rights and available services.

To address these challenges, it is crucial to invest in training human resources who are equipped to deliver healthcare effectively in such settings. Trained professionals can bridge the gap between available services and the actual health needs of the inmate population. They can also facilitate better communication about health information, ensuring that inmates are informed about their conditions and treatment options. Ultimately, improving both the adequacy of healthcare services and the dissemination of health information is essential for fostering a healthier prison environment and supporting the rehabilitation of inmates.

4.2.6. Implementation of the Right to Breastfeeding

The right to breastfeeding is another component of the reproductive rights. Breastfeeding is a complete nutrition for the baby and beneficial to the baby and the mother. Mothers should be prepared for breastfeeding and motivated antenatal (the medical and healthcare services provided

to pregnant women before child birth).⁶⁵ Even though the breastfeeding is not recognized as reproductive rights of women under the Ethiopian legal frame works, it is claimed as reproductive rights as it promote child spacing and its natural contraceptive method. But it should be noted that the breast feeding has a direct relation with nutrition. For a given mother to feed her child she should have an access to good nutrition. With respect to this, data shows that this right is also among the undermined rights for women prisoners. Asserting this, Sutani Shantama, a women prisoner who was a pregnant when sentenced to a jail and gave birth to a child while serving the sentence, noted that a women prisoner who breastfeed their child deserves better nutrition, though within the prison administration breastfeeding moms have no access to better nutrition than ordinary women prisoners. Hence this component of reproductive right is also hardly implemented within the prison administration.

The observations made by the researcher highlighted a critical issue regarding the treatment of pregnant women in prison. The lack of proper nutrition for pregnant inmates is particularly concerning, as adequate nutrition is essential for the health of both the mother and the developing fetus. When pregnant women are provided with the same diet as other prisoners, it often fails to meet their specific nutritional needs, which can lead to adverse health outcomes.

Inadequate nutrition during pregnancy can result in complications such as low birth weight, preterm birth, and developmental issues for the child. Furthermore, the right to breastfeeding is also compromised in this scenario. Breastfeeding not only provides essential nutrients to newborns but also fosters a crucial bond between mother and child. When prison policies do not support breastfeeding or provide appropriate accommodations for nursing mothers, it undermines the physical and emotional well-being of both.

The situation calls for urgent reforms in prison healthcare policies to ensure that pregnant women receive proper nutrition tailored to their needs and that their rights to breastfeed are respected. This may include providing specialized dietary options, access to prenatal care, and facilities that allow for breastfeeding or expressing milk. Addressing these issues is vital not only for the health of the mothers and their children but also for promoting humane treatment and supporting the rehabilitation process within the prison system. Overall, ensuring that pregnant prisoners receive adequate nutrition and have the opportunity to breastfeed is a fundamental aspect of respecting their rights and promoting better health outcomes for both mothers and infants.

⁶⁵ Jayashree Purkayastha, *Breastfeeding in Normal Newborn: Basic Concepts* (page 1)

Related to implementation of this right, the number of participants and the response rate can be summarized as following table.

Participants	No. of participants for interview	No. of non-response from the participants	No. of response from the participants	Response detail of the participants
Women prisoners aged between 18 to 45 yrs.	20 women prisoners	No	20	all answered the right is not implemented

As we can understand from the reading of the table, 100% respondents of the interview stressed that the right to breastfeeding has never been implemented properly within the prison center.

Finally, the other components of the reproductive rights are protection from discrimination from reproductive aspect of women prisoners' right. As mentioned under the sexual rights discussion of this section, prisoners should have the same access to facilities enhancing rights under consideration (sexual and reproductive rights) without facing discrimination based on gender, age, or any other status. Under the case of West Shoa Zone Prison Administration prisoner are relatively receiving equal treatment as asserted by the women prisoners.

The researcher's observation regarding protection from discrimination of reproductive right reveals that the denial of reproductive rights for all prisoners highlight a significant systemic issue within the prison system. This indicates that regardless of individual circumstances such as pregnancy, parenting status, or specific health needs prison policies tend to apply uniformly, often neglecting the unique requirements of certain populations.

This uniformity can lead to serious consequences for pregnant women and new mothers in prison. For instance, the lack of tailored healthcare, nutrition, and support for breastfeeding can negatively impact their health and that of their children. Additionally, the absence of reproductive healthcare services can further exacerbate existing inequalities and limit the ability of incarcerated individuals to make informed choices about their reproductive health.

The assertion that there is no favoritism implies that all prisoners face similar challenges and barriers regarding reproductive rights, but it also underscores the need for a more nuanced approach. A one-size-fits-all policy fails to recognize the diverse needs of the incarcerated population, particularly vulnerable groups like pregnant women.

To address these issues, prison systems should consider implementing policies that acknowledge and accommodate the specific reproductive health needs of different inmates. This could involve providing access to comprehensive reproductive healthcare, nutrition tailored to pregnant women, and facilities that support parenting and breastfeeding. Such reforms would not only promote the well-being of individuals but also contribute to a more humane and just correctional system.

In nutshell, implementation of reproductive right of women under West Shoa Zone Prison Administration can be viewed as existence of the opportunity to health care service and contraception, poor fertility treatments, lack of comprehensive sex education, absence of the rights to determine number of children and spacing the pregnancy (family planning right), non-fulfillment of the right to breastfeeding and the likes. Expressed in other words, observation of the researcher shows that the barriers to implementing reproductive rights in prison systems are indeed multifaceted and complex.

4.3. Challenges to Implementation of Sexual and Reproductive Rights at West Shoa Zone Prison Administration

Women prisoners do have several fundamental rights among which sexual and reproductive rights can be called first. Within a given nation vulnerable group's rights are guarded under statutes as well as policies. Ethiopia has also made significant progress to improve rights under question (sexual and reproductive rights). The nation has enacted a bundle of laws meant to promote and safeguard rights under question (sexual and reproductive rights). Most importantly, the 1995 FDRE Constitution is point of reference to safeguard these rights. Further, the revised criminal code, revised family code, Oromia Regional State Family Code, Federal Prison Proclamation and different instruments extend protection to these rights. Women's rights are human rights, henceforth all the respect and protection given for human rights should also be given to women's rights. All treaties related promotion and safeguard fundamental entitlements are foundation for the recognition of rights under question (sexual and reproductive rights). Said

this about legal foundation of rights under question, the challenges for implementation to this rights comes next.

In order to evaluate the problem regarding the implementation of these rights within West Shoa Prison Administration, the researcher has collected data from targeted women prisoners and has conducted observation using observation checklist prepared for this purpose. Primarily lack of resource, resources either related to economic scarcity or human resource became the first challenges hurdling the implementation of rights under question (sexual and reproductive rights). In order to fulfill the above mentioned components of rights under question financial capability is very important. For instance, in order for exercising the right to access to health care service, contraception and even for breastfeeding right financial capacity determines most. Related to this for instance, for a mother to breastfeed their child better nutrition is mandatory even though, within the prison administration there is no special treatments relating to food and other facilities.

The other component hurdling implementation of the right is human resources scarcity, which means scarcity of skilled human personnel responsible for planning, following and managing implementation of these rights. Related to this, around the prison administration it's difficult to find person that have valuable awareness, educational readiness and necessary experience regarding the above-mentioned notions.

The other challenge for the implementation of rights under question (sexual and reproductive rights) is cultural thought which is characterized by the strong social norms that limits women's involvement about family planning, use of contraceptive method and all about hiding their feeling or reflect about their internal interest regarding sexual and reproductive rights. Cultural belief significantly challenge, the implementation of sexual and reproductive rights of women. Generally in Ethiopia, rooted masculine norms dictate gender roles, often placing women in inferior positions within households and communities.

This influence disparity curbs women's independence over their reproductive health decisions. The researcher has conducted interview to realize how the women prisoners in the West Shoa Zone Prison Administration is affected by the cultural thoughts. Even though sexual and reproductive rights are recognized and promoted under Ethiopian legal framework women should fight for their rights to realize the protection of these rights.

The implementation problem of existing law is another challenge for the implementation of sexual and reproductive rights. Ethiopia has made significant progress in adopting legal framework that recognize sexual and reproductive rights. However the implementation of these law faces significant challenges. For instance, related to cultural hindrances, the inherent custom that discourage open discussion regarding sexual and reproductive rights leading to shame is significantly hampered the implementation of the rights. Besides legal gaps such as while the law allows for sexual and reproductive rights under certain conditions, lack of clarity regarding whether these rights encompass conjugal visit or other partner, the extent of implementation of the law creates confusion and further hindering implementation aspect.

In addition, resource constraints are among hurdles to implement rights under question (sexual and reproductive rights). Related to this, there are important scarcities in healthcare infrastructure, trained personnel, and essential medical supplies. The health center within the prison administration lacks resources to provide comprehensive sexual and reproductive rights services. This creates significant conflicts and traumas that interrupt facility delivery.

Moreover, weakness in the enforcements of laws that promote rights under question (sexual and reproductive rights) are among another hurdles being faced within the administration settings. Further, there is lack of capacity or will to implement these law, which create a gap between the law and the reality on ground. Added, Educational deficits, an inadequate access to inclusive sexuality education is another challenges for the implementation of the existing law. Consequently, within the prison administration, there need to generate awareness of the rights that may have crucial contribution for the effective implementation of rights under question (sexual and reproductive rights).

Apart from hurdles mentioned at the top the other barriers to accessing rights under question (sexual and reproductive rights) include, limited Service availability and geographic disparities that plays a role in hindering implementation of the rights under question. Related to this, rural areas often have fewer healthcare facilities equipped to provide comprehensive sexual and reproductive services. Concerning this, geographically speaking, West Shoa Zone Prison Administration is not that much far from the center of the country. However, as we have mentioned above within the prison administration there only exist one clinic with poor facilities that make hurdle to implementation of sexual and reproductive rights of women prisoners.

In summary, whereas Ethiopia has adopted numerous legal frameworks that rights under question (sexual and reproductive rights). In the context of West Shoa Zone Prison Administration, the effective implementation of these law is obstructed by cultural thoughts, legal uncertainties, resource limitations, and weak enforcement mechanisms among others. Further, within the Prison Administration, protection of sexual and reproductive rights are yet at its infant stage which is examined by number of hurdles and addressing these challenges requires serious policy measures.

CHAPTER FIVE

Conclusion and Recommendation

5.1. Conclusion

From the discussions we made it become clear that rights under considerations (sexual and reproductive rights) are among the fundamental entitlements shielded under different inventions and agreements. These rights cover a wider range of issues, such as access to healthcare, bodily autonomy, making informed decisions about sexual and reproductive health, and protection from violence and discrimination. Among international instruments UDHR is a key document that primarily gave a shield to these rights. CEDAW is another most important treaty focused on women's rights, promoting and safeguarding ranges of building blocks for rights under considerations (sexual and reproductive rights). The ICESCR also recognizes the right under considerations while the ICCPR, ICPD, and Beijing Declaration support these rights as well. Regional agreements like the Maputo Protocol and the ACHPR too, gave a shield to these rights in Africa.

In Ethiopia, rights under consideration got recognition of FDRE constitution, the Revised Criminal Code, the Oromia Family Code, and regional as well as global treaties. Rights under considerations (sexual and reproductive rights) include various most important components including access to healthcare, personal autonomy, freedom from violence and discrimination, and the right to give free consent. Governments are under duty for protecting, respecting, and fulfilling these rights. However, in places like West Shoa Zone Prison Administration, the implementation of the rights are surrounded with number of hurdles including cultural attitudes, legal uncertainty, limited resources, and weak enforcement among many which has hindered proper realization of these rights.

5.2. Recommendation

Ethiopia has adopted several laws that recognize and promote rights under considerations (sexual and reproductive rights). Nevertheless, there is significant challenges regarding implementation of these rights. Here are some recommendations for the effective implementation of the rights in the context of West Shoa Zone Prison Administration.

- ✎ Federal Government of Ethiopia and Oromia National Regional State legislators should take responsibility of promulgating legislation within their respective area that clarify the extent of implementation of women prisoner's sexual and reproductive rights on issues

like for instance whether conjugal visit is allowed or not within the prison center, whether or not the right to have sexual intercourse with men is allowed or not within the prison centers.

- ✘ Oromia National Regional State Prison Administration Commission should strengthen enforcement of existing legal frameworks protecting women prisoners sexual and reproductive rights stipulated under different laws of the country.
- ✘ Oromia National Regional State Prison Administration Commission specifically, West Shoa Zone Prison Administration should take responsibility of training individual staffs working on the issue of women prisoners regarding enforcement of sexual and reproductive rights of women prisoners so that these rights can be safeguarded well.
- ✘ Oromia National Regional State Prison Administration Commission in general and West Shoa Zone Prison Administration specifically should collaborate with stakeholder for proper implementation of women prisoner's rights under considerations (sexual and reproductive rights) within the prison administration.
- ✘ Oromia National Regional State Prison Administration Commission should strengthen women prisoners' access to sexual and reproductive health service, ensure implementation of sexual and reproductive rights of women prisoners.
- ✘ Oromia National Regional State Prison Administration Commission should encourage education and awareness, regarding comprehensive sex education for the women prisoners.
- ✘ West Shoa Zone Prison Administration concerned staffs should create awareness about an exercise of rights under considerations for women prisoners through discussion with women prisoners and all stakeholder.
- ✘ Oromia National Regional State Prison Administration Commission in general and West Shoa Zone Prison Administration specifically should focus on budgeting and investing in the implementation of the rights within the prison setting.
- ✘ Oromia Regional State Prison Administration Commission in general and West Shoa Zone Prison Administration specifically should create mechanism to monitor and closely follow up every steps of implementation of sexual and reproductive rights of women prisoners within the prison set up.

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Annexes

1. Interview Guiding Questions

This interview guide questions are to be used by researcher to collect data on research work titled protection of sexual and reproductive right of women prisoners in the case of West Shoa Zone Prison Administration from women aged between 18 to 45 years. We kindly request you to accurately respond to the questions provided.

Name of the prisoner.....

Age.....

Type of crime convicted with

Year of conviction

Duration served under the prison administration.....

1. Do you know women prisoners have reproductive right to be respected within the prison administration center? Yes...../No.....
2. Have you received any education related to sex within the prison administration center? Yes/no.....if yes how?
3. Do you think women prisoner's right to protection from violence and discrimination is respected within the prison administration center? Yes/no.....if yes how?
4. Do you think women prisoner's right to abortion is protected within the prison administration center? Yes/no.....if yes how?
5. Do you think women prisoner's right to access to health and access to information about reproductive health is protected? Yes/no.....if yes how?
6. Do you think women prisoner's right to breast feeding is protected within the prison administration center? Yes/no.....if yes how?

7. Do you think women prisoner's right to treatment related to fertility case is protected within the prison administration center?

Yes/no.....if yes how?

8. Do you think women prisoner's right to access to contraception facility is protected within the prison administration center?

Yes/no.....if yes how?

9. Do you have any idea about what sexual right of women prisoners mean?

Yes...../No.....

10. Do you think women prisoners right to have sexual intercourse is protected within the prison administration center?

Yes/no.....if yes how?

11. Do you think women prisoners right to choose partner of their choice is protected within the prison administration center?

Yes/no.....if yes how?

12. What are challenges do you think are there to guarantee protection of these rights within the prison administration center?

.....

2. Observation check lists

The objective of this observation is to collect data as a non-participant observer on the sexual and reproductive rights of women prisoners. Observations will focus on key periods when medical personnel visit the prison to provide healthcare services and when hygiene materials are distributed to the prisoners. These times are critical for assessing access to sexual and reproductive health services, the adequacy of hygiene supplies, and the overall treatment of women prisoners, ensuring a comprehensive understanding of existing practices and gaps.

1. Are there visible policies or guidelines in the prison that address sexual and reproductive rights of women prisoners?
2. Do prison staffs demonstrate awareness of Ethiopian laws on sexual and reproductive rights?
3. Are international standards on sexual and reproductive rights displayed or referenced in the prison?
4. Are women prisoners provided with adequate menstrual hygiene products?
5. Is there access to sexual and reproductive health services (e.g., prenatal care, contraception, STI testing)?
6. Are there qualified medical personnel available to address women's health needs?
7. Are pregnant women provided with proper nutrition and prenatal care?
8. Are there reports or signs of discrimination or abuse related to sexual and reproductive rights?
9. Do women face challenges in accessing healthcare services?
10. Are there sufficient facilities (e.g., clean toilets, showers) for women prisoners?
11. Are there barriers to reporting violations of sexual and reproductive rights?
12. Is there a lack of awareness among prisoners about their sexual and reproductive rights?
13. Are there training programs needed for prison staff on sexual and reproductive rights?
14. What infrastructure upgrades are required to ensure privacy and dignity for women prisoners?



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