



**ADDIS ABABA UNIVERSITY COLLEGE OF LAW AND GOVERNANCE
STUDY**

The Implementation of the Right to Defense counsel in Ethiopia: Case
study at the Federal Public Defense Office

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“The Implementation of the Right to Defense counsel in Ethiopia: A case study at
the FDRE Federal Public Defense Office”

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A Master’s Thesis Submitted to Addis Ababa University in partial fulfillment of
the Requirement for the degree of Master’s degree in criminal law and justice

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ADDIS ABBEBA UNIVERSITY COLLEGE OF LAW AND GOVERNANCE
STUDY

APPROVAL SHEET

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DECLARATION

I, the undersigned, declare that this thesis “The Implementation of the Right to Defense counsel in Ethiopia: A case study at the FDRE Federal Public Defense Office” is my original work, prepared under the guidance of Tsehay Wada (Associate Professor). All sources of materials used for this thesis have been duly acknowledged. I further confirm that the thesis has not been submitted either in part or full to any other higher learning institution for the purpose of earning any degree.

Name

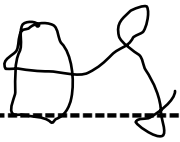
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ENDORSEMENT

This thesis entitled “The Implementation of the Right to Defense counsel in Ethiopia: A case study at the FDRE Federal Public Defense Office” has been submitted to Addis Ababa University, School of Law for examination with my approval as a University assigned advisor of the Researcher.

Advisor

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Signature & Date

April 25, 2025

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I want to thank God for all the guidance and protection in my journey of life and in doing this Thesis as well. It was the hard and the uncertain phase in my life but because of good hearted individuals this all became true. I want to thank all.

Thank you!!

ABSTRACT

This study is on implementation of right to defense counsel in the context of Ethiopia. I applied a qualitative research which applied doctrinal and non doctrinal approach. The research also used primary data based on data from interviews and questionnaires. Based on the findings the legal foundation for the public defenders office are article 20 of the FDRE constitution and the FSC Establishment proclamation No. 1234/2021. The office has formed offices in Addis Ababa and three Regional offices in which it employs over 74 public Defenders and 25 other staff. While legal practitioners understand the right to counsel, but many accused individuals are unaware. While the PDO is considered accessible by legal professionals, non-legal individuals express concerns regarding its accessibility and effectiveness. Further Public defenders view their services as efficient, but clients and some legal professionals express differing opinions. Overall stakeholders recognize the vital role of public defenders but highlight the need for capacity-building, professional development, and express concerns over ethical issues related to payment for services. Major challenges include a lack of comprehensive legal framework, limited resources, a lack of independence from the FSC, and enforcement lapses in professional conduct. To enhance the PDO's effectiveness, recommendations include establishing a comprehensive legal framework, restructuring institutional operations, and ensuring equitable salaries for public defenders. Implementing these changes is crucial for fulfilling the mission of the PDO and serving the public interest effectively.

ACRONYMS

ABA American Bar Association

CC Civil Code

CPC Criminal Procedure Code

DCPC Draft Criminal Procedure Code

ECBA European Criminal Bar Association

ECHR European Convention on Human Rights

ECtHR European Court of Human Rights

EU European Union

FDRE Federal Democratic Republic of Ethiopia

FDRE Federal Democratic Republic of Ethiopia

FSC Federal Supreme Court

ICCPR International Convention on Civil and Political Rights

ICESCR International Convention on Economic Social and Cultural Rights

PDO Public Defender Office

UDHR Universal Declaration of Human Rights

UN United Nations

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CHAPTER ONE: INTRODUCTION

1.1. Background of the study

A major concern in managing the criminal justice system is the situation of suspects or accused individuals. Crimes are matters of public interest, leading the state to create various institutions such as police forces, courts, and correctional facilities, all financed by taxpayer money.¹ In criminal cases, the two opposing parties are the state and the accused, who frequently do not have the necessary skills or financial resources to defend themselves. International and regional frameworks affirm that the state has an obligation to provide the right to legal representation; however, many face challenges in financing these essential institutions, putting indigent suspects at a disadvantage.

The entitlement to legal defense is safeguarded in various international and regional human rights treaties to which Ethiopia is a signatory, as well as in the national constitution and diverse substantive and procedural laws of the nation.² Article 14(13)(d) of the ICCPR protects the right to have legal assistance provided to accused individuals whenever the interests of justice require it, at no cost if they lack the financial resources to afford it.³ In terms of the national framework, Article 20 of the FDRE constitution establishes that everyone accused of a crime has the right to communicate with and be represented by legal counsel, whether through a public defender or an attorney chosen from the ranks of advocates, and to be informed of this right in advance by the appropriate authority.⁴ Additionally, the constitution stipulates that for individuals accused of serious crimes, if the court deems it necessary due to the gravity of the charges, it may appoint a public defender at no cost, which the government provides.⁵ Furthermore, the Federal Supreme Court (FSC) Establishment Proclamation No. 1234/2021 under Article 17(j) grants the FSC

¹ Tsehai Wada, 'The Right to Defense Counsel in Ethiopia: A Quest for Perfection' (2024) Journal of Ethiopian Law <https://ejol.aau.edu.et/index.php/JEL/article/download/8105/6514/13767> accessed 14 April 2022

² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

³ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 14(3)(d)

⁴ Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995. Federal Negarit Gazeta 1st year no. 1, Addis Ababa, 21st Aug. 1995. Art 20/5/

⁵ Ibid

president the authority to establish a federal public defender's office at the national level by saying the president of the Federal Supreme Court shall 'organize Public Defense Office.'⁶ These laws constitute the sole legal framework within the Ethiopian criminal justice system that ensures free legal representation for accused individuals.

Hence, this research seek to analyze the legal frameworks in relation with the right to defense counsel with particular emphasis on the main areas that need to be enhanced for the sake of promoting fair criminal justice system in Ethiopia.

1.2. Statement of the problem

The criminal justice system has two principal adversaries that is state and accused. There is obvious imbalance in the arena. There should be a balancing mechanism while the public defenders offices are among the tools to balance or minimize the imbalance.

The Federal Public Defenders office which is established under the Federal Supreme Court of Ethiopia. But the office is not institutionally independent without having its own establishment proclamation. This lack of autonomy could have several consequences in achieving the very objectives of ensuring justice on its part. It has possible results of lack of professionalism and budget independence. The office also faces hinders that mitigate its potential to achieve the mandates thereto.

What makes independence center of discussion in this regard is not the issue of honor. But it has practical concerns in doing justice. lack of independence could possibly cause limitations in attracting well trained legal professionals since there is not budgetary authority. The absence of sufficient legal frameworks also minimized the overall effectiveness of the public defenders office. It is strange paradox to establish litigant party under the judiciary which is expected to give judgment impartially. This makes the topic at hand more concerning in this study.

⁶ The Federal Supreme Court (FSC) Establishment Proclamation No. 1234/2021

Based on these mentioned concerns the study will examine the legal frameworks and the institutional frameworks while assessing the implementation of the frameworks and the practical efficiency issues and the challenges individuals who faced criminal accusation.

1.3. Objectives of the Study

1.3.1. General Objectives

The general objective of this thesis is to analyze how effective is the Federal Public Defenders office in the implementation of right to defense counsel.

1.3.2. Specific objectives

The specific objectives of this study are as follows:

1. To evaluate the Ethiopian legal framework that governs the right to defense counsel and legal representation in criminal cases.
2. To investigate how the Public Defense Office offers legal representation to clients who cannot afford private defense attorneys.
3. To identify the primary institutional challenges faced by the Public Defense Office in fulfilling its responsibilities.

1.4. Research Question

This study aims to address the following research questions:

1. What is the legal framework pertaining to the right to defense counsel and legal representation in criminal cases within the Ethiopia Public Defense Office?
2. How does the Public Defense Office offer legal representation to clients who are unable to afford private defense attorneys?
3. What institutional challenges does the Public Defense Office encounter in fulfilling its responsibilities?

1.5. Research Methodology

1.5.1. Research approach

This study adopted a qualitative research approach to investigate the effectiveness of implementing the right to defense counsel. It utilize both doctrinal (legal texts and case law) and non-doctrinal methods. To analyze, interpret, and critically assess the legal, institutional, and regulatory gaps related to the right to defense counsel, a qualitative research methodology were employed.

1.5.2. Data Sources and Collection Methods

This study utilized both primary and secondary data sources. Primary data were collected from stakeholders involved in the research. To gather this primary data, the researcher conducted key interviews to obtain qualitative information from the selected respondents.

Key interviews were held with leaders from the Federal Supreme Court's Public Defender Office, Judges, prosecutors, lawyers and legal professionals who provide free legal services to individuals accused of criminal charges.

Questionnaires were distributed to lawyers, public prosecutors, public defenders, judges, and individuals charged with a crime who were represented by a public defender. Every ten respondents were chosen purposively, amounting to a total of 50 questionnaires.

For the secondary data, the study drew on a variety of legal materials, including national and international laws, research findings, published books, policies, journals, articles, reports, and internet sources.

1.5.3. Sampling technique and Data Analysis

Purposive and expert sampling methods were used to identify respondents with the necessary expertise to provide relevant insights. Three key interviews were conducted with leadership from the FSC PDO and eight key interviews with public defenders, judges, lawyers and prosecutors.

Questionnaires were distributed to lawyers, public prosecutors, public defenders, judges, and individuals charged with a crime who were represented by a public defender. Every ten respondents were chosen purposively, amounting to a total of 50 questionnaires.

The data collected from these questionnaires' and key interviews was analyzed using thematic analysis to identify recurring themes, patterns, institutional challenges, and legislative gaps within the Federal Supreme Court Public Defender Office in Ethiopia.

1.6. Significance of the study

The research examined how the efficacy of the legal instruments regarding the public defenders office in the Ethiopian criminal justice system. By doing this it aims at identifying gaps in relation with the right to defense counsel while supporting the development of knowledge in effective frameworks.

The study also seeks to address potential challenges public defenders offices are facing in performing their job for the implementation of the right to defense counsel in the criminal justice system of Ethiopia.

The study aspired to suggest and support legal frameworks amendment so as to encourage the proper implementation of the right to defense for individuals accused of criminal charges.

Throughout all the analysis in the study the research would possibly serve to add resource for further research as the topic is not going to be fully explored by the thesis at hand. The whole aim of the study is to pave road for more diagnosis and discussion on the topic.

1.7. Scope of the study

The scope of this study is to investigate the implementation of the right to defense counsel in Ethiopia with particular emphasis on the Federal Public Defenders Office by examining the status of the right to defense counsel and the implementation of the same in the criminal justice system of the country. In doing so the study examined the interplay between the legal framework

and the practical implementation of the right in the Public Defenders office of the Federal Supreme Court.

1.8. Limitations of the study

Among several limitations that this study faced are the lack of previously existing study, budget and time limitations and absence of sufficient information and operational procedures regarding the functioning of the office at hand.

The researcher has tried to take due care to mitigate the implications and impacts of them on the study by adding commitment towards coming up with certain knowledge on the area of the study.

1.9. Review of literature

When we look at existing literatures about the right to defense counsel we found that it is incorporated under several international instruments. The international covenant on civil and political rights has provided that individuals accused of criminal charges are entitled to rights like the right to fair trial, the right to defend self in person or by legal counsel of his/her choice and if failed to do so, legal assistance when it comes necessary. This issue of legal assistance come to birth when the accused lacks money to get legal representation by his own finance. By the same fashion the African Charter on Human and peoples' Rights stipulate the significance of the right to legal counsel.

Notable researchers on the area like Sue Backus and Marcus significantly addressed issues which affect defender systems in criminal justice system. In their analysis lack of adequate fund and lack of resources could harm the representation systems quality significantly as it is discussed in the context of United States.⁷

⁷ Mary S Backus and Paul Marcus, 'The Right to Counsel in Criminal Cases: A National Crisis' (2006) 57 Hastings LJ 1031

The topic is also discussed by articles like “the right to defense counsel in Ethiopia; A quest for perfection.”⁸ As it is written by Wada. This Article significantly analyzed legal frameworks and respective practices comparatively. The article reached to the conclusion that the issue of public defenders remained unsettled barrier to representation in the criminal justice process while it advocates to promoting institutional strengths and legislative amendments towards sufficiently guarding the right at hand.

Desalegn Gemechu has also examined the right to legal counsel especially with the scope limited to regional state of Oromia. In his LLM thesis “The Right to legal counsel in Ethiopia; A case analysis in Oromia he identifies notable disparities in the recognition and implementation of the right surrounding various jurisdictions.”⁹ He identifies notable disparities in the recognition and implementation of this right across various jurisdictions. These discrepancies arise from ambiguities in both the objective and subjective dimensions of the right, which are often articulated in overly general terms, making them prone to varying interpretations. Critical questions remain regarding who qualifies for representation by legal counsel, the categories of offenses necessitating legal assistance, and the specific stages of criminal proceedings where this right becomes applicable.

Generally, the scholarly exploration of the right to defense counsel in Ethiopia remains somewhat limited, highlighting a significant gap in research. This paper, the Implementation of the Right to Defense Counsel in Ethiopia: A Case of the Federal Public Defense Office, aims to fill this void by assessing the effectiveness and operational realities of the Public Defender’s Office (PDO) within the Ethiopian legal landscape. Through this initiative, I seek to contribute to a deeper understanding of how the right to legal counsel is realized and the challenges that persist in its implementation.

1.10. Organization of the study

This study is organized into four comprehensive chapters, each serving a distinct purpose.

⁸ Tsehay (n 1)

⁹ Desalegn Gemechu, *The Right to Legal Counsel in Ethiopia: A Case Analysis in Oromia* (LLM thesis, Addis Ababa University 2015)

Chapter One, the introduction, provides the background of the study, presents the statement of the problem, defines the research objectives, lists key research questions, outlines the methodology, and describes the scope, significance, limitations, literature review, and overall organization of the study.

Chapter Two discusses the legal and institutional framework of the Federal Supreme Court of Ethiopia's Public Defender Office. This chapter includes an overview of the criminal justice system in Ethiopia, the legal provisions governing public defense, the role and mandate of the FDRE Federal Public Defense Office, and the institutional setup and functioning of the public defense system.

Chapter Three examines the FDRE Federal Public Defense Office, focusing on the implementation of the right to defense counsel. It addresses practical aspects, challenges and limitations in implementation, the accessibility and availability of public defenders, financial and institutional constraints, public awareness and legal literacy, and the quality of legal representation.

Finally, Chapter Four presents the findings of the study, along with conclusions and recommendations.

CHAPTER TWO: THORETICAL AND INSTITUTIONAL FRAMWORK OF THE FEDERAL PUBLIC DEFENSE OFFICE

2.1. Introduction

Historically, the institution of the public defender emerged from a protracted struggle spanning nearly 900 years in England and America, culminating in the commitment to provide legal counsel for every defendant unable to afford an attorney, particularly in cases where their liberty is at stake.¹⁰ Early legal writings, such as a law book dating back to around 1118 under King Henry I, indicate that the accused were allowed the assistance of counsel, albeit with limitations in more serious cases.¹¹ Counsel's role during this time primarily involved advising the accused and potentially addressing technical or procedural legal questions. During actual trials, the authority of counsel was frequently constrained, with defendants often relying on friends or relatives to aid them; however, by the reign of Edward I (1273-1307), the use of professional pleaders had become more common in numerous cases.

The signing of the Magna Carta in 1215 did not explicitly guarantee the right to counsel but mandated the principle of "due process," which laid foundational aspects for the evolution of legal rights over the centuries.¹² Seven centuries later, the concept of due process played a pivotal role in the establishment of the modern public defender system in the United States.¹³

In the backdrop of profound social changes in Europe and America, significant transformations also occurred within courtrooms across England and the nascent United States. The evolution from an inquisitorial model of criminal justice—like that observed in contemporary France—to

¹⁰ William Forsyth, *The History of Lawyers, Ancient and Modern* (James Cockcroft & Company 1875) 322 <https://archive.org/details/historylawyersa01forsgoog>

¹¹ Theodore F Plucknett, *A Concise History of the Common Law* (3rd edn, Butterworth 1940) 385ff, cited in William M Beaney, *The Right to Counsel in American Courts* (University of Michigan Press 1955) 11

¹² George C Thomas III, 'History's Lesson for the Right to Counsel' (2004) 2004 *University of Illinois Law Review* 573

¹³ Erica J Hashimoto, 'An Originalist Argument for a Sixth Amendment Right to Competent Counsel' (2014) 99 *Iowa Law Review* 1999, 2006-2007

an adversarial model—as exemplified in modern Britain and the United States—marked a critical shift in legal practices.¹⁴

In the United States, the Sixth Amendment established the right to counsel in criminal prosecutions as a permissive practice, stipulating that "In all criminal prosecutions, the accused shall enjoy the right ... to have the assistance of counsel for his defense."¹⁵ The landmark Supreme Court case of *Gideon v. Wainwright* in 1963 transformed this permissive right into a mandatory obligation, requiring courts to provide free legal counsel to criminal defendants who could not afford an attorney, unless they explicitly waived this right.¹⁶ The *Miranda vs Arizona* decision ruled in 1966 has also again enforced that individuals suspected of crime have the right to be informed that they have right to legal representation. The principle is assumed as warning which states that “if you cannot afford a lawyer,one will be provided for you at government expense.”¹⁷

In the context of Ethiopia, the legal architecture is established by Article 20 of the Federal Democratic Republic of Ethiopia (FDRE) Constitution, which unequivocally affirms that every individual accused of a crime has the right to communicate with and be represented by legal counsel.¹⁸ This right can be fulfilled either through a public defender or an attorney selected from the roster of practicing advocates. It is imperative that the accused are informed of this right by the appropriate authorities at the outset of the legal proceedings.

Beyond the historical development of public defense systems, the theoretical framework surrounding these offices emphasizes the critical importance of guaranteeing equal access to justice and legal representation for all, irrespective of economic status. The institutional imperative necessitates the creation of independent and adequately resourced public defender

¹⁴ James F Stephen, *A History of the Criminal Law of England* (Macmillan 1883) vol I, 424, cited in William M Beaney, *The Right to Counsel in American Courts* (University of Michigan Press 1955) 10

¹⁵ Sixth Amendment Center, ‘Chapter 2: The Sixth Amendment to the United States Constitution’
<http://sixthamendment.org/reclaiming-justice/chapter-2-the-sixth-amendment-to-the-united-states-constitution/>
accessed 7 April 2025

¹⁶ William M Beaney, *The Right to Counsel in American Courts* (University of Michigan Press 1955) 28

¹⁷ *Miranda v Arizona* 384 US 436 (1966)

¹⁸ Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995. Federal Negarit Gazeta 1st year no. 1, Addis Ababa, 21st Aug. 1995. Art 20/5/

systems capable of fulfilling this vital role. The following section will delve further into both the theoretical and institutional frameworks that govern public defense.

2.2. Theoretical Foundations:

When we look at the theoretical bases of the right to defense counsel it has roots on the principles like equality before the law and access to justice to all individuals notwithstanding their respective financial status to have legal representation. It insists that the right has main aspects of trial which should be fair, and the over all human rights protection as well.

In Ethiopia the governing legal framework is the very constitution of FDRE. The constitution under article 20(5) clearly declared that persons accused of crime has the right to consult their case and be represented by a legal counsel.¹⁹ this right could be served either by own or by some other support which lays the foundation for the coming into picture of public defenders representation by the sponsorship of state.²⁰

The Federal Supreme Court establishment proclamation No. 1234 established the public defenders office at hand by giving the power to the president of the office.²¹ it is this legislation assumed as a road towards institutionalizing public defense. But it is hardly possible to accept it as a satisfactory framework in this regard. Though the legal frameworks are limited but still we can extract some principles from the the over all context. Among those principles the following could be taken as fundamental.

❖ Right to Counsel

One of the rights that could be discussed under the topic is the very right of the right to counsel.²² as it is discussed in the earlier topics this right is clearly stipulated under several international, regional and domestic legal frameworks. Article 20(5) of the Federal Ethiopia's

¹⁹ Ibid

²⁰ Ibid

²¹ The Federal Supreme Court (FSC) Establishment ProclamationNo. 1234/2021

²² United Nations, Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, UN Doc A/CONF.144/28 Rev. 1, 118

Constitution states that accused individuals to have legal counsel and representation as well.²³ This right could be exercised by own or by state expense.

The necessity for legal representation arises from the recognition that individuals may be wrongfully convicted or unfairly sentenced due to their lack of legal knowledge and understanding of the law.²⁴ Hence the right is under the rights of accused individuals so as to be entitled to equal and fair trial.²⁵ Effective legal representation plays a vital role in ensuring the protection of all human rights guaranteed by the Constitution and international law throughout the trial process, including during pre-trial investigations and periods of detention.

However, merely appointing a lawyer, especially in cases assigned by the state, does not fully satisfy the state's constitutional obligation to provide adequate legal representation. Both defense counsel and the judicial officer are charged with the responsibility of ensuring that the legal representation provided is effective and meaningful. This means that counsel must advocate for the accused's rights diligently from the moment of arrest, through arraignment, and throughout the trial process, ensuring that every aspect of due process is respected.

The importance of effective legal representation has been underscored by international bodies, such as the Human Rights Committee, which asserts that, particularly in cases involving capital punishment, the accused must have skilled and competent legal assistance at all stages of the judicial proceedings.

In the United States, the Supreme Court has reaffirmed the principle that all individuals accused of crimes that carry the risk of imprisonment are guaranteed legal representation,

²³ Ibid

²⁴ Amnesty International, Fair Trial Manual (Amnesty International 2009) 46, citing United Nations Human Rights Committee, General Comment No. 32: Right to Equality Before Courts and Tribunals and to a Fair Trial (CCPR/C/GC/32, 23 August 2007) para 15

²⁵ International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights:

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 14(3)(d)

African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) OAU Doc CAB/LEG/67/3 rev 5, art 7(1)(c)

particularly for those who cannot afford a lawyer.²⁶ Publicly provided defense lawyers play a crucial role from the initial police questioning through pretrial hearings, trials, and appeals. This access to legal aid significantly enhances the chances of obtaining a fair trial, essential for the integrity of the judicial system.

The absence of competent legal counsel can severely impair an accused individual's ability to defend themselves, especially if they lack knowledge of legal procedures and principles. Without proper representation, an accused person may struggle to understand the charges against them, fail to effectively challenge the evidence presented, and may ultimately be convicted despite their innocence.²⁷ The complexities of the legal process mean that without skilled advocacy, individuals are at a considerable disadvantage, unable to properly navigate court procedures or present a full and coherent defense.

This underscores the critical nature of the right to counsel: it serves as a protective measure against unlawful charges and ensures that each accused individual has the opportunity to assert their innocence and defend their rights within the judicial system.²⁸ The presence of legal counsel is paramount not just for the sake of individual rights but for the integrity of the legal system as a whole, upholding the principle that justice must be accessible and equitable for all.

❖ **Equality Before the Law:**

Equality before the law means that all human beings have the right to be treated equally before the law. They are also entitled to the equal protection of the law, which means all people have the right to be treated fairly and not be discriminated against because of their race, colour, gender, language, religion, political beliefs, status or any other unlawful reason.²⁹

Public defenders serve as vital champions of fairness within the legal system, ensuring that the principle of equality before the law is upheld for all defendants. Particularly for those who are

²⁶ William E Nelson, *The Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society 1760-1830* (1975) 25, cited in Laura Appleman, 'The Community Right to Counsel' (2012) 17 *Berkeley Journal of Criminal Law* 1, 14 <https://doi.org/10.15779/Z38SW5W>

²⁷ David Harris, 'The Right to Fair Trial in Criminal Proceedings as Human Right' (1967) 16 *International and Comparative Law Quarterly* 364

²⁸ *Ibid*

²⁹ G S Prentzas, *Gideon v Wainwright, The Right to Free Legal Counsel* (Chelsea House Infobase Publishing 2007) 37

financially disadvantaged and unable to engage private legal counsel, public defenders provide indispensable access to justice.³⁰ With their expertise and unwavering commitment, they empower these individuals to navigate the complexities of the court system, effectively presenting their cases with skill and dedication.

These attorneys not only represent clients during critical hearings and trials but also tirelessly advocate for their rights throughout the legal process. By meticulously analyzing evidence, crafting compelling arguments, and negotiating plea deals, public defenders help ensure that marginalized voices are heard and that justice is served without prejudice. In this essential role, they reinforce the notion that the right to a robust defense is fundamental to a just society, ultimately contributing to a more equitable judicial framework for all.³¹

❖ **Rule of Law:**

The United Nations defines the rule of law as a foundational principle of governance, asserting that all individuals, institutions, and entities—both public and private, including the State itself—are held accountable under laws that are transparently established, consistently enforced, and judiciously interpreted.³² These laws must align with international human rights norms and standards, ensuring that justice is both equitable and accessible.

The operation of public defender offices plays a critical role in upholding the rule of law by providing essential legal representation to those who cannot afford it. This commitment to legal aid helps to ensure that all individuals, regardless of their socioeconomic status, have the opportunity to access the legal system and receive the protections and benefits afforded by the law. By safeguarding the right to defense, public defenders contribute significantly to the equitable administration of justice, thus reinforcing the integrity of the legal framework and promoting trust in the judiciary. This, in turn, fosters a society where the principles of fairness, accountability, and respect for human rights prevail.

³⁰ United Nations, *Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (UN 2013) para 3

³¹ Nico Steyler, 'Equality Before the Law and the Right to Legal Representation' (1989) 25 *APR Journal of Comparative and International Justice* 66, 68

³² Muradu Abdo, 'The Indigent's Right to Defence Counsel in Ethiopia: Human Rights in Criminal Proceedings; Narrative and Practical Aspects' (2010) vol III *Human Rights Law Series* 140-57, 37

2.3. Institutional Framework:

❖ Independence:

A public defender office is part of government it is typically funded by the same officials who pay for prosecutors and law enforcement agencies.³³ In responding to challenges among those priorities, public defenders can face threats of termination, potentially decreased funding, and higher caseloads. It is a relationship dependent upon the support of those who may not always share the same mission.

Public defenders should maintain a robust independence from governmental authorities and prosecutorial agencies, ensuring that they can represent their clients without any external influence or pressure.³⁴ This autonomy is paramount, as it allows defenders to advocate for their clients with unwavering commitment and integrity. To fortify this independence, it is essential to implement structural safeguards that eliminate potential conflicts of interest, enabling public defenders to make legal decisions and strategic recommendations that are solely aligned with their clients' best interests.

❖ Funding:

Adequate and reliable funding is critical for the effective operation of public defender offices, directly impacting their ability to provide competent legal representation. Sufficient financial resources are necessary for hiring a team of skilled and experienced attorneys who can navigate the intricacies of criminal law and case management.³⁵ Furthermore, funding should also support comprehensive investigative efforts, which may encompass hiring forensic experts, engaging social workers, and utilizing advanced technologies to gather evidence. These resources are vital for building a solid defense.³⁶ Continuous training and professional development opportunities must be prioritized as well, ensuring that staff remain up-to-date with the latest legal practices and methodologies. Such investment in workforce growth fosters

³³ Interview with Mr Desalegn Kaza, Head of PDO, 22 April 2025

³⁴ Lilongwe Declaration on Access to Legal Aid in Criminal Justice Systems in Africa (2004) para 1

³⁵ Hussein Ahmed et al, 'The Extent and Impact of Unmet Needs for State Funded Legal Aid in Wolaita Zone' (2012) 29

³⁶ Jelena Pejic and Vanessa Lesnie, What is a Fair Trial? A Basic Guide to Legal Standards and Practice (Lawyers Committee for Human Rights 2000) <http://www.ichr.org> accessed 3 March 2015

a highly proficient team dedicated to delivering equitable and high-quality defense services to individuals facing legal challenges, particularly those from underprivileged backgrounds.

❖ **Accessibility:**

Public defender services must be readily accessible to all individuals who require them, encompassing not only geographic accessibility to ensure representation is available in rural and underserved areas but also proactive measures to raise awareness about the availability of these essential services.³⁷ This may involve outreach programs, informational campaigns, and partnerships with community organizations to ensure that those in need are informed of their rights and the resources available to them.

❖ **Qualified Staff:**

Public defenders must be highly qualified and possess substantial experience in criminal law, accompanied by ongoing professional development and training. This training should cover various legal areas, including recent changes in legislation, best practices in defense strategies, and advances in legal technology, ensuring that public defenders are equipped to deliver competent and informed representation in a diverse range of criminal cases.

❖ **Quality of Service:**

When we deal about quality of service it is wise to assume that representation could be nominal if the quality of service there is at issue. Effective and quality service could not be negotiable in order to recognize there is right to legal representation which should be effective in consequence and competent in respective performance.

2.4. The Federal Public Defender Office (PDO)

❖ **Background and Development**

The birth of public defenders office in Ethiopia is not that much age old and historic as it was established around 1994 following regime change of the time. It is when dergue officials was

³⁷ Simeneh Kiros Assefa, 'The Principles of the Presumption of Innocence and its Challenges in the Ethiopian Criminal Process' (2012) 6 Mizan Law Review 277

accused of crimes like genocide and war crimes that establish the need for some support for indigent persons accused of those crimes. Hence there arises the need for legal support for those who could not afford private attorneys could still have access to fair trial rights that align with international standards.³⁸

In January 1994, international commission of jurists/ICJDS/ initiated efforts to establish a corps of public defenders in Ethiopia, operating primarily at the grassroots level to address the immediate needs of defendants who were former officials of the Dergue regime.³⁹ Despite the rapid growth of the PDO, which expanded from four or five lawyers to approximately 30 within just one year, this growth was not formally backed by legislation. The PDO operates under the oversight of the Federal Supreme Court, led by a Chief Public Defender and a Deputy Public Defender, yet its existence lacks a solid legal foundation, raising concerns about its authority and effectiveness.

This legal ambiguity is further highlighted by the socio-economic realities in Ethiopia, where a significant portion of the population lives in poverty, rendering legal representation inaccessible for many. Hussein Ahmed (2013) emphasizes that for those beneath the poverty line, securing legal assistance in criminal or civil matters is often an unattainable luxury, leading to a justice system that favors the affluent minority over the impoverished majority.⁴⁰

❖ Legal framework

The legal framework surrounding the right to counsel in Ethiopia is primarily established by Article 20 of the Federal Democratic Republic of Ethiopia (FDRE) Constitution.⁴¹ This article enshrines the right of every individual accused of a crime to communicate with and be represented by legal counsel of their choice, which may be a public defender or a private attorney selected from the pool of trained advocates. Importantly, it mandates that individuals

³⁸ Hussein Ahmed Tura, 'Indigent's Right to State Funded Legal Aid in Ethiopia' (2013) 2 International Human Rights Law Review 126.

³⁹ Peter Bach, 'War Crimes Trials and the Establishment of a Public Defender's Office in Ethiopia: Field Report' (1996) The Human Rights Brief (The Center for Human Rights and Humanitarian Law, Washington College of Law, American University) <URL>

⁴⁰ Ibid

⁴¹ Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995. Federal Negarit Gazeta 1st year no. 1, Addis Ababa, 21st Aug. 1995. Art 20/5/

must be informed of this right in advance by the relevant authorities, ensuring that they are aware of their legal entitlements upon accusation.

Moreover, the Constitution provides specific provisions for individuals accused of serious crimes. In such cases, the court holds the discretion to appoint a public defender at no cost to the accused, particularly when the gravity of the charges warrants it.⁴² On the other hand the establishment proclamation of the federal courts gives establishment base for the office of public defenders as a department under the federal supreme court of Ethiopia by empowering the power to establish to the president of the federal supreme court of Ethiopia.⁴³ But when we overview both the frameworks we could not get detail provisions regarding the institutional and operational fate of the public defenders office.

❖ **Institutional framework**

When we goes through issue of institutional framework it is hardly easy to assume the office of public defenders even as institution since the office is established to operate under the federal supreme court as a certain department.

Keeping the concern regarding the institutional status of the defenders office currently it has four branches situated in Bole, Arada,Lideta, and sadist kilo while it has main office in lideta.⁴⁴ The office has also additional three regional branches in Arba Minch, Hawassa and Dire dawa.⁴⁵

Regarding the issue of human resource the public defenders office has over 74 public defenders while it has around 25 other support personnel.⁴⁶

More importantly for achieving its purpose and leading proper functioning the office has established two specialized directorates namely the one who is empowered to focus on those

⁴² Ibid

⁴³ The Federal Supreme Court(FSC) Establishment Proclamation No1234/2021

⁴⁴ Interview with Mr. Desalegn Kaza,Head of PDO, 22 April 2025

⁴⁵ Ibid

⁴⁶ ibid

cases which are related to life and property while the other one is the directorate which focus on cases in relation with corruption, economic crimes and offenses against the state.⁴⁷

CHAPTER THREE: IMPLEMENTATION OF THE RIGHT TO DEFENSE COUNSEL UNDER THE FEDERAL PUBLIC DEFENSE OFFICE (PDO)

3.1. Introduction

In this chapter focused on the findings from fifty persons in need of the service from public defence office, ten judges, ten public prosecutors, ten private attorney, ten public defenders, ten criminals who charged while represented by the public defenders were interviewed respondents' word for the purpose considered. In addition to that, fifty questioners were distributed to the stakeholders and collected. Based on the collected data, comprehensive analysis was done on questioned interviewed answers.

In this section, the results and analysis of the data garnered through the questionnaire, interviews, and document analysis will be presented. The first subsection will detail the survey results, providing an in-depth statistical representation of the findings. Additionally, qualitative data extracted from various document analyses and semi-structured questionnaires will be discussed, focusing on the perspectives of different stakeholders involved in the public defence system.

The primary aim of this section is to address the following research questions: What is the existing legal framework regarding the right to defence counsel and legal representation in criminal cases, particularly within the Ethiopian Public Defence Office? How does the Public Defence Office facilitate legal representation for clients who lack the financial means to hire private defence attorneys? What institutional challenges does the Public Defence Office face in fulfilling its mandated responsibilities?

To analyse the data effectively, descriptive statistics, such as frequencies, percentages, means, and standard deviations, were employed. Furthermore, regression analysis was utilized to assess the impact of various independent variables on the dependent variable under consideration,

⁴⁷ Interview with Mr. Gutema Mitiku, Director at PDO, 22 April 2025.

directly correlating with the study's objectives. Descriptive data, captured through the questionnaires, will be visually represented using pie charts and bar graphs to enhance comprehension. The data analysis was conducted using Microsoft Excel to ensure precision in the findings.

3.2. Response Rate

Out of the 50 questionnaires distributed, only 45 were completed and retrieved successfully and from the collected questionnaires 5 were rejected as not completed and unreturned, or were not suitable for use in this study. Based on usable responses only, the response rate was 80% ($40/50 \times 100$). This response rate was accepted, according to Kothari (2004) and Mugenda, (2003) argument that for generalization of findings to the whole population the least acceptable response rate should be 50% response rate is adequate.

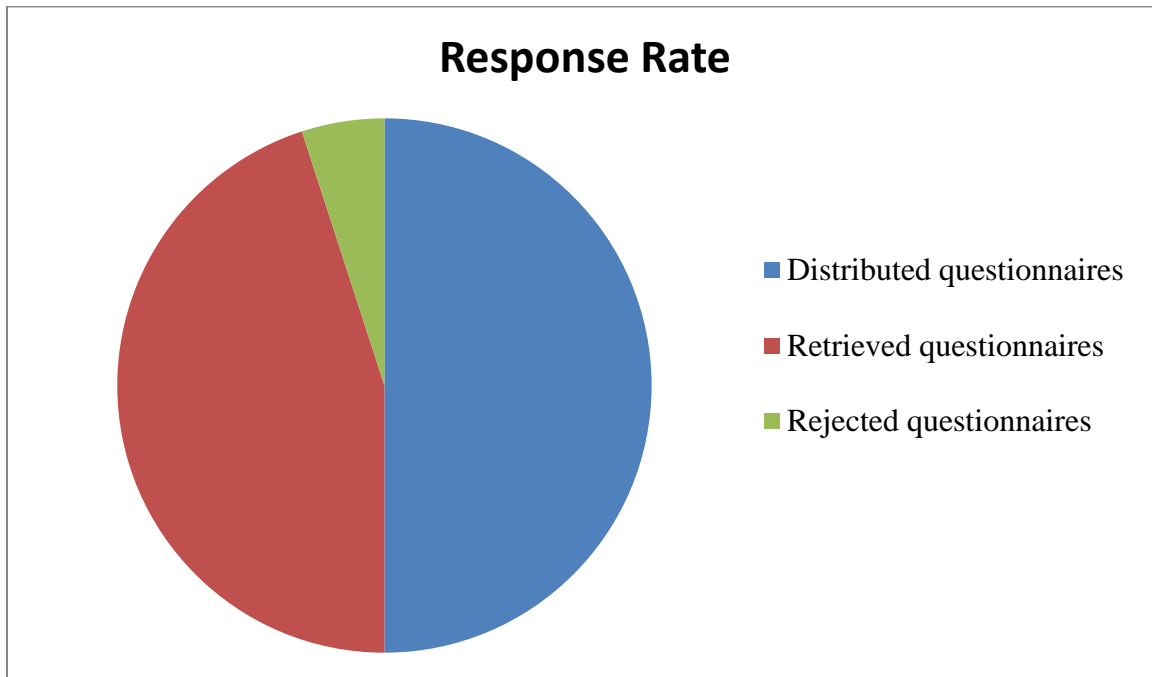


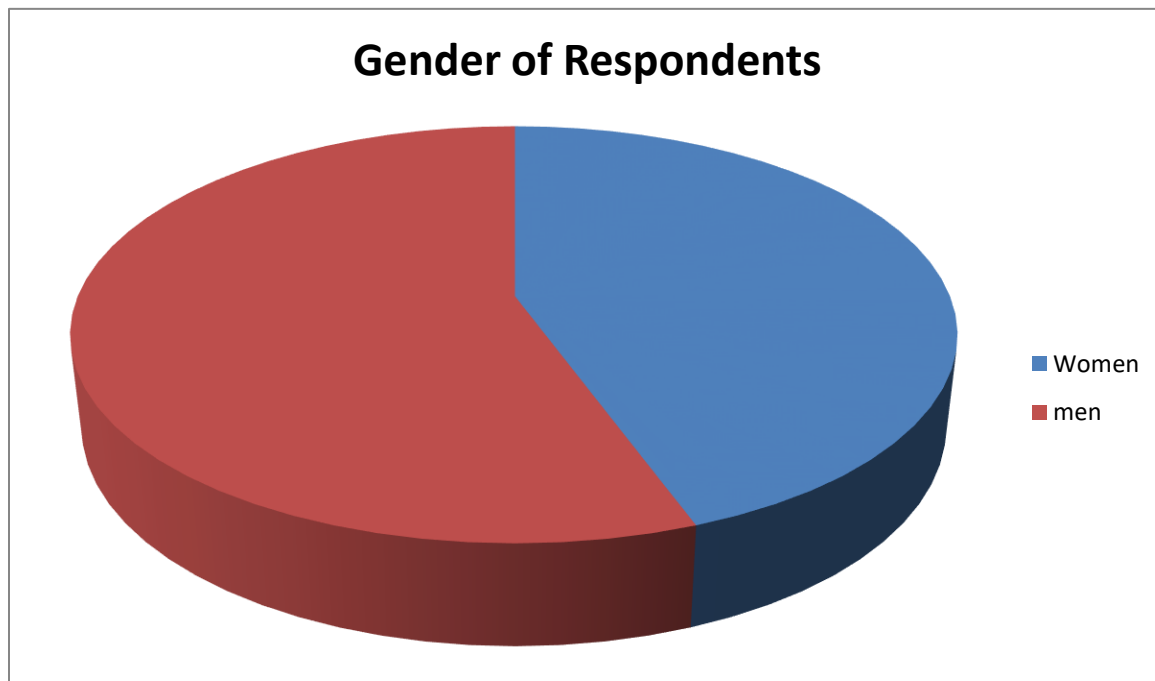
Figure 3.2 Response Rate

3.3. Demographic characteristics of respondents

❖ Gender of respondents

The figure below shows the gender of the respondents who participated in filling out the questionnaires for the thesis.

Fig 4.1 Demographic characteristics of Respondents



Source: own survey data (2025)

As can be seen from the figure, the majority of the respondents were male, accounting for approximately 55.5% (25) of the total respondents. Female respondents accounted for approximately 44.4% (20) of the total respondents.

This distribution of gender in the sample size is reflective of the general trend in the legal system, where males tend to dominate the sector. However, the sample size still included a significant number of female respondents, indicating that the study had a diverse and representative sample size.

❖ Age of respondents

The study sought to find out the demographic information of the respondents and the findings are presented in the graph below.

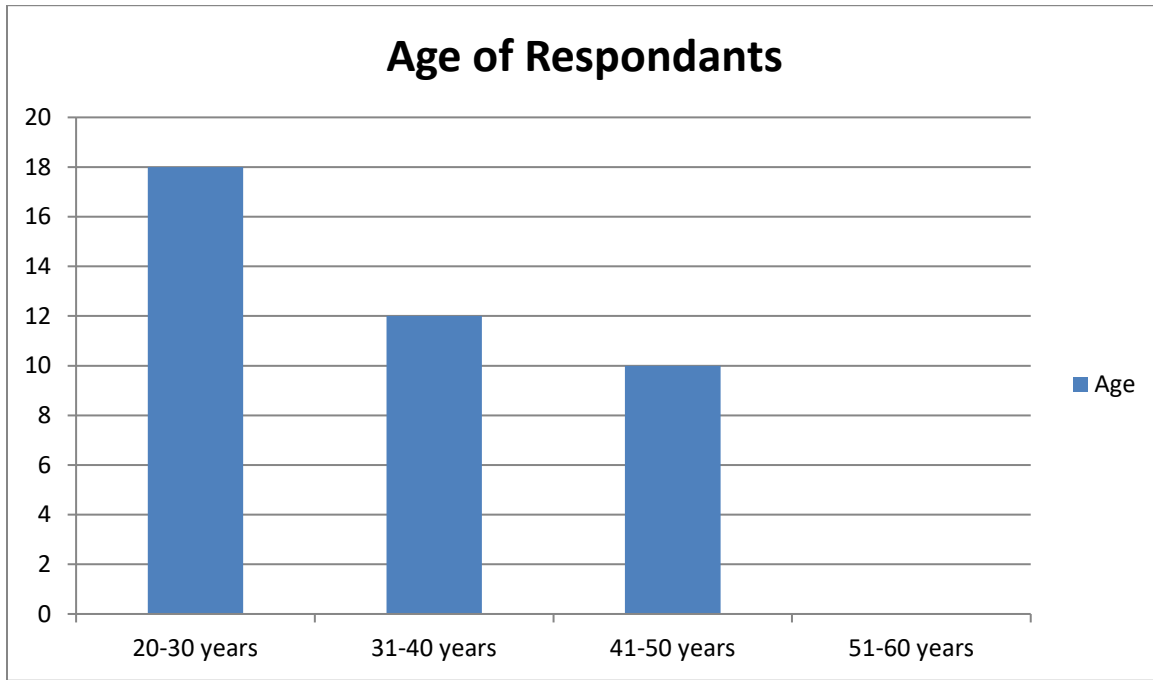


Figure 3.3.2: Ages of Respondents

The study depicts that eighteen of the respondents were aged 20-31 years, twelve were aged 31-41 years, ten were aged 41-50 years and none were fall above 51 years respectively. The data indicates that majority of the respondents were middle aged. None were under age and none were elderly.

❖ Educational level and profession of respondent

The study sought to establish the level of education that the respondents had attained and the findings are presented in the graph below:

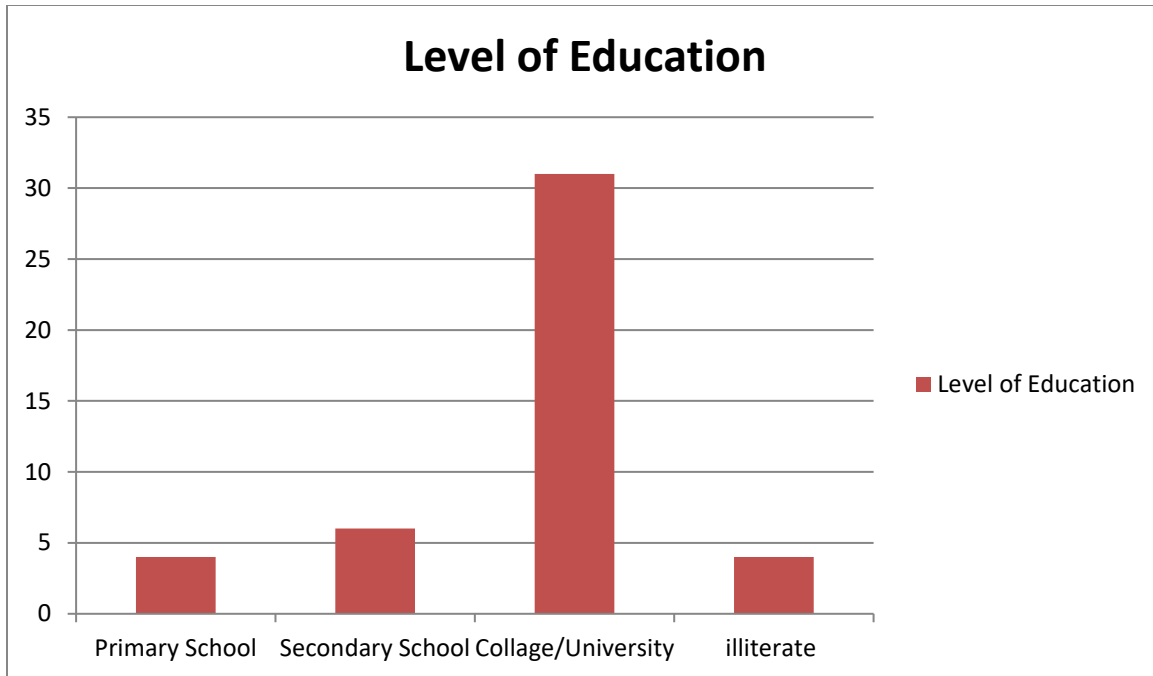


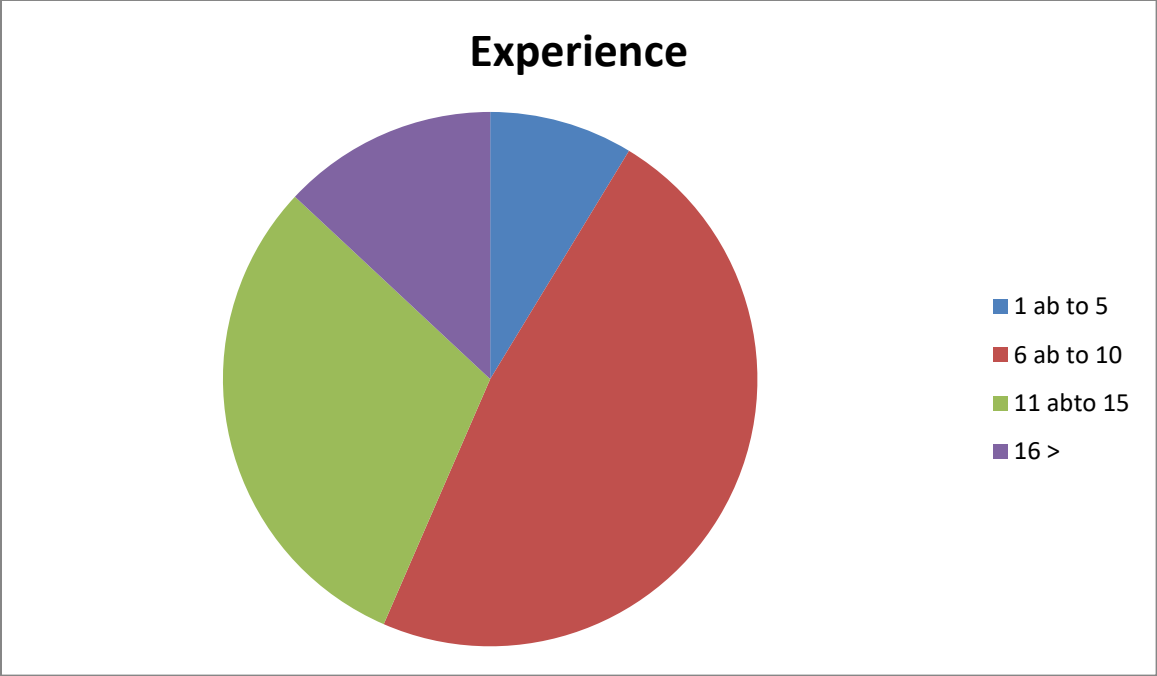
Figure 3.3.3: Level of Education

In this question respondents were asked about their educational background. As in the figure below the highest frequency was for education levels of Respondents with professional diplomas and degree accounted for 71% of the sample, secondary school graduated (6) with 13%. respectively. 4 of the sample respondents categorized under the illiterate group and finally, only 8.8% of respondents accounted under education levels of junior school (below grade 8) make them the least frequent category.

❖ Experience of respondents

The next figure shows that respondents experience in the legal system of Ethiopia in general and the PDO service or working with the PDO in particular.

Fig. 3.3.4. Respondents legal system experience



Source: own survey data (2025)

The data presented in the figure indicates that there is a significant proportion of respondents with the Ethiopian legal system experience of 6-10 years, which accounts for 48% (22) of the total respondents. This suggests that the majority of the respondents have acquired a considerable amount of experience in the legal system, making them well-suited for the research study. Moreover, respondents with 6-10 years of experience in the banking industry are likely to have encountered a variety of scenarios and situations, providing a wealth of knowledge and insights that can be valuable to the research. Consequently, even though there is a lack of experienced respondents, the collected data is expected to be more reliable and accurate.

3.4. The Significance, Awareness, and accessibility of the Right to have Public Defender

In the chart below provided findings on the significance and awareness of the right to have a public defender and its accessibility.

❖ **The Right to have Legal Counsel Awareness**

Question	Response in %	
	I am aware of this right	I am not aware of this right
Are you aware that, according to the Ethiopian constitution, individuals charged with a crime are entitled to legal representation?	96%	4%

In the data, speculation shows that, from 50 respondents, 45 respondents knew about the constitutionally guaranteed right to have legal representation, which means 96% of the respondents have knowledge. Most importantly, the remaining 4% of the respondents' lack of awareness in their right to have legal representation. The respondents who acknowledge the right to have legal representation were legal professionals.

Comparatively, from ten only four prisoners, that means 40% of the respondents knew about their right to have legal representation. The rest 6 prisoners who are charged and detained in prison does not know about this right. This indicates that the legal professionals have inclusive knowledge, but most accused prisoners are unaware of their right to have legal representation for free before the court of law at the government expense.

The data indicates that the general public have awareness gap regarding the right to get legal representation before court of law. There is a need to increase educational and legal awareness activities and projects to protect and fulfil the right of accused persons. I suggest to further research on the awareness of the general public related to this right.

This gap in awareness suggests a significant lack of knowledge among the general public regarding their legal rights. It emphasizes the need for increased educational efforts to inform the broader population about their rights to legal counsel. As this research did not explore the public's overall opinion or understanding of this matter, further studies are needed to determine

the extent of awareness and knowledge regarding the right to legal representation among the general populace.

❖ **Significant of the PDO**

The chart below stipulates the findings on the importance of the right to have Public Defender.

Question	Response in %				
	Very significant	Significant	Not significant	Little significant	I don't know
In your opinion, how significant is the role of public defenders in ensuring a fair and just judicial process?	64.4 (29)	15.5 (7)	0	17.7 (8)	0

From the possible 45 respondents' interview result shows that, 29 individuals, representing 64.4% believe that to ensuring a fair and just judicial process role of public defenders is significant. From the total number, 8 respondents who cover 17.7%, feel that public defenders have limited significance. finally, 7 respondents, covered 15.5% of the total, consider the public defenders' role to be significant, whereas none of the respondents indicate that the service provided by public defenders are insignificant in Ethiopian criminal justice system.

To concluded that, the public defenders service provision will play a vital role in easing and facilitating just and impartial judicial process for Ethiopian criminal justice system. Above all, those respondents highlighted the vital importance of public defenders in upholding and insuring justice to all individuals, regardless of their circumstances, would have to let them have access to legal representation.

❖ **3.4.3. Accessibility of the PDO**

The chart below stipulates the findings on the accessibility of Public Defender service.

Question	Response in %				
	Very accessible	accessible	Not accessible	Little accessible	I don't know
In your opinion, how accessibility is the public defender's office in the criminal justice system?	31.1 (14)	44.4 (20)	11.1 (5)	13.3 (6)	0

Likewise, the above findings the possible 45 respondents interview result shows that, 31.1% of the majority believe that the Public Defender's Office (PDO) service is very accessible, while 44.4% (20 respondents) consider it to be generally accessible. And, comparatively 13.3% (6 respondents) rated the PDO service as only to some extent accessible, and the remaining 11.1% (5 respondents) feel that the PDO service is not accessible at all.

Most importantly, majority of the respondents of interview replied the PDO service as either very accessible or accessible are legal professionals 34 in number which means 31.1% and 44.4%, respectively. On the other hand, 11 respondents evaluated the PDO service as either somewhat accessible or not accessible at all. And also, 10 individuals are currently facing criminal charges.

This determines that, there is a significant difference in perceptions between legal professionals and those from the non-legal community regarding the accessibility of PDO services. There is a notable concern among non-legal individuals that requires urgent attention and improvement.

However, this research does not encompass a broader public opinion on the matter, suggests that future studies are needed to discover whether the PDO services are indeed accessible or not to the general public. The dynamics here is crucial to improve the effectiveness of legal assistance provided to individuals, regardless of their background.

3.5. Basic requirements to access the service of PDO

To acknowledge the basic requirements of access to get public defence office services, a key interview was conducted with three officials and two head and directors from the office which are helpful to the purpose of understanding the fundamental requirements for accessing the services in the office. Furthermore, two public defenders were also consulted to ensure a well rounded evaluation of the data represented in these interviews. Based on the information gathered, insights and findings from these discussions are detailed in the following section.

The head director of PDO Mr. Desalegn Kasa said that, accused individuals needs to fulfill essential requirements to get access from PDO services. He explained that in order to get a public defender to be assigned, formal request letter or oral request shall be submitted to the court where their case is being heard to appoint a lawyer. This request should be accompanied by a declaration that the individual lacks the financial means to hire a private attorney. The accused is required to affirm this declaration under oath. Once the court is satisfied with the claim, it issues an order directing the PDO office to assign a public defender. Furthermore, the court provides a copy of the charge and any evidence pertaining to the case, which is critical for the PDO to undertake adequate representation. Upon receiving this court order, the PDO office will designate one of its public defenders to represent the accused person.

The same question raise to Mr. Gutema, the director of the Crimes Related to Life and Property department at the PDO. He said that, to assign public defender to the defendant required to be charged in a serious crimes and establish a significant document that shows the lack of financial resources to hire a private lawyer.

When we see Mr. Tewodros Tadess's opinion, who is working as a public defender at the PDO, he provided alternative view regarding these access requirements. He said that, the law stipulates that public defenders shall be assigned when individuals charged with serious criminal allegations. In practical terms, public defenders are often assigned to cases involving less severe charges. He also further highlighted the challenges surrounding the requirement for an accused to prove their inability to pay for a private attorney. Usually, there is no reliable method to verify an individual's financial status. Leading to situations where individuals who have previously

retained private counsel for their cases seek government representation after disputes with their current lawyers.

To conclude, the information gathered during these interviews, shows that, despite the existence of legal requirements for accessing PDO services, these stipulations are frequently not adhered in practice.

3.6. Efficiency and Competence of PDO service in the Criminal Justice System of Ethiopia

The study looked to find out efficiency, competence, and role of PDO service in the Criminal Justice System of Ethiopia and the findings are presented as follows:

❖ Efficiency of PDO service

The table below provided the efficiency of Public Defender service and the findings are discussed in detailed.

Question	Response in %				
	Very efficient	Efficient	Not efficient	Little efficient	I don't know
In your opinion, how efficient is the public defender's office service in the criminal justice system?	17.7 (8)	26.6 (12)	35.5 (16)	20 (9)	0

From 45 respondents, 16 interviewed individuals which means 35.5% answered that Public Defender's Office services are no efficient at all. Conversely, 26.6% of the respondents, or 12 individuals, feel that the services are efficient. Additionally, 20% of the respondents, comprising 8 individuals, perceive the services as slightly efficient, while the remaining 17.7%, also 8 individuals, regard the service as very efficient.

It is noteworthy that among the 45 respondents, 10 are public defenders, and all respondents who rated the service as very efficient are indeed public defenders. In stark contrast, of the 10 respondents who are individuals charged with a crime and represented by public defenders, almost all reported that they find the services lacking in efficiency. The remaining legal professionals, aside from those who are public defenders, tend to perceive the services provided by the PDO as either slightly efficient or efficient.

The information gathered from the interviewed persons shows that the service rendered by the public defender office is not sufficient enough and the legal support given by the defenders are not meet their need effectively.

Additionally, further investigation is warranted to uncover the root causes of the dissatisfaction expressed by service users, as understanding these issues is crucial for enhancing the quality of legal support provided by the PDO.

❖ **Competence of PDO service**

The study sought to find out Competence of Public Defender service and the findings are presented in the table below:

Question	Response in %				
	Very Competence	Competence	Not Competence	Little Competence	I don't know
In your opinion, how Competence is the public defender's office service in the criminal justice system?	20 (9)	26.6 (12)	31.1 (14)	17.7 (8)	2

Out of a total of 45 participants in the survey, a notable 31.1%—equating to 14 individuals—asserted that the services rendered by the PDO lack competence entirely. In contrast, 26.6% of the respondents, or 12 individuals, expressed a belief that these services are competent.

Furthermore, 20% (9 individuals) described the services as very competent, while the remaining 17.7% (8 individuals) deemed the services to be slightly competent.

It is particularly interesting to note that among the 45 respondents, 10 identify as public defenders. Moreover, all respondents who rated the service as very competent happen to be public defenders themselves. On the other hand, of the 10 individuals charged with a crime and represented by public defenders, a significant majority—8 respondents—reported a perception that the services provided were lacking in competence. The remaining legal professionals, excluding public defenders, generally characterized the services of the PDO as either slightly competent or competent, reflecting a somewhat mixed perspective.

Additionally, it is critical to highlight that nearly 97.8% of cases handled by public defenders result in a loss, especially given that the public prosecutor boasts a conviction rate of 97.8%.⁴⁸ This overwhelming statistic may significantly influence the views of those represented by public defenders; many may conflate their lack of success in terms of case outcomes with a perceived lack of competence on the part of their legal representation. Therefore, there is a clear need for further research to comprehensively evaluate and ascertain the actual level of competency of the services provided by the PDO, seeking to understand the underlying factors that contribute to these perceptions.

3.7. Stakeholders View and Assessment of the PDO

The study aimed to gauge Stakeholders' Views and Assessments of the Public Defender service. The researcher conducted six key interviews with stakeholders, comprising two judges, two public prosecutors, and two lawyers. Their assessments regarding the effective functioning of the Federal Public Defense Office in relation to securing the right to defense counsel are detailed in the following section. To ensure confidentiality, individual names are not disclosed; instead, each interview respondent is assigned a number.

⁴⁸ Interview with Mr. Desalegn Kaza, April 2025

The first judge reflected positively on the overall efforts of public defenders, acknowledging their significant contributions to creating a just criminal justice system.⁴⁹ He noted that this imbalance leads to delays in the justice system as public defenders struggle to manage an overwhelming number of cases. Furthermore, he pointed out that some public defenders lack the necessary academic qualifications and diligence, which undermines the quality of service. Despite these challenges, he firmly believes that the work done by public defenders is essential for the continuous improvement of the justice system.

Conversely, the second judge expressed a similar viewpoint but added a nuanced distinction.⁵⁰ While he agreed that most public defenders demonstrate a commendable level of diligence, he highlighted that some exhibit gaps in ethical considerations. He reiterated the issue of excessive case loads and the urgent need for additional human resources in the Public Defender's Office to ensure fair representation for all defendants.

Lawyer one offered a markedly different assessment. He acknowledged that the service provided by public defenders is generally beneficial to the integrity of the justice system.⁵¹ However, he raised serious ethical concerns about the conduct of many public defenders. According to this lawyer, it is a widespread practice for public defenders to receive payments directly from clients, even when their services are ostensibly free. This misconduct raises significant ethical implications and undermines the fundamental purpose of the public defender's role, suggesting that they may operate more like government-supported lawyers than impartial advocates for justice.

Lawyer two concurred with this observation and elaborated that public defenders often negotiate fees with clients based on the outcome of their cases, such as agreeing to receive payment if a client is acquitted or receives a lesser sentence.⁵² This practice has become common knowledge within the community and raises serious questions about the integrity of the defense provided.

⁴⁹ Interview with Judge One, 25 April 2025.

⁵⁰ Interview with Judge Two, 25 April 2025.

⁵¹ Interview with Lawyer One, 28 April 2025.

⁵² Interview with Lawyer Two, 28 April 2025.

A federal public prosecutor echoed the concerns raised by both judges and lawyers, affirming the critical work performed by public defenders but cautioning that disciplinary issues can adversely affect the quality of their services.⁵³ He stressed that public defenders must adhere strictly to the foundational principles of the judicial system to maintain public trust and efficacy.

Similarly, public prosecutor two supported the previous remarks and attributed many of the challenges faced by public defenders to the absence of a well-established legal and institutional framework.⁵⁴ As a federal public prosecutor, he has observed similar problems in practice, noting that the implementation of a robust legal and institutional framework is essential for enhancing the overall functionality and effectiveness of the Public Defender's Office.

From the insights gathered through the key interviews, it is evident that the majority of stakeholders believe that public defenders play a crucial role in improving the justice system. However, they also recognize the limitations in human resources available to these defenders and the urgent need for capacity-building initiatives and professional development opportunities. Additionally, the ethical issues raised by interview respondents are particularly troubling. If public defenders require payment for their legal services, it undermines their fundamental purpose and violates both legal standards and ethical codes governing their profession.

3.8. Basic challenges, limitations and way forwards of PDO

In a comprehensive study, the researcher conducted six key interviews with representatives from the Federal Public Defender Office (PDO), including the head of the office, one director, and three public defenders. The objective was to explore the fundamental challenges, limitations, and potential pathways for improvement within the PDO service. Among the interviewees, the head of the PDO, Mr. Desalegn Kaza, as well as the director and one public defender, consented to be identified by name in the study, having signed a consent form. In contrast, the remaining respondents preferred anonymity to maintain confidentiality. To respect their wishes, individuals are referred to by assigned numbers throughout the report.

⁵³ Interview with Federal Public Prosecutor One, 24 April 2025.

⁵⁴ Interview with Federal Public Prosecutor Two, 24 April 2025.

Mr. Desalegn Kaza pinpointed several critical challenges facing the PDO, with the foremost being the lack of a cohesive legal framework. He noted that existing laws primarily consist of Article 20 of the Constitution and Proclamation No. 1234/2021, which do not comprehensively address the operational needs of the PDO. The absence of an establishment proclamation and a formal code of conduct significantly undermines the independence of the PDO, forcing it to operate under the jurisdiction of the Federal Supreme Court. As Mr. Kaza's advocate, the independent establishment of the institution will have a significant effect on the activity of the office. He also mentioned that lack of human resource limit the activities of the office.

From the total 74 public defenders, only 11 defenders assigned to the federal first-instance courts, five to the federal high courts, and one to supreme court, this also includes the branch offices in Dire Dawa, Hawassa, and Arbaminch. Each court have 60 criminal benches, propose the need to have additional numbers to public defenders. There should be at least two defenders assigned to each bench. This shows that the gravity of the problem facing in staffing challenges of the PDO.

Comparing to other law professionals like prosecutors, judges, and attorneys monthly salaries, the amount to be paid to the public defenders is very low. To this effect, the financial security problem is another issue to loose experienced professionals. Despite their shared responsibility in promoting a fair criminal justice system, the lower salary often leads to high turnover rates, as many public defenders choose to resign and establish their own private law firms.

A public defender called Mr. Gutema soundly reflected Mr. Kaza's concerns, pointed out that legal and institutional framework should be revised to improve the deliverance of the service. Noted that, the institutional independence is essential for the effective functioning of the PDO. The scarcity of budget causes complication on the activity of the OPD.

The office is not autonomous in the administration of budget since the Federal Supreme Court is the source of the budget. Furthermore, Mr. Gutema strongly mentioned that the public defenders are among the lowest-paid legal professionals in the system, earning nearly half of what public prosecutors receive. To this reason and the drainage in labor force with lowest amount of salary with no other alternative funds led the public defenders to resign and search for private firms.

Mr. Tewodros also raised the same reason that weakens the efficiency of the directorate office. He noted that, there is a need to revise the institutional framework and boost the deliverance of the service to individuals in need. Also he referred to take a lesson from USA public defender office whom established independently with its own budget.

To implement the system in Ethiopia, the office shall grant the institutional capacity likewise ministerial institution level. The task would be providing criminal legal counsel but also with delivering comprehensive free legal aid to the broader community aid Mr. Tewodros. Such an institution should be allocated its own budget, similar to those given to the Minister of Justice. He stresses that all existing legal aid services, whether provided by the Ministry of Justice, universities, or pro-Bono lawyers, should be reorganized and integrated under the National PDO office. This will help establish efficient system that serves the public legal needs.

Public defender one expressed doubts about the leadership's competence to advocate for the institutional independence of the PDO. He pointed out that when he joined the PDO, it was still under the purview of the Federal Civil Service and required to operate within the structures established by the Federal Supreme Court.

The above public defenders mentioned boldly about the importance of independence of the institution. They said that judges considers the public defendants like as assistant of the court litigation rather than as independent advocates. This perception often leads judges to disregard the public defender's role lessor than that of private lawyers or prosecutors.

In general, the PDO faces challenges and limitations as identified by key interviewees, include a lack of a comprehensive legal and institutional framework, insufficient independence from the Federal Supreme Court, limitations in human resources, disparities in compensation for equal work, lapses in code of conduct enforcement, and the need for a formal establishment proclamation. For the purpose of establishing effective and efficient legal service, there is a need to create strong legal framework, institutional restructuring which is independence one, ensure equitable salaries and benefits for its members, introduce a code of conduct, and expand its human resource capacity.

3.9. Major finding

As the research is about examining the effectiveness of the public defense office in relation with applying the right to defense counsel it try to investigate and evaluate the legal framework and the practical situation in the criminal justice system.

In doing so based on the objectives from the beginning the study drived findings as stipulate in the following list.

3.9.1. Awareness and Significance of the Right to Have a Public Defender and Accessibility of the Service

One of the objectives I aspired to evaluate was the status of the awareness in relation with the right defense counsel while the study resulted that persons who are accused have no the necessary awareness while legal professionals have the awareness. This shows that there is a paradoxical consequence that the main would be beneficials are not aware of their respective rights while the less beneficials have the awareness which seems not that much important for themselves.

The same is true about the stakeholders opinion on the issue of accessibility of the public defenders office. In compliance with the issue of awareness here also there is a clear disparity in which legal professionals especialy those public defenders assume they are accessible while individuals who are non legal in terms of profession hardly conclude that the public defenders service is accessible.

The only finding at least in some instance shared by most of the stakeholders is about the very significance of the right to public defenders services essentialness. Though the service is essential it is still constrained by several factors which result in lack of effective implementation of the right to defense counsel.

3.9.2. On the Efficiency and Competence of PDO service in the Criminal Justice System of Ethiopia

In this regard public defenders response looks like they are efficient in serving the right to defense counsel while others look them with high hesitation. It is with similar pattern to the earlier parameters as well. The self image that the public defenders have is that much recognized by those who look at them. By the same token there is also a discrepancy regarding competency issues. There seems a huge shallow in between the office and the other stakeholders.

3.9.3. On Stakeholders assessment and view of the PDO service

For the purpose of this study stakeholders are those personalities who could impact or be impacted by the execution of the right to defense counsel. Because of this their opinion towards the public defense office and the services given by it is very important. One of the main overall findings in this area is that stakeholders with significant similarity think that the issue of professional human resource is concerning while highly recognizing positive the role of effective public defenders office in the criminal justice system.

In some cases, though it needs further discussion and investigation, some ethical issues are also found through the study. It is about the existence of claiming favour from individuals who are criminally accused and need public defenders offices service.

Generally stakeholders perspective regarding the public defenders office is filled by the the would be service to provided by public defenders office is irreplaceable but it seems does not exist as promised under the constitution.

3.9.4. On Basic challenges, limitations and way forwards of PDO

The lack of establishment and fully governing legal framework is one of the main drawbacks in relation with the right to defense counsel and the public defenders office. According to the researcher it is hardly easy to recognize the office as entity as it is structured as some department under the power of the president of the federal supreme court.

The challenge in relation with lack of legal framework is not limited for ideal discussions since the respective consequences are possibly seen throughout the study. Consequences in lack of equipped professionals could substantially negotiate and degrade the quality of service of the public defenders office.

Public defenders who are the main actors in the implementation of the right to defense counsel should be backed by sufficient payment, allowance and promotion. When we look at the current situation in this regard the response could not meet the same. So unless it would be resolved and fixed as far as the economy is capable, there would be no effective public defenders office and public defenders as well.

In general in order to have effective functioning right to defense counsel the legal frameworks should be diagnosed, the structural arrangements should be analysed and fixed for the coming of the promised trusted criminal justice system which impartially balance and serve justice both to the accuser and accused sides of the adversaries.

CHAPTER FOUR: CONCLUSION AND RECOMMENDATIONS

4.1. Conclusion

Based on the study I have conducted through the course of the research I used doctrinal and non doctrinal methods so as to come up with meaningful results regarding the subject matter. In doing so with all the limitations I tried to address issues in relation with the federal public defenders office. By the study the constraints regarding the absence of sufficient legal frameworks in institutionalizing the public defenders office are addressed.

Based on the over all study of the topic at hand the findings show that the legal frameworks in Ethiopia has constitutionally incorporated the right to defense counsel with significant draw back in institutionalizing the public defenders office independently which may cause several negative consequence which may hinder the effective functioning of the office thereto. The federal courts proclamation frequently mentioned in the thesis also put the office of public defenders under the power of the president of the federal supreme court. The researcher name it

paradoxical because while the respective right is constitutionally guaranteed, the institution empowered to safeguard the same right lack the necessary institutional independence.

By this study the awareness of different stakeholders were addressed. In doing so the main conclusion looks that though those legal professionals are aware of the right to defense counsel non legal individually are hardly aware of the right and the respective institution there. Such difference in perception again exist in the issue of efficiency of the service by the public defenders office. In that instance those actors I the service, the public defenders, assume they provide efficient service while the other stakeholders show hesitation towards such parameter.

The issue of the right to defense counsel is not as limited as some stakeholders and professionals in the arena of the justice system. It is not impossible and not probable for anyone to subject to arrest or criminal charge. As the saying in Amharic called “ነገ በ’ኔ” which could be literally translated as ‘I may face the same tomorrow’ in which all concerned individuals and institutions should act accordingly to fix constraints in the implementation of the right to defense counsel for the sake of the general well being of the justice system in general and the criminal justice system in particular.

Generally the over all conclusion goes around the lack of sufficient legislation and subsequent institutional autonomy to the public defenders office. Constraints like lack of equitable salary to public defenders, the absence of code of conduct and working procedures and the limitations regarding human resource are in most cases results of such lack of institutional autonomy. Though it does not mean independence will solve all the challenges since effective functioning need willingness of different stakeholders from all the branches of the government.

4.2. Recommendations

From the over all analysis throughout the study and from the findings there the researcher extract and put the following recommendations for relevant institutions and authorities:

1. There should be independent public defenders should have its have its own establishment legislation in compliance with the terms of the constitution.

2. The would be establishment legislation should adequately structure the respective public defenders office. Hence the existing federal public defenders office should be reestablished as independent entity both from the executive and the judiciary so as to empower it to effective as its promised very purpose.
3. Subsequent to the legislation the upcoming office should have concrete operational working guidelines and procedures while having code of conduct governing the ethical efficiency of the public defenders thereto.
4. The human resource and the respective allowances of the public defenders and support staffs should be secured as far as they are serving well while minimizing work load is equally important. Training and similar promotion strategies should also be employed for the purpose of both compensation the professionals and the institutional well being as well.
5. Generally there should be meaningful legal framework reform followed by institutional restructures and adequating compensating mechanisms are the recommendation extracted from the thesis at hand.

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❖ **Interviews**

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2. Interview with Mr Gutema Mitiku, Director at PDO, 22 April 2025
3. Interview with Judge One, 25 April 2025
4. Interview with Judge Two, 25 April 2025
5. Interview with Lawyer One, 28 April 2025
6. Interview with Lawyer Two, 28 April 2025
7. Interview with Federal Public Prosecutor One, 24 April 2025
8. Interview with Federal Public Prosecutor Two, 24 April 2025

4.4. Appendix

❖ **Questionnaires**

Questionnaire

Statement of Purpose

Greetings,

My name is Shewarega W/Mariam. I am a Master's student at the Addis Ababa University School of Law and I am currently working on my Master's degree thesis on The Implementation

of the Right to Defense counsel in Ethiopia: The case Study at the Federal Public Defense Office.

The purpose of the study is to evaluate the effectiveness of free legal aid in Ethiopia, specifically the Federal Public Defense Office, and to identify and address the problems and issues. To achieve this goal, the study will conduct questionnaire with selected legal professionals and other service users as a means of collecting data. Therefore, you have been selected for the questionnaire because you have key information to achieve the purpose of the study. Therefore, I humbly request you to cooperate to fill the questionnaire.

Thank you!

1. Gender:

Male:

Female:

2. Age:

18–25

26–35

36–45

46–60

60+

3. Occupation

Section One: General Information

Defense Attorney Prosecutor Judge Private

Lawyer Other (please specify): _____

4. Education Level

Masters Degree Doctorate Uneducated

Diploma Below 1st Other Grade _____

5. Work Experience (if a legal professional):

Less than 1 year 1-3 years

4-7 years More than 7 years

Part Two Special Questions

6. Are you aware of the constitutional right to an independent legal advisor in Ethiopia?

Yes No

7. In your opinion, how important is the right to a defense lawyer to ensure a fair trial?

Very important Important Moderate

Don't know Not important

8. How would you rate the public's awareness of their right to a defense lawyer in Ethiopia?

Very high High

Medium Low Very low

9. In your experience, how accessible is the office of a defense lawyer?

Very accessible Limited accessible

Don't know Not accessible

10. Do you believe that the Federal Public Defender's Office has sufficient human resources to handle the caseload?

Yes No Not sure

11. How would you rate the quality of legal representation provided by the Federal Public Defender's Office?

Very good Good Average

Poor

Very poor

12. What are the main challenges faced by the Federal Public Defender's Office? (Check all that apply)

Lack of funding/budget Insufficient number of legal professionals Overworked Limited training
Lack of freedom

Others (please specify): _____

13. In your opinion, what should be improved to better implement the right to legal counsel in Ethiopia?

❖ **Key Interviews**

Key Interview

Statement of Purpose

Greetings.

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The purpose of the study is to evaluate the effectiveness of free legal aid in Ethiopia, specifically the Federal Public Defense Office, and to identify and address the problems and issues. To achieve this goal, the study will conduct interviews with selected legal professionals and other service users as a means of collecting data. Therefore, you have been selected for the interview because you have key information to achieve the purpose of the study. Therefore, I humbly request you to cooperate in the interview. Please be assured that the information you provide for this survey will be kept strictly confidential. Upon completion of the study, you will receive a copy of the research report.

Thank you!

Questions

1. How effective are defense attorneys in the Ethiopian criminal justice system?
2. What are the criteria used by the defense attorneys' office to handle cases and prioritize services?

3. How successful is the defense attorneys' office in delivering and securing justice?
4. What institutional and policy reforms should be taken with respect to defense attorneys' office services?
5. What is the opinion of stakeholders regarding the Office of the Defense Counsel?

(Lawyers, prosecutors, judges, prosecutors)
6. Could you please describe the actual problems and limitations of the Office of the Defense Counsel?

Thank you very much for your time!