



**CAUSE OF DELAY IN CRIME INVESTIGATION AND THEIR IMPLICATION
ON THE ENFORCEMENT OF THE RIGHT TO SPEEDY TRIAL OF SUSPECT:
THE CASE OF BURAYU TOWN, OROMIA NATIONAL REGIONAL STATE**

LLM THESIS

FIKIRU SHIBIRU TEREFE

HAWASSA, ETHIOPIA

OCTOBER 31, 2023

**CAUSE OF DELAY IN CRIME INVESTIGATION AND THEIR IMPLICATION
ON THE ENFORCEMENT OF THE RIGHT TO SPEEDY TRIAL OF SUSPECT:
THE CASE OF BURAYU TOWN, OROMIA NATIONAL REGIONAL STATE**

FIKIRU SHIBIRU TEREFE

ADVISOR: ANDUALEM NEGA (ASST. PROFESSOR)

**LLM THESIS SUBMITTED TO THE SCHOOL OF LAW, COLLEGE OF LAW
AND GOVERNANCE, SCHOOL OF GRDAUATE STUDIES, IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER
OF LAWS IN CRIMINAL JUSTICE STUDY**

HAWASSA, ETHIOPIA

OCTOBER 31, 2023

APPROVAL SHEET

ADVISORS' APPROVAL SHEET

APPROVAL SHEET-1

This is to certify that the thesis entitled “**Cause of Delay in Crime Investigation and its Implication on the Enforcement of the Right Speedy Trial of Suspect: The Case of Burayu Town,**” submitted in partial fulfillment of requirements for the degree of Master's of law with specialization in criminal justice, the Graduate Program of the School of law has been carried out by FIKIRU SHIBIRU ID. No. PGCJR/0003/14 under my supervision, therefore I recommend that the student has fulfilled the requirements and hence hereby can submit the thesis to the School of law.

Name of divisor

signature

date

DECLARATION

I hereby declare that, CAUSE OF DELAY IN CRIME INVESTIGATION AND ITS IMPLICATION ON THE ENFORCEMENT OF THE RIGHT TO SPEEDY TRIAL OF SUSPECT: THE CASE OF BURAYU TOWN is my original work and has not been presented for any degree in any other university, and all sources of material used for this thesis have been duly acknowledged.

Name: _____

Signature: _____

BIOGRAPHICAL SKETCH OF THE AUTHOR

I was born in Matu, Ilubabor Zone of Oromia Region, on June 10, 1987 E.C. I attended primary school at Henna Elementary School in Dorani Woreda, and I attended high school at Elemo Primary and Secondary High Schools in Dorani Woreda. Then I joined Ambo University in 2007 and graduated with a LL.B in 2011. I was employed at Salale University, October 2012 and served as assistant lecturer. After two year of service, I joined Hawassa University in September 2014 for LL.M Criminal Justice study.

ACKNOWLEDGEMENTS

This thesis would not have come to fruition without the generous and unwavering support of my advisor and family that I would now like to acknowledge and sincerely thank.

First, I extend my heartfelt gratitude to my advisor Ass. Prof Andualem Nega a lecturer at Hawassa University, whose inspiration, constructive ideas, continuous support and guidance helped me greatly to accomplish the work of this thesis. This thesis has immensely benefited from his constructive comments, both in terms of substance and form.

I extend my heartfelt gratitude to my father, Shibiru Terefe, my mother, Nigatu Dibesa, my sister, Amaz Shibiru, and my brother, Driba Shibiru. Their unwavering support and unconditional love have been instrumental throughout the process of writing this work and in my life as a whole. Additionally, I offer my deepest thanks and praise to God for His immeasurable love, grace, and blessings.

ACRONYMS AND ABBREVIATIONS

ACHPR- African Charter on Human Right and Peoples Right

BPR- Business Processing Re-engineering

DNA- Deoxy Ribonucleic Acid

FDRE - Federal democratic Republic of Ethiopia

ICCPR - International convection on Civil and Political Right

PDRE- People's Democratic Republic of Ethiopia

UDHR - Universal Declaration of Human Right

UN- United Nation

UNGA - United Nation General Assembly

UNHRC- United Nation Human Right Committee

UNODC- United Nation Office on Drug and Crime

U.S- United State

WWII- Second World War

TABLE OF CONTENTS

Table of contents	Page
APPROVAL SHEET	III
DECLARATION	IV
BIOGRAPHICAL SKETCH OF THE AUTHOR.....	V
ACKNOWLEDGEMENTS	VI
ACRONYMS AND ABBREVIATIONS.....	VII
TABLE OF CONTENTS.....	VIII
ABSTRACT.....	XII
CHAPTER ONE	1
INTRODUCTION	1
1.1 BACKGROUND OF THE STUDY	1
1.2 STATEMENT OF PROBLEM	3
1.3 OBJECTIVE OF STUDY	5
1.3.1 General objective	5
1.3.2 Specific objectives	5
1.4 RESEARCH QUESTION	6
1.5 RESEARCH METHODOLOGY	6
1.5.1 Research Design and Method	6
1.5.2 Targeted population	7
1.5.3 Sampling technique	7
1.5.4 Source and types of data	8
1.5.5 Data Collection Tools	9
1.5.6 Data analysis method.....	10
1.5.7 Data quality control technique.....	10

1.5.8 Ethical consideration	10
1.6 SIGNIFICANCE OF THE STUDY	11
1.7 SCOPE OF THE STUDY	12
1.8 LIMITATION OF THE STUDY	12
1.9 ORGANIZATION OF THE STUDY	12
CHAPTER TWO	14
2 THE RIGHT TO SPEEDY TRIAL: CONCEPTUAL AND THE LEGAL FRAMEWORK.....	14
2.1 INTRODUCTION.....	14
2.2 DEFINITION AND CONCEPT OF THE RIGHT TO SPEEDY TRIAL	14
2.3 EVOLUTION OF THE RIGHT TO SPEEDY TRIAL	15
2.4 THE LEGAL FRAMEWOR GOVERNING THE RIGHT TO SPEEDY TRIAL OF SUSPECT.....	18
2.5 THE STANDARD USED TO DETERMINE THE VIOLATION OF THE RIGHT TO SPEEDY TRIAL.....	22
2.5.1 Length of the delay	22
2.5.2 Cause of the delay.....	23
2.5.3 The defendant’s assertion of the right	24
2.5.4 Prejudice to the defendant	25
2.6 CONCLUSION	25
CHAPTER THREE.....	27
3 THE CONSTITUIONAL RIGHT OF SUSPECT TO FAIR AND EFFECTIVE INVESTIGATION RELEVANT FOR THE ENFORCEMENT OF SPEEDY TRIAL.....	27
3.1 INTRODUCTION.....	27
3.2 RIGHT TO PROTECTION AGAINST ARBITRARY ARREST.....	27
3.2.1 Arrest procedure	28

3.3 THE RIGHT TO INFORMED GROUND OF ARREST	30
3.4 MAKING PRESENCE OF ACCUSED BEFORE THE COURT	30
3.5 RIGHT TO PROTECTION AGAINST UNLAWFUL SEARCH AND SEIZURE	32
3.5.1 Requisites for lawful search.....	33
3.6 THE RIGHT TO LEGAL AID COUNSEL	34
3.7 THE RIGHT TO PRESUMED INNOCENCE UNTIL PROVEN GUILTY	35
3.8 CONCLUSION	37
CHAPTER FOUR.....	38
4 INVESTIGATIVE DELAY AND ITS IMPLICATION ON THE ENFORCEMENT OF THE RIGHT TO SPEEDY TRIAL	38
4.1 INTRODUCTION.....	38
4.2 DEMOGRAPHIC PROFILE OF THE PARTICIPANT.....	38
4.3 CAUSE OF DELAY IN CRIME INVESTIGATION	39
4.3.1 Personal cause of investigative police officer, public prosecutor and victim of crime	39
4.3.2 The institutional cause	41
4.3.2.1 Shortage of staff and skilled personnel on investigation	42
4.3.2.2 Shortage of investigation equipment and poor investigation technique	44
4.3.2.3 Inadequate collaboration between prosecutor and investigative officer	46
4.3.2.4 Low skill and incompetence of public prosecutor	48
4.3.2.5 Low budget and medical problem.....	49
4.3.2.6 Change of investigative police officer	50
4.3.3 Legal cause of delay: remand	51
4.4 IMPLICATION OF DELAY IN CRIME INVESTIGATION ON THE ENFORCEMENT OF THE RIGHT TO SPEEDY TRIAL	52

4.4.1 Elongation of the case to go to trial and prolonged pre-trial detention	53
4.4.2 Distortion of evidence of the case against the suspect	54
4.4.3 Backlog of Suspects Case Awaiting investigation	55
4.5 CONCLUSION	55
CHAPTER FIVE.....	56
5 CONCLUSIONS AND RECCOMENDATION	56
5.1 INTRODUCTION.....	56
5.2 CONCLUSIONS	56
5.3 RECOMMENDATIONS	58
REFERENCE.....	61
APPENDIXES	67

ABSTRACT

The right to a speedy trial is fundamental constitutional right and the extension of crime investigation beyond a reasonable duration, undermines this principle and adversely impact this right of the accused. While it is unrealistic to expect an overnight resolution of every crime investigation, challenges arise when the actual duration of an investigation far surpasses its expected timeframe. This is when researchers label it as a delay in crime investigation. Accordingly, this research aims to identify the cause of delay in crime investigation and their implication on the enforcement of the right to speedy trial of suspect focusing in Burayu Town. It also seeks to discuss the importance of upholding the constitutional rights of suspects to fair and effective investigations in ensuring the enforcement of the right to a speedy trial. In doing so the case study research design and qualitative research methodology were employed and examines the perspectives of investigative officers, suspect, prosecutor and judges, through interviews and questionnaires to gain a comprehensive understanding of the issue. The findings of the study identified various cause of delay in crime investigation at Burayu town and compromising the enforcement of the suspect's right to a speedy trial. Firstly, the study revealed that personal problems of actors involved in the investigation process, along with institutional and legal factors, played a significant role in causing delays of crime investigation. The finding of the study also revealed the role of promotion of timely evidence gathering, strengthening the defence's position, preservation of evidence integrity, investigative officer credibility and public confidence as the importance of upholding the constitutional right of suspect to fair and effective investigation in ensuring the enforcement of the right to speedy trial and underscore the negative implication of investigative delay on the enforcement of right to speedy trial of suspect. Based on the findings, the research recommends some policy interventions to the concerned body to address the identified challenges. By shedding light on the causes of delay in crime investigations and its implication on the right to a speedy trial, this research contributes to the on-going discourse on criminal justice reform and underscores the importance of addressing these issues to uphold the fundamental rights of suspects and promote fair and efficient legal process.

Key Words: *cause of delay, crime investigation, delay, enforcement, implication, right to speedy trial, suspect*

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The problem of delay in crime investigation is not a recent phenomenon; it has persisted for a significant period of time. However, the issue has now reached alarming levels. In order to ensure effective administration of justice and address the problem of delay, prompt and expeditious crime investigations are of utmost importance. The Federal Democratic Republic of Ethiopia (FDRE) constitution guarantees every person the right to a fair trial; which must begin and conclude a within reasonable time. This right is exercised not only against the proceedings in the court,¹ but also against police investigation². A “speedy” trial basically means that the defendant is tried for the alleged crimes within a reasonable time after being arrested and designed to prevent delay in administration of justice by mandating the crime investigator to proceed within the reasonable time to investigate the crime³. This right also enshrined under international law and regional human rights instruments ratified by Ethiopia: - Universal Declaration of Human Right (UDHR), International Covenant on Civil and Political Right (ICCPR)⁴ and regionally African Charter on Human and Peoples Rights (ACHPR)⁵, are govern the right to trial without undue delay and guarantees protection to this right. To begin with UDHR, it reflects the importance of timely justice and the protection of individual rights and recognizes that lengthy delays in the criminal justice process can be detrimental to the suspected person and can undermine the legitimacy of the justice system as a whole⁶. ICCPR also makes provision for the “right to be tried without undue delay⁷. Regionally, the African Charter also guarantees every individual with the right to have a trial within a reasonable time by

¹ Wondwossen Demise (2012), *Ethiopia criminal procedure*, p 346

² FDRE Constitution, Proclamation No.1/1995, *Negarit Gazzeta*, Year 1, No.1, art 20(1)

³ Criminal Procedure code of Ethiopia, Proclamation No.185 of 1961, *Negarit Gazzeta*, art 37

⁴ International Covenant on Civil and Political Right, adopted 16 December 1966, entered into force 23 March 1976) UNGA Res 2200A (XXI), art 14 (3) (c),9(1)

⁵ African Charter of Human and People’s Rights (also known as the Banjul Charter) adopted June 27, 1981, Doc. CAB/LEG/67/3 rev.5, entered into force on October 21, Cited as the African Charter.

⁶ Universal Declaration of Human Rights, G.A. Res, 217A (III), U.N. Doc A/810 (10 Dec1948),art 10

⁷ International Covenant on civil and political right, fn 4

an impartial court or tribunal⁸. As Ethiopia is party to the above mentioned human right instruments, the government has duty to enforce this right with aim to safeguard “speed trial” of suspected person.

The first thing that sets criminal justice in motion is the making of a crime investigation and identification of suspects when the investigation officer believes that a crime has been committed, is being committed, or is about to be committed.⁹ Crime investigation is a method used to identify, locate, and prove the guilt of an accused person. The investigation process involves the police officers, the prosecutor, the accused person, the arrested person, suspects, witnesses, and the like. The official purpose of crime investigation is to retrieve information that can be used as evidence in a court of law.¹⁰

The criminal justice policy¹¹ under section 3.5 (a) states that to enhance an effective and productive crime investigation system, the investigating police officers and public prosecutor shall work together and it shall be the responsibility of the public prosecutor to lead and supervise the overall investigation.¹² This collaborative approach aims to streamline and optimize the duration of crime investigations. The question of how long a crime investigation should last is addressed in both the criminal procedure code¹³ and FDRE constitution.¹⁴ A close reading of those laws shows the length of a crime investigation depends chiefly on whether a person suspected to have committed a crime is under arrest.¹⁵ The non-completion of the crime investigation by an investigative police officer under the time frame provided under those laws results in the delay of the crime investigation. Delay in crime investigation refers to any unnecessary or avoidable lapse

⁸ African Charter, fn 5, art 7(1) (d).

⁹ The Criminal Procedure of Ethiopia (1961) ,fn 3,art 22

¹⁰ Karen M. and Christine Hess, *Crime Investigation*, 9th edn (2010), p.7 as cited in Fisaha Getachew ,Respect for human right in pre-trial criminal investigation: the case of oromia special zone surrounding Finfine (2015), LLM thesis ,Addis Ababa University ,Addis Ababa

¹¹ Federal Democratic Republic of Ethiopia, Criminal Justice Policy issued by Minister of Justice (February, 2003) , p. 1

¹² Desalegn Gemechu , ‘The Right to Legal Counsel in Ethiopia: A case study in Oromia (2016), LLM thesis, Addis Ababa University, Addis Ababa, p.55

¹³ Criminal Procedure Code of Ethiopia(1961) , fn 9, art 36

¹⁴ FDRE Constitution, fn 2, art 19(4)

¹⁵ Wondwossen Demise (2012), fn 1, p.175

between the commission of a crime and the initiation of an investigation.¹⁶ Accordingly, a delay in investigation is generated when the investigation fails to proceed.¹⁷ This indicates that every criminal matter has a duration within which a resolution of a fair trial should be found.¹⁸ Although Speedy trial of offenses is in the interest of society, the police methods of investigating crimes have been highly defective.¹⁹

1.2 STATEMENT OF PROBLEM

Ethiopia is a Federal Democratic country with its constitution which guarantees fundamental rights to arrested, accused, or suspected persons. The FDRE Constitution²⁰ like other modern constitutions in the world incorporates fundamental rights and freedom of individuals. Accordingly, the constitution imposes a duty upon law enforcement organs i.e. police to bring the suspected person before the nearest court within 48 hours.²¹ Not only does the constitutional framework guarantee this right, but the provision of the criminal procedure code also establishes time limits for the completion of investigations.²² Despite the clarity and fairness of the constitution, various human rights reports indicate that the provisions related to the right to a fair trial, particularly the right to a speedy trial, are not consistently upheld during the police investigation of crimes.²³ Accordingly, the report conducted by the Ethiopia Human right Commission in Burayu and the Surrounding area reveals that in Burayu town police station there has been a prolonged investigation of crime over months or even for a year and a significant number of criminal suspects have been held in police custody for extended periods as a result of a delayed investigation of

¹⁶ Smith, L & Tilley, N, 'Crime science and the study of police investigations: A review, *Journal of Police and Criminal Psychology* (2014), 29(3), p 203-216

¹⁷ Jason Payne ,*Criminal Trial in Australia: Trial Listing Out-come* (2007), p 7

¹⁸ Ibid

¹⁹ Ibid

²⁰ FDRE Constitution, fn 14

²¹ Ibid

²²The draft criminal procedure and evidence code of the Federal Democratic Republic of Ethiopia(2013), art 11

²³ Ethiopia Human Right Report (2020) , *Country Report on Human Right Practice for 2020* ,United State Department of State, Bureau of Democracy ,Human Right and Labour: Some detainees reported indefinite detention for several years without charge

crime which may result in the suspected person who is remitted to judicial custody have to be kept in police custody.²⁴

Similarly, the Ethiopia Human Rights Report (2020) shows that in Ethiopia a long period of investigation and denial of fair public trial without undue delay is experienced.²⁵ According to the Report, following the unrest that transpired on June 30, 2020, after the assassination of singer Hacalu Hundesa, a substantial number of individuals were apprehended and held in custody at the Burayu town police station. These individuals were accused either of involvement in the violence or of being affiliated with opposition groups.²⁶ However, investigations into the crimes committed during the violence, as well as the cases against those detained at the police station, have been plagued by delays.²⁷ This undue delay of the investigation of crime may have an adverse implication on the enforcement of the right to speedy trial of a suspected person.

The constitution and the criminal procedure code of Ethiopia also take different approaches to the duration of a single remand and the total period of investigation. Even though they were enacted to balance the competing interest between the suspects' interest in speedy trial and the public regarding to investigation of crime, in fact still they have their limitations and open doors for the police to abuse the suspect's right to speedy trial. The existing domestic literature on the right to a speedy trial includes studies conducted by Melkam Niguse (2018), Yirgalem Geremu (2018), and Awet Guesh (2017). Melkam Niguse's research on "critical examination of the right to a speedy trial concerning person accused of corruption crime" focused on the examination of the right to a speedy trial for individuals accused of corruption crimes²⁸. The study revealed significant delays in prosecutor and court decision-making processes, which adversely affected the right to a speedy trial for these individuals. However, it should be noted that Melkam Niguse's research solely

²⁴ Ethiopian Human Rights Commission Report (5 December 2018), "*Investigation Report on Human Rights Violations in Burayu and Surrounding Areas.*" 5 December <https://ehrc.org/investigation-report-on-human-rights-violations-in-burayu-and-surrounding-areas/>

²⁵ Ethiopia Human Right Report (2020), fn 23

²⁶ Ibid

²⁷ Ibid

²⁸ Melkam Niguse, *Critical Examination of The Right Speedy Trial With Respect To Person Accused of Corruption Crime In Ethiopia* (2018), LLM thesis, Addis Ababa University, Ethiopia

addressed the rights of accused persons deprived of a speedy trial during the trial stage of corruption offenses, and not consider the causes of delay in the investigation stage.

Similarly, ‘‘Yirgalem Geremu's article, which explored the constraints to speedy trial in the Sidama Zone High Court’’ primarily examined the reasons for trial delays. The research found that the court did not provide a speedy trial to its clients in direct cases, but only delivered expedited judgments in appeal cases, as fewer adjournments were granted.²⁹ However, Yirgalem Geremu's study did not sufficiently address the cause of delay in crime investigation or its implications for the enforcement of the right to a speedy trial. Furthermore, the article did not offer specific recommendations for overcoming even issues in trial delay. The research conducted by Awet Guesh focused on the right to a speedy trial in the context of Tigray. The study explored the causes of delay of trial proceeding and the impact of delayed trials on the accused and the criminal justice system.³⁰ However, similar to the other studies mentioned above, Awet Guesh's research did not address the causes of delay in crime investigation or thoroughly examine their implications on the enforcement of the right to a speedy trial. Given the gaps and limitations in the existing literature, the researchers discuss those issues comprehensively identify the causes of delay in crime investigation, assess their implication enforcement of suspect's right to a speedy trial, and propose well-articulated recommendations to overcome these problems, providing more comprehensive and nuanced understanding of the issue.

1.3 OBJECTIVE OF STUDY

1.3.1 General objective

The main objective of this research is to identify the cause of delay in crime investigation in Burayu area and analyse its implication on the enforcement of the right to speedy trial of suspect and forward the possible solution.

1.3.2 Specific objectives

This research aimed to:-

²⁹ Yirgalem Germu, ‘The constraint to a speedy trial: The case of Sidama Zone High Court, *Beijing Law Review* (2018), P, 162-184

³⁰ Awet Guesh, ‘The right to speedy trial in Ethiopia: The case of Tigray (2017), LLM thesis, Bahir Dar University, Ethiopia

- ❖ Explore the importance of upholding the suspects constitutional right to fair and effective investigation for ensuring the enforcement of the right to speedy trial
- ❖ Identify the cause contributing to the delay of crime investigation under study area
- ❖ Analysing the cumulative implication of cause of delay in crime investigation on the enforcement of suspect's right to speedy trial

1.4 RESEARCH QUESTION

Building upon the aforementioned research objective, the studies emerged and sought to address the following questions:

- ❖ What are the importances of upholding the suspect's constitutional right to fair and effective investigation for ensuring the enforcement of the right to speedy trial?
- ❖ What are the causes contributing to the delay of crime investigation in the study area?
- ❖ What are the cumulative implications of the cause of delay in crime investigation on the enforcement of the suspect's right to speedy trial?

1.5 RESEARCH METHODOLOGY

To achieve the objective of the study and to answer the research question, a qualitative research methodology was used. This approach was considered appropriate because the research problem required a comprehensive examination within its context and the utilization of qualitative methodology allowed for an exploration of the underlying reasons behind the problem and provided insights into the perspectives and experience of the selected criminal justice actor regarding the subject matter of the study.

1.5.1 Research Design and Method

A case study research design was selected for this research, as the design allows for an in-depth examination of a specific phenomenon. Specific to this research, the focus is in-depth examination of the causes of delay in crime investigation and analysing its implication in the enforcement of the right to a speedy trial. Secondly, the case study design is well-suited for investigating real-world issues. In this research, the focus is on the cause of delay in crime investigation, which is a current and relevant concern within the criminal justice system. By using a case study design, the researcher can gather up-to-date and first-hand information about the challenges and complexities faced during a crime investigation. The

design also enables the collection of qualitative data through methods like interviews, document review, case analysis, and questioners (even if it's not an in-depth data collection method) which is useful in understanding the cause delay from multiple perspectives.

1.5.2 Targeted population

The targeted population under this study referred to the total number of criminal suspects detained at Burayu Town police station during investigations of crimes, police investigators based and conducting investigations at Burayu Town police station, public prosecutors at the Burayu town Prosecutor's Office, judges presiding over criminal cases being investigated by Burayu Town police station, and criminal case files that were presented before the Burayu Town Woreda Court. Accordingly, the targeted population consisted of 98 individuals, including a total of 69 criminal suspects (26 from Woreda 3 police station, 31 from Melka Nono police station, and 12 from Burayu town police station headquarters), 16 police investigators, 9 prosecutors, 4 judges, and 15 criminal case files, whose findings were generalized.

1.5.3 Sampling technique

In Burayu Town, there are four police stations, namely, Burayu Town police station headquarters, Woreda 3, Melka Nono, and Gefersa Guje police station. Out of these, three police stations, namely, Burayu town police station headquarters, Woreda 3, and Melka Nono police station, were purposefully selected by considering their easy accessibility to collect data within the timeframe and resources as the three stations are near to each other. The three station also near the Burayu town police station headquarters, which helps to get cooperation whenever needed.

To select a representative of the population in the study area, simple random sampling and purposive sampling were used to choose a sample representation from the whole population. Accordingly, to select the prosecutor and judge, the researcher employed a purposive sampling technique in which the researchers intentionally drew a sample by considering certain factors, particularly the period of service of the prosecutor or judge that was deemed relevant for the research. To select the investigative police officer and suspect found in Woreda 3 and Melka Nono stations, the researcher employed a simple random sampling technique. Each investigator and suspect has an equal possibility of being selected, as they were found on the same level as the investigator and in the police station

as a suspect of crime respectively. The subject matter directly concerned all of them, and they all had the opportunity to know and respond to it. The suspect detained in Burayu town police station headquarters was selected purposefully as they were detained there for a longer period than the other suspects in other stations, and they expected to know and share more detailed information than the others.

Accordingly, a total of 66 persons, 47 criminal suspects (all 12 from the police station headquarters, 15 from Woreda 3, and 20 from Melka Nono police station), 10 police investigators, 6 prosecutors, 1 police station head, and 2 judges were selected to represent the target population as the respondents of the study. A large sample size was drawn from a large targeted population to represent the reality of the whole population. The specific procedure that was used to select 10 police investigators out of 16 is that the researcher first obtained the list of names of investigators from Burayu town Police Station headquarters and asked another person from the Police investigator to randomly call numbers ranging from 1 to 16 until it reached 10 individuals, and the corresponding name of the identified number in the obtained investigator was included in the sample of the study. Similarly, the specific procedure that was used to select 35 suspects out of 69 is that the researcher first obtained the list of names of suspects from Woreda 3 and Melka Nono police station and asked another person from the suspect to randomly call a number ranging from 1-26 until 15 individuals selected from Woreda 3 and 1-31 from Melka Nono police station until 20 individuals selected. Accordingly, the corresponding name of the identified number in the obtained suspect was included in the sample of the study. The procedure that was used to select 6 prosecutors out of 9 and 2 judges out of 4 is that the researcher first obtained a list of prosecutors and judges and their corresponding periods of service. Then the top six prosecutors and the top two judges with the longest service periods were intentionally included in the sample. In relation to the selection of the case file, six out of 15 criminal case files were purposefully selected by considering the length of their delay and the frequency of remand requested on the case.

1.5.4 Source and types of data

In this study, the researcher used the primary and secondary sources of data. The primary data included information directly extracted by interviews and questionnaires from the police officer, prosecutor, judge, and the criminal suspect and case studies, the FDRE constitution, FDRE criminal procedure code, the FDRE Criminal Code, the draft FDRE

criminal procedure, and the evidence code, pertinent international conventions and the Ethiopian Criminal Justice police which particularly advantageous for the protection of the suspected criminal right to a speedy trial. The secondary source of data included books, dissertations, journals, articles, internet links and report was employed as secondary source. They constituted a significant source of data and offered the researcher a significant idea on the topic. However, the researcher placed more emphasis on the primary data as it's the first-hand information and truth-manifesting data to answer the research question.

1.5.5 Data Collection Tools

As far as the research is qualitative research it is obvious that from the onset the qualitative data collection method was used in this study as follows:-

Interview: - To collect this data the researcher used semi-structured interviews. The researcher prepared all questions before the interview and added another question depending on the interviewee's understanding and perception. It also enabled the researcher to get well-elaborated questions on the issue. The researcher was also asked additional questions after observing the study area's condition during an interview to clarify or expand certain issues. Interviews were made with five investigative police officers, three public prosecutors, and two judges. Those respondents were selected to generate information and share their experience on the practical observance of the cause of delay in crime investigation depending on the subject of their question. The interview question was administered by direct contact with the interviewee.

Questionnaires: - Both close-ended and open-ended questionnaires were used to collect qualitative data from respondents to extract required information on the subject matter. The open-ended questionnaires were selected to allow the respondent to answer and explain his idea freely at length and close-ended questionnaires were selected to get easily a quick response and to compare with the answers of other respondents. The questionnaires prepared for criminal suspect were translated to '*Afaan Oromo*' as not all suspects are expected to understand English language. The questionnaires were distributed to 6 public prosecutors, 10 investigative police officers at their workplace, and 47 criminal suspects at the police station. Out of this all questionnaires distributed to public prosecutors, investigative officers, and criminal suspects (in Burayu town police station headquarters) are fully filed and collected back. However, out of the questionnaires distributed to the 15

criminal suspects in Woreda 3 police station and to 20 criminal suspects in Melka Nono police station, only 13 and 17 questionnaires were filled and collected back respectively.

Document analysis: - The document stated above under the source of data were collected from the study area and internet source and analysed.

1.5.6 Data analysis method

Under this study thematic analysis was used as the research aims to investigate the cause of investigative delay through interpreting different stake holder prospective. Thematic analysis allows different view and experience to be organized into coherent manner and it provides a systematic yet flexible approach to analysing diverse data types collected (interviews, documents/case review and, questionnaires) and the end goal is to understand the issue of cause of delay comprehensively rather than just describe frequency of known cause, which thematic analysis supports better.

1.5.7 Data quality control technique

To ensure the validity of this study, the researcher compared the research information collected through individual interviews with information gathered through questionnaires, specifically for similar questions in both data collection methods. These measures were implemented to enhance the credibility and reliability of the research findings.

1.5.8 Ethical consideration

Throughout the entire research process, the researcher diligently upheld the principles of respect, honour, and privacy for all participants. Anonymity was maintained for all individuals involved in the study, ensuring their identities remained undisclosed. The participants were given the freedom to voluntarily answer the questions and were not subjected to any form of coercion or pressure to participate in the research. Confidential information shared by the respondents was treated with utmost care and was not disclosed unless it was deemed necessary for the study. Participants were reassured that their involvement would not result in any negative consequences or victimization. The researcher took great care to adhere to ethical considerations throughout the research process.

To ensure cooperation and support in the study area, the researcher obtained a formal letter of permission from the Hawassa University School of Law and the Oromia Police

Commission. This letter requested the collaboration of all relevant entities in facilitating the research. Additionally, when obtaining data that required permission from appropriate authorities, the researcher took necessary precautions to secure the required permissions. The collected data was strictly utilized for the sole purpose of conducting the research. By adhering to ethical guidelines, obtaining necessary permissions, and safeguarding participant confidentiality, the researcher demonstrated a commitment to conducting the research responsibly and ethically.

1.6 SIGNIFICANCE OF THE STUDY

The results of this study carry significant implications on various fronts. Firstly, it contribute to the identification of the underlying causes of delay in crime investigation, enabling law enforcement agencies to address these issues and foster effective collaboration in resolving the problem. By understanding the root causes, law enforcement officials can implement targeted strategies to mitigate delays and expedite the investigative process. Furthermore, the findings have practical value for non-governmental organizations (NGOs) working on human rights issues. They provide a comprehensive understanding of the challenges that impede the speedy trial process within the police stations of the study area. Armed with this knowledge, NGOs can design and implement appropriate interventions to tackle these obstacles, thereby promoting and safeguarding the right to a speedy trial for individuals involved in criminal cases.

Moreover, the study serves as a valuable resource for the police themselves. It raises awareness among law enforcement officers about the importance of respecting and upholding the right to a speedy trial for individuals under suspicion. By incorporating these findings into their practices, the police can ensure that their investigative tasks align with the principles of fairness and timely legal proceedings. Additionally, the study contributes to the awareness of criminal suspects regarding their fundamental human rights, specifically the right to a speedy trial. By highlighting the significance of this right, the research empowers individuals involved in criminal cases to assert and protect their rights throughout the legal process. Lastly, this study lays a solid foundation for future research endeavours. It serves as a valuable reference for researchers interested in exploring aspects not covered in this particular study. By building upon this research, future investigations can delve deeper into specific factors contributing to delays in crime investigation and propose targeted solutions to address them.

1.7 SCOPE OF THE STUDY

In order to meet the research objectives within the designated timeframe and allocated resources, the scope of this study was limited to Burayu town. The selection of Burayu town was based on the findings of various human rights reports, which highlighted the violation of the right to a speedy trial for criminal suspects, including political figures, who were held in police custody for extended periods due to prolonged crime investigations.³¹ Numerous individuals were arrested and detained at the Burayu town police station, accused of involvement in the violence or affiliation with opposition groups.³² Additionally, the researcher found the study area conducive for data collection, as they possessed familiarity with some of the police officers working as investigators in the selected area. This familiarity may have facilitated access to information and increased the researcher's understanding of the dynamics surrounding the delay in crime investigation. It is important to note that while delays can occur at different stages of criminal proceedings, this study specifically focused on the delay in crime investigation. Delays during the trial and post-trial proceedings were not within the scope of this research.

1.8 LIMITATION OF THE STUDY

While conducting this research, the researcher encountered various challenges, particularly due to the absence of domestic literature regarding the topic in Ethiopia. No previous studies had been conducted on this specific topic, which created a significant gap in the available literature. Another challenge arose when attempting to conduct interviews with criminal suspects. The police officers were hesitant to disclose the identities of the suspects to the researcher, and the suspects themselves may have been cautious about providing sufficient information. As a result, the researcher relied solely on questionnaires to gather data from the criminal suspects. Furthermore, the researcher encountered resistance from the police station head, who refused to allow the research to commence without the permission letter from the Oromia Police Commission.

1.9 ORGANIZATION OF THE STUDY

The research comprised five chapters. Chapter one provides a brief overview of the issue to be discussed in the research. The background of the study, statement of the problem,

³¹ Ethiopian Human Rights Commission, fn 24

³² Ibid

objective of the study, research question, methodology, research design, targeted population and sampling, source of data, data collection tools and data analysis technique, data quality control technique, research ethics, scope, limitation, significance, and organization of the study. Chapter two tried to discuss the conceptual and legal framework of the right to a speedy trial. Chapter three discusses the importance of upholding the accused's constitutional right to a fair and effective crime investigation in ensuring the enforcement of the right to a speedy trial of suspects. Chapter four deal with investigative delay and its implication on the enforcement of the right to speedy trial of suspects. The final chapter is dedicated to conclusions and recommendations.

CHAPTER TWO

2 THE RIGHT TO SPEEDY TRIAL: CONCEPTUAL AND THE LEGAL FRAMEWORK

2.1 INTRODUCTION

The right to a speedy trial is a fundamental aspect of criminal justice systems aiming to safeguard the rights of individuals accused of crimes. The conceptual and legal framework surrounding the right to a speedy trial provides the foundation for its enforcement and protection within the legal systems. Understanding the conceptual and legal aspects of this right is essential for comprehending its significance and the enforcement mechanisms in place to uphold it. Accordingly, this chapter explores the conceptual and legal framework of the right to a speedy trial, delving into its evolution, legal framework, and the factors considered in determining whether the right to a speedy trial has been conducted within a reasonable time framework.

2.2 DEFINITION AND CONCEPT OF THE RIGHT TO SPEEDY TRIAL

The right to a speedy trial is a fundamental right guaranteed to all individuals accused of a crime. However, there has been a longstanding controversy over how to define this right. One major point of contention is how to determine what constitutes a "speedy trial." The United States Supreme Court has guided on this issue, by stating that the right to speedy trial "is necessarily relative" and depends on "circumstance of each case."³³ In this case, the Supreme Court has acknowledged that the right to a speedy trial is a "vague" concept, which makes it difficult to determine how long is too long to wait for a trial.³⁴ Accordingly, the right to speedy trial is a legal doctrine that lacks both a clear definition and a defined scope. As the criminal justice system continues to evolve, the difficulty in defining the term will likely continue to be the subject of on-going debate and discussion. However, rather than defining the terms, it is easier to comprehend the definition of the term "speedy trial" when it is put into practice. Here, the researcher makes an effort to look up a few definitions of the term that have been provided under various documents.

³³ *Barker vs. Wingo*, 407U.S514, 523(1972)

³⁴ Ibid

Accordingly, the Black's Law Dictionary defines the right to speedy trial as "the right of a defendant to a prompt trial by an impartial jury or a trial that the prosecution, with reasonable diligence, begins promptly and conducts expeditiously".³⁵ This definition emphasizes the importance of a timely trial, as well as the need for an unbiased jury to guarantee justice in the legal system and the process used in criminal cases when the prosecutor is required to open and close a case as quickly and efficiently as feasible. On the other hand, Merriam-Webster dictionary defines speedy trial as a " prompt trial, especially one conducted without undue delay or within a time frame specified by statute".³⁶ This definition implies that the right to a speedy trial is a legal principle that ensures an accused person is not held in custody for an extended period without trial. In general, the definition of what constitutes a "speedy " trial is understood to mean a trial that takes place within a reasonable amount of time after the charge is filed. The right to a speedy trial has a legal and theoretical concept. From the legal concept, the right to speedy trial is a fundamental constitutional guarantee that ensures that an accused person is not subject to undue delay. This concept is enshrined in the FDRE constitution, which provides that "accused persons have the right to public trial by an ordinary court of law within a reasonable time after having been charged".³⁷ The theoretical concept is based on the principle of fairness and due process of law, which state that the right to speedy trial serves as a check on government power, ensuring that the state does not use its prosecutorial authority to intimidate or harass defendants or delay proceeding to gain tactical advantage and it ensure that defendants are not held in custody for an extended period without trial and have the opportunities to present their case in a timely and efficient manner.³⁸

2.3 EVOLUTION OF THE RIGHT TO SPEEDY TRIAL

The evolution of the right to a speedy trial under this topic is mainly focused on its integration into international, regional, and domestic legal frameworks. Accordingly, the concept of the right to a speedy trial has its roots in the history of human rights. Even

³⁵ Brian .A, *Black's Law Dictionary*, 8th Edn, (2004), a Thompson Business Co., St. Paul, p.1436

³⁶ Speedy Trial, Merriam-Webster Online Dictionary, Incorporated, 2017, Un-paginated, Available@ <https://www.Merriam-Webster.com>, Accessed on Apr 27/ 2022)

³⁷ FDRE constitution (1995), fn 21

³⁸ Podgor, E, 'The Speedy Trial Clause and the Prosecution of White Collar Crime' ,*Ohio St. journal of Criminal Law*(2005), p. 3,381

before the establishment of international human rights systems, various legal systems recognized this fundamental right. Its origins are traced back to English common law, specifically to the time of Henry II and the Assize of Clarendon in 1166.³⁹ These historical precedents laid the groundwork for the principle that an accused person should have the right to a trial without undue delay. Over time, this principle has evolved and become an integral part of contemporary human rights frameworks worldwide. During the reign of Henry II (1154-1189), the Assize of Clarendon was enacted as a legal code that aimed to ensure prompt and fair justice for all litigants. This significant legal framework explicitly promised speedy justice to individuals involved in legal disputes.⁴⁰ In 1215, approximately fifty years after the Assize of Clarendon, the principle of speedy justice found further recognition and protection in the Magna Carta. King John of England signed this historic document, which included provisions safeguarding the rights of freemen. Among these protections was the guarantee that no freeman could be imprisoned or have their property taken away without proper legal procedures, known as due process of law.⁴¹ This protection was started when King John of England agreed to protect the speedy trial right of Barons through protection against delaying of justice.⁴² In 1776, the right to a speedy trial was included in the Virginia Declaration of Rights. The declaration provides that "in all criminal prosecutions a man has a right to demand the cause and nature of his accusation to be confronted with the accusers and witnesses and to a speedy trial by an impartial jury of his vicinage".⁴³

The term human rights were rarely used before the Second World War until the UN declared in its UN Charter preamble its determination to reaffirm faith in fundamental

³⁹ Assize of Clarendon (1166) ,CONSTITUTION SOCEITY ,as cited in Megistu Worku, 'Delay of justice in Ethiopia and the Genocide Trial of Derg Officilas'(2008/9), LL.M long thesis ,Central European University, Hungary

⁴⁰ Ibid

⁴¹CONSTITUTION SOCIETY and The Magna Carta: the great charter. Available at: <<http://www.constitution.org/eng/magnacar.htm>>

⁴² The British Library, Magna Carta, accessed on 28 Mar 2022

⁴³ The Avalon Project Documents in Law, History and Diplomacy, Virginia declaration of rights, Available at: <http://avalon.law.yale.edu/18th_century/virginia.asp>.

human rights⁴⁴. In 1966 the International Covenant on Civil and Political Rights (ICCPR) was adopted and entered into force in 1976⁴⁵. The convention provides for the right to a speedy trial and affords the minimum rights of an accused person.⁴⁶

In 1981 the African Charter on Human and People's Rights adopted and provided under its article 7 the right to be tried within a reasonable time by an impartial court or tribunal.⁴⁷ Currently, the right to a speedy trial has received universal recognition in national constitutions, and its values are seemingly unquestionable

In Ethiopia's domestic context, the 1931 constitution, considered as the country's first written constitution, did not encompass human rights issues, including the right to a speedy trial. This can be attributed to the centralized system of government where power was concentrated in the hands of the king. This concentration of power was not conducive to the protection and promotion of human rights. As a result, the 1931 constitution lacked provisions specifically addressing the right to a speedy trial and other fundamental human rights. This highlights the historical context and limitations of that period in terms of recognizing and safeguarding individual rights within the legal framework⁴⁸. Next to this, the 1955 constitution⁴⁹ was enacted with the intention of addressing the shortcomings of the 1931 constitution by including a limited number of human rights provisions. However, it is important to note that many of these rights were accompanied by a limitation clause, which significantly undermined their relevance and effectiveness.⁵⁰ A limitation clause allows for restrictions to be placed on the exercise of certain rights, thereby undermining their full protection and enjoyment. In similar way, the development of the right to a speedy trial in Ethiopia took a negative turn under the 1987 Peoples Democratic Republic

⁴⁴ Michael Freeman, *The Historical Roots of Human Rights Before the Second World War*, 'in Rhona KM Smith and Christien van den Anker (eds), *Essentials of Human Rights* (2005), p, 207

⁴⁵ International Covenant on Civil and Political Rights, fn 7

⁴⁶ Ibid, art 14

⁴⁷ African Charter of Human and People's Rights, fn 8

⁴⁸ Adem Kassie Abebe, 'Human Rights under the Ethiopian Constitution', *Mizan Law Review*, spring (2011), Vol. 5 No.1, pp.41-71

⁴⁹ Revised Constitution of the Empire of Ethiopia(1955) , Proclamation No. 149

⁵⁰ Adem Kassie, fn 48, p. 42

of Ethiopia (PDRE) constitution⁵¹ as there was little support for fostering its recognition and exercise. The constitution did not explicitly acknowledge the right to a speedy trial, except for Article 44(2), which stated that any arrested person must be brought before a court within 48 hours".⁵² In recent years, significant strides (progress) have been made in acknowledging and upholding the right to a speedy trial. Article 20(1) of the FDRE constitution now explicitly guarantees the right to a public trial by an ordinary court of law within a reasonable timeframe after being charged⁵³. This recognition represents a positive step towards ensuring the protection and promotion of this fundamental right in Ethiopia. In general, the right to speedy trial is gradually developed to the general society and later becomes to be recognized as human right for all humanity. The right has a long and rich history, and is a fundamental component of the legal system in many countries around the world.

2.4 THE LEGAL FRAMEWORK GOVERNING THE RIGHT TO SPEEDY TRIAL OF SUSPECT

The legal framework surrounding the right to a speedy trial under this topic encompasses a range of international, regional, and domestic frameworks that guide the application and enforcement of this crucial right. Understanding the intricacies of this legal framework is essential for both legal professionals and individuals involved in the criminal justice system. Although numerous international and regional instruments recognize the right to speedy trial of the suspected person, the researcher only has insight into those instruments recognized and ratified under Ethiopian law. Accordingly, international law provides a framework for establishing common standards and principles that promote fairness, justice, and the protection of human rights in the context of criminal justice systems worldwide⁵⁴. Chapter three of the FDRE constitution emphasizes the importance of interpreting the fundamental rights and freedoms outlined in that chapter in a manner consistent with the principles of international law⁵⁵. This provision recognizes the role of international law

⁵¹ Constitution of Peoples Democratic Republic of Ethiopia, *Negarit Gazetta*, Proclamation No. 1 of 1897, Addis Ababa,

⁵² Ibid, art 44 (2)

⁵³ FDRE constitution (1995), fn 37

⁵⁴ Duhaime, L ‘*Duhaime’s Law Dictionary*, (2015), p 1

⁵⁵ FDRE constitution (1995) , fn 53, art 13(2)

within Ethiopia's national legal framework as established by the constitution and specifically highlights the relevance of the Universal Declaration of Human Rights and other international agreements adopted by Ethiopia.

A comprehensive list of essential freedoms and rights that are deemed universal and inalienable is outlined in the historic Universal Declaration of Human Rights, which was adopted by the UN General Assembly on December 10, 1948⁵⁶. It delineates an extensive array of essential human rights and liberties that are deemed to be both universal and unalienable. One of these rights is the right to a speedy trial, which states that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him"⁵⁷. The acknowledgment of the right to a speedy trial within the UDHR signifies the significance attributed to prompt dispensation of justice and safeguarding individual rights. The other international convention that recognizes the right to a speedy trial is, the ICCPR⁵⁸ makes provision for the "right to be tried without undue delay" and provides every person with the right to liberty and security of person⁵⁹. The right of the accused to a speedy trial, as guaranteed by the convention, aims to prevent putting people in a precarious situation for too long and, if they are detained pending trial, to guarantee that their confinement does not exceed what is necessary given the facts of the particular case⁶⁰. The guarantee under this article is not only related to the trial stage, rather it ensures that all stages must take place without undue delay because according to the general comment of the human rights committee the word "commence" under article 14(3)(c) of convention governs the commencement of trial without undue delay, which means the state is under obligation to ensure the protection of the suspect from long period incarceration before the beginning of trial which includes confinement in a police station before or after the appearance of the suspect before the court⁶¹. The precise meaning of the term 'Undue delay' is neither precisely defined under the ICCPR nor attempted to be defined under the

⁵⁶ Universal Declaration of Human Rights, fn 6

⁵⁷ Ibid, art 10

⁵⁸ International Covenant on Civil and Political Rights, fn 46, p 171

⁵⁹ Ibid, art 9 (1)

⁶⁰ Ibid

⁶¹ United Nation Human Right Committee, General Comment No 13

negotiation and discussion record consulted during the treaty process and interpretation of the treaty. The consulted record is called 'travaux preparatoires'⁶². But as per the general comment, no. 13, the guarantee of trial without undue delay includes not only the time between initiation of charges through the commencement of the trial but the entire process including trial, deliberations on verdict, and appeal⁶³.

Regionally, ACHPR provides that, "every individual shall have the right to have a trial within a reasonable time by an impartial court or tribunal"⁶⁴. By this provision, the African Charter seeks to control the long period of incarceration of the accused by minimizing delay in trial⁶⁵.

Coming to the domestic law of Ethiopia, chapter three of the 1995 FDRE constitution dealing with fundamental rights and freedom contains the right to speedy trial of the accused person⁶⁶. In particular, Article 19(4) also provides that, "where the interests of justice require, the court may order the arrested person to remain in custody or when request remand him for a time strictly required carrying out the necessary investigation"⁶⁷. The court will determine how much more time is needed for the investigation and will make sure that the relevant law enforcement agencies conduct the investigation in a way that respects the arrested person's right to a speedy trial.⁶⁸ The article ordered the court only to grant the remand strictly required to complete the investigation and to ensure the investigation is conducted while respecting the arrested person's right to a speedy trial. The purpose of the above provision is to protect the right of speedy trial of arrested and accused persons against the arbitrary action of the government. Not only the FDRE constitution, Criminal Procedure Code, Criminal Code, and the draft criminal procedure and evidence code of Ethiopia recognized the right to speedy trial of suspected persons. Accordingly, the

⁶² Bossuyt. M , 'Guide to the "travaux preparatoires" of the international covenant on civil and political right'(1987), p 297

⁶³ Obiokoye,I, 'Eradicating delay in administration Justice in African Court: A Comparative Analysis of South African and Nigerian court' (2005) ,(Unpublished LL.M dissertation, University of Pretoria ,p 12

⁶⁴ African Charter on Humans and Peoples Right, fn 47, art 7(1)

⁶⁵Obiokoye,I (2005), fn 63, p 18

⁶⁶ FDRE constitution (1995),fn 55

⁶⁷ Ibid, art 19(4)

⁶⁸ Ibid

Criminal Procedure Code of Ethiopia provides the police investigation of the crime to be concluded within a reasonable time.⁶⁹ Like the FDRE constitution, the above provision of the criminal procedure code indicates the police investigation of a crime should be conducted without unreasonable delay while respecting the accused or arrested person's right to a speedy trial.

The FDRE criminal code under its article 216 (1) provides that prosecution and criminal charge shall be barred and may no longer be instituted upon the lapse of the legal period provided by law⁷⁰ and prevents the court from pronouncing a conviction or penalties or measures after the expiry of the statute of limitation⁷¹. This provision protects the right to speedy trial of the accused by forcing the public prosecutor to prosecute the accused within the time limit provided under this code. The new criminal justice policy under section 3.7 spelled the importance of establishing a time framework within which police investigation should be completed and the public prosecutor should institute charges depending on the nature and gravity of the crime⁷². Like the FDRE constitution and the criminal procedure code, the criminal justice policy also provides the investigative police officer should complete his/her investigation without delay in respecting the speedy trial right arrested or accused person⁷³.

The draft Criminal Procedure and Evidence Code aims to modernize the country's criminal justice system and ensure that it is more efficient, effective, and fair. One key aspect of the draft code is the recognition of the right to a speedy trial at the investigation stage which is crucial in protecting the rights of accused persons and ensuring that justice is served promptly.⁷⁴ The new draft code has proposed several measures to ensure that the accused person's right to a speedy trial is respected. For example, the draft code provides for

⁶⁹ Ethiopian Criminal procedure code (1961),fn 13

⁷⁰The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, art, 216(1)

⁷¹ Ibid

⁷² Federal Democratic Republic of Ethiopia, Criminal Justice Policy (2019),fn 11, section 3.7

⁷³Ibid

⁷⁴ The draft criminal procedure and evidence code(2020) ,fn 22

specific time limits within which the public prosecutor should make decisions on investigation files for simple, medium, and grave crimes.⁷⁵

2.5 THE STANDARD USED TO DETERMINE THE VIOLATION OF THE RIGHT TO SPEEDY TRIAL

Determining whether the right to a speedy trial has been violated is a complex issue that involves a consideration of various factors. Accordingly, the most significant body of cases concerning the determination of whether the violation of the right to a speedy trial is the United States Supreme court's ruling in *Baker v Wingo*.⁷⁶ In this decision, the Supreme Court recognized that the right to speedy trial is " more than a formality or procedural nicety and established the criteria to be taken into account when determining whether the right to speedy trial has been violated. This includes the length of delay, the cause of delay, failure to assert the right to a speedy trial (lack of prompt trial) and prejudice to the accused person. Those factors are outlined as landmark case in determining whether the right to speedy trial is violated. Each of these factors is discussed below as follows:-

2.5.1 Length of the delay

The length of the delay is an important factor in determining whether the right to a speedy trial has been violated. The Supreme Court has held that "the length of delay is to some extent a triggering mechanism " for the inquiry into the speedy trial claim.⁷⁷ Assessing the duration of delay is crucial for the court since it causes harm not only to the defendant but also to society at large. However, the duration of time involved cannot be used alone to judge whether there was any delay; similarly, it is unreasonable to consider even a short period of waiting acceptable.⁷⁸ In *Barker v Wing*, the Supreme Court observed that prosecuting a serious and complex conspiracy case could be done with far less delay than a common street offense.⁷⁹ Accordingly, the other three factors are considered only when there is prima facie evidence of an unreasonably long delay that is presumptively detrimental to the accused. As the court's findings, waits longer than one year have been

⁷⁵Ibid, art 154(4)

⁷⁶ United States Supreme Court, *Barker v Wing*, 407 U.S 514, 530 (1972)

⁷⁷ Ibid

⁷⁸ United States Supreme Court, *United States v. Bandy*, 360 US.1 1968)

⁷⁹ United States Supreme Court, *Barker v Wingo*, 1972, P. 531).

regarded as inherently damaging; nevertheless no precise criteria for identifying what amount of waiting period would qualify as unduly prolonged.

2.5.2 Cause of the delay

This factor examines the reason for the delay and assigns responsibility for the delay to the prosecution or defence.⁸⁰ The defendant's action causing delay does not entitle them to claim any benefit. This includes delay caused by incompetence in standing trial⁸¹, running away from justice⁸² and agreeing to delay legal proceedings by the government⁸³ are among possible defences of the defendant. Governmental delays are the only ones that considered⁸⁴. The Supreme Court has also distinguished between "acceptable " reasons for delay such as the complexity of the case or the unavailability of a key witness and "inexcusable " reasons such as deliberate delay by the prosecution.⁸⁵ The Supreme Court held that, if delays have been caused by the prosecutor's negligence in presenting evidence and witnesses on time, it is the prosecution's responsibility to account for any delay in a timely trial and relief may be obtained by the defendant through a claim of speedy trial⁸⁶. The court on the case found that "negligence or overcrowded court is not an acceptable reason for a delay," but has also recognized that "some delay is often inevitable".⁸⁷ Complex cases may involve multiple parties, witnesses, and evidence, and may take a longer time to resolve. In such a case, the court may grant more time to both parties to present their argument, evidence, and witness to ensure that justice is served. Additionally, the availability of evidence may affect the timeline of a case. In some cases, evidence may need to be gathered, analysed, and presented to court which may take a considerable amount of time. It has been said that while such complexities of case are the duty of the government rather than the accused, they should be examined for the benefit of the accused

⁸⁰ Kevin J. Caplis, 'The Speedy Trial Guarantee: Criteria and Confusion in Interpreting its Violation', *DePaul Law Review* (1973), Vol. 22, Issue 4, Article 7, P 845

⁸¹ Ibid

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ United State Supreme Court *United State vs. Doggett*, 50505, 656(1992)

⁸⁷ *Barker vs. Wingo*, fn 79

but should not be weighed as heavily in favour of dismissal are purposeful delay caused by the prosecutor for no good reason⁸⁸.

2.5.3 The defendant's assertion of the right

The third factor to consider in assessing whether the right to a speedy trial has been violated is the defendant's assertion of his right. A waiver is a topic that is directly related to the defendant's declaration of his right to a speedy trial⁸⁹. Demand theory is a conventional approach to a waiver of right which states that the defendant had to claim his right to a speedy trial otherwise it would be assumed he had waived it.⁹⁰ However, the Supreme Court disregarded this theory in the Barker case, ruling that the state must bring the defendant to trial and guarantee due process followed throughout.⁹¹ As a result, even if the claim of the right does carry a significant amount of weight in the balancing test, the defendant's omission to assert the right cannot be seen as a waiver to be used against him. The doctrine states that, if a defendant does not request their right to a speedy trial, they lose their access to such protection. Concerning waiver of a right, the Barker court determined that it is "an intentional relinquishment or abandonment of a known right. According to the ruling of the Supreme Court, "it will be difficult for a defendant to prove that he was denied a speedy trial if the right is not asserted"⁹².The court subsequently utilized silence to infer a waiver of the right to a speedy trial and emphasize that the defendant who fails to assert his right to a speedy trial may be deemed to have waived this right and may not be able to later claim that it has been violated. However, even if a defendant does not assert his right to a speedy trial, the court will still consider this factor in determining whether the right has been violated⁹³.

⁸⁸ Jimmie E, *Prejudice Resulting from Unreasonable Delay in Trial, American Jurisprudence Proof of Facts*, 2nd Edn. (2008), p 119

⁸⁹ Ibid

⁹⁰ Kevin J. Caplis (1973) fn 127, P 850: In united states supreme court ,united states, *Bruce vs. United States* (1965) ,7 years of delay was unreasonable but waived by failure to demand trial

⁹¹ *Barker vs. Wingo*, fn 87, p 407-527

⁹² Ibid, p 532

⁹³ Ibid

2.5.4 Prejudice to the defendant

This is the degree to which the defendant has been harmed about the interests that the right to a speedy trial is intended to protect. The Barker court has identified three types of prejudice that may result from a delay in bringing a defendant to trial and assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This interest includes (1) oppressive pre-trial incarceration ;(2) anxiety and stress and (3) impairment of the defence.⁹⁴ The court has held that "the most serious" of these types of prejudice is impairment of the defense, which can occur when witnesses' memories fade or evidence is lost⁹⁵ and because of the longer time the case takes, the higher the risk for the defendant to find and substantiate his defence.⁹⁶ If this lengthy trial persists any longer, some of the defendant's witnesses could potentially die off without being able to accurately recount what happened in previous times. The risk of losing evidence increases with a there is an extended delay.⁹⁷ In general, no one standard is dispositive, and the court has stressed that the inquiry must be conducted on a case-by-case basis, taking into account all relevant circumstances.

2.6 CONCLUSION

In general this chapter explored the legal and conceptual framework surrounding the right to a speedy trial delved into its significance in ensuring a fair criminal justice system. Throughout the chapter, various aspects related to the right to a speedy trial, including its concept, evolution, legal framework, and the standard used to determine the violation of the right including the length of delay; cause of delay, reasons for delay and prejudice suffered by the accused has been deeply examined. Accordingly, the Supreme Court emphasized those standards as flexible and that no one factor is determinative. The origin of the right to speedy trial is traced back to English common law and the Magna Carta, and it is now enshrined in the constitution and legal systems of many countries. While the specifics of this right may vary from country to country, its underlying purpose remains the same: to ensure that accused are not subjected to undue delay before trial. The legal

⁹⁴ Ibid

⁹⁵ Ibid

⁹⁶ Ibid

⁹⁷ Ibid

framework governing the right to a speedy trial operates at national, international, and regional levels to ensure that individuals accused of crimes are afforded prompt and fair proceedings. Moving forward, the next chapter focused on the constitutional right of suspects to fair and effective crime investigation, this is closely intertwined with the enforcement of the right to a speedy trial. Understanding the constitutional right of suspects to fair and effective crime investigation brings a comprehensive perspective on the interplay between investigation and the right to a speedy trial.

CHAPTER THREE

3 THE CONSTITUTIONAL RIGHT OF SUSPECT TO FAIR AND EFFECTIVE INVESTIGATION RELEVANT FOR THE ENFORCEMENT OF SPEEDY TRIAL

3.1 INTRODUCTION

The constitutional right of the suspect to fair and effective crime investigation is a cornerstone of criminal justice systems. To ensure that this right is upheld effectively, the Ethiopian criminal procedure code prioritizes the prompt and efficient investigation of criminal cases. While these provisions do not directly mention a prioritization of prompt and efficient investigation, they suggest a commitment to ensuring that criminal cases are handled in a timely and fair manner, which is essential for the enforcement of the right to a speedy trial. As human rights are interdependent, the observance of one right during an investigation is relevant for the enforcement of other rights. It is difficult to definitively conclude that only a specific right is relevant for the enforcement of another right. Therefore, under this chapter, the researcher by taking into account the time and page limitations of the research, aims to explore certain constitutional rights of the suspect observed during a crime investigation which are not exhaustive and relevant in ensuring enforcement of the right to a speedy trial of suspect, rather than addressing all the constitutional rights of pre-trial detainees. By adhering to these principles, the right to fair and effective crime investigation can be upheld, ensuring that the suspect's right to a speedy trial is enforced and justice is served. This right encompasses a range of essential elements, such as the right to protection against arbitrary arrest, the right to informed grounds of arrest, making presence before the court, protection against unlawful search and seizure, legal aid and representation, and the right to presumed innocent until proven guilty.

3.2 RIGHT TO PROTECTION AGAINST ARBITRARY ARREST

The right to protection against arbitrary arrest is a core component of the right to liberty, which is recognized as a fundamental human right by the FDRE Constitution.⁹⁸ To arrest anyone without observing due process of law is a serious infringement of individual

⁹⁸ FDRE constitution (1995),fn 66, art 17(1)

liberty.⁹⁹ Before delving into a discussion of the right to protection against arbitrary arrest, the researchers aim to highlight the meaning of arrest, including the concept of arbitrary arrest.

The word "arrest" is amorphous. But the term is defined operationally, as taking a person into physical custody for the alleged commission of an offence to initiate a criminal action in a court of competent jurisdiction so that he may forthcoming to answer for the commission of an offence.¹⁰⁰ From this definition, the word arrest means the apprehension of a person by an authority resulting in deprivation of his liberty from committing or continuing to commit another crime.¹⁰¹

Arbitrary arrest refers to the detention or imprisonment of an individual by the state authorities without sufficient legal basis or justification which violates the individual's human rights, including the right to liberty and security of the person.¹⁰² Neither the FDRE constitution nor the Criminal procedure code provides a direct definition of arbitrary arrest. However, provides a procedure under which an individual may be arrested and the rights of the suspect during the arrest. The need for an arrest procedure is essential to prevent arbitrary arrest and to ensure that the rights of the accused are protected. An arrest procedure provides clear guidelines for the state authorities to follow during the arrest and ensures that individuals are not detained without sufficient legal basis or justification.

3.2.1 Arrest procedure

Arrest procedure is essential to ensure that individuals are not deprived of their liberty without due process of law and that they are protected against abuses by law enforcement officials. To protect this right, the Ethiopian criminal procedure code specifies procedures that must be followed when making an arrest, including the requirement for a court order or warrant that meets the legal requirements for an arrest. The Constitution provides that, a person may not be arrested arbitrarily; he/she may be arrested where he/she is suspected of

⁹⁹ Tarekegn, M & Fanta, A 'Rights of Accused Persons in Ethiopia': *A Review of Legal and Institutional Framework and Challenges. Journal of Ethiopian Law (2020)*, 33(1), p 1-34

¹⁰⁰ United Nations, Study of the Right of Everyone to be Free From Arbitrary Arrest, 34 U.N. ESCOR, U.N. Doc. E/CN.4/826/Rev. I (1964)

¹⁰¹ Paul Roberts, '*Law and Criminal Investigation*' (2007), P 92-146

¹⁰² OHCHR Training Manual on Human Right and Arrest (2015), Action for justice, p, 165-171

violating the substantive law the penalty of which entails jail¹⁰³ and arrest must be made under the procedure as laid down in the procedure law.¹⁰⁴ In the normal course of events, an arrest is to be affected either based on a police summons or a court warrant. Article 25 of the criminal procedure code provides that,

"Where the investigating police officer has reason to believe that a person has committed an offence, he may by written summons require such person to appear before him."¹⁰⁵ Under this provision, the investigating police officer should investigate a crime even where the information he/she received is open to doubt. That investigation involves gathering evidence and once that evidence is gathered, the investigating police officer evaluates whether it meets the requirements of "reason to believe" before he/she sends out summons to the suspect as per Article 25.¹⁰⁶ Summons are a voluntary process as they "draw one into custody 'voluntarily' rather than by force."¹⁰⁷ The phrase "reason to believe," which is used only once in the Code, lacks a defined definition. Upon examining the English versions of the code, it becomes evident that the concept behind the phrase "reason to believe" is an objective standard that relies on a threshold of evidence indicating that the person is likely guilty. This standard is employed to justify the restriction of the individual's liberty for the purpose of investigation. Where the summoned person appears, the consequence is arrest. Once an arrest is made, the next issue is, anyone arrested has the right to enquire with police or Prosecutor that on what ground he has been arrested. In general, the right to protection against arbitrary arrest is relevant for the enforcement of the right to speedy trial of a suspect by ensuring the production of admissible evidence and avoiding unjustified arrest. If an arrest is made with proper legal justification, it can lead to the admission of evidence obtained through such arrest. The admission of such evidence may strengthen the prosecution's case, potentially leading to the speedy outcome of the trial.

¹⁰³ Ibid, art 17(2)

¹⁰⁴ Ibid, art 17(1)

¹⁰⁵ Ethiopian Criminal procedure code(1961) ,fn 69, art 25

¹⁰⁶ Ibid

¹⁰⁷ Fisher. Z, 'Some Aspects of Ethiopian Arrest Law: The Elective Approach to Codification' III *Journal of Ethiopia law* (1966b), No. 2

3.3 THE RIGHT TO INFORMED GROUND OF ARREST

The right to inquire and inform the ground of arrest is provided for in the Constitution that the person arrested has the right to be promptly informed of the reasons for her arrest, in the language he/she understands¹⁰⁸. It is the suspect's constitutional right to be promptly informed of the reasons for her arrest and the charges against him/her in the language she/he understands. This right is essential in ensuring that individuals are not subjected to arbitrary arrest and that they can challenge the legality of their arrest if necessary.¹⁰⁹

The restriction on the right to liberty should have been made on warranty. Thus, the principle, Art 49, requires the investigating police officer to obtain an arrest warrant unless it is expressly provided otherwise¹¹⁰. An arrest warrant is a formal document issued by the court, directed to and authorizing the head of the police to arrest a named suspect to assist the investigation or to produce her before the court for trial¹¹¹. If a person/s is arrested with a warrant, he is entitled to ask to show a warrant to him¹¹². Thus, the person arrested with a warrant will be able to know the grounds of his arrest immediately. When individuals are promptly informed of the reasons for their arrest, they can better understand the charges against them and prepare their defence accordingly. This clear communication of the ground of arrest contributes to preventing unnecessary delays caused by confusion or lack of information and ensures, the right to a speedy trial can be more effectively upheld.

3.4 MAKING PRESENCE OF ACCUSED BEFORE THE COURT

Detention in police custody for further crime investigation can only be done by law and the police custody must follow the procedures for detaining an arrested person. As per the constitution, the arrested person can be detained for up to 48 hours in police custody with a high degree of restriction and very reasonable grounds and circumstances of the case¹¹³. Police are required to produce such detainee before the court within the said period of his

¹⁰⁸ FDRE constitution (1995), fn 98, 19 (1)

¹⁰⁹ Ibid

¹¹⁰ Ethiopian Criminal procedure code(1961), fn 106, art 49

¹¹¹ Ibid, art 53(1)

¹¹² Ibid, art 56(2): The article provides that, “[w]here the arrest is made with a warrant, the police officer shall read out the warrant to the person to be arrested and shall show it to the person arrested if he so requests”

¹¹³ FDRE constitution (1995), fn 109, art 19(3)

arrest excluding a period of journey¹¹⁴. The arrested person cannot be detained for more than this statutory period provided and during this period, police has to investigate the involvement of the accused in the offence committed. When the accused is brought before the court on time, it allows for the progression of the trial process without unnecessary delays including the presentation of evidence, examination of witnesses, and the opportunity for the accused to present their defence. However, the Police have the power to detain the accused for a longer period than the statutory period by the order of the court for thorough investigation which is called remand detention for crime investigation¹¹⁵.

The constitution provides that, when the court grants such additional time, it has the constitutional obligation to "ensure that the responsible law enforcement authorities carry out the investigation respecting the arrested person's right to a speedy trial"¹¹⁶. In this way, remand is strictly regulated and the strict regulation of remand is guided by the purpose of remand. Remand is requested to undertake specific investigative activities the investigating police officer is seeking to undertake¹¹⁷. Hence, the duration of remand is subject to strict legal limits, which are designed to prevent arbitrary detention and ensure that the individual's rights are protected.

Under the Ethiopian legal system there is no fixed duration of remand for all crimes as different legislation provides different duration of remand and concerning how many times remand is to be granted, the law does not fix the period within which the investigation is to be completed. The courts have a sufficiently clear guideline with respect to the subject matter. In this regard, the FDRE Constitution provides that the period of remand must be "strictly required to carry out the necessary investigation" having regard to the liberty of the suspect and her right to speedy trial¹¹⁸.

Likewise, the 1961 criminal procedure code of Ethiopia also provides for "a sufficient time to enable the investigation to be completed and followed the same arrangement like FDRE

¹¹⁴ Ibid

¹¹⁵ Ibid, art 19(4)

¹¹⁶ Ibid

¹¹⁷ Ethiopian Criminal procedure code, fn 110

¹¹⁸ FDRE Constitution, fn 116

constitution¹¹⁹. The investigating police officer may request a remand for a reasonable amount of time if the inquiry is still on-going¹²⁰. The investigating police officer may request a remand for a reasonable amount of time if the inquiry is still on-going. It is up to the courts to decide how long and how often remand should last. The court that hears the arrest in accordance with Article 29 of the Code will determine whether to release the apprehended individual or keep them in custody¹²¹. Once the court is convinced that remand is justified, the next issue is for how long the arrestee may be remanded. Art 59(3) of the criminal procedure code provides that, the maximum period for each remand is fourteen days¹²². The court can reasonably fix the period which is sufficient to enable the investigating police officer to undertake that part of the investigation in respect of which remand is requested¹²³.

In general, the right to protection against arbitrary arrest is relevant for the enforcement of the right to speedy trial of a suspect by ensuring the production of admissible evidence and avoiding arbitrary detention. If an arrest is made with proper legal justification, it can lead to the admission of evidence obtained through such arrest. The admission of such evidence may strengthen the prosecution's case and potentially lead to the speedy outcome of the trial.

3.5 RIGHT TO PROTECTION AGAINST UNLAWFUL SEARCH AND SEIZURE

The right to protection against unlawful search and seizure is relevant in the context of fair and effective investigation, as it ensures that any evidence gathered during an investigation is obtained lawfully and respectfully. The search should be conducted under the authority of law, fair procedure in a proper manner, and follow the procedure which is established by law as a lawful requisite.

¹¹⁹ Ethiopian Criminal procedure code, fn 117, art 59(3)

¹²⁰ Ibid

¹²¹ Ibid, art 59 (1)

¹²² Ibid

¹²³ FDRE constitution, fn 118

3.5.1 Requisites for lawful search

The privacy of a person which includes, his residence, belongings, property, etc. cannot be intruded by anyone and protected by the Constitution. The Constitution imposes a duty on public officials to respect and protect these rights¹²⁴. Searches for crime investigation are conducted to obtain items that are considered to be used as material evidence during the trial¹²⁵. Search is not limited to physical things out there; search includes the acquisition of every bit of relevant information about the offense and the offender. Search can be conducted either on the arrested person or on the premises of a suspected person and requires probable cause. Probable cause is the minimum amount of information necessary to cause a reasonable person to believe that a crime has been or is being committed by a person who is about to be arrested or suspected¹²⁶. There are certain essential requisites for a lawful search that must be followed unconditionally making it to be conducted only under certain circumstances. Accordingly, a lawful search may be made at the pending investigation with or without a search warrant depending on the circumstances that are envisaged by the law. The law provides that a search can be conducted only in the manner provided for in the Code on the person of arrested persons to obtain evidence that is material to the case under investigation¹²⁷. From the provision, even so, such search is not to be conducted on all arrested persons indiscriminately; rather, the police must have a reasonable suspicion that the arrested person may have any article about her person; and such article is material as evidence in respect of the offence with which the arrested person is accused or suspected of¹²⁸. A search conducted with a warrant must be limited to the specific area and specific items named in the warrant, per the particularity requirement¹²⁹. The court should mention specifically the place to be searched in the search warrant¹³⁰. A

¹²⁴ Ibid, art 26(1)

¹²⁵ Ethiopian Criminal procedure code, 122, art 32(1)

¹²⁶ Simeneh, K, *The law of criminal procedure commentaries and exercise Ethiopia* (2001): unpublished, p.12

¹²⁷ Ethiopian Criminal procedure code, fn 125

¹²⁸ Ibid

¹²⁹ Ibid, art 33(2)

¹³⁰ Ibid

search warrant should also clearly describe the articles sought for seizure¹³¹. As a restriction to the right to privacy, such specificity leaves no discretion for the investigating police officer

A search can also be conducted against an arrested person even without a warrant which could be allowed in some exceptional cases to avoid delay that may result in an impediment of justice¹³². Seizure is the arrest of a suspect to investigate to bring him before a court or to prevent further offenses from being committed by him and the seizing of items that may be considered as evidence during the trial¹³³. A seizure can be conducted on the suspects and some objects which have a relationship to the alleged crime¹³⁴.

Generally, respecting the right to protection against unlawful search and seizure ensures that evidence collected during a lawful search is admissible in court. When searches are conducted under legal safeguards, it maintains the integrity of the evidence and reduces the risk of later challenges to its validity which in turn, facilitates a smoother trial process and minimizes delays caused by evidence disputes

3.6 THE RIGHT TO LEGAL AID COUNSEL

The right to legal aid counsel is a fundamental constitutional right that is protected under the FDRE constitution which is essential in ensuring fair and effective investigation. The participation of the suspected person's lawyer during the crime investigation is very significant in mitigating the imbalance between the state power and the inability of the accused person¹³⁵. The suspect may need legal advice from a lawyer before replying to any questions posed by police officials at custodial interrogation. Without the participation of the lawyer of the suspected person who understands the procedural rules of evidence, the suspect person would be unable to face the police and prosecution actions during the stage of the investigation¹³⁶. Police carry out the interrogation of the suspect¹³⁷, the stage of

¹³¹ Ibid

¹³² Ibid, 32 (2)

¹³³ Simeneh, K, fn 126, p 33

¹³⁴ Ibid

¹³⁵ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Principle 1, adopted by the General Assembly of the United Nation, Res No. 2012/15 of 26 July 201

¹³⁶ Ibid

interrogation is considered as a very dangerous stage where the police can be very biased in obtaining confession by foul means. It is at this point the right to counsel becomes necessary to guarantee the right to a fair trial and the right to legal counsel, of a suspect, is taken as axiomatic¹³⁸.

Accordingly, the FDRE constitution guarantees the suspected person, either to appoint a lawyer of his choice from the moment of arrest or he can ask his government for the appointment of a lawyer to defend his case on a plea that he could not afford a lawyer to defend his own expense due to his destitution¹³⁹. Adequate legal representation is crucial for a fair trial and helps the suspect to understand their rights, navigate the legal process, and present a strong defense. When individuals have access to legal aid counsel, it promotes a more efficient and effective trial by enabling them to actively participate in their defence and make informed decisions, thus contributing to the timely resolution of the case.

3.7 THE RIGHT TO PRESUMED INNOCENCE UNTIL PROVEN GUILTY

Presumption of innocence is a fundamental principle of criminal law that holds that every person suspected of a crime is considered innocent until proven guilty beyond a reasonable doubt¹⁴⁰. The right to presumption of innocence is recognized as one of the principles of criminal justice under the FDRE Constitution¹⁴¹. This principle is an essential safeguard against arbitrary detention and abuse of power by the state, as it requires authorities to demonstrate evidence of guilt rather than relying on mere suspicion or accusation. This right as a legal principle embodies two elements. Firstly prescribing that the state (prosecutor) must bear the burden of proof in a criminal trial and secondly requiring that

¹³⁷ Ethiopian Criminal procedure code, fn 127, art 27

¹³⁸ Alec Samules, 'Legal Representation before the Board of Visitors', 701 *Criminal Law Review* (1989)

¹³⁹ FDRE Constitution, fn 123, art 20(5)

¹⁴⁰ Worku Yaze , *Presumption of Innocence and the Requirement of Proof Beyond Reasonable Doubt: Reflections on Meaning, Scope and their Place under Ethiopian Law*" in Wondwossen Demissie (Ed.), *Human Rights in Criminal Proceedings: Normative and Practical Aspects*, Ethiopian Human Rights Law Series (2010), Vol. III, p. 118

¹⁴¹ FDRE Constitution, fn 139, Art 20(3) provides that during proceedings accused persons have the right to be presumed innocent until proved guilty according to law and not to be compelled to testify against themselves

the guilt of the individual as regards a particular crime be proven beyond reasonable doubt¹⁴².

The suspect's presumption of innocence is crucial in ensuring that investigations are conducted fairly and effectively as it places the burden of proof on the prosecution to present credible evidence that establishes guilt beyond a reasonable doubt¹⁴³. This ensures that investigations are based on facts and evidence rather than speculation or bias, promoting the fairness and effectiveness of the investigation. In general importance of upholding the right to be presumed innocent until proven guilty for the enforcement of the right to a speedy trial lies in promoting fair trials, protecting against unjust detention, and focusing on evidence and due process.

In general upholding the constitutional right of suspect to fair and effective investigation suggest the following illustrative importance for the enforcement of the right to speedy of suspect:

- ❖ **Promotion of Timely Gathering of Evidence:** when the investigations are conducted in a fair and effective manner, law enforcement agencies are more likely to promptly collect and preserve relevant evidence. This ensures that the evidence is readily available for the trial, minimizing delays caused by the need to locate or gather crucial information at a later stage.
- ❖ **Preservation of Evidence Integrity:** upholding the suspect's right to fair and effective investigation helps to preserve the integrity of the evidence. By ensuring that investigations are conducted with proper adherence to legal protocols, evidence is less likely to be compromised or invalidated. This reduces the chances of disputes regarding the admissibility or reliability of evidence during the trial, leading to smoother proceedings and a more expeditious trial process.
- ❖ **Preservation of investigative officer credibility:** When investigations are conducted fairly and effectively, it enhances trust in law enforcement agencies. This confidence encourages cooperation from witnesses, victims, and the general public,

¹⁴²Campbell, L, 'Criminal Labels, the European Convention on Human Rights and the Presumption of Innocence,' *76 Modern Law Review* (2013), No.4, p.681-707

¹⁴³ Simeneh, K, 'The Principle of the Presumption of Innocence and its Challenges in the Ethiopian Criminal Process', *Mizan Law Review*,(2012), Vol. 6, No. 2, p. 287-288

leading to better engagement with the investigative process and facilitating a more efficient trial process.

- ❖ **Bolstering the defence's instance:** when investigations are conducted fairly and effectively, it provides the defence with access to relevant evidence, witness statements, and information necessary for building a robust defences strategy. This empowers the defences to effectively challenge the prosecution's case, reducing the likelihood of unnecessary delays and facilitating a more efficient trial process.

3.8 CONCLUSION

This chapter has examined the constitutional right of the accused to a fair and effective crime investigation and its relevance for the enforcement of the right to a speedy trial for suspects. The constitutional right to a fair and effective crime investigation ensures that individuals accused of crimes are provided with the necessary safeguards to defend their innocence and protect their rights. In the context of the enforcement of the right to a speedy trial, a fair and effective crime investigation is indispensable. Delays in the investigation process can have significant implications the enforcement of the right to speedy trial.

CHAPTER FOUR

4 CAUSE OF INVESTIGATIVE DELAY AND ITS IMPLICATION ON THE ENFORCEMENT OF SPEEDY TRIAL RIGHT

4.1 INTRODUCTION

This chapter discusses the cause of investigative delay and its implication on the enforcement of speedy trial right of suspects in Burayu town. It is crystal clear that the investigative police officer has an inescapable responsibility of investigation before they are sent to court for trial. In this understanding, one would expect that the investigation assignment by the investigative police officer would be completed in time. The police station in the Burayu Town has been facing various challenges that have contributed to the delay in investigations. These challenges have made it difficult for investigators to carry out their duties effectively, leading to delays in investigations. Some of the causes of delay in investigation in Burayu town police station are addressed in this chapter in depth. The chapter also reveals through the findings of the research that delay in the investigation of crime has a far-reaching implication on the enforcement of the right to speedy trial of suspect.

4.2 DEMOGRAPHIC PROFILE OF THE PARTICIPANT

The demographic profile of participants helps researchers make informed interpretations and analyse data in relation to some of the cause of delays in crime investigation. The participant background, particularly their sex and level of education are presented under the following table. Understanding the sex of the respondents can allow for an analysis of whether delays in crime investigation disproportionately affect individuals of a particular gender and the level of education of the respondents provides insights into their educational background, knowledge, and awareness of legal processes and their rights. It helps researchers gauge the level of understanding among respondents regarding the right to a speedy trial and their ability to navigate the legal system.

Table 1 Criminal suspect, investigative police and public prosecutor sex and level of education

S.N			Sex		Level of education				
			M	F	Adult education	1-8	9-12	diploma	Degree and above
1	Criminal suspect	Station							
		Head quarter	12	-	-	-	1	3	8
		Woreda 3	11	4	-	2	4	6	3
		Melka Nono	17	3	1	4	8	5	2
2	Investigative police		7	3	-	-	1	7	2
3	Public prosecutor		5	1	-	-	-	1	5

4.3 CAUSE OF DELAY IN CRIME INVESTIGATION

The investigations by police officers and the prosecution of criminal cases in Burayu town face a lot of challenges which leads to the delay of collection of evidence and results in the delay in the investigation of crime. Based on the responses from questionnaires completed and interviews with respondents, the researcher classified the factors that contributed to cause delay in crime investigation at Burayu town police station and prosecution office into the personal cause of the investigative police officer, public prosecutor, and victim of crime, the institutional and the legal cause.

4.3.1 Personal cause of investigative police officer, public prosecutor and victim of crime

If an investigating officer holds a sense that any crime has been committed, then they initiate the criminal justice process by investigating the identification of possible

suspects.¹⁴⁴ If sufficient evidence points to a specific individual as being responsible for a criminal act, then it is likely that they will be taken into police custody after being identified¹⁴⁵. In this regard, a senior investigative police officer interviewed by the researcher disclosed that 'some investigating police officers at the Burayu town police station do not commence investigation into an alleged offence without first having the accused person being put in custody¹⁴⁶. This in the opinion of the respondent infringes upon the right to liberty of the accused persons and breach of the ethical conduct of the investigator to respect the rights of accused persons¹⁴⁷. The respondent added that some investigative police officers make procedural errors such as following the arrest, the investigating police officer failing to bring the suspect to the nearest court within 48 hours of the arrest¹⁴⁸ and where the investigation is not finalized; the investigating police officer may plead the court for remand to have ample time to complete the investigation¹⁴⁹. However, sometimes they disregard the time of remand without any initiation to complete the investigation, failing to properly document evidence and trying to request another period of remand which results in the investigation being delayed¹⁵⁰

The procedural error during crime investigation is not solely made by investigative police officers as the interviewed public prosecutor disclosed, some public prosecutors are also less serious in prosecuting or ordering further investigation within the minimum possible time for delay in prosecutorial decision making causing the denial of rights of the accused to speedy trial¹⁵¹. This power is vested in the prosecutor on the assumption that as soon as she/he receives the police investigation report she/he will examine it. The respondent stated the obvious that because of the insurmountable case backlog, the public prosecutor examines the police investigation report after it is too late and the police could do very

¹⁴⁴ Criminal Procedure Code of Ethiopia, fn 137,art 22(1)

¹⁴⁵ Ibid, art 26(1)

¹⁴⁶ Interview with sajin Chala Teshoma, justice delivery division head, investigative police officer at the Burayu town police station, (Burayu, done at his Office on 11/7/2015)

¹⁴⁷ Ibid

¹⁴⁸ Criminal Procedure Code of Ethiopia, fn 145,art 29(1)

¹⁴⁹ Ibid, 59(2)

¹⁵⁰ Interview with Ato Chala Teshoma, fn 146

¹⁵¹ Interview with shimelis Mulugeta, Prosecutor at Burayu town prosecutor office, (Burayu, Done at his Office on 13/ 7/2015)

little by way of further investigation¹⁵². The response of the police to the request of the public prosecutor also occurs only after a delay sometimes taking two months or even more¹⁵³. The investigation files at the Burayu town police station mentioned below reveal the procedural error and disregard by the investigating officers of their obligation to complete an investigation within a reasonable time.

In one case¹⁵⁴, the accusation was brought to the investigating officer on 10/6/2015 and the investigation was started on 21/6/2015 and finalized after a delay on 27/8/2015. The investigation diary of this investigation report shows that the overall investigation took more than two months. Based on the foregoing cases it is concluded that there is a delay in crime investigation owing to the negligence of the investigating officers to execute their tasks within the time limit set by law.

In quite a lot of cases, victims of crime lack an interest to pursue their case once the suspect is arrested. They become unwilling to come to police stations for further investigation. Burayu town is a big city where a large number of people have moved on; it has become difficult to investigate crimes¹⁵⁵. Victims are either unknown or travel to other places, making the investigation difficult particularly when the crime is punishable by accusation.¹⁵⁶

4.3.2 The institutional cause

Institutional cause refers to various causes within the institutional framework of Burayu town police station and prosecutor's office that can slow down the investigation of crimes in that specific area and those affecting the investigation and prosecution office. Some of the institutional factors identified from the responses of interviewees and questionnaires by the researcher are the shortage of staff and skilled personnel on the investigation, shortage of investigation equipment and poor investigation technique, inadequate collaboration between prosecutor and investigating officer, low skill, incompetence and inadequate

¹⁵² Ibid

¹⁵³ Ibid

¹⁵⁴ *Burayu town police station woreda 2 vs. Tarecha Alemu*, police station investigation file no QP/K/M/A2/82797/2015, Burayu, unpublished

¹⁵⁵ Interview with commander Tesfaye Niguse, Head of crime investigation department of Burayu town police station, corruption crime investigation division, (Burayu, done at his office on 11/7/2015)

¹⁵⁶ Ibid

number of public prosecutor, low budget, medical problem and change of investigative police officer.

4.3.2.1 Shortage of staff and skilled personnel on investigation

Investigation is a field that requires skills, just like any other activity. The investigators need to possess the necessary skills to effectively collect admissible evidence for prosecution. In this regard, the Business Processing Re-engineering (BPR) Guidelines for Investigators provide that investigation is a profession demanding the highest personal integrity and persons responsible for the conduct of an investigation should demonstrate competence¹⁵⁷ However, if the number of manpower assigned to a given investigation is below the required number, then the quality and timeliness of the investigation report for prosecution will be severely affected leading to delayed and poor-quality investigation output. In this regard, the interviewed investigative officer discloses that in Burayu town police station, the growth of crime rate have increased the workload of investigative personnel too burdensome, while their capacity remained more or less at the same level¹⁵⁸. Due to this shortage of skilled police personnel, an investigation almost invariably takes several days/months even in the less complicated cases. For instance, in the case of the public prosecutor vs. Birhanu Alemayo, the suspect is found red-handed while committing a crime of theft. The investigation started on 10/6/2015 and completed on 01/7/2015¹⁵⁹.

The case highlights the investigation into the crime committed by the suspect, took almost a month to complete, which could have been avoided if there were enough police personnel to handle the investigation on time as the suspect was found red-handed while committing the crime. The case implies that even the investigation of the flagrant offense is not completed on time

In the station there existed an inefficient number of police investigators compared to population and crime rates. There is a positive relationship between large populations and crime rates. However, this relationship varied depending on socio-economic conditions and

¹⁵⁷ Oromia national regional state, the oromia police commission and justice Bureau, Business Processing Reengineering manual, 2006 E.C

¹⁵⁸ Interview with ato chala Teshoma fn 150

¹⁵⁹ *Public prosecutor vs. Birhanu Alamayo* ,file No W/AA/BMB/ 5024 ,Burayu, Unpublished

the effectiveness of law enforcement¹⁶⁰. In Burayu Town police station there are only 16 investigative police officers¹⁶¹ all of whom are stationed and conduct investigations in Burayu Town police station headquarters. This implies the number of investigative police officers is not commensurate with the number of crimes committed in and surrounding the town and reported to the station. Within a year more than 900 accusations of different crimes were reported to the station¹⁶².

The investigator has applied the Business Processing Re-engineering manual (BPR) to measure the efficiency of their functions¹⁶³. Accordingly, the document classifies crimes into serious, medium, and simple offenses, specifying the time within which their investigations should be completed. For example, the time needed to investigate serious and complex crimes is expected to be completed within one month. The investigations into medium-level crimes may be expected to be completed within 15 days, while investigations into simple crimes may be expected to be completed within five days¹⁶⁴. These time frames are intended to ensure that investigations are conducted in a timely and efficient manner, while also allowing for thorough and accurate investigations to take place. However, according to the response of the interviewee, the investigation into an accusation received concerning a very serious crime takes more than two -five months to complete¹⁶⁵. The presence of a limited number of investigative officers at the station contributes to a backlog of accusations that await investigation. Additionally, assigning an excessive number of cases to a single investigator diminishes their capacity to conduct efficient and productive investigative work. The most important of the prejudices as a result of the caseload of the investigation officer is the denial of the right of the accused to speedy trial since the investigator cannot complete the investigation of the files within the shortest possible time.

¹⁶⁰ Machin, S, 'Crime and economic incentives, *Journal of Human Resources*', (2004), 39(4), p, 958-979

¹⁶¹ commander Tesfaye Niguse, fn 156

¹⁶² Burayu town police station annual performance report for the year 2014

¹⁶³ Business Processing Reengineering manual (2006), fn 157

¹⁶⁴ Ibid, p 38

¹⁶⁵ commander Tesfaye Niguse, fn 161

The skill of crime investigators is key to effective and impartial crime investigations¹⁶⁶. Crime investigators must have basic skills and experience in the investigation of crime¹⁶⁷. At Burayu town police station, there is a scarcity of skilled police officers who have received specialized training in conducting investigations. Based on data collected through questionnaires, it was found that out of the total of 10 investigative police officers at Burayu town police station, only 7 hold a diploma certificate. This presents a challenge as there is a limited availability of highly skilled investigators to efficiently carry out investigative activities. The public prosecutor whom the researcher contacted also disclosed that, 'some investigators have insufficient skills and that they sometimes gather evidence that is not even remotely related to the case at hand which causes a delay in crime investigation and the production of incomplete investigation reports.'¹⁶⁸ The other prosecutor interviewed by the researcher also acknowledged the fact that investigators lack the necessary skills to effectively investigate crime¹⁶⁹. This lack of staff expertise has also meant that some cases had to be outsourced to the investigation police officer¹⁷⁰. It is worth noting that some of the investigating police officers at Burayu town police station partially have an understanding of the fundamental rights of the suspect's right to a speedy trial, however, the insufficient number of investigators and the gap in skills of investigating officers is causing a delay of crime investigation¹⁷¹.

4.3.2.2 Shortage of investigation equipment and poor investigation technique

Crime investigation is a complex process that requires a combination of equipment and techniques to be successful. In contrast to this, one of the interviewees, Commander Tesfaye Niguse disclosed that "in Burayu town police station lack of proper equipment are seen as significant causes of delays in the investigation process"¹⁷². Due to limited

¹⁶⁶ United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators, fn 239

¹⁶⁷ Ibid

¹⁶⁸ Ato Shimalis Mulugeta, fn 153

¹⁶⁹ Interview with Ato Ayala Dhaba, Prosecutor at Burayu town prosecutor office ,(Burayu, Done at his office on 13/7/2015)

¹⁷⁰ Ibid

¹⁷¹ ibid

¹⁷² commander Tesfaye Niguse, fn 165

resources, the investigative police officers of the stations are inadequately equipped and lack essential tools such as computers, internet connection, vehicles, fingerprint analysis kits, and other equipment necessary for conducting effective investigations¹⁷³. These limitations have made it difficult to complete investigations within a reasonable timeframe, further complicating the already challenging work of the investigative police officer¹⁷⁴.

During an interview with another investigative officer, the investigator acknowledged the fact that "the system employed by the investigative police officers for conducting investigations into cases has become obsolete"¹⁷⁵. The respondent added that, due to age old technique of investigation, the investigative police officer is not able to collect evidence effectively and quickly resulting in delayed investigation¹⁷⁶. This result delayed disposal of the case which affects the enforcement of the right to speedy trial of criminal suspects. The interviewee also discloses that, nowadays due to technological development criminals suspect are committing crimes in a much-planned manner by using scientifically developed measures.¹⁷⁷ Such type of criminal activity may be checked and the guilty person can be identified if the investigating police officer is well trained and equipped to do scientific investigation. But as the station, "we face not only the shortage, totally we have no scientific instrument to conduct an investigation."¹⁷⁸

Almost all investigative police officers at the station use out dated technology. They still rely on a paper-based system of handwriting for record-keeping, as well as collecting and managing information from suspects and evidence from witnesses.¹⁷⁹ This can slow down investigations, which exacerbates the problem of delays, as the investigative officers must manually search through files and paperwork¹⁸⁰. In addition to this, a crime committed in a remote area far from Burayu town, where there is no nearby police station, can hinder

¹⁷³ Ibid

¹⁷⁴ Ibid

¹⁷⁵ Interview with Ms Alami Dhaba, Assistant inspector and case team head , (Burayu, done at her office on 11/72015)

¹⁷⁶ Ibid

¹⁷⁷ Ibid

¹⁷⁸ Ibid

¹⁷⁹ Commander Tesfaye Niguse, fn 174

¹⁸⁰ Ibid

investigative police officers from reaching the site immediately after the commission of crime for investigation due to a shortage of vehicles¹⁸¹. This can result in interference by citizens who unknowingly are late to a crime scene and destroy all evidence of the crime¹⁸². Due to the absence of advanced technology, the recovery of the destroyed evidence causes delays in the crime investigation¹⁸³. Another interviewee added that some of the investigative police officers use a poor interviewing skill which makes the investigation difficult for investigators to extract relevant information from witnesses and suspects. This can lead to delays in the investigation process as investigators may have to conduct multiple interviews to gather all the necessary information¹⁸⁴. Every day, investigative police officers carry out investigations and collect evidence without rest. However, their continuous work led to a lack of attention to the details of the investigation, resulting in poor investigation techniques¹⁸⁵. This, in turn, causes crucial evidence to be overlooked, leading to delays in the investigation process¹⁸⁶. Fingerprint analysis kits are also essential in crime investigation as they help to identify suspects based on their fingerprints¹⁸⁷. It is a widely used technique for identifying suspects and linking them to a crime scene¹⁸⁸. In Burayu town police station, the shortage of fingerprint analysis kits causes significant delays in the investigation process. Investigators may have to wait for weeks or even a month to receive the results of fingerprint analysis, which can hinder their ability to identify suspects and solve cases on time¹⁸⁹.

4.3.2.3 Inadequate collaboration between prosecutor and investigative officer

Inadequate collaboration between prosecutors and investigative officers refers to a situation where there is a lack of effective coordination and communication between these two key

¹⁸¹ Ibid

¹⁸² Ibid

¹⁸³ Ibid

¹⁸⁴ Interview with sajin Chala Teshoma, fn 158

¹⁸⁵ Ibid

¹⁸⁶ Ibid

¹⁸⁷ Lee, H & Gaensslen, R, '*Advances in fingerprint technology*,' (2011), CRC Press

¹⁸⁸ Ibid

¹⁸⁹ Interview with sajin Olana Kenisa, Crime investigator, (Burayu, done at his office on 11/7/2015)

components of the criminal justice system. Effective collaboration among stakeholders can be achieved when the concerned stakeholders work together¹⁹⁰.

The successful completion of a crime investigation requires close cooperation between the public prosecutor and investigative officer. The prosecutor may give the investigating officer appropriate orders and directions so that the latter performs the order according to the law¹⁹¹ and the investigator is duty-bound to gather all the necessary information regarding an alleged crime¹⁹². The public prosecutor based on the information obtained from the investigator decides whether to institute charges or not¹⁹³.

The collaboration between the prosecutor and investigator is important in the investigation of sophisticated crime which requires close cooperation between the law enforcement agencies. Before the implementation of the BPR document, there was no such collaboration between the prosecutors and investigating officers at the Burayu town police station as they ruled out the collaboration in the name of maintaining each other's professional independence¹⁹⁴. This leads to the production of incomplete investigation reports, a repetitive exchange of investigation reports between the investigating officer and the prosecutor, and delays in the decision-making process by the prosecutor.¹⁹⁵ Today, somehow after the promulgation of the BPR document there is collaboration between the investigating officer and the prosecutor at Burayu town police station.¹⁹⁶ However, there is a very small number of prosecutors with too much caseload has made the collaboration inadequate.¹⁹⁷ The existence of very few prosecutors has not permitted the level of collaboration that should exist between the prosecutor and the investigator to the level expected. At the station out of nine (9) prosecutors, only two prosecutors were assigned

¹⁹⁰ Koenig,R, *Police and prosecutors: The partnership that can make a difference*, (2015)

¹⁹¹ The criminal Procedure code of Ethiopia, fn 149, art 8(2)

¹⁹² Ibid, art, 9(b)

¹⁹³ Ibid, art 38(a) ,(d)

¹⁹⁴ Sajin Chala Teshoma, fn 186

¹⁹⁵ Ibid

¹⁹⁶ Ibid

¹⁹⁷ Ibid

with 16 investigative officers results a large number of investigative officers to conduct the investigation solely.¹⁹⁸

The number of public prosecutors is not commensurate with the number of investigative police officers; some investigative officers produce an incomplete investigation report, especially in complex and serious crimes the prosecutor will return it to the investigating officer even in a repeated way so that s/he conducts further investigation. This sending investigation reports back to the investigation officer will continue until a complete investigation report is produced by the investigator.¹⁹⁹ The unnecessary delays because of forwarding the investigation report back to the investigator are detrimental to the accused right to a speedy trial. For example, in the 2014 budget year 74 files related to corruption offenses were investigated and presented by an investigative police officer for a prosecutorial decision. Out of the overall file, the prosecutor ordered the further investigation of 38 files²⁰⁰. Returning the investigation report to the investigative officer has adverse consequences, including a decrease in the quality of charges and delays in the investigation process. When the investigation report is sent back to the investigative officer, it necessitates restarting the entire investigation process from the beginning. This can cause witnesses to testify again in which case they lose the will and interest to come again to give their testimony. This time, it becomes more cumbersome whenever to get testimony of all witnesses at a time.

4.3.2.4 Low skill and incompetence of public prosecutor

The low skill and incompetence public prosecutors have been identified as the other causes of delays in crime investigation at Burayu town police station. Public prosecutors are responsible for representing the state in criminal cases and ensuring that justice is served. However, due to the shortage of skilled and competent prosecutors, many cases remain unresolved for extended periods at the station. In this regard, the public prosecutor whom the researcher met disclosed that "in our office, the gap in skills and competence could still be observed even after the prosecutor is inducted into the prosecutorial training program as many of prosecutors lack the necessary skills and knowledge to handle complex criminal

¹⁹⁸ Ibid

¹⁹⁹ Ibid

²⁰⁰ Interview with commander Tesfaye Niguse, fn 183

cases²⁰¹. The other prosecutor argued that there are, “some incompetent prosecutors” because among nine (9) prosecutors only two have a Master's degree and the rest have a first degree with low experience in work directly related to law²⁰². As a result, deficiencies in prosecutorial skills and competence have been found to cause the delay in the investigation process resulting in the denial of the accused's right to speedy trial.

4.3.2.5 Low budget and medical problem

Low budget and medical problems significantly impact the efficiency and effectiveness of crime investigations at Burayu town police station. When law enforcement agencies have limited budgets, they may not have success to the necessary resources to conduct thorough investigations. In this regard, one of the respondents, Commander Shito Gezany argues that "investigative police officer requires adequate funding to carry out their duties effectively, including collecting evidence, conducting forensic tests, and analysing data.²⁰³ However, "not only as Burayu town police station but as a country, the police sector has a very narrow budget for conducting investigation activities.²⁰⁴ The budget allotted for the police department in one budget year is very narrow to allow the recruitment of new officers to increase power in the police force, especially the investigation department.²⁰⁵ One of the main challenges faced by the station due to a shortage of budget is the lack of resources.²⁰⁶ This results in a lack of necessary equipment or technology to efficiently collect and analyse evidence. For instance, the investigative officers do not have access to DNA testing facilities, which can significantly delay the investigation process.²⁰⁷

The respondent also argues that "sometimes during the collection of evidence relating to a crime, the investigators may collect body tissues to determine the DNA and fingerprint

²⁰¹ Ato Ayala Dhaba, fn 171

²⁰² Interview with Abashu Gudisa, public prosecutor, (Burayu, done at his officer on 13/7/2015)

²⁰³ Interview with commander Shito Gezany, the Burayu town police station head, (Burayu, done at her officer on 11/7/2015)

²⁰⁴ Ibid

²⁰⁵ Ibid

²⁰⁶ Ibid

²⁰⁷ Ibid

connected to the offender.²⁰⁸ When a victim or suspect requires medical attention, such as a rape kit or DNA testing, it can take time to schedule and complete these tests. This delay can impact the investigation process as crucial evidence may not be available until the test results are received. Most of the time not all the medical tests are conclusive and require further analysis, which can further delay the investigation.²⁰⁹

Medical institutions despite their willingness are not easily cooperative and unable to produce evidence.²¹⁰ It usually takes a long time to acquire evidence from them. In such cases, the investigators have to wait for a period of three to six months to get the result.²¹¹

4.3.2.6 Change of investigative police officer

In some circumstances, while an investigation is on-going, an investigator may be changed. The interviewed police officers told the researcher that the " main reason for the change of an investigator is tactical switch when the first could not find tangible evidence or investigators may travel to other places or changed as a result of relation with either the victim or the suspect."²¹² In this case, the new investigator needs time to familiarize him with the details of the case including the evidence, witness, and suspect and during this period, the investigation may stall.²¹³ The other investigative officers argue that, the new investigator may have a different approach or methodology than the previous investigator and in some cases, to apply different investigation techniques; the investigator may begin from zero.²¹⁴ He may call and examine witnesses who were already been examined which can lead to a change in the direction or focus of the investigation, which can further delay in progress.²¹⁵ In addition to this, most of the time the newly assigned investigator handles multiple cases, and as a result, he/she is not able to devote as much time and attention to

²⁰⁸ Interview with commander Tesfaye Niguse, fn 200

²⁰⁹ Ibid

²¹⁰ Ibid

²¹¹ Ibid

²¹² Sajin Chala Teshoma, fn 199

²¹³ Ibid

²¹⁴ Interview with sajin Olana Kenisa, fn 189

²¹⁵ Ibid

the new case as necessary.²¹⁶ Furthermore, there is a problem that, the previous investigator did not properly document or transfer all the relevant information and evidence to the new investigator, this can cause further delay²¹⁷.

4.3.3 Legal cause of delay: remand

Remand of the suspect can significantly delay the investigation process. The gap in the criminal procedure code which provides only the maximum duration of remand without fixing the maximum number of occasion remand is to be given by a court or requested by an investigative police officer open the door to the investigative police officer to request remand again and again under the excuse of completing the investigation. The provision of the code ²¹⁸ prescribes only the giving of 14 days on each occasion without fixing the maximum number of occasions remand is to be given. This gap also leaves the fixing of the maximum number of occasions to the discretionary power of the court and the courts are willing to grant remand of the suspect on the application of the investigating officer for ample time to complete the investigation. In this regard, at the Burayu town police station, out of the 42 questionnaires filled out by criminal suspects, remand was requested for 31 suspects, and more than two times for 23 suspects. Similarly asked the judge as to whether the courts are repeatedly granting remand of the suspect based on the mere application of the investigation officer to complete the investigation, a judge at Burayu town woreda court, responded that if the court finds the granting of remand to be inevitable, then it first tries to convince the suspect the reason for and the fact of his/her of being remanded.²¹⁹ The judge explained that "the reason for granting an unlimited remand was due to a gap in the criminal procedure code."²²⁰ This gap became apparent in a specific case involving Burayu town, Melka Nono police station vs Alemayo Gelan, the suspect was arrested on suspicion of a corruption crime on 7/5/2015 and remanded for investigation at the Burayu town, Melka Nono police station on 10/5/2015. Initially, the suspect was arrested and remanded for 14 days, during which the police conducted their investigations. However,

²¹⁶ Ibid

²¹⁷ Ibid

²¹⁸ Ethiopian Criminal procedure code, fn 193

²¹⁹ Interview with Ato Mansur Mohamed, A Judge at the Burayu town woreda court, criminal bench, (Burayu, Done at his Office on 15/7/2015)

²²⁰ Ethiopian Criminal procedure code, fn 218

after the initial remand period had expired, the police requested an extension of the remand for another 14 days; citing the need for further investigation. This cycle resulted in the suspect being remanded for investigation multiple times, with each remand period accompanied by the investigative police officer requesting more time to gather evidence²²¹. This case illustrated how this gap led to multiple remands and subsequent delays in investigations, ultimately affecting the suspect's right to a speedy trial. Similarly, when examining the responses obtained from the questionnaires filled out by 42 criminal suspects, it was revealed that 18 of them indicated that the investigations into the crimes they were suspected of had not been completed within the initial round of remand time. This further highlights the recurring issue of investigations exceeding the designated remand period and the resulting delays in concluding criminal cases.

4.4 IMPLICATION OF INVESTIGATIVE DELAY ON THE ENFORCEMENT OF SPEEDY TRIAL RIGHT

Enforcing the right to a speedy trial is essential for ensuring that justice is served promptly and fairly. The effective and efficient enforcement of this right requires the awareness and claim of the right by the concerned body. However, awareness and the claim of the right to a speedy trial are problematic for all actors of criminal justice in Burayu town. Lawyers' awareness of the right is good as they are professionally trained, experts in the field. However, problems exist with investigative police officers who most of the time disregard the rights of suspects to speedy trial. In this regard, questionnaires distributed to the investigative officer are questioned as "Do you know where the suspect's right to speedy trial starts"? 7 out of 10 investigative officers filed the questionnaires, as the right to speedy trial starts at the stage of trial. Only 3 out of 10 investigative officers filed the questionnaires as the right to speedy trial started from the time of the arrest to the criminal case is resolved. From this, non-awareness by the 7 investigative officers from where the right started to operate makes them disregard and forget the issue of the right and complete the investigation at any time they prefer. In relation to this, the response of 38 out of 42 suspects to the question, "Do you think that the investigative police officers consider your right to a speedy trial during crime investigation?" reveals that the investigative officers do

²²¹*Burayu town Melka Noono police station vs. Alemayo Gelan*, investigation file No, WAAKMMN/0007/15, Burayu, unpublished

not consider the right of the suspect to a speedy trial during crime investigations. Similar questionnaires to the investigative officer filed by the public prosecutor and 5 out of 6 prosecutors filed as the right starting from the time the police apprehended the criminal suspect. However, due to the inadequate cooperation between them stated above under 4.3.2.3, they didn't share this experience. The level of awareness on the part of the accused regarding their right to a speedy trial can be measured by how often they claim this right. During interviews with judges on the matter, the judge noted that "the awareness and claim of the right to a speedy trial by the accused is weaker compared to other rights."²²² Accused persons do not usually claim, as of right, that their right to a speedy trial has been violated due to delay in the investigation.²²³ In this regard for the questionnaire "do you claim your right against the police before the court if the investigation of the crime you are suspected of is delayed"? Out of 42 criminal suspect respondents, 34 answered that they didn't claim their rights.

The delay in the investigation of a crime can have a significant implication on the enforcement of the right to a speedy trial of a suspect. When crime investigations are delayed, the enforcement of the right to a speedy trial of suspects can be compromised. This is because the longer it takes for a crime to be investigated, the longer the defendant is held in police custody awaiting trial. The implication of delay in the investigation of crime on the enforcement of the right to speedy trial includes the elongation of the case to go to trial and prolonged pre-trial detention, Distortion of evidence of the case against the suspect and Backlog of suspect's case awaiting investigation.

4.4.1 Elongation of the case to go to trial and prolonged pre-trial detention

The right to speedy trial is intended to ensure that individuals are not subjected to unnecessary and unjustified periods of incarceration before their guilt or innocence is determined in a court of law.²²⁴ However, the elongation of the case to go the trial resulting from a delay in crime investigation can result in an individual's being held in prolonged pre-trial detention for extended periods. When investigations are delayed, the duration of pre-trial detention can be significantly extended. This occurs when suspects are

²²² Interview with Ato Mansur Mohamed, fn 219

²²³ Ibid

²²⁴ Speedy Trial, Merriam-Webster Online Dictionary, fn 36

held in custody awaiting the completion of investigation procedures, the collection of evidence, or the readiness of the prosecution to proceed with the trial. The questionnaires filed by the suspect on the question, "When did you come to this police station? Prove this fact as out of 42 suspects, 29 suspects' filled questionnaires as they were stationed for more than one month at the station. As a result, individuals may be deprived of their liberty for prolonged periods without resolution or a fair opportunity to defend themselves. The judge inquired by the researcher also responded that "some of the investigative police officer arrest and take a person to court without full of evidence that proves the allegation and it is likely for a court to permit additional time to allow the investigative officer to collect evidence.²²⁵ This situation elongates the time of conducting a hearing of a case and it may take a long time to reach the end.²²⁶ In some circumstances, the suspected person tends to take more than five to eight month or even a year before reaching the end of a suit for a fact that complete evidence is not presented by the investigative officer.²²⁷

4.4.2 Distortion of evidence of the case against the suspect

A suit that takes a long time due to delay in investigation gives a chance to the investigator either to interfere or fabricate evidence or any other activity which may destroy a suit. Destruction of evidence is the same as the destruction of a suit itself because no decision can be made by the court without seeing supportive evidence from prosecutors to prove the allegation instituted against the suspected person. In this regard, the case of Public Prosecutor vs Fayisa Dhaba involves the alleged distortion of evidence by an investigative police officer which hindered the enforcement of the suspect's right to speedy trial. The fact of the case is that the suspect was arrested in Burayu town for the alleged crime of assault with a deadly weapon. Following his arrest the investigative police officer started the investigation of the crime and took the suspect to court and repeatedly requested remand and the trial of the case was delayed due to numerous remand. During this time the investigative police officer allegedly failed to provide the defence with key evidence that would have been necessary for the timely enforcement suspect's right to speedy trial. As such the accused attorney argued that the accused right to speedy trial had been violated as

²²⁵ Interview with ato Abdukeidir Gebayo, a judge at Burayu town Woreda Court, Criminal Bench ,done at his office on 15/7/2015

²²⁶ Ibid

²²⁷ Ibid

the investigative police officer had deliberately distorted the evidence to delay the process. The court ruled in favour of the accused, stating that the investigative officer had indeed distorted the evidence which had hindered the accused right to speedy trial.²²⁸ The case shows how the distortion of evidence resulting from a delay in crime investigation by the investigator can impact the enforcement accused right to speedy trial.

4.4.3 Backlog of Suspects Case Awaiting investigation

Delay in crime investigation can lead to a backlog of cases at police. This can result in a longer wait time for the suspect to have their case heard, which can further compromise his/her enforcement of the right to a speedy trial. When a backlog of cases accumulates, it can result in a long time waiting for the trial to occur, which can make it more difficult for them to effectively manage the cases that are before them.

4.5 CONCLUSION

This chapter has shed light on the causes of investigative delay and their implications on the enforcement of the right to a speedy trial. The findings presented a range of cause of investigative delay and illuminated their significant implications on the enforcement of the right to a speedy trial. Building upon the insights gained from this chapter, the subsequent chapter aims to provide a comprehensive conclusion and recommendations to address the identified issues. By synthesizing the research findings and analysing their implications, the next chapter offers actionable recommendations to mitigate delays in crime investigation and enhance the enforcement of the right to a speedy trial and the conclusion highlight the importance of fostering a culture of efficiency, collaboration, and adherence to legal timelines within the criminal justice system.

²²⁸*Public prosecutors vs. Fayisa Dhaba, Burayu, town woreda court, criminal bench, file no. W/AA/BMB/5029/2015 [Unpublished]*

CHAPTER FIVE

5 CONCLUSIONS AND RECCOMENDATION

5.1 INTRODUCTION

This final chapter draw upon the insights and findings presented throughout this study to provide a comprehensive conclusion and set actionable recommendations. The preceding chapters have explored the various aspects of cause investigative delays and their implications on the enforcement of the right to a speedy trial of suspect. This chapter serves as the culmination of the study, aiming to synthesize the knowledge gained, analysing its significance, and offer practical solutions to address the identified challenges. The conclusion provide a concise summary of the key findings, while the recommendations outline specific steps that can be taken to mitigate investigative delay and enhance the efficiency of crime investigation processes. The conclusion and recommendations not only address the immediate concerns of delays in crime investigation but also emphasize the importance of upholding the constitutional right of the suspect during crime investigation in ensuring the enforcement of the right to speedy trial.

5.2 CONCLUSIONS

This thesis has tried primarily to identify the cause of delay in crime investigation and its implication on the enforcement of a suspect's right to speedy trial. The constitutional right of the suspect to a fair and effective crime investigation is essential for the enforcement of the right to a speedy trial as a fair and effective crime investigation is used to ensure the innocent are not convicted and the guilty are brought to justice. Despite this, at Burayu Town the enforcement of this right is highly challenged by delays in investigation caused by the personal cause of investigative police officer, public prosecutor, and victim of crime, the institutional and the legal cause. The personal causes of delay are resulted from the abuse of investigative power by some investigating officers, procedural errors in the investigation process, the lack of prompt action by public prosecutors, and the victim's hesitation to pursue their cases after a suspect has been arrested. The institutional cause of delay poses significant challenges to the timeliness and quality of crime investigations at the Burayu town police station. The workload on investigative personnel at the station has become overwhelming due to the growing crime rate and complexity of cases; while the

capacity of investigative officers remains stagnant which results, in even investigations into flagrant offenses, taking an unreasonably long time to complete.

Limited resources at the station have resulted in a lack of essential tools and equipment, necessary for conducting thorough investigations which extends the time required to complete investigations, especially in cases where crimes occur in remote areas when evidence has been destroyed due to delays in reaching the crime scene. Inadequate interviewing skills and a lack of attention to detail can result in investigators struggling to extract relevant information from witnesses and suspects as the investigator conducting multiple interviews to gather crucial information which results in prolonging the investigation process. The inadequate collaboration between prosecutors and investigating officers at the Burayu town police station has significant implications for the efficiency and effectiveness of the investigation process as it's crucial in the investigation of sophisticated crimes that require close coordination between law enforcement agencies. While prosecutors are expected to possess a comprehensive understanding of the law, many of the prosecutors at Burayu town still lack the necessary skills and knowledge to handle complex criminal cases which is further exacerbated by the fact that the majority of prosecutors hold only a bachelor's degree with limited experience in law-related work. The impact of budgetary constraints and medical challenges is twofold. Firstly, the lack of necessary resources hampers the efficiency and thoroughness of the investigation process, potentially leading to incomplete or inconclusive findings. Secondly, the delays caused by medical procedures and the unavailability of timely evidence negatively affect the overall timeline of investigations, impeding the speedy resolution of cases. The existing gap in the criminal procedure code, which does not specify a maximum number of occasions for remand, allows investigative police officers to repeatedly request remand under the pretext of completing the investigation.

Although, the Ethiopian criminal procedure code emphasizes the prompt and efficient investigation of criminal cases to ensure the effective enforcement of the right to speedy trial, delays in crime investigations at the Burayu town police station pose challenges to the enforcement of this right. Awareness and the claim of the right to a speedy trial are problematic across various actors and sectors of the criminal justice system in Burayu town. Although, there have been instances where accused persons, assisted by their advocates, have claimed a violation of their right to a speedy trial the level of awareness

and claim of the right to a speedy trial is weaker compared to another right as they do not assert their right to a speedy trial when faced with delays in the investigation. The delay in crime investigation has a profound impact on the enforcement of the suspect's right to a speedy trial.

5.3 RECOMMENDATIONS

Recommendation to Oromia Police commission

To remedy the delay of investigation caused by Shortage of staff, skilled personnel on investigation and change of investigative police officer

- ❖ The number of investigating police should be increased in order that the number becomes commensurate with the increasing number of crime rate allegations reported to the station monthly/yearly
- ❖ It is good if continuous trainings and education in which the investigative police officer deals with investigation given to the investigator so that the existing gap in skill relating to gathering, analysis and preservation of evidence can be filled.
- ❖ The commission should cause to give human right education particularly on suspect's right to speedy trial and legal awareness to its investigating police staff so that investigating of crime is conducted based on the law and respecting the right of suspect persons.
- ❖ The commission has to establish standardized procedures and guidelines for the handover process when investigative police officers are transferred. This should include a clear protocol for transferring case files, evidence, and relevant information to ensure a smooth transition and minimize delays.

Recommendations to the Oromia Attorney General

To remedy delay caused by low skill, incompetence and inadequate number of public prosecutor

- ❖ More prosecutors should be hired in order that the number of prosecutors at the Burayu town becomes equivalent to the prosecutorial function and hence, there can be efficient prosecution function within the shortest possible time as required by the law.

- ❖ The Oromia attorney general should give continuous education and training to its prosecutors so as to do away with delay of crime investigation resulting from gaps in low skills and incompetence in decision making capacity.
- ❖ The Oromia Attorney General should cause measure to be taken, based on the law, against those public prosecutors who are found to make procedural error in prosecutorial decision making causes the denial of rights of the accused to speedy trial.

Recommendations Burayu town public prosecutor office

- ❖ It is recommended that strict administrative action must be taken against prosecutor who wilful cause loss of information and evidence which force police officers to go back to find other evidence which elongate time in investigation.

Recommendation to the Burayu town police station

To remedy delay caused by low budget, shortage of investigation equipment and poor investigation techniques

- ❖ In case the budget allocated by regional government is insufficient, the station has to seek reach out to the local government authorities, such as the town council or relevant departments, to explain the situation and request additional funding for the investigation by present a compelling case highlighting the importance of swift investigations for maintaining law and order in the town
- ❖ The station has to explore opportunities for grants from governmental or non-governmental organizations that work in the field of justice, human rights, or community development as some NGOs may have funding programs or resources specifically designed to support investigations in areas facing budget constraints.
- ❖ The station has to reach out to external agencies, law enforcement departments, or relevant organizations that may be able to provide the required materials or collaborate with neighbouring jurisdictions, forensic laboratories that could lend or share resources to alleviate the material shortage or establish partnerships and exchange agreements to facilitate the sharing of resources in the future.

Recommendation to the legislator

To remedy the delay caused by remand

- ❖ The provisions of the criminal procedure code that give wide discretionary power to courts to give investigative remand should be amended in a manner it does not

create delay in crime investigation. Accordingly, the law should fix the maximum time limit within which every investigation of crime should be completed

- ❖ The provision of criminal procedure and evidence code which provides only the maximum duration of remand without fixing the number of occasions the remand is to be granted has to be amended and include the number of occasions the remand is requested by the investigative police officer and granted by court to limit the power of both.

REFERENCE

National Laws

- 1) Constitution of the Federal Democratic Republic of Ethiopia, proclamation No 1, Negarit Gazetta, year 1, No.1, 1995.
- 2) Constitution of Peoples Democratic Republic of Ethiopia, *Negarit Gazetta*, Proclamation No. 1 of 1987
- 3) Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, *Negarit Gazeta*
- 4) Criminal Procedure Code of Ethiopia, Negarit Gazetta, Proclamation No. 185/1961
- 5) Draft criminal procedure and evidence code of the Federal Democratic Republic of Ethiopia (2013)
- 6) Federal democratic republic of Ethiopia criminal justice policy, issued by minister of justice, 2003
- 7) Revised Constitution of the Empire of Ethiopia(1955) , Proclamation No. 149

International and regional human right instruments

- 1) African Charter of Human and People's Rights (also known as the Banjul Charter) adopted June 27, 1981, entered into force on October 21
- 2) International Covenant on Civil and Political Rights (ICCPR), adopted by United Nations General Assembly, on 16 December 1966, entered into force 23 March 1976
- 3) Universal Declaration of Human Rights, G.A. Res, 217A (III), U.N. Doc A/810 (10 Dec 1948)
- 4) United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Principle 1, adopted by the General Assembly of the United Nation, Res No. 2012/15 of 26 July 2011

Books

- 1) Bossuyt. M , *'Guide to the "travaux preparatoires " of the international covenant on civil and political right'* (1987)
- 2) Brian .A, *Black's Law Dictionary*, 8th Edn, (2004), a Thompson Business Co., St. Paul, p.1436
- 3) Duhaime, L (2015) *"Duhaime's Law Dictionary"*

- 4) Fisher.Z (1966b) “Some Aspects of Ethiopian Arrest Law: The Elective Approach to Codification ” III JEL No. 2)
- 5) Jason Payne, *Criminal Trial in Australia: Trial Listing Out-come* (2007), Research and Public Policy Series No 74, Australia Institute of Technology
- 6) Jimmie E, *Prejudice Resulting from Unreasonable Delay in Trial, American Jurisprudence Proof of Facts*, 2nd Edn, (2008)
- 7) Karen M. and Christine Hess, *Crime Investigation*, 9th edn, Delmar. (2010)
- 8) Koenig. R, *Police and prosecutors: The partnership that can make a difference*, (2015), American Prosecutor's Research Institute
- 9) Leedy, P & Ormrod, J, *Practical research planning and design* ,8th edn, (2005), P.12
- 10) Lee, H & Gaensslen, R, *Advances in fingerprint technology*, (2011), CRC Press
- 11) Michael Freeman, *The Historical Roots of Human Rights Before the Second World War*, ‘in Rhona KM Smith and Christien van den Anker (eds), *Essentials of Human Rights* (2005)
- 12) Paul Roberts, *Law and Criminal Investigation*’ (2007), Willan Publishing Ltd, ps
- 13) Robson. C , *Small Scale Evaluation Principle and Practice*, (20000), London: SAGE)
- 14) Simeneh ,K, *The law of criminal procedure commentaries and exercise Ethiopia*(2001)
- 15) Solan. L & Tiersma. P, *Speaking of crime: The language of criminal justice*’ (2013), University of Chicago Press
- 16) Trechsel, *Human Rights in Criminal Proceedings*’, (2005), Oxford University Press
- 17) United Nations Handbook on, *Practical Anti-Corruption Measures for Prosecutors and Investigators*’(2004), Vienna
- 18) Wondwossen Demise (2012), *Ethiopia criminal procedure*, school of law, Addis Ababa
- 19) Worku Yaze , *Presumption of Innocence and the Requirement of Proof Beyond Reasonable Doubt: Reflections on Meaning, Scope and their Place under Ethiopian Law*” in Wondwossen Demissie (Ed.), *Human Rights in Criminal Proceedings: Normative and Practical Aspects*, Ethiopian Human Rights Law Series (2010), Vol. III

Journals

- 1) Adem Kassie Abebe, 'Human Rights under the Ethiopian Constitution', *Mizan Law Review*, spring (2011), Vol. 5 No.1, 41-71
- 2) Albert C. Barnes causes of delay in criminal cases, *journal of criminal law and criminology* ,Volume 7/Issue3
- 3) Caroline.D, 'No Shortcuts on Human Rights: Bail and the International Criminal Trial', *American University Law Review*: Vol. 60, Issue. 1, 1-670
- 4) Campbell, L, 'Criminal Labels, the European Convention on Human Rights and the Presumption of Innocence," 76 *Modern Law Review* (2013), No.4, 681-707
- 5) Fisher. Z, 'Some Aspects of Ethiopian Arrest Law: The Elective Approach to Codification' III *Journal of Ethiopia law* (1966b), No. 2
- 6) Kevin J. Caplis, 'The Speedy Trial Guarantee: Criteria and Confusion in Interpreting its Violation', *DePaul Law Review* (1973), Vol. 22, Issue 4, 845
- 7) Machin, S, 'Crime and economic incentives, *Journal of Human Resources*', (2004), 39(4) 958–979
- 8) Podgor, E, 'The Speedy Trial Clause and the Prosecution of White Collar Crime' ,*Ohio St. journal of Criminal Law*(2005), 3,381
- 9) S.N. Sharma, inordinate delay versus speedy trial; An Indian experience. *The Banaras Law Journal*, vol .31, 1996
- 10) Simeneh, K, 'The Principle of the Presumption of Innocence and its Challenges in the Ethiopian Criminal Process', *Mizan Law Review*,(2012), Vol. 6, No. 2, 287-288
- 11) Smith, L & Tilley, N, 'Crime science and the study of police investigations: A review. *Journal of Police and Criminal Psychology* (2014), 29(3), 203-216
- 12) Tarekegn, M & Fanta, A, 'Rights of Accused Persons in Ethiopia': *A Review of Legal and Institutional Framework and Challenges. Journal of Ethiopian Law* (2020), 33(1),1-34
- 13) Worku Yaze Wodage, Presumption of Innocence and the Requirement of Proof Beyond Reasonable Doubt: Reflections on Meaning, Scope and their Place under Ethiopian Law," *Ethiopian Human Rights Law Series*, Vol. III, 2010
- 14) Yirgalem Germu,'The constraint to a speedy trial: The case of Sidama Zone High Court, *Beijing Law Review* (2018)162-184

Research paper

- 1) Alemayeh Sheferaw Tulu (2010), evaluating the application of human rights principles in crime investigation in Ethiopia: a case study of the Addis Ababa city policy, 2010
- 2) Assize of Clarendon (1166) ,Constitution Society ,as cited in megistu worku :Delay of justice in Ethiopia and the Genocide Trial of Derg Officilas,LL.M long thesis ,Central European University, Hungary, 2008/9)
- 3) Awet Guesh , The right to speedy trial in Ethiopia: The case of Tigray (2017),LLM thesis, Bahir Dar University, Ethiopia
- 4) Desalegn Gemechu (2016), The Right to Legal Counsel in Ethiopia: A case study in Oromia, LL.M thesis, Addis Ababa University, Ethiopia
- 5) Fisaha Getachew, Respect for Human Right in Pre-Trial Crime Investigation: The Case Oromia Special Zone Surrounding Finfine (2015), LL.M thesis, Addis Ababa University, Addis, Ababa
- 6) Giragn Merga (2008), police investigation and release on bond under Ethiopian law: the law and the practice in the regional state of oromia.
- 7) Melkam Niguse, Critical Examination of The Right Speedy Trial With Respect To Person Accused of Corruption Crime In Ethiopia (2018) , LL.M thesis, Addis Ababa University, Ethiopia
- 8) Obiokoye,I, Eradicating delay in administration Justice in African Court: A Comparative Analysis of South African and Nigerian court’(2005), Unpublished LL.M dissertation, University of Pretoria

Internet sources

- 1) CONSTITUTION SOCIETY and The Magna Carta: the great charter. Available at: < [http:// www.constitution.org/eng/magnacar.htm](http://www.constitution.org/eng/magnacar.htm)>
- 2) Merriam-Webster Online Dictionary, Incorporated, 2017, Un-paginated, Available@ <https://www.Merriam-Webster.com>
- 3) The Avalon Project Documents in Law, History and Diplomacy, Virginia declaration of rights, Available at: < http://avalon.law.yale.edu/18th_century/virginia.asp>.

- 4) The constitution of the United States, 1971.amendement VI,at http://www.law.cornell.edu/constitution/sixth_amendment

Cases

- 1) *Burayu town police station woreda 2 vs. Tarecha Alemu*, police station investigation file no QP/K/M/A2/82797/2015, Burayu, unpublished
- 2) *Burayu town, Melka Noono police station vs Alemayo Gelan*, investigation file No, WAAKMMN/0007/15,Burayu,unpublishied).
- 3) *Public prosecutor vs Birhanu Alemayo* ,file No W/AA/BMB/ 5024 ,Burayu, Unpublished
- 4) *Public prosecutor vs. Abera Demise*, M/M/A/BMB, 82553, Burayu, Unpublished
- 5) United State Supreme Court ,*Barker v. Wingo*,407U.S. 514,523(1972)
- 6) United States Supreme Court, *United States v. Bandy*, 360 US. 1 1968)
- 7) United State Supreme Court, *United states vs. Doggett*, 50505, 656(1992)
- 8) United states supreme court ,united states, *Bruce vs. United States* 850(1965)

Report

- 1) Ethiopia 2020n Human Right Report , *Country Report on Human Right Practice* ,United State Department of State, Bureau of Democracy ,Human Right and Labour ,2020
- 2) Ethiopian Human Rights Commission (2018). "Investigation Report on Human Rights Violations in Burayu and Surrounding Areas," 5 December
- 3) Human Right Committee, *Consideration of reports summitted by states parties under article 40 of the covenant*, first periodic report of state parties, Ethiopia, 28 July 2009, No. CCPR/C/ETH/1

General comment and discussion paper

- 1) National Institute of Justice (2016), *Delayed Justice: A National Study of Criminal Case Processing Delays in Publicly Funded Counsel Cases*
- 2) United Nations, *Study of the Right of Everyone to be Free From Arbitrary Arrest*, 34 U.N. ESCOR Supp. (No.8) at 5, U.N. Doc. E/CN.4/826/Rev. I (1964)

- 3) United Nations Human Rights Committee General Comment No. 32(27 July 2007), Geneva

Interview

- 1) Interview with Ato Chala Teshoma ,justice decision delivery division head, investigative police officer at the Burayu town police station, Done at his Office on 11/7/2015
- 2) Interview with shimelis Mulugeta, Prosecutor at Burayu town prosecutor office, Done at his Office on 13/7/2015
- 3) Interview with commander Tesfaye Niguse , Head of crime investigation department of Burayu town police station ,corruption crime investigation division, done at his office on 11/7/2015
- 4) Interview with Ato Ayala Dhaba, Prosecutor at Burayu town prosecutor office ,Done at his office on13/7/2015
- 5) Interview with Ms Alami Dhaba, Assistant inspector done at her office on11/7/2015
- 6) Interview with sajin Chala Teshoma, different crime investigation group coordinator, done at his office on 11/7/2015
- 7) Interview with sajin Olana Kenisa, Crime investigator, done at his office on 11/7/2015
- 8) Interview with Abashu Gudisa,public prosecutor, done at his officer on13/7/2015
- 9) Interview with commander Shito Gezany, the Burayu town police station head ,done at her officer on 11/7/2015
- 10) Interview with Ato Mansur Mohamed, A Judge at the Burayu town woreda court, criminal bench, Done at his Office on 15/7/2015
- 11) Interview with Ato Abdukedir Gebayo, A Judge at the Burayu town woreda court, criminal bench, Done at his Office on 15/7/2015

APPENDIXES

Appendix 1 Questionnaires

Questionnaires for public prosecutor and investigative police officer

1.1. English version of the questionnaire

Hawassa University

School of Law

Introduction

This research questionnaire is prepared at Hawassa University College of Law and Governance, for the Partial Fulfilment Masters of law in **Criminal justice** class. The questionnaires are distributed to respondents set by Fikiru Shibiru for the graduation program of LL.M on the title that **‘Cause of Delay in Crime Investigation and its Implication on the Enforcement of the Right to Speedy Trial of Suspect: The Case of Burayu Town**. For this purpose, I kindly request you to cooperate in answering the following questionnaires and I would like to ensure that the result of this study is only used for academic purposes, and your responses are confidential. Thank you for your cooperation in advance.

N. B. No need of writing your name.

Please indicate your answers by putting “√” marks in the blank space.

Section1: Background information of Public prosecutor

1.1. Sex _____

1.2. Level of education: Adult education -8 9-12 Certificate
Diploma Degree or above

1.3. For how long have you been working as public prosecutor? _____ /as
investigator _____ Years

Section 2; Perception of Investigative Processes

2.1 Have you encountered any challenges or obstacles that have caused delays during your investigations? If yes, please describe the most significant instances.

2.2 Do you think that there exist any guidelines rules that you can employ while conducting crime investigation?

A) Yes, I think B) No, I don't think

Section 3: Impact on the Right to a Speedy Trial

3.1) Do you know where the right to speedy trial of criminal suspects starts?

A) Yes, I know B) No, I didn't know

3.2) If your answer for question no (3.1) is "yes" where it starts from?

- A) From the time the police apprehended the criminal suspect
- B) From the time where investigation started
- C) At the stage of trial

3.3) If your answer of the question no (3.2) is from the time when the police apprehended the suspect, have you made an effort to enforce this right during the time of crime investigation?

A) Yes, I did B) No, I did not

3.4) Do you think that there exist any guidelines rules that you can employ while conducting crime investigation?

A) Yes, I think B) No, I don't think C) I don't know

3.5) Do you properly use the remand time to complete the investigation

A) Yes B) No

3.6) Do you properly use the remand time to complete the investigation

A) Yes B) No

3.7) Does the public prosecutor make cooperation and supervision with you during the crime investigation? (*only the investigative police can filed*)

A) Yes B) No

Section 4: Perspectives on Solutions

4.1 Based on your experience, what measures or improvements could be implemented to reduce delays in the investigation process and ensure a speedy trial for suspects?

Questionnaires for Criminal Suspects

1.2. English version of the questionnaire

Hawassa University

School of Law

This questionnaire is prepared to investigate the, **“CAUSE OF DELAY IN CRIME INVESTIGATION AND ITS IMPLICATION ON THE ENFORCEMENT OF THE RIGHT TO SPEEDY TRIAL OF SUSPECT: THE CASE OF BURAYU.** For this purpose, I kindly request you to cooperate in answering the following questions and I would like to ensure that the result of this study is only used for academic purposes, and your responses are confidential. Thank you for your cooperation in advance.

N.B No need of writing your name.

Please indicate your answers by putting “√” marks in the blank space.

Section 1: Background information

1.1. Sex _____

1.2. Level of education: 1-8 9-12 Diploma Degree or above

Section 2: Perception of the Investigation Process

2.1. When did you come to this police station

- A) 5 up to 10 days
- B) 10 up to 15 days
- C) 15 up to 20 days
- D) 20 up to 1 months
- E) More than one months

2.2. How would you rate your understanding of the investigation process conducted by the investigative authorities?

- A) Very Poor
- B) Poor
- C) Average
- D) Good
- E) e. Very Good

2.3. In your opinion, what are the factors that contribute to cause delays in the investigation process?

2.4 Have you experienced any delays during your involvement in the investigation process?

- A) Yes B) No

2.5) Do you feel that the delays in the investigation process have affected your ability to present strong defences or gather evidence in your favour?

- A) Yes B) No

Section 3: perception on the Right to a Speedy Trial

3.1) Have you been taken to court within 48 hours?

- A) Yes B) No, I did not

3.2) Does the investigative police officer requested remand up on you to complete the investigation of crime you are suspected with?

- A) Yes B) No

3.3) If your answer for the question number (3.2) is “Yes” for how many times remand is requested up on you?

- A) Only one times B) Two times C) More than two times

3.4) Does the investigation of crime you are suspected with is completed within the remand time?

- A) Yes B) No

3.5) Do you think that the investigative police officer consider your right to speedy trial right during crime investigation?

A) Yes, I think B) No, i didn't think C) I don't know

3.6) Do you claim your right against the investigative police officer before the court if the investigation of the crime you are suspected with is delayed?

A) Yes B) No, I didn't claim it

Section 4: Perspectives on Solutions

4.1. In your opinion, what measures or improvements could be implemented to reduce delays in the investigation process and ensure a speedy trial?

Appendix 2 Interview Guideline for investigative officer, prosecutor and judge

❖ **Interview guidelines for investigative police officer**

- 1) Does it is always possible to complete every investigation of crime within the reasonable time?
- 2) In your experience, what are the key challenges or obstacles that investigators commonly face during the process of crime investigation? How do you see the implication these challenges on the enforcement of the right to speedy trial?
- 3) Do you think that all investigators followed the existing procedure and guideline during crime investigation?
- 4) Does every investigative police officer has sufficient awareness on the suspect's right to speedy trial
- 5) Technology and digital advancements have significantly influenced the field of investigation. How do you leverage technological tools and resources to streamline your investigative procedures and reduce delays?
- 6) Handling complex and high-profile cases can increase the likelihood of delays in the investigation process. How do you manage these cases to ensure that justice is served within a reasonable timeframe?

❖ **Interview guidelines for public prosecutor**

- 1) For how many times you should send back the incomplete investigation to the investigative police officer?
- 2) Different report particularly the Human right report shows that there exists the problem of delay in crime investigation in this station. What do you think of the cause contributing to delay in crime investigation?
- 3) What do you think the implication of cause of delay in crime investigation on the enforcement of the suspect's right to speedy trial?
- 4) Communication and coordination between public prosecutors and investigative police officers are crucial for an effective investigation. What strategies or methods did you employ to foster effective communication and coordination?
- 5) Continuous learning and professional development are essential for public prosecutors to stay updated with evolving investigative techniques and legal requirements. How do you proactively invest in your professional growth to improve your understanding of the investigation process and contribute to expediting the delivery of justice?

❖ **Interview guideline for court**

- 1) How do you understand the investigation process of the investigative police officer in accordance with the right of speedy trial of person afforded by the constitution?
- 2) As a judge, you have the authority to issue orders of remand and set deadlines for the investigation process. How do you manage and enforce these orders to ensure timely progress while maintaining fairness and respect for due process?
- 3) For how many times you can permit to order remand in case the investigative police officer fails to complete the investigation of crime within the first remand time? And why do you think of the reason for granting the unlimited remand?
- 4) Does the suspect claim his/her right before the court, if the investigative police officer fails to complete the investigation within reasonable time and how?
- 5) How do you understand the suspect's awareness of about their right to speedy trial?
- 6) What do you think the impact of delay in crime investigation on the enforcement of the suspect's right to speedy trial?

Appendixes III. Questionnaires translated to Afaan Oromo for criminal suspect

Questionnaires translated to Afaan Oromo

Bar-gaffilee Qorannoo Deebistootaaf shakkamtota yakkaf qophaa'e

Seensa

Qorannoon Kun Kan qophaa'e Unvarsiti Hawasati Kolejjii Seeraa fi Bulchiinsaatti dha. Kaayyoon isaas digirii 2ffaa guuttachuun ittiin ebbifamuuf bar-gaaffii barataa Fikiru Shibirutin deebistootaaf qopheessedha. Matadureen qorannichaas, **“Sababota Duubati Harkifaachu Qorannoo Yakkaa fi Dhibbaa/agarsistu inni Mirga Haqaa Saffisaa Argaachu Shakamaa Rawwachisu Irraatti Qabu: Dhimmaa Magaala Burayun wal qabatu kan jedhudha.**

Gargarsa gaafachuu

Qorannoon Koo kun akka firii godhatuuf bar-gaaffii koo deebisuuf gumacha isin naaf gootanut durseen galteeffachaa, debistoota bar-gaaffii kanaa dursee kanan hubachiisu deebii isin naaf laattan bu'aa qorannoo koo kan cimsu ta'uu isaa isinii ibsuun barbaada. Gama biraatiinis kaayyoon qoranichaa hojii baruufi barsiisuu qofaaf Kan ooluu ta'uu isinii ibsaa, deebiin deebii laattoota iccitiidhan kan qabaman ta'uu durseen ibsa.

Hala odeffannichi itti guutamu

Sanduuqa Iddoo filannoo fuldurati keename jiru keessa kan deebii ta'a jettanni yaadanu keessatti maallattoo “√” ka'a

Kuta 1: Odeffannowwan bu'uura

1.1) Saala_____

1.2) Sdarkaa Barnoota:- Kutaa 1-8 kuta 9-12 Diploomaa

Digirii fi isa ol

Kuta 2: Hubanno Haala adeemsa qoranno yakka irraati

2.1 Gara wajjiraa poolisi kana yoom dhuftan?

- A) Guyyaa 5 hangaa 10 ta'era
- B) Guyyaa 10 hanga 15 ta'era
- C) Guyyaa 15 hanga 20 ta'era
- D) Guyyaa 20 hanga ji'aa tokkoti
- E) Ji'aa tokkoo ol

3.3 Gaaffii 5ffaadhaf ,deebiin keessan “’eyyee” kan jedhu yoo ta’e ,yeroon dabalaata qoraanno yakka isin ittin shakamtan xumurudhaf si’a/yeroo meeqaf isin irraatti gaafatame

A) Yeroo tokkoo qofaf

B) Yeroo lamafi isa ol

3.4 Qoraannoon yakkaa isni ittin shakamtan, yeroo dabalata isin irraatti gaafatame keessaati xumuramera?

A) Eyyee

B) Lakkii

3.5 Yeroo qorannon yakkaa gegefammuti haqaa arifaata argaachu shakaman tokko qabu kabajama jira jetanni yaadu?

A) Eyyee

B) Lakkii

3.5) Qoraannon yakkaa isin ittin shakamtan yoo duubaati harkifatee, mirgaa dhadachaa arifaata argaachu qabdan sarbu isatif qoraata yakkaa mana murtii himaatani ni beektu?

A) Eyyee

B) lakkii, himaadhe hin beeku

Kuta 4: Yaada Furmaata

4.1 Akka yaada keessaniti tarkanfii ykn jijiramaa akkamitu yoo fudhaatame yookin tasifaame qorannon yakka akka duubati hin harkifanne xiqqessu yookin hambisu danda’a jetani yaadu?
