

Challenges Suspects Under Police Custody are Facing During Pre-Trial Detention: A Study of Bishoftu City

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ABSTRACT

Pre-trial detention is a type of incarceration in which individuals arrested or imprisoned due to a criminal charge is detained, either in police custody or in a prison, but have not yet been tried and sentenced. The main objective of this study is to describe the challenges suspects are facing during pre-trial detention in Bishoftu City. The study employs both secondary and primary data. Books, journals, and laws are used as secondary data. The primary data is obtained using a qualitative research approach. Since the study is targeted at describing the experiences of the detainees, it employs a phenomenological study. In-depth interviews focus group discussions and observations are employed. Participants are sampled purposively, and the sample size is determined through data saturation. Accordingly, thirteen pre-trial detainees, four investigative officers, three public prosecutors, and two criminal bench judges are interviewed; and detention centers are observed. Prolonged detention without securing bail right is one of the challenges suspects are encountering. Some of the study's findings include overcrowding, a lack of food service, a lack of sanitation, a lack of medical services, and the government's failure to properly implement bail rights. The study reveals the presence of arbitrary detentions contrary to the statutes governing detention. The study also depicts a lack of coordination among actors of the criminal justice system in ensuring the rights of detainees. As can be deduced from the findings, the rights of detained people are being violated during arrest as well as incarceration. Thus, greater effort must be placed on ensuring that pretrial detention is used as an exceptional measure following the country's criminal procedure code. Minimum standards of lockups should be fulfilled to meet detained persons' basic needs during detention. Actors of the criminal justice system should work jointly in ensuring the rights of citizens.

Key Words: Bishoftu, Lockup, Police, Pre-trial, Suspect

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1. INTRODUCTION

1.1. Background of the Study

A suspect is a person whom the police are investigating with a belief that the person has committed a crime that is alleged against him/her. If the person is suspected of committing a certain crime, for which a punishment can be imposed then he/she might be arrested and put under custody. Each time a person is arrested and accused of a crime for which a decision must be made as to whether the accused person, known as the defendant, will be released back into the community or detained in police lockups or jail awaiting trial (Simeneh, 2001). Jails and police lockups serve the single purpose of holding individuals caught in the arms of the law confining them securely so they cannot freely move about the community (Anderson & Newman, 1998). Jails, like that of police lockups, are temporary detention of persons awaiting indictment, accusation, trial, or sentencing. Both jails and police lockups are the same but their difference is that police lockups are meant for temporary detention which took place before trial whereas jails serve in addition to pretrial detention for persons serving short-term misdemeanor sentences i.e. those who are sentenced for less than one year will be jailed. The bail decision - to release or detain a defendant pending trial and the setting of terms and conditions of bail – is a critical part of the pre-trial stage of the criminal justice system (Van Nostrand & Keebler, 2009). The Federal Democratic Republic of Ethiopia (FDRE) constitution under article 19(6) recognized that arrested individuals have a right to bail except where the law puts limitations to it. According to some writers, the person may not be released on bail for three main reasons (Simeneh, 2001). These are if the offense is not bailable, or if bail is denied (if remand is granted), or bail is granted but the person is not able to get security. Police lockups are expected to give service for only forty-eight hours after the person is detained according to article 56 of the criminal procedure code of Ethiopia. The average stay in lockup is 11 days in some legal systems, but many persons will be confined for not much more than 24 hours or until friends or relatives raise bail or other release arrangements (Anderson & Newman, 1998). Though the law sets the maximum stay in police lockups, practice showed that there are so many instances where a person stays for more than even months. Various studies performed by numerous researchers show that various violations of fair trial rights during pretrial are a global concern, with Ethiopia being no exception. Many people are subjected to arbitrary detention for extended periods of time under a variety of conditions (Simeneh, 2001; Amare, 2012; Awol, 2017; Fisaha, 2015). As a result, the purpose of this article was to investigate the difficulties that suspects confront during pretrial custody.

1.2. Statement of the Problem

Even though the laws in most developing countries allow release on bail, for the police officer, placing a person in jail can serve as a kind of closure to an arrest, satisfying the officer's desire to do something about the offense in question (Andargachew, 2004). Most veteran prisoners agree that jail time is much more difficult to serve than a prison sentence (Anderson & Newman, 1998). Holding a person in custody implies a responsibility to provide care for that person who, by being incarcerated, is no longer able to fully provide for his/her own needs. But on the twelfth UN Congress on crime prevention and criminal justice, it was declared that some 10 million human beings deprived of personal liberty and their alarming conditions of detention need for a legally binding and enforceable human rights instrument (UN Information Service, April 15, 2010). Corporal punishments, deprivation of food, water, and health care, violation of the right to the minimum of space, hygiene, privacy, and security necessary for a humane and dignified existence were among the major problems faced by detainees (UN Information Service, April 15, 2010). Report of UN indicated as, pre-trial detainees spent months or even years in tiny metal boxes in which summer temperatures could reach up to 60 degrees centigrade (UN Information Service, April 15, 2010). In some cases, detainees are forced to drink toilet water and defecate in a plastic bag, which they then throw out of their cells.

Being detained for a prolonged period, absence of proper reviews of the decision to remand in custody, lack of adequate representation in remand review and hearing, inadequate access to legal advice, family, friends, and other relatives, limited access for defendants to information about the case against them is the other problems reported during the pre-trial detention period. Due to these and other factors, there are situations where innocent people plead guilty just to be transferred to prisons where the conditions might be better (Csete, 2010). Pretrial detainees seldom have access to exercise, sports, educational, vocational, and other programs that may be available to convicted prisoners. Aside from what is stated hereinabove, studies have shown that those who are held instead of released on bail pending trial are more likely to receive a conviction or jail sentence than those who are released on bail, which likely violates the principle of equal protection in any legal proceeding (Single, 1972).

In properly managed jails and lockups, medical screening is provided, guards are trained to recognize threatening behavioral characteristics, policies require routine standards of care, and officers are trained and equipped to render aid quickly and expertly in any emergency (Csete, 2010). In Ethiopia, while there are some reports, such as those from Human Rights Watch, there is no reliable information on the status of pre-trial detainees. Under many circumstances, a suspected person is arrested and remains in police custody until conviction or acquittal (Simeneh, 2001). Fisaha Getachew's (2015) research in

Oromia Special Zone Surrounding Finfine and Awol Alemayehu's (2017) research on Procedural Safeguards & Fair Trials Rights of Detained Persons During Pretrial Crime Investigation in Wolayita zone revealed that investigative police do not bring detained persons before a court of law within prescribed time; they do not inform detainees of their fair trials rights; there is prolonged PTD without trial; and denial of right to bail merely because of economic reasons were reported. Even if the above-mentioned studies were conducted, the experiences of many people who are detained are not thoroughly studied. Thus, this particular study is designed to describe the challenges suspects are facing during pretrial detention.

1.3.Objectives of the Study

Taking into account the research question raised in the statement of the problem, the research is conducted with the specific aims of.

1. Describing the situation of detained suspects in the study area concerning bail rights,
2. Looking at challenges suspects are facing during pre-trial detention and its adverse effects
3. Describing the experiences of criminal justice system actors in the study area about pretrial detention.

1.4. Significance of the Study

This study is conducted with the hope of improving the condition of pre-trial detention and showing the possible way of handling such detainees. Accordingly, this particular research can contribute to the; 1) improvement of case processing and efficiency, through less time spent in pre-trial detention, more frequent bail requests and awards, and better adherence to the proper procedure; 2) improvement of treatment during detention, through better access to health, outside time, jail conditions, food, and the like; and 3) Improvement of citizens' attitude toward criminal justice system.

1.5. Scope and limitations of the study

The study involved detained suspects, judges, public prosecutors, and investigative police personnel, and its geographical reach is confined to Bishoftu city. The research attempted to look at the challenges of detainees but did not place much emphasis on other concerns such as the challenges actors in criminal justice systems face, which might be useful in gaining a comprehensive picture of the entire process.

1.6. Legal Framework Governing Pretrial Detention

Detention is only supposed to be used to ensure that the person will not flee before trial or pose a danger to other people. It is not supposed to be used to punish or rehabilitate that person. This is because as a pretrial detainee, a person has not been convicted of a crime and is not guilty since a person accused of a crime is presumed innocent until proven guilty. Because of this difference between pretrial detainees and convicted prisoners, it is supposed as detainees would retain greater rights and privileges than other incarcerated persons. Pretrial detainees, however, are rarely treated much differently than convicted prisoners. In many instances, the conditions at pretrial detention centers are substantially worse than in prisons. Then to protect citizens from such worsened condition of pre-trial detention, the United Nations center for human Rights established principles governing pre-trial detention.

According to the eighth United Nations Congress on the prevention of crime and treatment of offenders, the following principles are established about pre-trial detention of adults (United Nations Center for Human Rights, 1994).

- A) A person suspected of having committed offenses and deprived of their liberty should be brought promptly before a judge or other officer authorized by law to exercise judicial functions who should hear them and make a decision concerning pre-trial detention without delay;
- B) Pretrial detention may be ordered only if there are reasonable grounds to believe that the persons concerned have been involved in the commission of the alleged offenses and there is a danger of absconding or committing further serious offenses or a danger that the course of justice will be seriously interfered with if they are left free;
- C) In considering whether pretrial detention should be ordered, account should be taken of the circumstances of the individual case, in particular the nature and seriousness of the alleged offense, the strength of the evidence, the penalty likely to be incurred, and the conduct and personal and social circumstances of the person concerned including his/her community ties;
- D) Pretrial detention should not be ordered if the deprivation of liberty would be disproportionate about the alleged offense and the expected sentence;
- E) Whenever possible, the use of pretrial detention should be avoided by imposing alternative measures such as release on bail or personal recognize;
- F) Person for whom pretrial detention is ordered should be informed of their rights in particular:
- G) Pretrial detention should be subject to judicial review at reasonably short intervals and should not be continued beyond that which is required in the light of the above-listed principles;
 - 1. The right to be assisted promptly by legal counsel,
 - 2. The right to request legal aid,

3. The right to have the validity of the detention determined by the way of habeas corpus, or other means and to be released if the detention is not lawful,
 4. The right to be visited by and to correspond with members of their families subject to reasonable conditions and restrictions as specified by law or lawful regulations.
- H) All proceedings concerning persons in custody should be conducted as expeditiously as possible to reduce the period of pretrial detention to a minimum.

2. MATERIAL AND METHODS OF THE STUDY

2.1.Design of the Study

Since this particular study describes the challenges, suspects are facing during pre-trial detention, the researcher used a qualitative procedure. The qualitative research approach is sought because quantitative measures and statistical analysis do not fit the problem (Creswell, 2007). The researcher opted for the approach because it empowers research participants to speak about their phenomenon so that others can understand the issues of pre-trial detainees. The qualitative research method allows showing the subjective experience of the informants (Kothari, 2004). As the intention is also to know and describe the experience of the detainees, the research used a phenomenological approach. The researcher hoped that this approach will help to see the challenges suspects are facing as well as the consequences of such detention in a holistic manner (Creswell, 2009).

2.2.Description of the study site

The study is conducted in Bishoftu city of Ormia state. It is located at 47 km. southeast of Addis Ababa, Ethiopia's capital. The city has an estimated over 200,000 total human populations. Administratively, there are 15 Kebeles and the city has two major district-level police stations having their detention centers. The most frequently committed crimes in the city are crimes against property and crimes against the person among which theft, transgression of regulations (petty offenses), and grave willful injury are the leading crimes (City police report as cited in Amare, 2012). Crimes like a breach of trust, robbery, fraud, rape, and homicide are also commonly reported (City police report as cited in Amare, 2012). The major causes for the prevalence of the aforementioned crimes in the city were due to, alcoholism, smoking of stimulants like 'shisha,' and chat chewing (City police report as cited in Amare, 2012). It is with this information as a backdrop that this research was undertaken.

2.3. Types and sources of data

The study employed both primary and secondary data. Primary data was generated from detained individuals and actors of the criminal justice system whereas secondary data were obtained from books, laws, journals, and archived documents.

2.4. Description of the research participant and inclusion criteria

The study involved pretrial detainees, police, court personnel, and public prosecutors accordingly; thirteen pretrial detainees, four investigative police officers, two judges, and three public prosecutors took part in this research. Based on the following criteria and their willingness to take part in the research, participants were selected.

Pre-trial detainees were selected based on:

1. being detained for not less than 14 days and not more than 2 months,
2. is not getting bail for various reasons

Investigative Police officers were selected based on;

1. having 2 years or more work experience in the area and
2. currently handling cases of suspects

Judges were selected based on

1. having not less than two years work experience as a criminal bench judge

Public prosecutors were selected based on

1. Having two or more years experience as public prosecutor

2.5. Sampling techniques

Both the study sites and participants were sampled using the purposive sampling technique, a technique that best fits the qualitative research approach. The study site is selected because of the social, economic, and political dynamics of the area, and its high probability of being prone to crime. Research participants were purposively sampled based on stated inclusion criteria.

2.6. Data Collection procedure

The researcher made initial informal contact with the police office, court, public prosecutors' office, and detainees' center to secure their collaboration. After securing their collaboration, the researcher picked a formal letter from the then Department of Sociology and Social Work of Adama Science and Technology University (Now Arsi University) and submitted it to the research participants' respective offices. The researcher attempted to develop a trust relationship with study participants to generate quality information. After building a good rapport, the researcher identified research participants and tried to make some arrangements for data collection. The secured place, time, and date were determined with the research participant. Data recording materials were prepared and on the dates of appointment, data was gathered.

2.7. Data collection tools

The study employed observation and in-depth interviews. Observations were made to know the status of detainees and the way they were detained. In-depth interviews were conducted with detained suspects, investigative police officers, public prosecutors, and judges. Using interviews, information about the detention status of suspects and all associated challenges were obtained from the study participants.

2.8. Data Analysis

The collected data were organized into different themes and analyzed thematically. This involved transcribing interviews, analyzing field notes, and sorting and arranging the data into different types depending on the sources of information to get a general sense of the information gathered and to reflect on its overall meaning. Attentions were given to the following questions while analyzing qualitative data: What general theme participants are focusing on? What is the tone of the theme? What is the general impression of the overall depth, credibility, and use of the information? Accordingly, those ideas which have similarities were arranged under one theme area. The researcher after categorizing into thematic areas discussed the issues triangulated the finding with available secondary source materials.

2.9. Ethical consideration

The information provided on the topic under investigation has a great impact on individuals' liberty, and national politics. Thus, the researcher had first obtained ethical clearance from the University and secured the consent of research participants. The participants were informed about the purpose of the study, their roles, and their rights not to involve in the research or even quiet it any time. Maximum care was taken to ensure the privacy and confidentiality of participants. No names were used to ensure the anonymity of participants.

3. RESULTS OF THE STUDY

This section has two parts. The first part dealt with situations and challenges suspects are facing during a pretrial period as well as adverse effects of pr-trial detention on detainees', their families, and wider societies. The second part dealt with the experiences of actors of criminal justice and their role concerning pre-trial detention. The following are details of each point of the topic.

3.1.1. Demographic characteristics of suspects, their conditions and challenges encountered

3.1.1.1. Demographic descriptions and types of offences suspected for

The study involved thirteen individuals who were detained during pre-trial detention. While this study was undertaken, 49 suspects were detained in two sub-cities of the town. In the first sub-city, there were about 26 suspects while in the second sub-city there were 23 suspects. During the study period, the researcher didn't encounter female suspects as a matter of chance and all the informants were male. The following paragraphs offer us brief descriptions of the age, education, and marital status of the suspects.

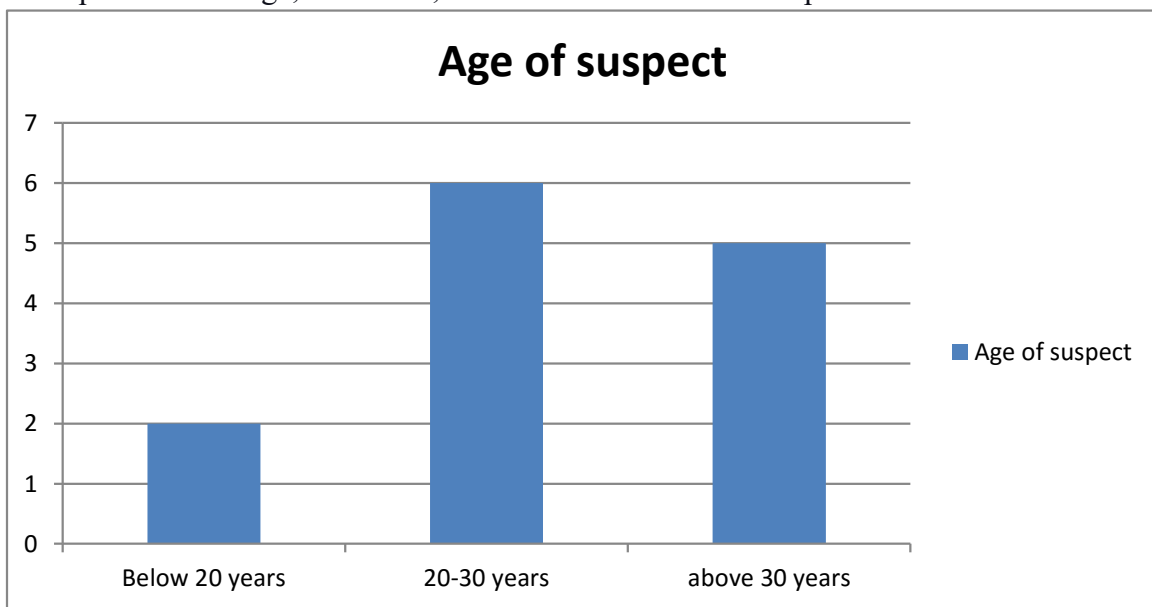


Figure 1: Age of Suspect

As one can see from the above figure, the study participants were dominantly youths below the age of 30. They are highly productive segments of society. Education-wise, as one can see from figure 2, almost all of them didn't complete their high school education which tells us indirectly their know-how and awareness of existing laws and the potential of defending their rights.

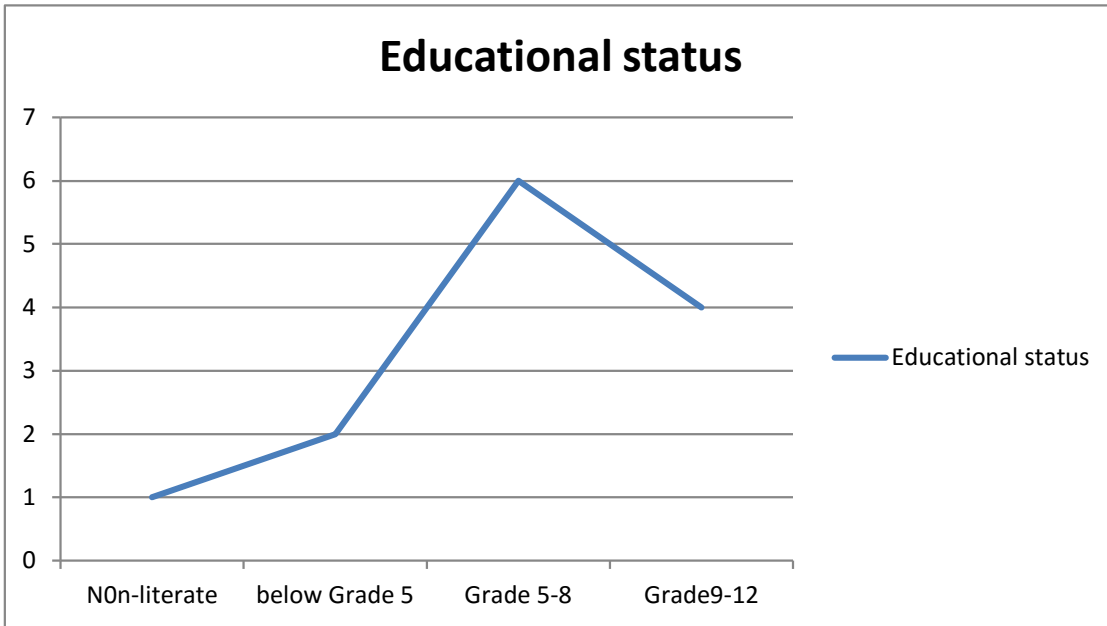


Figure 2: Educational status of suspect

In terms of marital status, more than half of the suspects who took part in the study are married and the following figure depicts the exact figure.

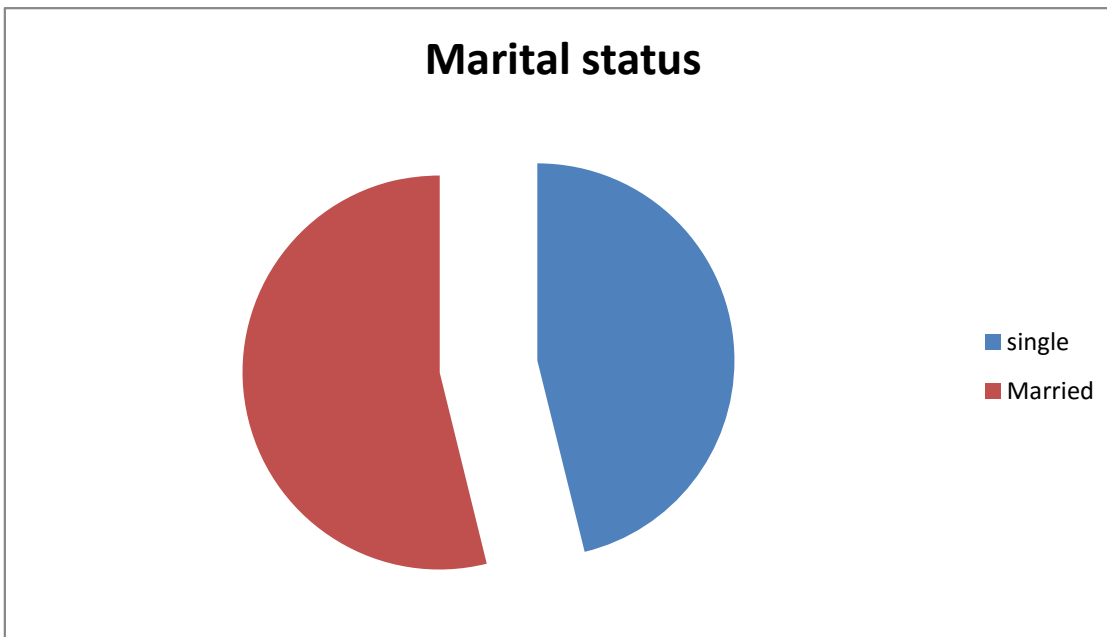


Figure 3: Marital Status of Suspects

Figure 4 depicts the family size of suspects for whom many of them are in charge of meeting their basic needs. As can be seen, almost all the study participants were having more than one family member.

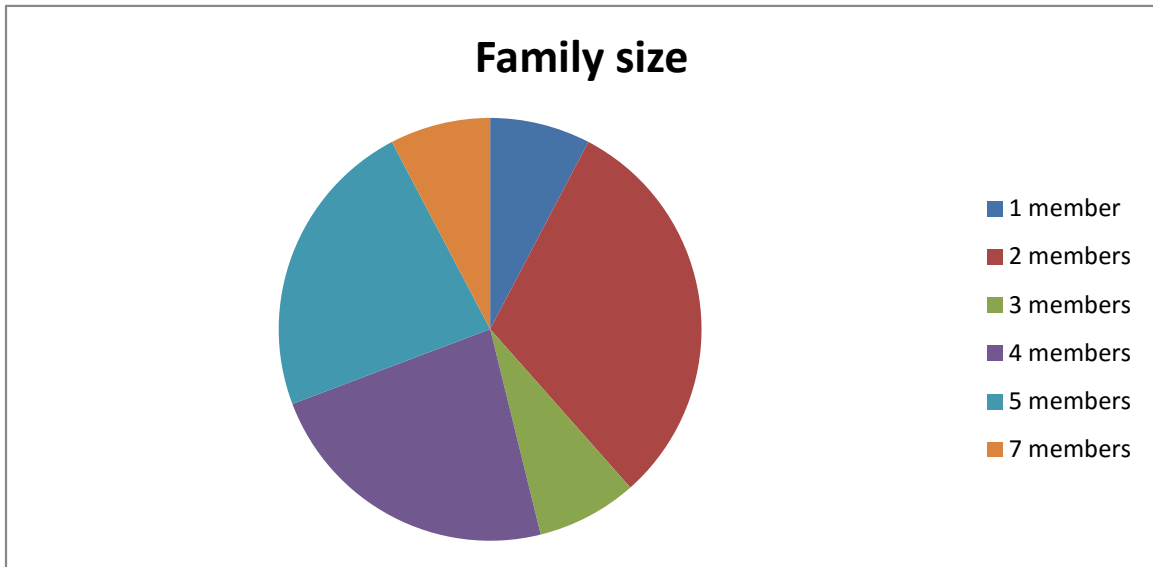


Figure 4: Family size

Except for one individual, all suspects that this study engaged are supporting dependants and the following figure is a summary of the number of dependents supported by suspects under detention.

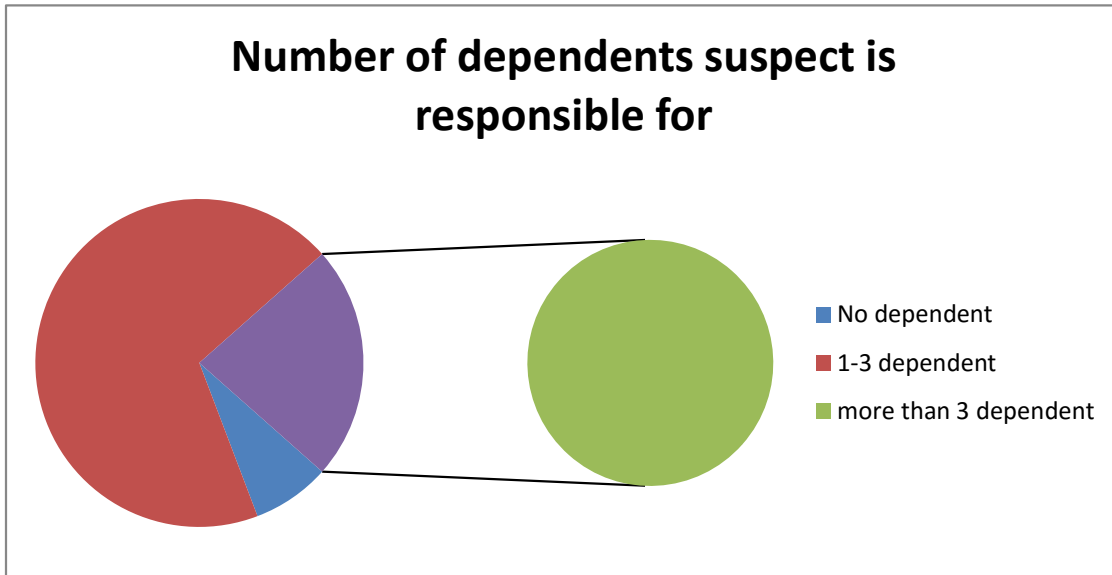


Figure 2: Number of dependents supported by suspects

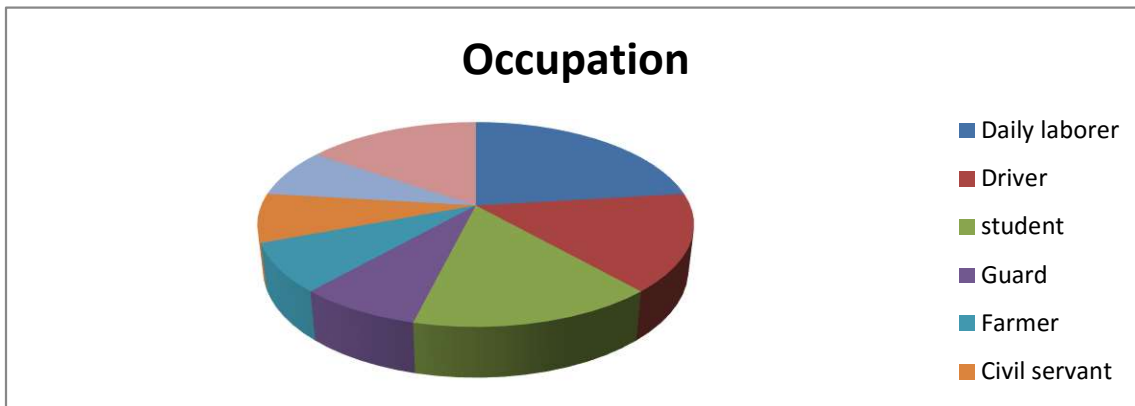


Figure 6: Occupation of suspects

Occupation-wise, as seen from the above figure, the suspects who took part in the study engaged in activities like a guard, daily labor, and driving that demands their physical presence. Being detained is thus being denied from such an activity and put in danger not only the lives of the suspects but also their dependants.

3.1.1.2. Categories of crime suspects’ detained for and duration of detention

The following two figures are summaries of categories of cases persons is suspected of and duration of detention days respectively.

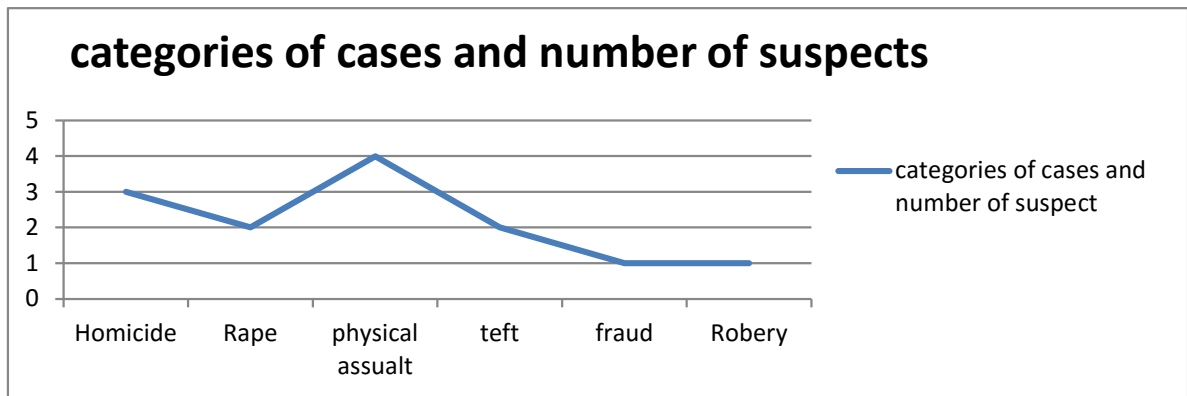


Figure 3: Cases for which suspect is detained

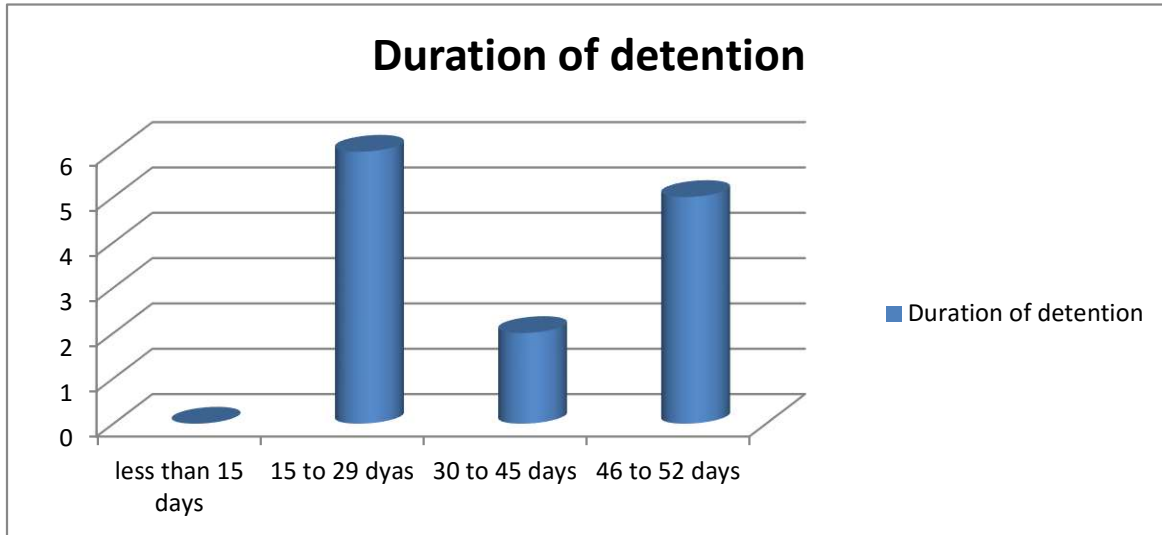


Figure 4: Duration of detention

3.1.1.3. Ways suspects arrested and their experiences in relation to pre-trial detention

The following subsections state the way suspects are arrested and the inimical aftermath of pretrial detention.

3.1.1.3.1. The way detention is undertaken

This study attempted to look at the way pretrial detainees were arrested and the responses of participants showed as there was a deviation from the criminal procedure code of the country. In an in-depth interview conducted with detained persons, almost all of them except two (who were red-handed while committing a crime) expressed as arrests made

were not lawful. Here one of the detainees stated his feeling about the arrest in the following way.

“On the day I was arrested, I had been with my children and my wife. It was after 5:00 PM that a police officer entered my compound and apprehended me. I was chained and ordered to go to the police station. The police officer didn’t inform me why he apprehended me and at the time he had no court order to detain me as well.”

Information regarding the arrest and the reasons for the restriction and detention were not provided to the majority of the research participants upon arrest though later on informed when they are booked at the police station or during interrogation with police or public prosecutor in the police station.

3.1.1.3.2. Experience of detainees in detention center

- i. Accommodation: accommodations, in principle, by prisoners or detainees, particularly sleeping quarters, should meet all requirements of health, about climatic conditions particularly the cubic content of air, minimum floor space, lighting, heating, and ventilation. Accordingly, attempts were made to know the accommodation of detainees in the study area. Detained persons stated that the detention rooms are too small (less than eight meters square) but still accommodating sometimes up to forty or fifty individuals. The room according to the study participants is not hygienic and full of vermin. The rooms are too hot and do not have any kind of ventilation as well as beddings. The detained study participants stated as the room in which they were detained exposed them to asphyxiation and stress positions. One of the study participants expressed his feeling about accommodation in the following ways.

“It is not a room in which human beings are expected to spend an hour let alone to live in for months. It is full of vermin and dust. Since the rooms are too small to accommodate all of us, there is high congestion and bad smell. Police officers sometimes locked our rooms and, in such situations, we were sometimes forced to urinate urine in plastic bottles which further spoiled the dour of the room. Sometimes a food that we were supplied by our relatives became infested by a vermin-like cockroach. If a communicable disease happened in this detention room, I am confident that all of us will be infected.”

- ii. Food: the minimum standard expected from detention centers in the provision of food of nutritional value adequate for health and strength. But in practice, one of the challenges detained suspects are facing in police lockups is lack of food according to this study. The detention centers are not providing detainees with a meal rather some of them are getting it from their friends or relatives. The foods

supplied by relatives to the detainee will be shared among all detainees. Many detainees do not have someone who supplies them with food during detention. All of the study participants stated as they do have a great challenge in obtaining food. One of the participants stated his feeling concerning food as follow.

“It was only me who is a breadwinner from my family. I was living with my mother. Recently she becomes a bedridden patient as a result of HIV/AIDS. Nothing is to be eaten in our house. We do not have a relative who can care for me as well as for my mother during such a critical time. Other detained individuals at least sometimes can get food from their relatives but I am not a person of such kind. It is very touching looking after someone’s meal in the detention center. Even there are instances where no one may visit us and nothing to be tested in this center.”

- iii. Hygiene: The existing international legal framework demands detention rooms’ neatness and personal cleanness and as a result, inmates are provided with water and toilet articles for health and cleanness. In this particular study, personal as well as room hygiene is the areas that study participants expressed as challenging in the detention center. Over crowdedness as well as being confined and locked in a single room exposed detainees to unhygienic conditions. They called the congestion using their term called ‘Doboka’. ‘According to one of the study participants, Doboka’ refers to situations in which a detainee is kept in a dusty, overcrowded, and foul-smelling room. One of the detainees expressed his feeling as follows.

“Sometimes this room is highly suffocated due to overcrowding. There were times where we failed to sleep due to overcrowding. Bad odor, vermin, dust, and failure of keeping personal hygiene adversely affected the room’s hygiene. The majority of detainees are not in a position of looking after their hygiene. Some detained individuals who do have relatives at least can have an opportunity of wearing clean cloth since their clothes are washed by their relatives. But those individuals like me do not have such an opportunity. I even do not have extra cloth to wash which I am wearing now. I spent there more than a month wearing what I am with right now. You can imagine my hygiene and the hygiene of our room from what you are observing.”

- iv. Access to Health Service: Under the existing legal frameworks, all detained people do have a right to access health services. The body which effected detention is expected to offer health services for the detainees. But the study revealed that as there are no health care services provided in such centers. The detainees stated that

they do not know whether they do have the right to get such medical treatment or not through the expenses of a body that detained them.

- v. Treatment in a Humane and Respectful Manner: The existing national and international instruments assume as suspects are innocent until proven guilty. Being treated humanely and respectfully involves the presumption of innocence. Thus, respect of the inherent dignity of the person; the absolute prohibition of torture and cruel, inhuman, or degrading treatment or punishment, which includes the prohibition of violence or threats and protection from torture and violence by other detainees; respect for religious and moral beliefs; the prohibition of taking advantage of a detainee's situation to force confession or self-incrimination; and having measures for discipline and order which are derived from the law and regulations and which should only be limited to those necessary for custody are the governing principles. This particular study revealed as inhumane treatment is prevalent during arrests as well as in detention centers. Sometimes, during arrest, police officers are taking disproportionate measures that resulted in serious bodily injury according to this study. The detained study participant stated as police officers use exaggerated force while arresting suspects. Detainees also reported that police officers shift to the use of force when peacefully requested for improvement of some of their rights, lack of space, having adequate light and fresh air, in the detention center. There were also situations when fellow inmates assault newcomers. One of the detainees stated the situation as follows.

“We have been hearing from individuals who newly arrested and detained claiming as he was beaten by police officers severely. Such individuals came with severe scars on their bodies and were even sometimes unable to walk. There were also instances where we were harshly treated on the day a detainee tried to escape from the detention center. On such days, our room will be locked; we will not have a chance of having even water for drinking and suffer from suffocation and thirst. Here the situation under which we are detained is tough. A newly arriving detainee is also requested to pay a fee for no cause by his fellow detainees. Such fee is called ‘Yeshama waga’ which means the fee for a candle that they are going to use when there is no light. In the case where the person has nothing to pay he will be beaten. At the same time, newly coming people will be forced to sleep in the worst place like a place where inmates’ urine is accumulated. The situation is highly disgusting as even some gangs in the center may urinate on you intentionally when you are a newcomer.”

- vi. Access to Legal Counsel: One of the principles stated under international human rights documents is access to legal counsel. Such services must be provided immediately after detention to give effect to the right of assistance by counsel. It

is an important means of ensuring that the rights of detained persons are respected. In this study, attempts were made whether suspects had such access during the detention period. The study participants stated as they didn't have access to legal counsel and even as they do not have any idea of such services beginning from their detention.

- vii. Broken Relationship with Family and Friends: This study revealed that as a result of being detained and suspected of committing crime detainees become detached from friends and family members. One of the study participants stated his feeling in the following manner.

“A police officer detained me suspecting of me committing rape. I didn't commit the act stated rather the officers arrested me on mere suspicion. I have a girlfriend and now she becomes suspicious of whether I committed the alleged offense or not.

My detention highly damaged the relationship I had with my girlfriend. Even my grandmother refused to visit me when she heard the reason for which I was arrested. I am stressed about my life after detention. I have no relatives except my grandmother and I can't live without her emotional support.

3.1.1.4. Practice of bail right from suspects point of view

Some of the study participants stated as the police are frequently requesting the court for remand and later approving the police request. One of the study participants suspected of physical assault stated his feeling concerning remand as follows

“My first appearance before court was on the third day of my arrest. On that day police requested a remand of 14 days to finalize the investigation and the court granted it. On my second appearance, the police requested for additional remand of fourteen days and the court accepted. Again I appeared before the court for the third time and an additional fourteen days remand was given. I appeared before the court for the fourth time and an additional fourteen days remand requested by police was granted. I am confined here and facing tremendous challenges though I am an innocent person”

Others stated that the amount of bond (surety) requested by the court is unaffordable. Because of the high amount of surety demanded some of them were detained and forced to wait for trial. One of the study participants who were suspected of committing physical assault stated his case as follows.

“Upon my first appearance before the court, police requested remand and was granted seven days. Upon my second appearance, the court entitled my bail right,

provided that I can bring someone who can act as a surety of 2,700.00 birr. I failed to attach the said amount of money or to have someone who can act as a surety against the case I am suspected of. Though my bail right was granted on my eleventh detention day, still I am detained because of my impoverishment. Public prosecution didn't prosecute me but I am in the detention center for about 48 days. I don't know when I will be released from this horrific center."

Another situation is instances where bail is not offered because of the magnitude of the offenses for which the person is suspected. Even though the current constitution of Ethiopia has stated as in principle bail is a right and detention is exceptionally exercised, the new criminal code of the country seems to favor detention as it identified about 100 offenses (25% of the entire offenses stated in the code) to be nonbailable (Kelali, 2011). The stated offenses are nonbailable because the criminal procedure code states offenses that can be punishable for not less than fifteen years or through the death penalty are nonbailable offenses. In such situations, the assumption is speedy trial will be made and then the person either will be acquitted or convicted. But the finding in this study showed the contrary. Suspected persons with nonbailable offenses were in a detention center waiting the day of their trial. The shocking is that though these people are waiting for their trial, public prosecutors didn't frame any kind of prosecution because of the prolonged investigations to be conducted. The experience of a person suspected of murder is narrated by him as follows.

"I was suspected of murder and arrested. I spent in this detention center about 52 days. I appeared four times before a judge and the judge granted remand as per the request of the police four times. I don't have a sustainable source of income. I and my wife are day laborers. We have five children and all of them are dependent on our daily income since they are under-aged. This is a tough time for my wife as she can't manage all the needs of my family. The police yet didn't finalize the investigation of the case for which I was suspected and I am here waiting for the fate of my case. I don't have any means of sustaining my family members' existence if my detention continues."

3.2.Experiences of actors of criminal justice system in relation to pretrial detention

The study attempted to understand the challenges suspects are facing from the perspectives of judges, public prosecutors, and police officers. The following subsections narrated each actor's experience.

3.2.1.1. Experiences of Judges

In this study, two judges were purposively selected and they were interviewed. According to the study conducted, the experiences of judges about pretrial detention seem as follows.

- i. Detention centers and the conditions of detainees: The detention center in their view is a place where detainees are suffering from lack of food, lack of hygiene, and sometimes exposed to disease and failed to get treatment services. One of the judges stated his feeling as follows.
“I have served for eleven years as a judge and during these periods, I have got an opportunity of observing what is going on in the area of detention centers. Police detention centers because of the absence of budget do not have food services, no health service is provided and their hygienic conditions are too poor to be detained in. I encountered even when the suspect who was severely sick was brought to a criminal bench for trial before getting any kind of medical treatment.”
- ii. First Appearance before Court and Remand: This is relatively improving from time to time according to the study participants. Police are relatively becoming abiding by the legal requirements of the first appearance before the court. The period of granted remand is also being improved according to the research participants. It is only for serious offenses like homicide and aggravated rape that 14 days remand is granted on each appearance before the court. But the detainees reported to the opposite in terms of granting remand.
- iii. Coordination of police and public prosecutors in the investigation: According to the informants, the current system introduced by the country’s criminal justice system helped in enhancing speedy trial since both prosecution and police officer are jointly investigating flagrant offenses. They stated that joint investigation helped in reducing the over crowdedness of cases.
- iv. Physical assault: Other challenges suspects faced in detention, as stated by judges, is a physical assault by officers. Judges who participated in this study stated that as they received many times complaints from detainees concerning police assault. Detainees complain as they were severely beaten by police on their ear, testicle, back, and the like according to the judges who participate in this study. But the study participants stated as they do not have concrete evidence except the complaint of detainees which the police officer denied.
- v. The way arrest is effected: According to the study participants, the way arrest is effected sometimes violates what is set under the criminal procedure codes. Police sometimes are arbitrarily detaining suspects, according to the study participants.
- vi. Lack of surety in exercising bail right: The informants stated as there are detainees who cannot produce surety even if granted bail right and forced to remain in police lockup.

- vii. Lack of well organizing own evidence and witnesses: The study participants affirmed that when a person is detained in a police lockup or jail, he/she will not have an opportunity of well-organizing evidence to prove his/her innocence.
- viii. Losing job: The judges who participated in this study stated that a person who is suspected of fraud or theft or other related crimes in his own office in most of the cases will be fired from his office even if he/she is acquitted of the case. The same organization even in most of the cases sues such individuals just to harm the person and this holds particularly for workers in the factory as the study participants depicted.
- ix. Lack of legal knowledge in challenging public prosecutor during trial stage: The fact that legal knowledge is lacking among the public at large made suspected persons in a disadvantageous situation with public prosecutors. According to the study participants, detained suspects are not in a position of challenging documents presented against them during cross-examination.
- x. Use of Coercion in Examining Suspects: The study participants depicted as detained suspects' state for courts the coercion they faced during an investigation by police officers. Detainees
- xi. Delay of Prosecution: This is happening as a result of a delay in instituting a charge against a suspect by public prosecutors according to this study. Study participants stated as delay happens due to failure of producing technical evidence like evidence from health institutions. Such delay may even extend up to three months.
- xii. Nepotism: Even if not frequently happening, the study participants stated as there are discriminatory acts bases on suspects' financial position. When rich people are suspected of certain offenses, there are situations when they have got more differential treatment than poor ones by letting them go without being detained or even prosecuted.

3.2.1.2.Public prosecutors

The following are points raised and discussed with the public prosecutor.

- A. The way arrest is undertaken: Arbitrary arrest by police is seen in the study area, according to this study. The informants depicted that there were situations when police officers were arbitrarily detaining suspects without having any kind of legal justification. The study participants stated as police usually detain for 24 hours a person arbitrarily and when asked by public prosecutors their response is as the science of police is allowing them to do so. In other cases, police officers arrest suspects through arrest warrants or the requirements set under the criminal procedure code of the country.
- B. Basic needs and facilities in detention centers and conditions of detention rooms: The study participants portrayed as there is lack of basic needs including food and bedding. They affirmed that as the rooms of detention are full of vermin, highly

suffocated, over congested and dusty. During the rainy season, since the sheets of the roof are too old, they lick rain and the rooms become flooded. The deteriorated condition of the rooms may even instigate detained persons for escaping from such room, according to the study participants.

- C. Physical Assault by Police: The study participants expressed as there is a lack of investigative tools and logistics necessary for investigation. Absence of logistics, tools as well as a lack of knowledge and skills of investigation forces police officers to use force that violates the rights of detained persons, according to this study.
- D. Lack of securing surety: Detainees when granted bail rights, those who are from a low socio-economic background, could not secure the demanded surety. This is because, according to the study participant, the court demands high surety up to 5,000.00 or even 10,000.00 birr. Lack of alternative surety that can be produced by almost all ordinary citizens forced many to stay in detention waiting for trial according to the study participants.
- E. Accessibility of legal counsel: Due to lack of public awareness and the number of trained legal personnel, many suspected persons do not have access to legal counsel or aid. This exposed suspected person to abuse and become unfit to defend his or her case, according to this study.
- F. Absence of follow-up of suspects detained in prisons: The study participants stated as a tendency of leaving a person who is not tried for prolonged periods in prison once send from police lockup to prison. One of the public prosecutors stated this fact in the following manner.

“When a person is suspected of serious offenses, such person is not granted bail right. A person was suspected of a serious offense and the police were given remand. In the meantime, the person was transferred to prison from police lock-up. Later on, his case was not initiated for about more than four months. This happened because his case was not recalled and public prosecutors didn’t make regular follow up of cases.”
- G. Lack of securing evidence on time: Health institutions in many instances due to negligence may not issue on-time medical evidence and even sometimes documents may be lost in such institutions according to this study. Loss of such a document will delay the trial period of the suspect.
- H. Becoming criminalized by false manipulation: Suspect sometimes may be found guilty not because he/she committed the offense alleged against him/her but people false fully witnessed against him/her according to this study.
- I. Lack of proper investigation rooms in police centers as well as prosecution offices: The study participants stated that the investigation rooms are not conducive to securing the free consent of suspects and in protecting even individual privacy. The rooms in which children are going to witness a case are not psychologically

conducive for them, according to the study participants. The rooms are not even attractive for undertaking interrogation.

- J. Lack of closed motion in courts for cases of family matters: The study participants stated that even if there is a need for a closed trial to protect family members' interests and public morality or values, in practice there is no closed trial.
- K. Improvements noticed: Police and public prosecutors are jointly investigating cases and, according to the study participants, this improved case processing time as well as helped in rendering speedy trials, particularly for flagrant offenses. Based on the principle of real-time dispatch, flagrant offenses become handled within 48 hours. The other improvement stated by the study participant is the first appearance of suspects' before the court. The first appearance before court is highly observed and no one can be detained for more than 48 hours without the knowledge of the court and public prosecutor according to public prosecutors involved in this study.

3.2.1.3. Police as actors of criminal justice system

In-depth interviews were conducted with four investigative police and the following part deals with the experiences of police officers concerning the subject.

- a) The way arrest was made: According to interviews conducted with an investigative police officer, the arrest of a suspect is made following the criminal procedure code of Ethiopia. The interviewees also stated as there are situations in which police may arrest individuals for a very brief period with intention of investigating them and may release them within 24 hours.
- b) Detention centers condition: The study participant affirmed that lockups are highly overcrowded, non-hygienic, and unsuitable for individuals to live in. One of the investigative officers stated his feeling in the following manner.

“Detention center is not suitable for detainees. As you can see, it is highly congested and the rooms are not hygienic. If communicable diseases happened, for sure all of them will be affected. Their health is at great risk.”
- c) Food and Medical Services: The study confirmed as detention centers are not providing food and medical service. Detainees are dependent on their relatives, friends, or fellow detainees' assistance for food and medical services. One of the study participants reported his experience concerning food and medical services as follows.

“The center is not offering food and medical services. Detainees are getting food services from their relatives, friends, or fellow detainees. Sometimes when they become sick, police officers contribute for the expenses of health service.”

- d) The way interrogation and investigation is undertaken: Study participants stated as interrogation is made following laws. Suspects will be informed about their rights except for those who are recidivists and those who are suspected of grave offenses. One of the police officers stated saying
“Recidivists and persons suspected of grave offenses are sometimes attempting to deceive investigative officers and in such cases, they may be interrogated without being informed about their rights. We are doing an investigation with meager tools and logistics.”
- e) Release of detained suspect by police: According to this study, police may release a suspect whom it detained for mere sudden investigation within 24 hours after having detainees’ photograph and full address. One of the interviews stated:
“We release those whom we temporarily arrested within 24 hrs after having the necessary information. But if suspected for petty offenses, he/she will be released after producing bond.”
- f) Bail right versus Remand: The study participants stated the controversies practice as well as the law concerning bail rights. One of them stated the practice in the following way:
“In grave offenses, police requests for 14 days remand, and the court may grant on each appearance of suspects. For minor offenses, police may request remand, and depending on the situation, the court may grant bail or remand. There are situations where suspects may fail to produce surety and stay in the detention center.”
- g) Being prosecuted and convicted misguidedly: The study revealed as there are situations where suspects may be detained mistakenly through ill-motivated individuals who are deliberately adjusting false testimony so that actors of the criminal justice system will be misleading and pronounce judgment against a suspect. The study participants stated as such incidence is happening particularly about real-time dispatch approach, an approach that advocates for flagrant offense’s speedy trial.
- h) Challenges investigators facing: Study participants stated as dealing with suspected rich persons’ investigation is challenging to an investigative officer. Either such suspect is released or detained; in both cases, that investigative officer is blamed for such act. Political intervention is also sometimes there in the investigation process.

4. DISCUSSIONS

Every human being has the right to be treated with dignity and respect for their liberty and security. It is self-evident that without an effective guarantee of human liberty and security, the protection of other individual rights becomes increasingly vulnerable, if not immaterial. Ethiopian Criminal Procedure Code (articles 53 and 54), recognizing the extreme gravity of the decision to order the arrest of an individual, has strictly limited such power. Although any court may issue an arrest warrant, its power may be exercised only upon the application of an investigating police officer. And then the warrant may be issued only if the police officer can demonstrate two facts to the court: A) that it is necessary that the person whose arrest is desired appear before the court and B) that his attendance before the court cannot be obtained in any other way. In flagrant offense, as one which —is being committed or has just been committed, proceedings may be instituted without an accusation being lodged; and, both ordinary and compliant offenses, if flagrant, subject the offender to arrest without warrant by any police officer or private citizen if the offense carries a possible maximum punishment of three months simple imprisonment or a more severe penalty according to article 21 and 50 of criminal procedure code. But this study revealed as there is an arbitrary arrest without giving due regard to the existing laws. Those arrested by the police were not informed of the reason for their arrest. Awol (2017) reports the same results in the Wolayita zone, where individuals are arbitrarily detained by police. A study conducted by Getachew (2015) also reveals that police arrest people without evidence, criminal suspects are not brought to court on time, there is no notification of rights, long pre-trial detentions, detention conditions in police custody are below the minimum standard, and there is no external monitoring system.

Bail which is a mechanism of release of a person arrested, after entering into a bail bond, with or without sureties which in the opinion of the Court, is sufficient to secure his attendance when so required to appear, provided the court is of opinion that the circumstances put for release are fulfilled and where the offense with which he is charged does not involve any of the offenses considered to be notailable by the law (Kelali, 2011). But in practice, the suspects are not getting such rights as per this study.

The current Ethiopian constitution under article 19(6) states as Persons arrested have the right to be released on bail. In exceptional circumstances prescribed by law, the court may deny bail or demand an adequate guarantee for the conditional release of the arrested person. The practice in this particular study is the opposite of what the literature is saying. If this person is denied bail or did not get security and put under custody, then there are a lot of negative consequences both on the individual as well as the society. Such individual

may suffer from irremediable troubles such as by making him/her absence from his/her regular job, trading activity, education or any other activity in which he/she is engaged in for making a living or if he/she is unemployed to enable him/her to actively seek employment. The effect is not only limited to the person it goes beyond that. The first social institution to be affected by this is the family (Bilton, et al, 2002). In places where there is only one breadwinner in a family and when such a person is arrested and put under police custody, all of the family members will be affected. This study also confirmed what the literature is saying.

Jails are often crowded, dirty, unsafe, and populated by an unstable mixture of felons (Anderson & Newman, 1998). The detention centers in Bishoftu are also witnessing the same.

5. CONCLUSIONS and RECOMMENDATIONS

Based on the stated findings, the following conclusions and recommendations are forwarded.

Conclusions

- Majority of pretrial detainees were active working-age groups with a low economic and educational status that worsen the level of their challenges during detention.
- Use of force and arbitrary arrests are still in place while arresting suspects as well as during detention.
- Pretrial detainees were not in a position of getting food and medical services, legal counsel, proper hygiene, and accommodation that detention centers should fulfill
- Lack of bail rights and absence of proper remand review forced suspects to stay in detention centers awaiting trial.
- Actors of criminal justice systems are lacking behind in ensuring the rights and basic needs of suspects
- Lack of coordination and strong cooperation among the court, public prosecutor, and police in one way or another affected the rights of suspects during pretrial detention.

Recommendations

- Pre-trial detention should not be used as a tool of repression rather should be to precede an accused person's trial and conviction for genuine criminal violations.
- Greater effort must be placed on ensuring that pretrial detention is used as an exceptional measure following the country's criminal procedure code.

- Detainees should be given treatment appropriate to their innocent status.
- Minimum standards of lockups should be fulfilled to meet detained persons' basic needs during detention.
- There should be an organ that oversees the situations of pretrial detainees and organs that offer free legal counsel. Such organs can be university-level legal aid centers or private legal practitioners like advocates
- Investigative police officers should be equipped with up-to-date skills and knowledge of investigating criminal acts and logistics should be fulfilled.
- The surety demanded to release a detained person, should not be discriminatory against the poor and alternatives should be devised.
- An abused detainee should be compensated either by the government or by the abusers and government has to take action against abusers.
- Actors of the criminal justice system should work jointly in ensuring the rights of citizens.

6. Policy implication

Ethiopia embarked on ensuring human rights and enhancing the justice system in the best interest of citizens. The country's recent reform sets strategic directions in strengthening the constitutional system and ensuring rule of law; rendering effective, efficient, and accessible justice; and ensuring the independence, transparency, and accountability of the justice system as the goal of the justice sub-sector. But as one can see from the finding of this study, several issues still demand the attention of stakeholders of a criminal justice system that need policy reform as per the recommendations offered.

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8. Conflict of interest

No potential conflict of interest is reported by the author

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