

Intimate Partner Violence: Factors that Influence Court Decisions in Addis Ababa City Administration

Helen Abelle Melesse *

Abstract

The judiciary, due to its pivotal position, has the potential to play a crucial role in safeguarding women from intimate partner violence (IPV). Despite this, there exists a lack of research on the adjudication of intimate partner violence against women (IPVAW) cases in Ethiopia. This article aims to identify the factors that influence the decision-making process and the final judgments delivered by the judiciary in IPVAW cases within the Addis Ababa City Administration. A qualitative research method was employed as a general research approach to gather data from purposively selected victims/survivors and duty-bearers within the purposively selected sub-cities of Addis Ababa. Primary data were gathered through semi-structured in-depth interviews, focus group discussions, courtroom observations, and court case analysis. The research revealed that various legal, institutional, social, and cultural frameworks present in the study area significantly impact the adjudication of IPVAW cases. These can be categorized into factors directly related to the legal framework of the country and those that go beyond the black letters of the law. The findings suggest the need for a multi-faceted approach to address these factors, including strengthening the legal framework of the country, providing capacity-building training for actors, and raising public awareness about the gravity of the act.

Keywords:

intimate partner violence, women, human rights, criminal law, judiciary

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*Helen Abelle Melesse (LLB, M.A); PhD candidate at Addis Ababa University; Lecturer at Hawassa University, College of Law and Governance, School of Law.

Email: abellehelen@gmail.com

ORCID: <https://orcid.org/0009-0008-3495-137X>

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1. Introduction

Intimate partner violence (IPV) can be defined as any act of violence, whether singular or recurrent, occurring within an intimate relationship, perpetrated by a current or former spouse, cohabiting, or non-cohabiting partner. IPV encompasses physical aggression, sexual coercion, psychological abuse, and controlling behaviors that result in physical, sexual, or psychological harm.¹ IPV can take many forms, including battering, rape, restrictions on freedom of movement, control over financial resources, intimidation, stalking, and image-based abuse.

Acronyms:

FGD	Focus group discussion
HJ	Honorable Judge
I	Informant
IPVAW	Intimate partner violence against women
P	Police
PP	Public prosecutor
S	Survivor

¹ World Health Organization. (2017). “Violence against women.” Available at: <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> accessed on 9/15/2023

It is essential to clarify the distinction between IPV, domestic violence, and wife battering, as these terms are sometimes used interchangeably despite having different connotations.² Domestic violence is a broad term that encompasses all forms of violence occurring within a home, directed at any member of a household, including intimate partners, children, or the elderly.³ Consequently, domestic violence incorporates various forms of violence by any household member inflicted against different members, including, but not limited to, violence committed against intimate partners. Wife battering, on the other hand, pertains to a severe and escalating form of partner violence, focusing primarily on continuous abuse while excluding single incidents, such as situational couple violence.⁴ Therefore, the use of these terms needs caution, as their meanings vary depending on the context.

IPVAW has been recognized as a serious social and health problem in many African countries.⁵ Ethiopia is one of the nations in which IPVAW is prevalent, widely tolerated, and deeply rooted in social values, cultural patterns, and practices.⁶ Until amendments were made to its provisions, the 1960 Civil Code of Ethiopia recognized the husband as the head of the family to whom the wife owes obedience.⁷ In addition, the Code had granted the husband the authority to control and follow up on his wife's conduct.⁸ The former Penal Code of Ethiopia (which was effective from 1957 to 2004) also did not explicitly outlaw IPV. The wide tolerance of IPVAW in the country and the high social respect given to the privacy of intimate relations might imply the legal acceptance of the act.

Over the past few decades, Ethiopia has made some efforts, albeit limited, to combat violence against women (VAW) through gender-sensitive legal, policy, and institutional reforms. These initiatives include the ratification of

² World Health Organization. (2012). "Understanding and addressing violence against women." Available at: https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf;sequence=1 accessed on 9/15/2023, p.1.

³ Ibid.

⁴ Gunilla Krantz & Claudia Garcia-Moreno (2005). "Violence against women." *Journal of Epidemiology and Community Health*, 59, 818-821. p. 820.

⁵ Jesse R. Mann, & Baffour Takyi, (2009). "Autonomy, dependence or culture: examining the impact of resources and socio-cultural processes on attitudes towards intimate partner violence in Ghana, Africa." *Journal of Family Violence*, 24, 323-335. P. 332

⁶ Emebet Mulugeta, (2016). *Mapping report for young lives research policy program on violence affecting children and youth (VACAY)*. Addis Ababa: Young Lives Ethiopia, p. 35.

⁷ *The Civil Code of Ethiopia*, 5 May 1960, Proclamation No. 165/1960. Article 635.

⁸ Id., Article 644.

several international and regional human rights instruments, the promulgation of national instruments, and the establishment of specialized structures of law enforcement and gender-sensitive criminal proceedings.⁹ These developments have positioned the judiciary as one of the key players within the criminal justice system capable of playing a significant role in addressing IPVAW.

According to the Ethiopian Constitution and the Federal Courts Proclamation, judicial powers at both federal and state levels are entrusted to courts.¹⁰ As a result, by upholding the correct interpretation of laws and ensuring that perpetrators are held accountable, courts are duty-bound to safeguard women from violence. Furthermore, through their decisions, they are also expected to send a clear message to the general public that IPVAW will not be tolerated.

Despite the significant role of courts in protecting women from IPV and the broader implications of their decisions, there is a dearth of research analyzing the adjudication of IPVAW cases in Ethiopia. Consequently, the application of legal provisions by the judiciary and the factors that have direct or indirect impacts on the response of the judiciary to this issue remain highly under-researched. This article aims to identify the different factors that affect the decision-making process and final judgments delivered by the judiciary in IPVAW cases within the Addis Ababa City Administration.

Data for this research were collected from five purposively selected first instance courts, five city court divisions and one high court division within five sub-cities of Addis Ababa City Administration. Key actors¹¹ were purposively selected based on their positions and relevant experiences. 72 respondents participated in the research. Data were collected from 33 female survivors of IPV who navigated the justice system. The survivors were purposively selected considering factors such as age, socio-economic status, the type of violence they had encountered, and the final judgments given on

⁹ Central Statistical Agency [Ethiopia] and ICF. (2016). *Ethiopia Demographic and Health Survey 2016*. Addis Ababa, Ethiopia, and Rockville, Maryland, USA: CSA and ICF. p. 289

¹⁰ The Federal Democratic Republic of Ethiopia, *The Constitution of the Federal Democratic Republic of Ethiopia*, 21 August 1995. Proclamation No. 1/1995. Article 79(1) and *Federal Courts Proclamation*, 26 April 2021. Proclamation No 1234/2021. Preamble

¹¹ These consist of judges, prosecutors, police officers, defence attorneys, experts from shelters, one-stop centers, Addis Ababa city administration bureau of women, children, and social affairs, Ethiopian Women Lawyers Association (EWLA), as well as family elders and religious leaders.

their cases. Furthermore, 97 purposively selected IPVAW closed case files adjudicated by the selected courts were reviewed.¹²

Semi-structured in-depth interviews, focus group discussions, courtroom observations, and court case analysis were employed for data collection. Interviews continued until data saturation was reached. Additionally, international, regional, and domestic legal frameworks also served as primary sources of data. Furthermore, secondary sources such as literature (both published and unpublished), official reports, and websites were consulted.

The research adheres to all ethical principles of scientific social science research, guided by the World Health Organization's ethical and safety recommendations for research concerning VAW.¹³ Prior to commencing the research, permission was obtained from the relevant authorities in Addis Ababa City Administration. All informants participating in the research were informed about the research's purposes, potential risks, and benefits in a manner tailored to their comprehension levels. Data collection commenced only after obtaining informed consent from the participants. Anonymity and confidentiality were maintained through the use of codes for participant names, and diverse data sources were triangulated to enhance credibility.

The following sections examine the impact of legal instruments on the response of the judiciary to IPVAW cases, and explore various factors, beyond the legal framework, that affect the adjudication of IPVAW followed by concluding remarks.

2. The Influence of Criminal Law Provisions on the Adjudication of IPVAW Cases

This section and the third section of the article offer a concise overview of the legal framework in Ethiopia concerning issues related to IPVAW. They deal with the impact of existing *substantive* and *procedural* laws on the adjudication process and the final judgments delivered in IPVAW cases. This section focuses on Ethiopia's substantive criminal law relating to IPVAW cases.

¹² Data collection was conducted in two rounds. The first round took place from June 1 to November 14, 2022, and the second round occurred from January 25 to March 24, 2023 (These data were gathered for the purpose of the authors' PhD study).

¹³ World Health Organization. (2016). Ethical and safety recommendations for intervention research on violence against women: building on lessons from the WHO publication putting women first: Ethical and safety recommendations for research on domestic violence against women. Geneva: World Health Organization.

Intimate partner violence against women encompasses various forms of violence, ranging from single, unsolicited physical contact to acts of torture and murder. Consequently, legislation addressing these issues requires a clear, precise, and comprehensive definition of the act.¹⁴ However, unlike the Declaration on the Elimination of Violence against Women (DEVAW) and the Maputo Protocol, the Criminal Code of Ethiopia does not provide an inclusive definition of VAW that incorporates women's actual experiences of violence.¹⁵

Ethiopia's 2004 Criminal Code only has one provision (Article 564) that explicitly mentions IPV, specifically violence against a marriage partner or a person cohabiting in an irregular union. However, this provision does not offer a specific definition of IPV and treats such violence in the same manner as any other form of injury to physical or mental health committed against anyone. As a result, for the determination of punishments, this provision directs such cases to be addressed by the provisions dealing with crimes against persons and health (Articles 555-560).

Thus, other than explicitly recognizing violence against a marriage partner or a person cohabiting in an irregular union as a criminal act, it can be argued that by incorporating Article 564, the legislator did not make a significant addition to the proper prosecution and adjudication of IPV cases. This is because even without this provision, nothing prevents the implementation of Articles 555-560 to address IPV cases that cause physical and mental harm. According to an informant, one rationale behind the inclusion of Article 564 in the Criminal Code could be that a significant portion of society still does not perceive IPVAW as a serious issue, and such matters are often not regarded as criminal offenses. Thus, she believes that by explicitly criminalizing IPV, this provision serves an educational and deterrent purpose.¹⁶

The treatment of IPVAW in the same manner as other crimes demonstrates that the Criminal Code focuses on the nature of the harm inflicted rather than the relationship between the parties involved. However, the treatment of IPV

¹⁴ Bonita Meyersfeld, (2012). *Domestic Violence and International Law*. Bloomsbury Publishing. Oxford and Portland, Oregon, p. 156.

¹⁵ Megersa Dugasa, (2014). "The Ethiopia's legal framework on domestic violence against women: a critical perspective." *International journal of gender and women's studies*, 2(1), 49-60, p. 98.

¹⁶ Interview with HJ-17 conducted on 28 October 2022

cases like ordinary crimes against physical and mental health¹⁷ disregards the unique and complex nature of the emotional, economic, and sexual relationship between the partners, as well as the power dynamics and the repetitive and secretive characteristics of the crime. These factors are believed to present substantial challenges for the adjudication of such cases within the criminal justice system.

Moreover, there is no specific procedural law that can be utilized for the adjudication of IPVAW cases. Consequently, the 1961 Criminal Procedure Code serves as the procedural law regulating the proceedings of these cases. This mandates the application of the same procedures used for other criminal offenses, irrespective of the unique and sensitive nature of IPVAW.

One informant stressed that the inclusion of specific provisions¹⁸ for IPV would signify that the state has given proper attention to the issue and is committed to its prevention and punishment. Moreover, having specific substantive provisions may lead to the development of a separate procedural law and guidelines for sentencing. He emphasized that, in addition to the educational and deterrent effects, this approach would result in the specialized handling of IPVAW cases, leading to the special treatment of survivors. However, if these cases are treated the same as other crimes, it diminishes the gravity and unique characteristics of such acts.¹⁹

The assimilation of IPVAW with other crimes related to physical and mental health influences how judges adjudicate these cases. For instance, one informant noted that since both the Criminal Code and the Criminal Procedure Code are silent on this issue, IPVAW cases are investigated, prosecuted, and adjudicated in the same manner as ordinary crimes. Consequently, there are no specific procedures that actors are required to follow in this regard.²⁰

Therefore, based on the data collected for this research, IPVAW cases are adjudicated using the same substantive and procedural laws that apply to crimes committed by strangers. Furthermore, no special treatments, whether

¹⁷ *The Criminal Code of the Federal Democratic Republic of Ethiopia*, 9 May 2005, Proclamation No. 414/2004. Articles 555-560

¹⁸ Specific provisions mean provisions that recognize the unique and complex nature of intimate partner relationships, including their emotional, economic, and sexual dimensions, as well as the power imbalances and the often repetitive and secretive nature of the crime. Additionally, these provisions should establish proportionate penalties.

¹⁹ Interview with HJ-19 conducted on 31 October 2022

²⁰ Interview with PP-1 conducted on 20 June 2022

psycho-social or legal, are provided for survivors of IPVAW, and victim-friendly benches were not utilized in any of the cases assessed in this research.

3. Legal Provisions that Guide Sentencing

After a court with jurisdiction delivers a guilty verdict, the next step is sentencing. The determination of an appropriate sentence requires due consideration. The Criminal Code contains provisions that guide courts in administering proportional punishment for each case, taking into account a thorough evaluation of the circumstances associated with the case.²¹

The Criminal Code underscores the need for a method that enables courts to issue similar punishments for similar cases, aiming to ensure correctness, uniformity, and predictability in sentencing.²² Consequently, the Federal Supreme Court was entrusted with the task of developing a sentencing guideline.²³ The initial guideline was prepared in 2010 and later revised in 2013.

The implementation of Sentencing Guideline No. 2/2013 in IPVAW cases, similar to other cases that fall under the guideline, has the potential to standardize sentencing by narrowing the wide minimum and maximum limits of penalties outlined in the Criminal Code. This, in turn, curbs the discretionary power of judges. The guideline restricts sentences for IPVAW offenses by establishing offense categories based on the characteristics of the offenses.

One informant emphasized that the sentencing guideline has significantly decreased the discretion of judges, a development deemed favorable as it enhances the predictability of judicial decisions.²⁴ Another informant noted that the guideline limits the exercise of judicial discretion to cases that do not fall under the sentencing guideline.²⁵

Conversely, another informant argued that the discretion of judges to give decisions outside of the sentencing guideline is not entirely restricted. He explained that although punishments are decided based on the sentencing guideline, the judge can pass a different sentence if s/he finds the punishment not to be proper and believes it will not have a deterrent or rehabilitative effect. However, if a sentence is given outside of the sentencing guideline, the judge

²¹ Criminal Code. *Supra* note 17, preface

²² *Id.*, preface & Article 88(4).

²³ *Ibid.*

²⁴ Interview with HJ-3 conducted on 19 July 2022

²⁵ Interview with HJ-5 conducted on 20 July 2022

who gave such a sentence is required to make sure that the Federal Supreme Court is notified of such a decision, by sending a copy of the decision to the court.²⁶ This argument derives from Article 27 of the Sentencing Guideline, which allows judges to depart from the guideline in exceptional cases if they find circumstances that justify such departure.

Participants in a focus group discussion highlighted that having a sentencing guideline does not necessarily mean that all individuals who have committed similar crimes will be sentenced to identical punishment. The sentence ultimately depends on different issues that can aggravate or mitigate the punishment.²⁷ Accordingly, before a final sentence is given by a court, the prosecutor and the defendant are allowed to present aggravating and mitigating circumstances, respectively, if available. Thus, even if the sentencing guideline gives judges a very narrow discretion on cases that fall under the guideline, decisions are affected by the acceptability of the aggravating and mitigating circumstances that are presented by the parties. For instance, one judge may consider only one of the aggravating or mitigating circumstances, while another may consider several, and this affects the final sentence.

In IPVAW cases, factors such as the perpetrator's relationship with the survivor, the repetitive nature of the crime, and the emotional, economic, and sexual dynamics between the parties should be taken into account when deciding on a suitable sentence. An informant suggested that it would be appropriate for the law to establish separate punishment for IPVAW cases, recognizing them as unique crimes distinct from offenses committed by strangers. She argued that such a provision would have a greater deterrent effect.²⁸

However, some actors perceive the nature of IPVAW as a rationale for imposing lighter sentences. One informant, for example, believes that punishing IPVAW perpetrators in the same manner as other offenders is challenging. In such cases, judges need to consider the economic status of survivors and the future of their children when determining sentences. This often prevents them from imposing punishments that have educational and deterrent effects. The informant also noted that, since there is no separate IPV law, the penalties imposed for some IPVAW cases are very minimal, as such mediation is favored to resolve conflicts and prevent lingering grudges.²⁹

²⁶ Interview with HJ-1 conducted on 21 June 2022

²⁷ FGD-1 with public prosecutors conducted on 9 September 2022

²⁸ HJ-17. *Supra* note 16.

²⁹ HJ-19. *Supra* note 19.

Another informant pointed out that, in IPVAW cases, if the couple has resolved their issue through mediation and the accused has compensated for the harm caused, judges consider these factors when making their sentencing decisions. For example, in a case where a husband knocked out his wife's tooth, the punishment was suspended because the accused showed remorse, paid for dental treatment and the couple agreed to continue their marriage. The informant underscored that the application of the law is case-specific. He emphasized that if a similar crime had been committed against a stranger, the accused would have faced more severe punishment.³⁰ According to another informant, judges may also consider the impact of their decision on children, the marriage, and society, as well as the defendant's condition (e.g., an illness that could worsen in prison). After taking all these factors into account, the court may choose to suspend the penalty imposed on the defendant.³¹

Data gathered for this research suggest that some judges may impose lenient sentences in IPVAW cases due to the perceived impact of their decision on the continuation of the marriage or relationship, particularly when mediation has taken place. Additionally, they weigh the potential economic and psychological impacts of their decisions on the survivor and her children. These considerations bear substantial significance in IPVAW cases, alongside the mitigating circumstances typically evaluated in other criminal cases.

Based on the data obtained from case analysis, the following observations were made: in 38% of the cases, the defendants were convicted, while 1% resulted in acquittals. Mediation settled 34% of the cases, and the remaining 27% were closed due to the disappearance of witnesses and/or defendants. Among the cases where conviction occurred, 24% of the defendants received prison sentences (simple or rigorous, ranging from 1 day to 11 years), 43% were fined, 6% faced a combination of simple imprisonment and a fine, and in 27% of the cases, the enforcement of penalties was suspended.

In a considerable number of cases where defendants were convicted, both the prosecution and defense introduced aggravating and mitigating circumstances, respectively. Aggravating circumstances were raised in 29.7% of the cases, including the relationship between the survivor and the defendant in 72.7% of cases, previous criminal records in 18% of cases, lack of remorse in 9% of cases, emotional distress and shame inflicted upon the survivor in 9% of cases, multiple offenses in 9% of cases, and the use of weapons in 9% of cases. In 81% of the cases, mitigating circumstances were presented. These included the absence of a prior criminal record (indicating good behavior) in

³⁰ Interview with HJ-8 conducted on 26 August 2022

³¹ Interview with HJ-11 conducted on 20 October 2022

90% of cases, defendants' role as breadwinners of their family in 46.7% of cases, fatherhood in 10% of cases, mediation in 20% of cases, payment of compensation in 10% of cases, showing remorse in 10% of cases, and other factors such as the defendant's age, health issues, and lack of legal knowledge. Multiple aggravating and mitigating circumstances were considered in many cases.

In the cases analyzed for this research, prosecutors often failed to introduce aggravating circumstances, and when they did, their focus was typically on the defendant's previous criminal record and the relationship between the survivor and the defendant. On the other hand, the defense frequently presented numerous mitigating circumstances. Surprisingly, in some cases, even the defendant's purchase of the Renaissance Dam Bond (a bond sold to finance the Grand Ethiopian Renaissance Dam) was presented as a mitigating factor.³²

Furthermore, in 90% of the cases where the defense presented mitigating reasons, the courts demanded evidence to substantiate these requests. However, in the remaining 10% of the cases, the courts accepted the presented mitigating circumstances without requiring or evaluating any evidence. Aggravating circumstances, on the other hand, were only considered when supported by evidence.

Thus, it can be argued that the lack of aggravating circumstances presented by prosecutors and the prevalence of mitigating circumstances introduced by the defense can be attributed as one contributing factor to the suspension of punishments and the imposition of lenient penalties in many of the cases assessed. As previously mentioned, in 27% of the cases where defendants were convicted, the punishment was suspended, and in 43% of cases, preparators were fined (ranging from Birr 100-2000).

According to the data collected for this research, Sentencing Guideline No. 2/2013 (for crimes that fall under the guideline) determines the penalties applicable to IPVAV cases. This is because the guideline sets the standards that judges are required to follow in imposing sentences on offenders. However, even though the guideline significantly restricts judicial discretion, it does not guarantee uniform sentencing for similar cases, as the final sentence is contingent on the aggravating and mitigating circumstances that a particular judge considers in a case.

³² See, for example, *Public Prosecutor v. Daniel Abebe*, Criminal File Number 135623, Bole Division, Federal First Instance Court, 16/05/2014 E.C.

4. Issues Related to Evidence that Affect the Response of the Judiciary to IPVAW

It is reasonable to assume that judicial decisions can be influenced by factors beyond the black letters of the law. As a result, it is crucial to examine how different factors affect the adjudication of IPVAW cases. This section explores factors associated with evidence, and the subsequent sections address other issues outside the legal framework, i.e. the absence of training programs for judges and other actors, the attitude of actors, and the cooperation of survivors, all of which play a pivotal role in shaping the judiciary's response to IPVAW cases. These factors have been selected based on the data collected for this research, as they have been identified as the main factors that impact the judiciary's response to IPVAW cases.

4.1 Standard of proof for conviction

In Ethiopia, IPVAW cases are handled similarly to ordinary crimes, requiring prosecutors to establish the defendant's guilt 'beyond a reasonable doubt'³³ for a conviction. However, since it is extremely difficult to present adequate evidence to support IPVAW claims, more often than not, cases result in the acquittal of the defendant.³⁴ Several factors contribute to the challenge of proving IPVAW in court. These include the fact that such violence is often perpetrated behind closed doors, leaving little physical evidence and often no witnesses.³⁵ Even when family members witness the offenses, they may be reluctant to testify, as they do not desire to take sides and jeopardize their relationships with the parties involved.³⁶

One informant explained that if a defendant is found guilty, the resulting criminal penalties can cause irreversible harm. As a result, courts are strict in evaluating the evidence presented. Thus, evidence that is brought by the prosecutor needs to establish the commission of the crime beyond a

³³ Establishing 'guilt beyond a reasonable doubt' requires proving every essential material and moral element of an offense as stated in the charge. See Worku Yaze, (2014), "Burden of Proof, Presumptions and Standard of Proof in Criminal Cases," *Mizan Law Review*, Vol, 8, No.1. p. 260 Proving guilt beyond a reasonable doubt involves establishing the prosecutor's charges to the extent that a reasonable person would have no doubt about the defendant's guilt. Although the term 'proven beyond reasonable doubt' is not explicitly mentioned, Article 20(3) of the FDRE Constitution and Article 141 of the Criminal Procedure Code provide similar protections for the accused.

³⁴ Interview with HJ-16 conducted on 27 October 2022

³⁵ Edna Erez (2002). "Domestic violence and the criminal justice system: An overview." *Online Journal of Issues in Nursing*, 7(1), 1-24. p.4

³⁶ Ibid.

reasonable doubt.³⁷ Another informant pointed out that prosecutors often present cases with weak evidence, relying on hearsay rather than direct evidence, which is essential for proving the defendant's guilt beyond a reasonable doubt. She added that in some instances, although the severity of the matter is evident from the survivor's condition, the lack of adequate evidence leads to the defendant's acquittal. While this may appear as a miscarriage of justice, it is important to understand that a court cannot convict a defendant without sufficient evidence.³⁸

According to an informant, Ethiopia lacks a comprehensive evidence law, resulting in scattered provisions within the Criminal Procedure Code. Since IPVAW often occurs at home without witnesses, finding evidence becomes challenging. Addressing this issue requires the adoption of specific procedures for adjudicating such cases.³⁹

The evidence presented in the cases analyzed for this research typically includes medical evidence in some cases, witness testimony, the accused's statements given to the police, a weapon used in the crime (if there is any), photographs of injuries in some cases, and supporting documents such as official records. Among these forms of evidence, medical evidence and witness testimony are frequently utilized to support the prosecutors' claims. The collection and presentation of medical evidence and witness testimony, as well as the challenges encountered in this regard, are assessed in Sections 4.2 and 4.3.

4.2 Medical evidence

Medical reports are one of the main pieces of evidence that are often presented in sexual and physical IPVAW cases. Comprehensive and legible medical reports are essential for making informed decisions about presenting criminal cases that require such evidence in courts.⁴⁰ They provide objective documentation of the survivor's injuries, helping to assess the severity of harm.⁴¹

In the cases examined, medical reports are concise one-page documents that contain the survivor's card number, name, sex, age, date of examination, type of injury, and level of injury. Since the DNA of the assailant is not tested in the cases analyzed for this research, medical evidence only reveals the type

³⁷ Interview with PP-4 conducted on 21 June 2022

³⁸ HJ-5. *Supra* note 25.

³⁹ HJ-1. *Supra* note 26.

⁴⁰ Erez. *Supra* note 35, p.11.

⁴¹ *Ibid.*

and level of injury sustained by the survivor without identifying the perpetrator. One informant confirmed this limitation, emphasizing that while medical evidence indicates the occurrence of an injury, it does not establish who caused it. As a result, proving the defendant's responsibility for the harm becomes challenging as these crimes often occur in private settings.⁴²

Another informant pointed out that prosecutors bear the burden of interpreting forensic medical reports, which poses a challenging task. This is because the majority of medical reports are often vague, illegible, and written in English, whereas the working language of the courts in the study area is Amharic. He stated that translating technical medical terms can be difficult and may lead to significant errors and misconceptions. Thus, he emphasized the need for detailed explanations regarding the form, degree, and estimated time of injury infliction to enhance the usefulness of medical evidence.⁴³ In the cases examined, 64% of medical reports were written in Amharic, 28% in English, and the remaining 8% in both languages. Moreover, the reports were obtained from both governmental and private healthcare institutions.

Even though forensic medical evidence is valuable in the adjudication of IPVAW cases, it is important to acknowledge its limitations. As mentioned earlier, it may not identify the perpetrator, and its interpretation can be challenging. Nevertheless, when used in conjunction with other evidence, medical evidence can be a valuable tool.

4.3 Witness testimony

As witnesses are individuals with pertinent information related to a case,⁴⁴ their role involves providing a testimonial account of their experiences, observations, or knowledge relevant to the case at hand.⁴⁵ Witnesses play a crucial role in building evidence for a court case and are often utilized by both the prosecution and the defense to strengthen their respective arguments and bolster their positions.

Different types of witnesses are used in legal proceedings, including expert witnesses who may be professionals, specialists, or individuals who provide their opinions and insights to help the court understand complex technical or

⁴² Interview with HJ-6 conducted on 23 July 2022

⁴³ Interview with PP-13 conducted on 23 September 2022

⁴⁴ Kahsay Debesu & Andualem Eshetu. (2009). *Law of Evidence Teaching Material*. Prepared under the Sponsorship of the Justice and Legal System Research Institute. P. 128

⁴⁵ Federal Supreme Court of Ethiopia. (2023). Information for Witnesses. Available at: <https://www.fsc.gov.et/Going-to-Court/Information-for-Witness> accessed on 11/28/2023

scientific matters.⁴⁶ On the other hand, character witnesses testify about the personality traits and reputation of either the survivor or the defendant.⁴⁷ Eyewitnesses (lay witnesses) are individuals who were at the scene, saw or heard something related to the case, or were directly impacted by an event that the case is being tried for.⁴⁸

Eyewitness testimony served as a crucial source of evidence in the majority of cases analyzed for this research. An informant explained the evidence collection process as follows:

In IPVAW cases, we gather both direct and circumstantial evidence. We document the testimonies of the survivor and potential witnesses who may have observed the crime, such as cohabitants or neighbors. If necessary, we arrange for the survivor to undergo forensic medical examination to obtain evidence as well as for her to receive necessary treatment at a healthcare facility.⁴⁹

Another informant highlighted a common challenge in evidence collection, where direct evidence is often lacking. In such cases, the police rely on circumstantial evidence, such as testimonies from children, maids, or others who may have heard the couple's argument or the survivor's screams. Whenever possible, this evidence is reinforced with medical documentation.⁵⁰

Informants who participated in a focus group discussion identified several challenges associated with witness testimony. They noted that since IPVAW often occurs behind closed doors, with only the victim, the perpetrator, and perhaps the children as witnesses, cases often devolve into a 'he said/she said' scenario. The police often use people who live with the couple, such as children, maids, and parents as well as neighbors, as witnesses if they have witnessed the violence. However, many potential witnesses that the police approach refuse to testify, as they do not want to interfere in what they consider 'a family matter' and often claim not to have witnessed the crime.⁵¹

An informant shared her own experience, stating that even though her neighbors had seen her husband severely and repeatedly beat her and she had sought refuge with them numerous times out of fear for her life, none of them

⁴⁶ Kahsay & Eshetu. *Supra* note 44, pp. 114, 115& 135.

⁴⁷ *Id.*, p. 128.

⁴⁸ *Ibid.*

⁴⁹ Interview with P-2 conducted on 22 June 2022

⁵⁰ Interview with PP-10 conducted on 22 August 2022

⁵¹ FGD-1. *Supra* note 27.

were willing to testify in court. As a result, her elder daughter, who was 15 years old at the time, and herself were the only witnesses.⁵²

Another survivor of physical violence highlighted the challenges she faced in terms of gathering evidence. She explained that despite experiencing repeated acts of violence, the police insisted she needed witnesses to support her claims. Unfortunately, the people around her were unwilling to cooperate, leaving her with no option but to withdraw her complaint and seek mediation instead.⁵³ Similarly, another survivor of physical violence shared her own distressing experience. Despite her injuries and visible blood oozing from her wounds when she went to the police station to report the crime, the officers refused to accept her claims without witnesses. She posed a question, “Where can I find witnesses? He did not assault me in public.” She added that this has led her to lose faith in the justice system.⁵⁴

Another survivor stated that she had experienced repeated physical abuse by her husband throughout their marriage. She noted that he would always make sure to leave no evidence of his abuse so that she would not report it to the police. He would throw objects at her and hit her on the head, but he would only do so when there were no witnesses.⁵⁵

One informant pointed out that the evidence that is often presented in courts is often not supported by technology, such as DNA testing or digital forensics. He added that prosecutors often heavily rely on witness testimony, which can be susceptible to abuse and manipulation by both parties. Instances of false witnesses being organized by both sides have been reported.⁵⁶

Another challenge highlighted during an interview with informants was the significant time that elapses from the moment a crime is reported to the police until the investigation is concluded and evidence is gathered. Subsequently, there is a delay in framing charges and presenting them to court. Delays can occur as the police may struggle to promptly present witnesses, and the court may request amendments to the lawsuits, further prolonging the case.⁵⁷ During this time, evidence may deteriorate. For instance, witnesses may get frustrated due to repetitive and long court appointments and disappear, they may die, they may change their statements, or opt for mediation, etc.⁵⁸

⁵² Interview with S-23 conducted on 11 March 2023

⁵³ Interview with S-25 conducted on 3 May 2023

⁵⁴ Interview with S-31 conducted on 4 May 2023

⁵⁵ Interview with S-33 conducted on 17 June 2023

⁵⁶ PP-4, *Supra* note 37.

⁵⁷ Interview with HJ-1 and HJ-15 conducted on 21 and 27 October 2022 respectively

⁵⁸ *Ibid.*

According to one informant, there is also a challenge with recording witness testimonies in line with the law, which the police often fail to do. He believes that there are instances where the police lack the necessary knowledge and skills to carry out this task properly.⁵⁹

It is undeniable that the quality of evidence presented in court significantly influences the response of the judiciary to IPVAW cases. Judges can only render a guilty verdict if prosecutors meet the burden of proof, establishing guilt beyond a reasonable doubt. Data collected for this research reveals that the absence of credible evidence poses a substantial obstacle to the successful prosecution of IPVAW cases and the accountability of perpetrators.

5. Lack of Training Programs for Judges and other Actors

Several international instruments, including the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action, and the CEDAW General Recommendation No. 35, call upon states to provide proper training to judges, prosecutors, and police. However, it appears that Ethiopia needs to give due attention to these issues. If the actors who respond to IPVAW cases are not properly trained, the challenges that are currently faced with the enforcement of the law will persist.

The data collected for this research show that actors who respond to IPVAW cases in Ethiopia are not provided with either long-term or short-term gender-sensitivity training on VAW. Only 23.6% of the actors who participated in interviews and FGDs for the research had received such training. An informant mentioned that most of the time, trainings on women's issues are provided by NGOs. However, these trainings tend to be repetitive and fail to consider the specific needs of the trainees.⁶⁰

According to one informant, when a case is presented to a court, the presiding judge checks if the provisions referred are appropriate to the case at hand, if not, the judge asks the prosecutor to amend the suit. The court then weighs the evidence to determine if it is enough to prove the commission of the crime indicated in the suit. However, there is a significant gap in the police's capacity to collect evidence. Some investigative police officers lack the necessary knowledge and skills to conduct proper investigations.⁶¹ An informant noted that in cases where the judge believes the charges are unclear

⁵⁹ Interview with HJ-18 conducted on 28 October 2022

⁶⁰ Interview with PP-15 conducted on 24 October 2022

⁶¹ Interview with HJ-13 conducted on 20 October 2022

(for instance, if it does not indicate all the relevant facts or if it is vague and does not allow the defendant to properly defend himself) and if it is believed that this might affect the delivery of justice, the court can order the prosecutor to amend the charges.⁶² This is in line with Article 112 of the Criminal Procedure Code, which requires charges to describe the offense and its circumstances clearly to enable the accused to understand the charge.

Another informant pointed out that “there are challenges related to the capacity of prosecutors. There are instances in which wrong provisions are referred to in charges, resulting in a suspect being punished under a provision that provides a lesser punishment for a grave offense. This is unfair to both the survivor and the public.”⁶³

On the other hand, another informant noted that there are several cases in which the prosecutor referred to a provision that imposes a more stringent punishment than the offense deserved. In such cases, if the court believes the crime falls under a provision that entails a lesser punishment, it can change the provision and ask the defendant to defend himself accordingly. However, the court cannot do the same in cases where the prosecutor referred to a provision that results in a lighter punishment for a crime that falls under a provision with heavier punishment. This is because in criminal cases, courts see issues in a way that favors the suspect. The informant underlined that prosecutors need to be careful in choosing the appropriate provision.⁶⁴ The authority of courts to lower the charges framed by the prosecutors emanates from Article 113(2) of the Criminal Procedure Code.

During a focus group discussion, it was also noted that prosecutors face challenges in constructing charges that accurately explain the facts of the case. This often leads to the court ordering amendments to the charges, resulting in case delays. In addition, sometimes prosecutors fail to properly prepare witnesses for trial, making it difficult for them to recall the facts in court. Moreover, prosecutors missing court appointments can lead to case dismissal. Lack of knowledge and experience were also mentioned as challenges that affect the adjudication of IPVAW cases.⁶⁵

One informant also noted that both police and prosecutors must exercise caution and attention to detail during the investigation and prosecution process, as they significantly influence the court’s final decision. Their conduct can result in the acquittal of a criminal or the punishment of an

⁶² HJ-1. *Supra* note 26.

⁶³ PP-4. *Supra* note 37.

⁶⁴ HJ-11. *Supra* note 31.

⁶⁵ FGD-3 with judges conducted on 23 March 2023

innocent individual.⁶⁶ An informant expressed the challenge encountered by prosecutors in court by stating that courts may “fail to interpret the law accurately”.⁶⁷

The capacity of judges, prosecutors, and police plays a significant role in determining how IPVAW cases are handled in courts and their outcomes. These actors must understand the nature, impact, and legal implications of IPVAW to properly respond to such cases and, consequently, protect survivors and hold perpetrators accountable. Based on the data collected for this research, there is a capacity gap among some actors, which negatively impacts the adjudication of IPVAW cases.

6. The Attitude of Actors towards IPVAW

Internationally, there is a widely shared public perception that “a family is a hallowed realm, surrounded by a barrier of privacy that warrants respect and distance.”⁶⁸ As a result, traditionally the principal understanding of actors within the criminal justice system was that IPVAW is ‘a private matter and that a man’s home is his castle’ as such, there is no need for interference.⁶⁹ Thus, issues of IPVAW are often treated lightly by characterizing them as ‘crimes of passion’, ‘situational rather than enduring’ occurrences, or/and private matters that need to be resolved through mediation.⁷⁰ Such perceptions encourage courts to pass lighter punishment on offenders of IPVAW.⁷¹ This approach, however, fails to recognize the severity as well as the social and psychological dynamics of such crimes and the danger they pose to the broader public.⁷²

⁶⁶ HJ-16. *Supra* note 34.

⁶⁷ Interview with I-2 conducted on 8 November 2022

⁶⁸ Bonita Meyersfeld, (2021). *A Theory of Domestic Violence in International Law*. JSD Thesis. Yale Law School. Available at: https://openyls.law.yale.edu/bitstream/handle/20.500.13051/17631/Boni_Thesis_Final_April_14_2006.pdf?sequence=2&isAllowed=y accessed on 2/22/2023 p. 220

⁶⁹ Erez. *Supra* note 35, p.3.

⁷⁰ Gillian M. Pinchevsky, (2017). “Understanding Decision-Making in Specialized Domestic Violence Courts: Can Contemporary Theoretical Frameworks Help Guide These Decisions?” *Violence against Women*, Vol. 23(6) 749–771, Sage publication, p. 753.

⁷¹ *Ibid.*

⁷² *Ibid.*

Moreover, the stereotypical views of battered women held by actors who respond to IPVAW significantly influence the adjudication of IPVAW cases.⁷³ These views include perceiving IPVAW as a ‘mutual combat’, victim-blaming attitudes, and regarding survivors as untrustworthy.⁷⁴ These perceptions may be supported by the notion that characterizes women as ‘too emotional, hysterical, and uncooperative’.⁷⁵ If such attitudes persist among actors within the criminal justice system, they can hinder survivors from coming forward and utilizing the system.⁷⁶

An informant pointed out that there is an established belief, accepted by part of society, that it is better not to interfere in matters between couples, especially if the offense is committed by a husband or a lover. Since judges are part of society, some may prioritize protecting the institution of marriage and may be reluctant to intervene in family matters.⁷⁷ Another informant also noted that judges, despite their education, often hold attitudes similar to those of society. As a result, their perception of IPVAW may not differ significantly from that of the community. He added that when judges determine punishment, they focus on how it will affect the defendant and the children. In some cases, judges believe it is sufficient to scold the perpetrator, and when they do decide to impose punishment, they tend to choose minor punishment or/and suspend the sentence.⁷⁸

According to an informant,

If wronged, anyone can bring a case to court. However, as a married woman, a mother, and a member of society, I prefer such issues to be resolved through mediation. Most women are economically dependent on their partners, forcing them to remain in violent relationships. What other choice do they have? I believe the current ‘vile’ modernization is decreasing tolerance between couples and tremendously increasing the divorce rate in the country; this needs to be addressed.⁷⁹

⁷³ Erez. *Supra* note 35, p.12.

⁷⁴ *Ibid.*

⁷⁵ Venessa Garcia & Patric McManimon, (2011). *Gendered Justice: Intimate Partner Violence and the Criminal Justice System*. Rowman & Littlefield Publishers, Inc. Maryland, p.109

⁷⁶ *Ibid.*

⁷⁷ Interview with HJ-2 conducted on 13 July 2022

⁷⁸ Interview with PP-2 conducted on 20 June 2022

⁷⁹ HJ-3. *Supra* note 24.

Participants in a focus group discussion stated that taking a case to formal institutions should depend on the severity of the case. Minor cases should not be brought to courts; instead, they should be resolved privately through mediation. They emphasized the importance of protecting the family as the pillar of society and argued that bringing every disagreement to court would disrupt the continuation of the family and waste the court's time. However, in cases where violence is severe and results in physical harm, even if the survivor does not wish to sue, the prosecutor brings the case to court.⁸⁰

Another informant also stated, "For me, if the assault is repetitive, the case needs to be taken to formal institutions, but if it is a one-time event caused by anger or just an accident, it should be resolved through mediation."⁸¹ One informant noted, "I do not agree with bringing minor IPVAW cases to formal institutions, it is a waste of our time, and we have more important matters to deal with."⁸²

An informant stated, "Sometimes women bring claims of IPVAW out of anger, and in such cases, we advise them to calm down. We explain the consequences of filing a complaint and how it will impact their lives. If the case is not serious, we facilitate mediation."⁸³ According to another informant, in most IPVAW cases, survivors want to save their marriages and do not wish to see their husbands punished. As a result, when adjudicating IPVAW cases, courts focus on preserving the marriage. And when it comes to sentencing, they exercise discretion, often choosing to scold the perpetrator or suspend the punishment.⁸⁴

An informant highlighted that the norm is resolving petty offenses through mediation. He added that bringing IPVAW cases to court can cause social disruption. As women are often economically dependent on their husbands, it is better to resolve these cases through mediation by scolding the partner. He also shared a case in which a husband slapped his wife and caused her to lose her eyesight. "He did not intend to do it," the informant said.

The court allowed them to reconcile, but they did not, if they had reconciled, the court would have suspended the husband's sentence. Since they could not reconcile, he was sent to prison. Afterward, the wife filed for divorce and requested maintenance. However, since the

⁸⁰ FGD-2 with judges conducted on 10 November 2022

⁸¹ Interview with HJ-9 conducted on 5 September 2022

⁸² PP-10. *Supra* note 50.

⁸³ P-2. *Supra* note 49.

⁸⁴ Interview with PP-3 conducted on 21 June 2022

husband is in prison and unable to provide maintenance, both parties and their children are currently suffering.⁸⁵

As such, the informant believes it is important to consider the broader picture when discussing IPVAW. “We need to think about what will happen next.”⁸⁶ On the other hand, in a focus group discussion, one participant argued that IPVAW cases should be reported to formal institutions because court decisions can serve as a deterrent for future crimes. In addition, as IPVAW is often repetitive such records can be used as an aggravating circumstance.⁸⁷ One informant emphasized the importance for judges to adjudicate cases completely based on the law and the evidence presented, free from personal beliefs and opinions. If they cannot detach themselves from their personal beliefs, they should recuse themselves from the case.⁸⁸

According to an informant, the attention given to IPVAW cases depends on the attitude of the judge presiding over the case. Some judges give due attention to such cases and make decisions that can educate the public, while others consider them trivial matters. She added that the attitude of judges affects their decisions, citing instances where judges have even tried to justify rape.⁸⁹ Another informant further stated that judges do not explicitly reveal their personal beliefs and opinions in court, however, these beliefs do impact how they evaluate certain evidence.⁹⁰ Another informant supported this argument, highlighting that the main challenges in courts lie in the evaluation of presented evidence. This heavily depends on the attitude of the judge adjudicating the case, and the weight s/he gives to the issue at hand.⁹¹

Judges’ attitude towards a certain case is critical in evaluating pieces of evidence because the Criminal Procedure Code of Ethiopia gives courts wider discretion. This enables them to call and examine witnesses if they find it necessary. Accordingly, under Article 136 (4) of the Criminal Procedure Code, courts are granted the authority to ask witnesses any question if it is believed to be necessary for the just decision of the case. In addition, a court can “call any witness whose testimony it thinks is necessary for the interests of justice.”⁹² Moreover, the final decision on the admissibility of certain

⁸⁵ Interview with HJ-10 conducted on 20 October 2022

⁸⁶ *Ibid.*

⁸⁷ FGD-1. *Supra* note 27.

⁸⁸ HJ-1. *Supra* note 26.

⁸⁹ PP-13. *Supra* note 43.

⁹⁰ Interview with PP-5 conducted on 22 June 2022

⁹¹ PP-3. *Supra* note 84.

⁹² The Empire of Ethiopia. *The Criminal Procedure Code of Ethiopia*, 2 November 1961, Proclamation No. 185 of 1961. Article 143.1

evidence, in cases where objections are raised by either party, lies with the court.⁹³

Judges, like all individuals, have their own beliefs, stereotypes, and opinions. These factors can influence how they evaluate evidence and make decisions in IPVAV cases. Despite the expectation that judges should suppress their personal views, it cannot be guaranteed that they are completely free from such influences. Therefore, patriarchal attitudes held by some judges and their lack of empathy towards survivors may lead to a failure to take IPVAV cases seriously.

According to the data collected for this research, a considerable number of informants do not consider most forms of IPVAV as serious issues. Instead, they prefer reconciliation between couples and often advise survivors to seek mediation while IPVAV is a serious crime with harmful consequences for survivors.

7. Challenges that arise from Survivors

One of the obstacles encountered in the prosecution and adjudication of IPVAV cases is the lack of survivor cooperation. Prosecutors often perceive survivors as uncooperative when they cannot be reached or when they insist on charges that the prosecutor disagrees with.⁹⁴

According to an interview, survivors only bring their cases to formal institutions: when the violence is extreme, when they fear for their lives or the lives of their children, when they have reached a breaking point and seek a divorce, when they have tried mediation repeatedly and failed, or for revenge. An informant stated that when survivors initially approach the police, they are often very emotional, bitter, and in tears. At that moment, they want their abusers to be punished.

Based on their claims, the police start to gather evidence, and then the prosecutor starts building the case. However, after a while, when the survivors 'come to their senses' and realize the potential consequence of pursuing the case, they change their minds and refuse to cooperate. They request for the termination of the case, claiming reconciliation with the suspect. Even survivors who have encountered severe physical harm, such as those who have had their teeth knocked out or lost an eye, and in cases where there is strong

⁹³ Id., Article 146.

⁹⁴ Garcia & McManimon. *Supra* note 75, p. 115.

medical and other evidence to support their claim, still ask for the termination of the case.⁹⁵

One informant shared a specific case:

A woman suffered severe burns on 38% of her body after her husband threw a kerosene stove at her. The suit was framed as an attempted murder under Articles 27/1 and 539/1/a of the Criminal Code. The defendant sought recognition of his bail right, but the objection raised by the prosecution was accepted, and bail was denied. However, after this, the survivor started complaining by stating that she is not able to raise her children on her own because she is economically dependent on her husband. In the end, she was crying and asking the court to recognize the bail right of the defendant. She used to visit our office daily, tearfully begging for the charges to be dropped.⁹⁶

Another informant added that the main challenge with the prosecution of IPVAW cases is that survivors often do not want the perpetrator to be prosecuted but simply wish to voice their grievances. Some of them bring complaints with the sole purpose of having the police scold their partners and warn them not to repeat such acts. As a result, survivors disappear after an investigation is conducted, and after the case is framed and presented to the court. And without the main witness, who is often the survivor, it becomes difficult to proceed with the case. Only a few survivors want to continue the legal process and provide proper assistance.⁹⁷

Such concern was also expressed by another informant who mentioned that survivors often ask for the termination of the case once the adjudication process has begun. In some cases, survivors even file complaints against the prosecutor, claiming that the case was pursued without their consent. If the prosecutor proceeds despite their contest, they refuse to testify in court, or they change the testimony they have given to the police, turning into hostile witnesses and resulting in case failures.⁹⁸

Another informant also indicated that in cases that are punishable upon complaint, there are instances whereby survivors directly appeal to the court for the recognition of the suspects' bail right if the survivors' request to withdraw the case is refused and the prosecution proceeds.⁹⁹ According to another informant, some survivors also tell the court that they do not want

⁹⁵ PP-2. *Supra* note 78.

⁹⁶ PP-4. *Supra* note 37.

⁹⁷ PP-1. *Supra* note 20.

⁹⁸ PP-2. *Supra* note 78.

⁹⁹ PP-1. *Supra* note 20.

their partners to go to prison and desire to reconcile and continue living with them. This may lead the court to impose less severe punishments or even suspend the punishment. He added that there have been instances where the prosecutors have sued survivors for refusing to cooperate, hindering the delivery of justice.¹⁰⁰

One informant who participated in a focus group discussion highlighted that “we do not know the aftermath of the crime or the socio-economic dynamics that arise after the case is reported. We need to look into this to understand the reasons that motivate survivors to reconcile.”¹⁰¹ According to one informant, in some cases, even after an attempt to murder is committed, survivors may prefer to reconcile.

This might be due to the vast pressure from family, friends, neighbors, and other parts of the community; fear (believing that the defendants might kill them if they pursue the case); threats from family members; offers of compensation to buy their silence; or desire to keep their private affairs private. She added that the prolongation of the trial process is another challenge that discourages survivors, as they will not be able to stop thinking about the case while it is being adjudicated, which can cause trauma.¹⁰² According to another informant, the main reasons that are raised by survivors for the termination of IPV cases include economic dependency and social pressure, such as fear of being criticized for imprisoning the father of their children.¹⁰³

In an interview, a survivor of physical and psychological violence stated: “I want him to be punished for what he has done to me, but I also want to feed my children and survive. He is the only source of income for the household.”¹⁰⁴ Another survivor of physical abuse expressed, “I did not want my husband to go to prison. He is the father of my children. But I could not take his beating anymore. I was afraid he might kill me or my children one day.”¹⁰⁵

Survivors are the main witnesses in most IPVAW cases and their lack of cooperation can significantly hinder the prosecution of offenders. According to the data collected for this research, survivors who reported IPVAW incidents to formal institutions often wished to terminate the case against their

¹⁰⁰ PP-2. *Supra* note 78.

¹⁰¹ FGD-1. *Supra* note 27.

¹⁰² Interview with I-1 conducted on 8 November 2022

¹⁰³ PP-2. *Supra* note 78.

¹⁰⁴ S-25. *Supra* note 53.

¹⁰⁵ S-23. *Supra* note 52.

partners for various reasons. Among the cases that were assessed for this research, 61% were closed for various reasons. Among these, 27% were closed due to the disappearance of either survivors or defendants, with 58% of these cases attributed to the disappearance of the survivor. 34 % of the cases were resolved through mediation.

8. Concluding Remarks

The data collected for this research highlights the various factors that impact the adjudication of IPVAW cases, encompassing legal, institutional, social, and cultural aspects. Understanding these factors is crucial in developing effective strategies that address the challenges associated with IPVAW cases.

The legal framework plays a pivotal role in shaping the response of the judiciary to IPVAW cases. As judicial decisions are grounded in the law, the research findings reveal the limitation of treating IPVAW cases owing to the absence of special provisions (other than Article 564 of the Criminal Code) that specifically address this issue.

The quality and adequacy of evidence also significantly influence the response of the judiciary to IPVAW. However, several factors affect the credibility and accessibility of evidence in these cases, thereby necessitating proper measures to ensure fair and effective adjudication. Challenges such as the unavailability of forensic evidence in some IPVAW cases, the lack of witnesses in many cases as they are often committed behind closed doors, the reluctance of potential witnesses to testify for various reasons, and the limited utilization of technology to investigate cases make it difficult to find evidence to prove the commission of the crime beyond a reasonable doubt.

The lack of training for actors (indicated in Footnote 11) and their attitude towards IPVAW have a considerable impact on the response of the judiciary to such cases, directly affecting the handling of these sensitive matters. Moreover, various factors influence survivors' approach to the criminal justice system, necessitating an understanding of social and economic pressures, unmet safety needs, and frustration arising from prolonged trials.

Therefore, to improve the response of the judiciary to IPVAW cases, it is important to properly address these factors. This requires a multi-faceted approach, including legislation on IPVAW issues overlooked by existing substantive and procedural criminal laws. Such legislation should recognize the unique nature of IPVAW. Overcoming challenges in evidence collection is critical, and it requires specialized training for investigators and increased use of forensic tools.

Sensitizing all actors involved in IPVAW cases to the nuances of these issues is significant for effective case handling. Furthermore, providing

comprehensive support services, including legal aid, counseling, and safe housing, can empower survivors and encourage their pursuit of justice. To this end, the state and CSOs should collaborate to empower women with a view to promoting their financial and social independence that can protect them from abuse. _____■

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