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ETHIOPIAN HUMAN
RIGHTS COMMISSION

**Submission of the Ethiopian Human Rights Commission on Access to
Justice**

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The right of older persons to access justice has not been specifically defined in Ethiopia but Article 37 (1) of the Constitution reads: “Everyone has the right to bring a justiciable matter to and to obtain a decision or judgment by, a court of law or any other competent body with judicial power”. In addition to expressly recognizing this right for all (including older persons), its various elements are found in different parts of the Constitution. The right to access justice is also guaranteed in a number of global and regional human rights instruments which Ethiopia has ratified. Having Article 4 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa as a general basis, this right should be defined by imposing an obligation on states to ensure effective access to justice for older persons on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages (adapted from Art.13 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)).

Beyond the Constitutional guarantees, some key normative elements of the rights of older person to access justice on an equal basis are:

- Older persons could lose their capacity on the basis of senility in accordance with Art. 339 of the Civil Code. This provision aims to protect the interest of senile persons; however, there is no other legal definition or other provision that defines what the elements of senility are.
- The physical environment, transportation and location of courts are not always convenient for older persons and it gets worse outside of the capital city since the buildings are old with no facilities such as ramps, adequate lighting, appropriate toilets etc. The geographical distribution of courts is also not adequate, which makes the courts inaccessible for older persons.
- Although payment is required to lodge a statement of claim, anyone who has evidence that he/she does not have sufficient means to pay all or part of the prescribed court fee may be allowed to sue as a pauper. According to Art. 31 of the Federal Advocacy Service Licensing and Administration Proclamation, an advocate has the duty to render pro bono legal service free of charge or upon minimum payment to persons who cannot afford to pay which also includes older persons. The Ministry of justice has the duty to represent citizens, in particular women and children, who are unable to institute and pursue their civil suits before the federal courts. Even if not specifically mentioned, older persons also benefit

from this. Additionally, there are also free legal aid services by the University's law schools and local CSOs. However, considering the size of the country, the coverage of all these schemes are not sufficient and there is awareness gap among older persons on the availability of these services.

- There are no specific domestic legal provisions that oblige the government to make proceeding age friendly/appropriate for older persons. These become pertinent in situations where older persons want to initiate a case against their children, relative or care giver.

Though there is no special system for facilitating judicial services for older persons, they have legal rights for equal access of court facilities. However, practically, different barriers and the absence of reasonable measures hinder them from equally accessing such facilities.

Some mechanisms that are necessary to ensure the enjoyment of the right of access to justice for older persons are:

(A) Legal measures: the right to access justice must be defined in a way that addresses the needs of older persons. Older person's right to access justice should be defined and clarified by law. Especially procedural accommodation of older persons in legal proceedings should be indicated within the law.

(B) The government must work to ensure the physical accessibility of courts for older persons and to make the court environment and location age friendly.

(c) Legal aid service: The government should expand the existing free legal aid service to also specifically mention older persons so they can benefit to a larger degree from the service.

(D) Public legal education: older person must be aware of their legal rights, access to justice and the existing free legal aid system.

(E) Adequate and appropriate training should be provided on ageing and the rights of older persons for all those working in the administration of justice and law enforcement, including the judiciary, police and prison staff.