A Roadmap to Revising Ethiopia’s Gender Discriminatory Laws: A Comparative Analysis

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A ROADMAP TO REVISING ETHIOPIA’S GENDER DISCRIMINATORY LAWS
A COMPARATIVE ANALYSIS

RANGITA DE SILVA DE ALWIS

ABSTRACT
Ethiopia is Africa's oldest independent country, the second-most populous nation in Africa, and one of the founding members of the Organization of African Unity (OAU), which was established on 25 May 1963 and replaced by the African Union (AU) in 2002. The headquarters of the AU is based in Addis Ababa. Today, Ethiopia has the largest GDP in East Africa and its economy is also one of the fastest growing economies in the world.

Ethiopia is one of the few countries in the world which had achieved gender parity in the cabinet, and where women hold the positions of both President and Chief Justice. Ethiopia now ranks 18th in terms of women’s representation in Parliament according to the International Parliamentary Union. Ethiopia's new cabinet in 2018 made history for women in government with a 50 percent female cabinet. Ethiopia is only the second state, after Rwanda, on the continent to have equal gender representation in the cabinet.

Ethiopia’s revitalized democratic process has opened up new possibilities for gender equality lawmaking and economic renewal. And yet, persistent gender inequality is undermining its full potential and poses serious threats to peace and economic stability. If gender gaps in the laws are closed, Ethiopia can ensure greater gender equality and secure a substantial growth dividend in the process. This paper provides a roadmap for gender equality law reform across the legal landscape in Ethiopia.

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I. INTRODUCTION

Ethiopia is Africa's oldest independent country, the second-most populous nation in Africa, and one of the founding members of the Organization of African Unity (OAU), which was established on 25 May 1963 and replaced by African Union (AU) in 2002. The headquarters of the AU is based in Addis Ababa. Today, Ethiopia has the largest GDP in East Africa and its economy is also one of the fastest growing economies in the world.

Ethiopia is one of the few countries in the world which had achieved gender parity in the cabinet, and where women hold the positions of both President and Chief Justice. The country’s new leader, Prime Minister Abiy Ahmed, has made gender equality in politics a part of the country’s new political agenda. Ethiopia now ranks 18th in terms of women’s representation in Parliament according to the International Parliamentary Union. Ethiopia's new cabinet in 2018 made history for women in government with a 50 percent female cabinet. Ethiopia is only the second state, after Rwanda, on the continent to have equal gender representation in the cabinet.

However, it should be noted that there is no legal requirement ensuring the representation of women in decision-making bodies.

Prime Minister Abiy Ahmed, who forged a peace deal with Eritrea last year, won the 2019 Nobel peace prize. The award, in the words of the Nobel Committee, celebrated his “efforts to achieve peace and international cooperation, and in particular his decisive initiative to resolve the border conflict with neighboring Eritrea.” Three months after coming into power in 2018, Ethiopia entered a new era when Prime Minister Ahmed signed a peace deal which ended a two decades long conflict Eritrea following their 1998-2000 border war. More recently Prime Minister Ahmed played a key role in brokering a political deal in Sudan that helped to prevent an eruption of violence after the fall of Omar Bashir.

Ethiopia’s revitalized democratic process has opened up new possibilities for gender equality lawmaking and economic renewal. Ethiopia is at an exciting crossroads for businesses looking for growth and new markets. And yet, persistent gender inequality is undermining its full potential and poses serious threats to peace and economic stability. Despite gender diversity at the leading-edge of politics, women in Africa, still face legal barriers to gender equality. If gender gaps in the laws are closed, Ethiopia can ensure greater gender equality and secure a substantial growth dividend in the process. These threats call for the need for the introduction of gendered perspectives in the legal, security, and economic reform processes.

The 1990s saw the passage of legislation and the adoption of new constitutions and the signing of international treaties addressing a range of issues in Ethiopia and the rest of the African region. The new post 1990s policies sought to seek equal gender representation in political and other institutions, including legislatures, executives, etc. New legislation and constitutional reforms

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2 Under Art. 4 of the CEDAW Convention (Temporary Special Measures), the Committee notes Article 35 of the Ethiopian Constitution provides for special measures to address the historical legacy of inequality and discrimination against women; Article 2(a) of CEDAW; both call on state parties to combat all forms of discrimination against women through appropriate legislative, institutional and other measures.
challenge customary practices. The new generation of laws seek to protect women’s bodily integrity by addressing Female Genital Mutilation (FGM), domestic violence and other forms of violence against women. These national law reform initiatives must be seen against the backdrop of a changing international and transnational landscape.

Global events such as the Beijing Women’s Conference in 1995 opened up new arenas of action and new spaces for law reform and movement building. Gender equality lawmaking grew out of the Beijing Platform of Action. Emerging from the Beijing Conference were new categories of analysis and even a new vernacular for rights infringements that thus far had been unnamed. These working vocabularies were hammered out on the anvil of global platforms of action. New forms of interaction forged at the World Conferences enabled the world to create this common dialogue around gender equality and domestic violence and helped build strong local women’s rights movements in connection to global and regional movements by, among other things, composing new mandates and provisions that held the state itself responsible. As women’s issues were integrated into the human rights agenda, the women’s movement brought the issue of gender equality to the forefront of not only the global agenda, but more importantly, to national agendas where they are most needed.

International frameworks that set standards for women’s rights around the world like the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Platform for Action, and other international norms define the scope of universal rights for women and girls and have opened new spaces for regional and national legal reform. Bottom-up engagement with these international laws and institutions by local and transnational women’s movements has catalyzed widespread changes in lawmaking and transformed standard-setting documents into tools for reform.

The post-Beijing era in the 1990s saw the ferment of transnational networks and nongovernmental organizations in different regions of the world that helped revise legislative agendas based on international norms and provided powerful ammunition to local and national women’s movements by providing a universally accepted benchmark to help frame national laws and policies, as well as by which to monitor the implementation of national laws. At the cusp of the 25th anniversary of the Beijing platform of Action, Ethiopia must meet its obligations under the international treaties as set out in its constitution. Prime Minister Ahmed’s reformist agenda is the right platform for the necessary ideas and strategies through which to galvanize a new lawmaking process.

II. CONSTITUTIONAL RIGHTS: EQUALITY BEFORE THE LAW

The Federal Democratic Republic of Ethiopia’s (FDREs) Constitution provides for the right to equality of women and the prohibition of discrimination based on inter alia sex. The Constitution further provides for the elimination of traditional practices harmful to women and explicitly

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abrogates laws, customs and practices that oppress or cause bodily or mental harm to women. The rights of women have further been enshrined under subsidiary laws of the country that provide for the equal rights of women in access to justice.

The FDRE Constitution has incorporated both specific and general provisions on the rights of women. The Constitution contains several provisions covering equality before the law. These include equal protection of the law, equality in marital affairs, entitlement to affirmative measures, protection from harmful traditional practices, maternity rights in employment, the right to consultation, property rights, employment rights and access to family planning information and services.

Article 35 is an article devoted specifically to women’s rights and covers substantive gender equality and temporary special measures as guaranteed in Article 4 of the CEDAW. Moreover, in accordance with Article 5 of the CEDAW, Article 5(4) provides guarantees against harmful customary and traditional practices: “State shall enforce the right of women to eliminate the influences of harmful customs. Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited.”

Additionally, Article 35 of the Ethiopian Constitution provides for special measures to address the historical legacy of inequality and discrimination against women. Currently, there is not a legal quota requirement in Ethiopia. While the recently revised Elections and Political Parties Proclamation cites the number of women in a political party’s membership and leadership as a factor in determining financial support, there is not requirement for parties to include women as members of as leaders.

Although the implementation of affirmative action appears to be limited to the public sector, in an effort to improve this situation, the National Human Rights Action Plan of Ethiopia (2016-2020) has stipulated that the Government will design a National Action Plan on Business and Human Rights with the aim to incorporate human rights values. The Government also plans to encourage and support the establishment of a Global Compact Chapter in Ethiopia, which will serve as an additional mechanism for the private sector to better protect human rights.

Apart from the stand-alone clause, other provisions of the 1995 Constitution reflect a new rights-based approach that incorporates both rights and development outcomes by guaranteeing equality under law in the Preamble, which states “. . . firmly convinced that the fulfilment of this objective requires full respect of individual and people's fundamental freedoms and rights, to live together on the basis of equality and without any sexual, religious or cultural discrimination.”

One of the major tensions of the FDRE Constitution is its juxtaposition of group (cultural) rights and individual rights. The Constitution provides that the rights of women including their right to be protected from harmful cultural traditions and practices. However, as it is framed, the Constitution leaves the mechanisms and standards of determining what constitutes a harmful practice ambiguous. This needs to be rectified.

The equal protection of the law is guaranteed in the Constitution in Article 25 of the “Right to Equality.” Article 25 prohibits discrimination based on various grounds and its prohibited
grounds for discrimination include sex. Furthermore, the Article’s enumeration is illustrative, opening the possibility of expanding such prohibited grounds through constitutional interpretation. However, an explicit mention of disability seems justified in light of the invisibility of disability.

Article 6 of the Constitution does not discriminate on the basis of nationality as “any person of either sex shall be an Ethiopian national where both or either parent is Ethiopian.” Although the language of the Constitution uses the masculine pronoun, Article 7 states that the “masculine gender shall apply to the feminine gender.”

The UDHR and other international instruments adopted by Ethiopia are enshrined as part of the supremacy clause in Article 13 of the Constitution. This approach arguably, but not explicitly, supported by the text of the Constitution acknowledges that international human rights treaties ratified by Ethiopia are superior and share equality of status with the Constitution. It would thus mean that laws need to comply with ratified treaties which are presumably consistent with the letter and spirit of the Constitution's Bill of Rights. In other words, domestic legislation must conform with treaty norms. However, the reception of international treaties in Ethiopia, whether they are directly applicable or need an enabling domestic legislation, is currently an open one.

Article 26 calls for equal rights in the family, including equal rights in marriage, divorce and family:

Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable [sic] age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce. Laws shall be enacted to ensure the protection of rights and interests of children at the time of divorce.

In 2019, the CEDAW Committee called upon the Ethiopian government to build on the promise of its constitutional guarantee. In its Ethiopia’s State Party report to the CEDAW, Ethiopia explained how the FDRE Constitution provides the right to equality before the law for women and the prohibition of discrimination based on sex by stating that “each and every governmental institution has the responsibility to eradicate institutional discrimination against women. The Constitution further provides for the elimination of traditional practices harmful to women and explicitly abrogates laws, customs and practices that oppress or cause bodily or mental harm to women. The rights of women have further been enshrined under subsidiary laws of the country that provide for the equal rights of women in all areas of life.”

While the Constitution provides the Right to Equality, there is no provision that enforces or provides the need for gender parity in the Executive organs. Gender parity in not codified nor formally overseen in Ministries.

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4 UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, Eighth Periodic Report Submitted by Ethiopia under article 18 of the Convention. 21Nov. 2017. Para. 129-130. Available in: http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkGid%2fPPRiCAqkhKb7vhsnmw5iHDQuNBd%2bTWAIG8TIgrmmHwRaUq%2fOC0oBSdUV5kQWDbE1w51G3Czy4BtxOXQ97Rl9Yn0Ce5IbHdyQ%2fX41ixUlji0gvNScIqfTRUvXe5T

5 Proclamation 1097 of 2018 describing the definition of the powers and responsibility of the executive organ.
The Ministry of Women and Children’s Affairs developed and launched the National Gender Mainstreaming Guideline. In addition, it delivered capacity building trainings to respective stakeholders on how to implement the Guideline. This intervention is helpful for ensuring accountability of all government organs in the implementation of their duty to mainstream gender in their undertakings. The Ministry also piloted gender mainstreaming leveling tool, which encompasses monitoring and leveling of sectors based on their performance in ensuring the benefits of women. In addition, the Ministry is developing Standardized Gender Responsive Monitoring and Evaluation Manual. However, there is no requirement or law in the Constitution that requires the guaranteeing of gender parity in the cabinet. Every ministry is tasked with seeing to it that its policies and programs benefit women.

Recommendations for Law Reform

Article 25 of the Right to Equality Provision currently reads:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.

Although “other” status is a catchall status mean to include categories not directly spelt out in the Article, given Ethiopia’s ratification of the Convention on the Rights of Persons with Disabilities, this provision should be amended to include “disability” as prohibited categories of discrimination. Law is an important and necessary means of dismantling discrimination and stereotypes of women and curbing the reinforcement and perpetuation of these. An egalitarian model of outcomes is critical for positioning all women, including women with disabilities, to succeed both socially, politically and economically.

Another important debate on constitutional reform in Ethiopia includes the classical liberal approach which emphasizes individual rights over group rights. Often women’s rights collide with group rights of religious groups. Although the ICCPR protects minority group rights to enjoy their culture, religion and language, it also protects individual rights to human security and protection. It is important for the Constitution to address the balancing of group rights and individual rights.

The new Constitution of Côte d’Ivoire enshrines in its Article 4 an inclusive equal protection clause which seems to balance the competing interests of groups: “No one may be privileged or discriminated against by reason of their race, their ethnicity, their class, their tribe, their skin color, their sex, their region, their social origin, their religion, or belief, their opinion, their fortune, differences in culture, or language, or their physical or mental status.”

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6 Id. at Para. 129-130.
7 Constitution of Côte d’Ivoire
III. MAPUTO PROTOCOL: THE 2003 PROTOCOL TO THE AFRICAN CHARTER ON THE RIGHTS OF WOMEN

The Maputo Protocol defines moral leadership on human rights in Africa and is a treaty instrument that is binding on all countries that ratify it. The Protocol was originally adopted by the “Assembly of the African Union” in Maputo, Mozambique on July 11, 2003. The official document is titled “Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa.” It went into effect in November 2005.

The Maputo Protocol guarantees a wide range of women’s civil and political rights as well as economic, social and cultural rights; thus reaffirming the universality, indivisibility and interdependency of all internationally recognized human rights of women. These rights include the right to life, integrity and security of person, protection from harmful traditional practices, prohibition of discrimination and the protection of women in armed conflict. Moreover, the Protocol guarantees the right to health and reproductive rights of women, access to justice, equal protection before the law and prohibits exploitation or degradation of women. In sum, the Protocol obligates states parties to integrate a gender perspective in their policy decisions, legislation, development plans and to ensure the overall wellbeing of women. The Protocol enshrines non-discrimination and other core values.

The Protocol provides various rights to women and these are: the right to freedom from discrimination; the right to dignity; the rights to life, integrity and security of the person; the right not to be subjected to harmful practices; rights relating to marriage, separation, divorce and annulment of marriage; access to justice and equal protection before the law; right to participation in the political and decision-making process; right to peace; rights of women in armed conflicts; and right to education and training, economic and social welfare rights; health and reproductive health care rights; right to food security; right to adequate housing; right to positive cultural context; right to healthy and sustainable environment; right to sustainable development; widow’s rights; right to inheritance; the special protection of elderly women; special protection of women with disabilities; and special protection of women in distress. The Protocol also requires states parties to provide remedies to women whose rights have been violated.


Ethiopia has entered into a reservation on article 21(l) of the Protocol regarding the right of a widow to inherit her deceased spouse. The law of the country according to which spouses inherit each other if he/she is designated as a legatee by a will shall apply.

Moreover, Ethiopia entered declarations on the following provisions of the Protocol:
Article 4 (2) (a) shall be applicable in accordance with Article 620 of the Criminal Code of Ethiopia that defines rape to be a forced sexual intercourse that occurs [sic] out of wedlock.

Article 6(b) of the Protocol shall apply in accordance with the law of Ethiopia that allows dispensation from the minimum age of marriage that is 18 years;

Article 6(j) of the Protocol shall apply in accordance with the law of Ethiopia according to which income acquired during marriage is a common property of the spouses and it is managed and disposed by their common decision;

Article 7(d) of the Protocol that provides for the right of women to acquire equitable share from the common property in the marriage shall apply in line with the laws of Ethiopia that provide for equal share of spouses on the common property;

Article 13 (i) of the Protocol regarding the secondary responsibility of the private sector to contribute to the upbringing and development of children shall apply in accordance with the domestic law;

Article 14(b) of the Protocol shall apply in accordance with the agreement [sic] of spouse’s weather [sic] to have birth or not the right of women within the wedlock.

**Recommendations for Law Reform**

Ethioica’s laws can best be implemented with the guiding principles of the Maputo Protocol. The CEDAW Committee has also expressed concerns with several of the reservations that Ethiopia made to the Maputo Protocol. Ethiopia justified its reservations on the issues of marital rape, bigamy, and polygamy in part due to cultural traditions and out of the defense of integrity for family and marriage. Ethiopia did clarify that the country would work on sexual harassment, sexism, and various forms of gender-based violence to bring the country’s norms in accordance with the highest international standards. However, Ethiopia should engage in align all issues of gender inequality with international standards under the Maputo Protocol.

The Maputo Protocol is even stronger than the CEDAW. The Maputo Protocol would be added ammunition to fight a legacy of discrimination against women and include negative cultural traditions such as polygamy. The lack of freedom of choice in marriage and family life including marital rape devalue and subordinate women both in public and in private life. The Protocol, is the main instrument in which the African Commission on Human and Peoples’ Rights (the African Commission) could be said to have formulated and laid down principles and rules aimed at solving legal problems relating to women’s rights and freedoms, and upon which the Ethiopian government must base its legislation that may in one way or another affect the rights of women, hence fulfilling its mandate.

Ethiopia should remove all reservations to the Maputo Protocol, including the reservation on article 21(l) of the Protocol regarding the right of a widow to inherit her deceased spouse. The governing principle of Ethiopian law on marital property is that of “common property.” All
property acquired during marriage is the common property of both spouses. Only property that is acquired prior to marriage, and property acquired through an explicit donation to either of the spouses is considered to be the separate property of either of the spouses. Even in that case, the burden of proof lies on the party alleging the property not to be communal property. In inheritance, the governing principle is paterna paternis materna maternis. These principles meet the equitable standards of Article 21 of the Protocol. However, it is necessary to insist on the right of the widow/widower to live in the marital residence where such house is not common property or is not the private property of the widow/widower. It is also important to follow ratification by translating this pan-African protocol into legislative action.

IV. LABOUR AND EMPLOYMENT

a. Gender Equality, Anti-Discrimination and Sexual Harassment in the Workplace

The recently released McKinsey Report reveals that Africa could add $316 billion or 10 percent to GDP from now to 2025 if each country makes advances in women’s equality to match the country in the region that has achieved the most progress towards parity. At the current rate of progress, Africa could take more than 140 years to achieve gender parity. Nevertheless, Ethiopia has made progress towards parity in both work and society which mutually reinforce women’s economic participation.

The CEDAW Committee too was concerned about the payment gaps between men and women in the private sector. It also noted that 63.1% of women remain outside of the economically active population. Women are concentrated in jobs of lower positions, with only 27% of women in managerial positions and 32% in professional posts. Removing gender-based restrictions in the workplace has been found to increase the likelihood of women working in occupations that involve work outside home, paid work and work with higher educational requirements. Anti-discrimination laws have been helpful in tackling gender inequality in the labour market.

The Federal Civil Servants Proclamation No. 1064/2017 prohibits discrimination in recruitment or selection. This Proclamation and the Labour Proclamation No. 1156/2019 regulate labour relationships and rights. These laws ensure the right to work including the freedom to choose one’s profession; equality and non-discrimination during recruitment, promotion, salary as well as other aspects of employment based on sex as well as the right to equal remuneration to work of equal value. The legal frameworks further provide for paid maternity leave and guarantee job security during pregnancy and immediately after delivery. The Labour Proclamation allows a thirty-day pre-birth and 90 days post-birth maternity leave for women workers and a three days paternity leave where the spouse of a working man gives birth. The Federal Civil Servants

9 See also Regulation No 155/2008; Administration of Employees of the Ethiopian Revenues and Customs Authority Council of Ministers Regulation (Art. 4; 5; 6; 9; 18; 22). Art. 5 and Art. 6 of the Regulation both handle salary and allowances that can have disparate impact based on gender.

10 Proclamation No. 1064/2017: Federal Civil Servants Proclamation
Proclamation extends paternity leave to ten days. The Proclamation on Civil Servants extended
maternity leave to four months, provided for the equal pay for equal work principle, and
recommended childcare facilities at the workplace accessible to all parents.\(^{11}\)

Both laws provide for protection of health and safety in working conditions. Despite the law
that ensures equal pay for work of equal value, there still remains gaps in payment between men
and women in the private sector. While the laws address legacies of inequality and inequity, they
are not strong enough in providing preferential treatment to women when necessary.

The 2004 Criminal Code prohibits sexual abuse and sexual harassment in the following
provisions. Although Article 625\(^{12}\) alludes to an unequal power relationship as a cause and
consequence of sexual violence, there is inadequate focus on marital rape. While Article 846 of
the Criminal Code\(^{13}\) prohibits immoral soliciting and debauchery, this is a very narrowly drawn
definition of sexual harassment and does not cover workplace sexual harassment. Moreover, an
“act contrary to decency” are not defined in the law and provides for capricious and arbitrary
definitions of its content.

**Recommendations for Law Reform**

Ethiopia should revise its Civil Servants Proclamation to expand its paid maternity leave to
four months of paid family leave. The Proclamation on Civil Servants extended maternity leave
to four months but limited paid paternity leave for five working days. The inequality exacerbates
the gender stereotypes and increases the risk of maternity leave as a double-edged sword in the
labour market. New lawmaking must help transform gender roles by creating a structure wherein
both men and women can realize their work and family aspirations equally. In this regard, new
laws must play a constitutive role in transforming gender roles both in the family and at work.

The Spanish Law on Guaranteeing Equality between Women and Men passed in March 2007,
attempts to transform gender roles by shaping both men and women's work and family aspirations.
Mandating pregnancy leave not just for the mother but for the father as well has eased the burden
of care on the mother. The workplace has been reinvented to recognize gender equality and the
role that both parents play in childbearing and childrearing. The highlights of the Spanish law
include a gradual increase of a month of leave for new fathers. According to this law, Spanish

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\(^{11}\) UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*,
http://docstore.ohchr.org/Ｓ elfServices/FilesHandler.ashx?enc=6OkG1d%2fPPRiCAghKb7vhssmw5iHDQunBd%2bTWAIG8TIGh59Z98ibtQLmKT%2bHOoJX7wjb8DWJT0P1%2fgeSSszX3LSOuFePArNHHYG7dMwoeXlxFpXH670gaEKu6BDqdpjhm9

\(^{12}\) Article 625.- Taking Advantage of the Distress or Dependence of a Woman. Whoever, apart from the cases
specified in the preceding Article, procures from a woman sexual intercourse or any other indecent act by taking
advantage of her material or mental distress or of the authority he exercises over her by virtue of his position,
function or capacity as protector, teacher, master or employer, or by virtue of any other similar relationship, is
punishable, upon complaint, with simple imprisonment.

\(^{13}\) Article 846.- Immoral Soliciting and Debauchery. Whoever in the street, or in a public place, or in a place
accessible to the public: (a) with an intent contrary to decency or morality molest a person who is not soliciting; or
(b) by improper soliciting incites another person to sexual intercourse or to committing an act contrary to decency, or
acts of debauchery of any kind whatsoever; or […] is punishable with fine or arrest not exceeding one month.
companies that achieve a more balanced male-female ratio among their executives and at lower levels will receive favorable treatment when they bid for government contracts.

b. Domestic Work

The CEDAW Committee has been concerned about the lack of protection for domestic workers, including child domestic labour. The Government has noted the concern of the Committee regarding the worst forms of child labour in the country. The laws set the minimum age of employment at 15 years\(^{14}\) and young workers between the ages of 14-18 are restricted from working in certain vocations not suited for their well-being.

*Recommendations for Law Reform*

In 1999, Ethiopia ratified the Minimum Age Convention of 1973 (No. 138). This convention sets the general minimum age for admission to employment or work at 15 years (13 for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 where the economy and educational facilities are insufficiently developed. Ethiopia should revise laws to be in accordance with the CEDAW Committee in increasing protection for domestic workers, including child domestic labour laws.

c. Equal Pay for Equal Work

Proclamation No. 1064/2017: Federal Civil Servants Proclamations calls for equal pay for equal work. It states that “all positions of equal value shall have equal base salary.” Additionally, the Labour Proclamation prohibits discrimination against women in remuneration.\(^ {15}\)

The public servants’ Pension Proclamation No. 714/2011 provides for the principle of non-discrimination on the basis of sex in the age of retirement, payment of social security as well as transfer of the right to survivors. The Ethiopian social security scheme covers employees of both the public sector and the private sector and provides for conditions for receiving social security payment during retirement and in the event of incapacity to work due to illness and injury. The benefits therein are retirement pension, invalidity pension, incapacity pension or survivors’ pension and include gratuity and refundable pension contribution. Proclamation No. 715/2011 fills the gap in the social security legal framework that previously covered only government employees. The Proclamation contains the principle of non-discrimination on the basis of sex in the payment of the above sets of social security benefits and transfer of the right to survivors.

Ethiopia has adopted the ILO Convention (156) that requires governments to take measures to ease the burden of women in the household. The Convention applies to men and women workers whose responsibilities caring for and supporting their dependent children and/or other members of their immediate family may restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The Convention was adopted in recognition that care giving responsibilities affect society at large and should be taken into account in national policies.

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\(^ {14}\) Proclamation No. 1156/2019: Article 89/2

\(^ {15}\) Labour Proclamation No. 1156/2019: Article 14(1)(b)
Accordingly, the Ethiopian Growth and Transformation Plan – GTP II –provides for the introduction of day care facilities for working mothers. Despite the improvements over the years, 63.1% of women remain outside of the economically active population.\textsuperscript{16} GTP II is not a legal requirement. Under the Civil Servants Proclamation, there is a legal commitment to provide for the establishment of childcare facilities in government institutions.\textsuperscript{17} It is advised to find legal remedies for improving the implementation mechanisms and extending the legal requirements of facilities to other workplaces, including private business and schools.

The Government delegation shared with the CEDAW Committee that it had also devised the “Micro and Small Enterprises Strategy that facilitates access to finance through saving and credits; provision of capacity building and skills training in business and entrepreneurship; and creation and strengthening of market access for women entrepreneurs.”\textsuperscript{18} However, this ultimately not a part of the law of the land.

\textit{Recommendations for Law Reform}

Anti-discrimination on the basis of sex and equal pay for women contribute to the overall well-being and economic growth of a country. Ethiopia must take further measures to ensure the equal remuneration for women both in the public sector and private sector, including provisions that expressly protect women’s right to equal benefits and economic security. The Government should also take affirmative steps to include protection for domestic workers. Additional support could come from ratifying and domesticating provisions of the Domestic Workers Convention, 2011 (No. 189) and the ILO Maternity Protection Convention 2000 (No. 183).

Ethiopia needs a strong gender equality law and a clear definition of gender equality that includes intersectional categories such as race, religion, disability, age, marital or family status, and sexual identity. The laws must also create proper procedures that include the establishment of an equality review committees that hold different agencies accountable and monitor the compliance with the law.

When drafting a gender equality law, the CEDAW’s equal protection and anti-discrimination clauses are important normative guidelines. The CEDAW covers both formal and substantive quality, intended and unintended consequences, direct and indirect consequences, and private and public sphere discrimination.

Below we explore comparative laws and norms that will be helpful in guiding future Ethiopian legislation:

\textsuperscript{16} UN General Assembly, \textit{Convention on the Elimination of All Forms of Discrimination Against Women}, Eighth Periodic Report Submitted by Ethiopia under article 18 of the Convention. 21 Nov. 2017. Para. 91-93. Available in: http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhbKb7yhsw5jHDQuNbd%2fTWAIG8IGrnmHwRaUq%2fOC0oBSdUV5kQWDbE1wS1G3Cy4BtxOXQ97RI9Yn0Ce51bHdyQ%2fX41ixUlj0gvNScLSpfTRUvXe5T
\textsuperscript{17} Civil Servants Proclamation, Article 48(6)
\textsuperscript{18} Id. at Para. 94.
d. Comparative International Laws

This comparative analysis is to demonstrate countries that have implemented strong and explicit anti-discrimination laws. Generally, these laws address laws that have a direct and also disparate impact on gender. While these countries are mostly Western and have their own struggles in achieving gender equality through their laws, the countries selected provide a structure for laws on the books that are in accordance with the CEDAW Committee.

1. European Union

Addressing laws that are facially neutral but have a disparate impact on women prove to be a big challenge for many countries. As articulated by the CEDAW, not only do there need to be formal structures and laws in place to protect women, but also there needs to be a consideration for unintended consequences that laws may produce. When discrimination happens against women, the first thing they think about is not the law on the book but the injury they suffered. A way to protect women with laws is to ensure that there are laws in place capture these unintended and disparate impact that women face. The European Union Council Directive addresses both direct and indirect forms of discrimination explicitly, as Article 2 (1) of the binding European Council Directive states “[t]he Principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.” Article 2 (4) states: “[t]his Directive shall be without prejudice to measure to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women’s opportunities.”

2. Sweden

The European Union provides a broad basis in their anti-discrimination law in order to capture the direct and indirect forms of discrimination. Similar to the European Union, Sweden’s law also prohibits direct and indirect discrimination. Sweden has an explicit section, in terms of employers, dedicated to both direct and indirect discrimination. As seen below, Sweden’s laws are notable because they explicitly address that some laws appear neutral but have disparate effects. These laws together capture a wider array of sex discrimination and therefore offer broader protection.

Direct Discrimination:

Section 15. An employer may not disfavour a job seeker or an employee by treating her or him less favourably than the employer treats or would have treated a person of the opposite sex in a position of a similar nature, unless the employer demonstrates that the disfavour is not connected to the sex of the person disfavoured.

Indirect Discrimination:

Section 16. An employer may not disfavour a job seeker or an employee by applying a provision, a criterion or a method of procedure that appears to be neutral but which in practice is particularly disadvantageous to persons of one sex, unless the provision, criterion or method of procedure is appropriate and necessary and
can be justified with objective factors that are not connected to the sex of the persons.

3. United Kingdom

The United Kingdom’s law too prohibits sex discrimination with an explicit law dedication to issue in the Sex Discrimination Act 1975 (Amended). Similar to Sweden, the United Kingdom explicitly states the law covers both “direct and indirect discrimination against women.” The dedication to the issue is seen by having a Commission to actively work towards eliminating discrimination and promoting equality. The United Kingdom allows sex discrimination to go further than sex into matters of discrimination based on marriage:

In any circumstances relevant for the purposes of any provision of this Act, other than a provision to which subsection (2) applies, a person discriminates against a woman if: on the ground of her sex he treats her less favorably then he treats or would treat a man, or he applies to her a requirement or condition which he applies or would apply equally to a man but: which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied...

As mentioned previously, the United Kingdom provides for a similar law in the context of married and unmarried persons and sex discrimination. Substantive equality calls for the adoption of special measures in order to address the under representation of a particular gender to pursue economic or vocational activity.

An additional paragraph was added to the European Community Treaty:

With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity, or to prevent or compensate for disadvantages in professional careers.

e. An Intersectional Approach:

An intersectional approach recognizes that people experience stereotyping and discrimination based on a combination of gender, race, ethnicity, and ability, and that these forms of multiple discrimination or bias are distinct from any one form of discrimination. Kimberlé Crenshaw has defined intersectionality as a way of conceptualizing a problem in a way that captures the dynamics

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19 Sex Discrimination Act 1975 (Amended): “An Act to render unlawful certain kinds of sex discrimination and discrimination on the ground of marriage, and establish a Commission with the function of working towards the elimination of such discrimination and promoting equality of opportunity between men and women generally; and for related purposes.”

20 Sex Discrimination Act 1975 (Amended) (providing the definition for both direct and indirect discrimination against married persons in the employment field).
of the interplay between two or more axes of subordination. This definition was expanded at the UN Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance at Durban, South Africa, in 2001. At that conference, the UN High Commissioner for Human Rights stated: “You are also, I know, aware of the intersectionality of multiple forms of discrimination—how gender intersects with race, how sexual orientation intersects with race, how poverty intersects.

1. South Africa

Laws need to go further to prohibit customary practices that undermine the dignity of women as discrimination against women. Using custom and tradition to justify harmful practices do not protect women in all aspects of society. The Government must take steps to eliminate harmful practices in order for all women to engage in society regardless of their background. The South African law is an important model and developed laws that accommodate a wide spectrum of diversity. The law is in gender-neutral to ensure that no person is unfairly discriminated against for any reason. The law explicitly protects women and girls from a range of resources and traditions that undermine their dignity as well as prohibit broadcasting and publicly reporting on any of this harmful information. Under the Promotion of Equality and Prevention of Unfair Discrimination Act:

Subject to section 6, no person may unfairly discriminate against any person on the ground of gender, including—gender-based violence; female genital mutilation; the system of preventing women from inheriting family property; Any practice, including traditional, customary or religious practice, which impairs the dignity of women and undermines equality between women and men, including the undermining of the dignity and well-being of the girl child; Any policy or conduct that unfairly limits access of women to land rights, finance, and other resources; Discrimination on the ground of pregnancy; Limiting women’s access to social services or benefits, such as health, education and social security; the denial of access to opportunities, including access to services or contractual opportunities for rendering services for consideration, or failing to take steps to reasonably accommodate the needs of such persons; systemic inequality of access.

The South African law also creates proper procedures that include the establishment of an equality review committee. This is important in showing that not only are there laws in place but there are committees and systems and institutions dedicated to the diversity of women in society. South Africa makes it mandatory that the Minister immediately establish an Equality Review

22 Promotion of Equality and Prevention of Unfair Discrimination Act: Chapter 2.6. Neither the State nor any person may unfairly discriminate against any person.
23 Sex Discrimination Act 1984 (South Africa): “No person may— disseminate or broadcast any information; publish or display any advertisement or notice, that could reasonably be construed or reasonably be understood to demonstrate a clear intention to unfairly discriminate against any person.”
Committee comprised of different Government, civil society, and expert officials. This Committee then advises the Minister on the impact of the law and equality, submit reports on the effectiveness and improvements to the Act, and other recommendations to ensure accountability of the Act. Through this Act, South Africa places a responsibility on the Government to encourage employers compliance with the Act and establish sanctions, such as fines, for violations.

2. **Sweden**

Sweden has also put the responsibility upon the Government to establish formal institutions to monitor, assess, and assist with gender discrimination. Because discrimination of gender is not homogenous, these institutions and officer provide vital support to ensure laws encompass an array of issues that women rather than treating women in a monochromatic function. Similar to South Africa, Sweden has created an equal opportunities ombudsman. Formally, the Act on Equality between Women and Men: The Equal Opportunities Act (SFS 1991:433) established:

The Minister of Social Affairs shall be in charge of the implementation of this Act unless otherwise provided for. The Equal Status Bureau shall be a special institution for which the Minister shall have responsibility. The Bureau shall be in charge of the administration of the scope of this Act. The Minister shall decide on the location of the Equal Status Bureau.

The Equal Status Bureau shows how Governments can form institution that can then advise, educate, and monitor other authorities, institutions, companies, individuals, and NGOs. Establishing a formal process and procedure to continue to further sex discrimination as well as oversee sanctions allows for issues to be at the surface rather than fall through the cracks of neutral laws. It adds a level of legitimacy and importance to the diversity of sex discrimination.

V. **Sexual Harassment**

An unsafe workplace environment has been shown to negatively impact women’s labour market outcomes. Sexual harassment ends up negatively influencing women’s career trajectories in many economies.

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24 Id. at Chapter 7. Establishment of Equality Review Committee: The Minister must, immediately, upon promulgation of this Act . . . establish an Equality Review Committee and appoint members.”
25 Id. at 33.1: “The Equality Review Committee — must advise the Minister about the operation of this Act; must advise the Minister about laws that impact on equality; Must submit regular reports to the Minister on the operation of the Act, addressing whether the objectives of the Act and the Constitution have been achieved and must make recommendations on any necessary amendments to the Act to improve its operation; The Iceland law on the Act on the Equal Status and Equal Rights of Women and Men crate a Public Administration as overall responsibility.”
26 Id. at The Equal Opportunities Ombudsman: Section 31. “The Equal Opportunities Ombudsman shall, in the first instance, encourage employers to voluntarily comply with the provisions of this Act. The Ombudsman shall also otherwise participate in the endeavours to promote equality in working life.”
27 Equal Opportunities Act: Article 3. “The Equal Status Bureau: The Minister shall appoint the Director of the Equal Status Bureau for five years at a time.”
There is no stand-alone sexual harassment law in Ethiopia. The recent CEDAW Committee’s recent concern regarding the inadequate treatment of sexual harassment in the workplace within the existing laws was noted by the government. To address the problem, the draft revised labour proclamation is made to contain provisions on sexual exploitation at the workplace.

The Labour Proclamation, Proclamation No. 1156/2019, defines sexual violence as sexual harassment accompanied by force or an attempt thereof. However, what is sexual harassment is not defined. The Proclamation further provides the prohibited acts of sexual harassment:

- It shall be unlawful for an employer where any of the following acts are committed by the employer or a managerial employee to:
  - Discriminate against female workers, in matters of remuneration, on the ground of their sex orientation.
  - Discriminate between workers on basis of Nation, sex, religion, political outlook, HIV/AIDS disablement or disablement of any other grounds.
  - Commit sexual harassment or sexual assault at workplace.
  - Coerce a worker in any manner to work discharge an obligation.
- It shall be unlawful for a worker to:
  - Commit sexual harassment or sexual violence at workplace.

However, the definition of sexual harassment is not in keeping with international norms and defines sexual harassment as in Proclamation No. 1156/2019 Article 12: “Sexual Violence’ means sexual harassment accompanied by force or an attempt thereof.”

Furthermore, Proclamation NO. [sic] 1064/2017; Federal Civil Servants Proclamation defines sexual harassment in a limited manner.

[S]exual harassment” means unwelcome sexual advance or request or other verbal or physical conduct of a sexual nature and includes: (a) unwelcome kissing, patting, pinching or making other similar bodily contact; (b) following the victim or blocking the path of the victim in a manner of sexual nature; (c) Put sexual favor as prerequisite for employment, promotion, transfer, redeployment, training, education, benefits or for executing or authorizing any human resource management act.

Recommendations for Law Reform

Ethiopia must draft a stand-alone law on sexual harassment in the workplace and must clearly define sexual harassment in the workplace. Legal reform recommendations should include a stand-alone law on workplace sexual harassment policies, reporting policies and procedures; sexual harassment training policies; funding for implementation of policies; sanctions against offenders;

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gender equal sexual harassment training and clear harassment policies. Sexual harassment policies should extend past the workplace and into schools and other environments.

The Labour and Civil Service Proclamations should align the definition of “sexual harassment” and “sexual violence” in the newly enacted Labour and Civil Service Proclamations and make suggestions to align their definitions in line with international standards. This may include establishing mechanisms and procedures for the investigation and adjudication of allegations, civil and criminal liability for acts of sexual harassment in the workplace that do not amount to crimes, standards for sexual harassment and violence in educational settings, and clear procedures to afford preferential treatment to women in the recruitment procedures and processes of employment.

The Declaration on the Elimination of Violence Against Women defines violence against women to include sexual harassment, which is prohibited at work, in educational institutions, and elsewhere (Art. 2(b)), and encourages development of penal, civil or other administrative sanctions, as well as preventative approaches to eliminate violence against women (Art. 4(d-f)). Moreover, the Beijing Platform for Action para. 178, recognizes sexual harassment as a form of violence against women and as a form of discrimination, and calls on multiple actors including government, employers, unions, and civil society to ensure that governments enact and enforce laws on sexual harassment and that employers develop anti-harassment policies and prevention strategies. The Maputo Protocol also obligates State Parties to take appropriate measures to: “Eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training; Protect women from all forms of abuse (including sexual harassment); and to ensure transparency in recruitment, promotion and dismissal of women, and combat and punish sexual harassment in education and the workplace.”

In November 2018, the General Assembly in its first ever resolution on sexual harassment intensified efforts to prevent and eliminate all forms of violence against women and girls. The Resolution recognizes that violence against women and girls, including sexual harassment, is rooted in historical and structural inequality in power relations between men and women. The Resolution also stresses the need to change social norms among men and boys.

Sexual harassment has enormous social and economic costs. Among other things, sexual harassment undermines women's professional and economic attainment. Negative outcomes are prevalent across occupation, race, ethnicity and social class. When women experience sexual harassment in the workplace, the professional outcomes include decline in job satisfaction; withdrawal, decline in organizational commitment, decline in performance and productivity.

Comparative legislation can provide guidance to Ethiopian law reform to align their definition of sexual harassment in light of these advances on the international stage.

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30 Maputo Protocol Article 12(1)(a)-(d)
South Africa’s Protection from Harassment Act, 2011 provides a comprehensive definition of sexual harassment and covers both quid pro quo and hostile environment sexual harassment and provides for protection orders and strong compliant mechanisms.\(^{31}\)

As a leader in gender equality, Sweden both expanded its definition by law and in action:

**Article 17. Sexual harassment:**
Employers and directors of institutions and social activities shall take special measures to prevent employees, students and clients from being subjected to sexual harassment in the work-place, within institutions, during social activities or within schools. Sexual harassment constitutes sexual behaviour that is unreasonable and/or insulting and against the will of those who are subjected to it, and which affects their self-esteem and is continued in spite of a clear indication that this behaviour is unwelcome. Sexual harassment can be physical, oral or symbolic. One event may be considered sexual harassment if it is serious. If a superior is charged with sexual harassment, he/she shall be deemed incompetent to take decisions on the working conditions of the plaintiff during the investigation of the case and a higher superior shall take decisions regarding the plaintiff.

**Article 18. Advertisements:**
An advertiser, and someone who designs or publishes an advertisement, shall ensure that the advertisement does not in any manner slight or disgrace the other sex or work against the equal status and equality of men and women in any manner.

These two Articles provide comparative examples on how to broaden the definition to encompass further actions that can constitute sexual harassment outside a limited scope. The Article provides an example of legal reform in the context of workplace harassment as well as certain procedural protections. Countries should consider not only expanding the definition for protection but also providing additional institutional, training, and monitoring provisions.

VI. **FAMILY RESPONSIBILITY**

a. **Prohibits Discrimination Against Marital Status and Family Responsibility**

Family Responsibility Discrimination (FRD) is considered the newest category of discrimination and cross cuts gender. FRD is discrimination against employees because they are

\(^{31}\) Definitions and application of Act 1. (1) In this Act, unless the context indicates otherwise- […] "sexual harassment" means any- (a) unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome: (b) unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or a related person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the complainant or related person would be offended, humiliated or intimidated; (c) implied or expressed promise of reward for complying with a sexually oriented request; or (d) implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.
caregivers for members of their families, including children, elderly parents, and ill or disabled spouses or partners. FRD is an emerging category of employment discrimination in the United States and around the world and is based on stereotypes based on an employee’s caregiving responsibilities rather than on the employee’s actions and work performance. Not surprisingly, the group most discriminated against are females; pregnant women, mothers (particularly those of disabled children), and women who are viewed by their employers as likely to become mothers, are the most common victims. In the United States, scholars argue that FRD is the new incarnation of gender discrimination; family responsibility discrimination now constitutes over 60 percent of the cases on gender discrimination. For instance, mothers with young children might be placed at a disadvantage if fathers but not mothers were selected for a training program based on the stereotypical assumption that a woman’s primary responsibility would be to her young children.

The Labour Proclamation No. 1156/2019 adopts a gender-neutral definition in including “family responsibility” and “marital status” as prohibited grounds of termination of a contract:

The following shall not be deemed to constitute legitimate grounds for the termination of a contract of employment . . . the Worker’s Nation, Sex, Religion, Political outlook, Marital status, Race, Color, Family responsibility, Pregnancy Disablement or Social status.\(^{32}\)

There are gender differentials in family leave. Article 81 provides a male employee three consecutive days of paternity leave with full pay. On the other hand, a (female) pregnant worker under Article 83 is provided “a period of 30 consecutive days of leave with pay of pre-natal leave and a period of 90 consecutive days of leave post-natal.”

The law also acknowledges the possibility of family responsibility discrimination but there are gender differentials in family leave policies. A male employee is only entitled to three fall days of paternity leave. Under Article 88.3, while maternity leave is granted up to 90 consecutive days of paid leave.\(^{33}\)

Under Article 87(1) A woman shall not be discriminated against in all respects on the basis of their sex.\(^ {34}\) Although not explicit, the law provides for affirmative action for women: “without prejudice to the generality of Sub-Article (1) priority shall be given to women if they get equal result when competing for employment, promotion or any other benefit.” This allows for additional legal protection for women in granting preferential treatments.

At the same time stereotypes and over protections in the laws might impact women negatively. Unlike providing women additional legal protection, laws that perpetuate stereotypes by not allowing a woman autonomy over choosing employment based on biology negatively impact

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\(^{32}\) Proclamation No. 1156/2019. Labour Proclamation: Article 26

\(^{33}\) Proclamation No. 1156/2019. Labour Proclamation Article 88 discusses Maternity Leave. Under 88(3), a pregnant worker “shall be granted a period of 30 consecutive days of leave with pay of pre-natal leave and a period of 90 consecutive days of leave post-natal.”

\(^{34}\) Proclamation No. 1156/2019. Labour Proclamation Article 87(1) women shall not be discriminated against in all respects on the basis of their sex.
women. Women, not the law, should have the choice over employment and work hours. The law states that:

It is prohibited to assign women on works that may be listed by the Ministry to be particularly dangerous to women or hazardous to their health. Moreover, “[n]o pregnant women shall be assigned to work night work between 10 p.m. and 6 a.m. or be assigned on overtime work.”

Recommendations for Law Reform

Ethiopia must repeal the over protections in Proclamation No. 1156/2019 which prohibits women from many categories of employment based on biological differences that are related more to stereotypes rather than to women’s health concerns.

Article 87(3) of the Proclamation No. 1156/2019 is over generalized in the way it restricts women’s employment opportunities. The effects of anti-discriminatory provisions in the Ethiopian Constitution are diluted by the Labour Proclamations restrictions on employment emphasizing the differences between men and women. The law prohibits women from certain types of employment that involves certain categories of work. Concerns for safety, however, are not apparent in legislation covering male employees. Under these laws, the work world, especially the blue-collar work world, could become segregated by gender. The philosophy underpinning these laws views women are unsuitable for the same work opportunities as men. The law can thus provide powerful disincentives for women's movement into nontraditional occupations. The law can also contribute to the shaping of women's work choices. Just as the law has profound power to dismantle sex segregation in the workplace, it has the power to reinforce it. Protective labour regulations can spark a cause-and-effect relationship between protective labour laws and gender bias in the hiring and firing of employees.

b. Trade & Marital Status

Although there is freedom to trade, Article 16 states that a spouse can object to the trade under Art. 645 of the Civil Code. Although this provision seems gender neutral, it would disproportionately disadvantage women traders as husbands would make use of this provision in law to object to her work. Although Art. 18 of the Commercial Code allows the Setting aside of

35 Proclamation No. 1156/2019. Labour Proclamation Article 87(3): it is prohibited to assign women on works that may be listed by the Ministry to be particularly dangerous to women or hazardous to their health. (2) without prejudice to the generality of Sub-Article (1) of this Article, priority shall be given to women if they get equal result with men when competing for employment, promotion or any other benefit; (5) she shall be transferred to another place of work if her job is hazardous to her health or to the fetus as ascertained by a physician; (6) an employee shall not terminate the contract of employment of women during her pregnancy and until four months after her confinement
36 Proclamation No. 1156/2019. Labour Proclamation Article 87(4) No pregnant women shall be assigned to work night work between 10 p.m. and 6 a.m. or be assigned on overtime work
37 See Commercial Code Proclamation of 1960, Chapter 4. Carrying on a Trade by Married Persons
38 Commercial Code Proclamation of 1960, Chapter 4. Art. 16. Married persons may carry on trade. “Any married person may carry on a trade as though he were unmarried unless his spouse objects thereto as provided in Art. 645 of the Civil Code.”
objection on the grounds that “objection is not justified, having regard to the interest of the family,” a family arbitrator may set aside the objection.39

Recommendations for Law Reform

In examining these provisions, it is necessary to emphasize the need for a radical substantive equality approach that looks beyond biological differences and socially constructed roles that reinforce women’s subordination in the public sphere and in the marketplace. Such a radical substantive equality approach must ensure that both men and women are similarly situated when protecting both their equal rights to work and family.

Over-protective laws create a doubled edged sword for women in terms of employment. There is inherent duality and contradictions in some of the protectionist provisions of the Ethiopian labour laws. While these laws appear to protect women on paper, the practice and application of laws like these distinctly subordinate women.

Sex stereotyping negatively affects the review of a woman’s capabilities and performance. While honoring the child caring duties and need for parental leave of women, reformers must be wary of reinforcing traditional gender stereotypes that make it difficult for men and women to develop their own individual identities based on their own capacities and interests. These traditional stereotypes disadvantage both men and women and discount an individual’s autonomy. The South African Jurist, Justice Mokgoro has observed that through reliance on stereotypes regarding childcare responsibilities, society has “den[ied] fathers the opportunity to participate in child rearing, to the detriment of both the fathers and their children.”

VII. DISABILITY RIGHTS AND INTERSECTIONALITY

The law allows for affirmative action for persons with disabilities.40 It also provides for an understanding of intersectional rights on women with disabilities. Using the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) together enables a more comprehensive human rights-based approach that takes into account specific vulnerabilities based on age, gender, and disability that result in violence and discrimination against women and children and women and children with disabilities. The three treaties also

39 Id. at Ch. 4. Art. 17. Notification of objection. (1) As between spouse, an objection under Art. 16 may be notified to the trading spouse in any manner. (2) An objection under Art. 16 shall not affect third parties, in accordance with Art. 121 of this Code, unless notice of such objection has been entered in the commercial register.; See also Commercial Code 1960 18(2) Where the objection is set aside by the arbitrators, a notice to this effect shall be entered in the commercial register.

40 Proclamation No. 568/2008; Right to Employment of Persons with Disability Proclamation Article 3 provides the Scope of Application that the “Proclamation shall be applicable to the Employment relationship between a qualified worker or job-seeker with disability and an employer.” Article 5 (Prohibition of Discrimination) states that “any law, practice, custom, attitude or other discriminatory situations that impair the equal opportunities of employment of a disabled person are illegal.”
bring comparative strengths to the overall pursuit of all women’s and children’s rights. In combining the mandates of all three treaties, supported by the overall framework of the Universal Declaration of Human Rights, a powerful rights framework emerges to vindicate the rights of women and children within the private and public spheres.

This more holistic form of human rights practice fosters a deeper conceptual understanding of how these categories of rights overlap, intersect, and mutually reinforce each other. Women and children are, more often than men, disadvantaged and the victims of poverty and as a result are more vulnerable to abuses of their rights. The disadvantages women and children with disabilities face are often amplified by multiple factors such as race, poverty, minority status, and social status. This includes discriminatory enforcement of laws, denial of equal opportunity in education and employment, exclusion from political representation, deprivation of reproductive rights, imposition of negative stereotypes (often reinforced by cultural and social norms).

The Ethiopian law advances an intersectional analysis of the rights of persons with disabilities and focuses on the multiple forms of human rights violations against women and children with disabilities.

Proclamation NO. [sic] 1064/2017: Federal Civil Servants Proclamation sets explicit conditions of work to be applicable to persons with disabilities under Article 49 stating “[p]ersons with disabilities shall be entitled to affirmative actions in recruitment, promotion, transfer, redeployment, education and training.”

Ethiopia specifically protects the right to employment of persons with disabilities in Proclamation No. 568/2008. This Proclamation defines “discrimination” as meaning to “accord different treatment in employment opportunity as a result of disability; provided, however, that any inherent requirement of the job or measures of affirmative actions may not be considered as discrimination.”

Proclamation No. 568/2008; Right to Employment of Persons with Disability Proclamation sets our provisions for responsibility for recruiting employees.

Any employer shall have the responsibility to . . . take all reasonable accommodation and measures of affirmative action to women with disability taking into account their multiple burden that arise from their sex and disability . . . protect women with disabilities from sexual violence that occur in work places [sic] and, without prejudice to other sanctions to be taken against the offender under the relevant laws, take administrative measures against the perpetrator of acts of violence.

Recommendations for Law Reform

As a jurisprudential method, intersectionality must be adopted into the anti-discrimination theory and discourse. This can be done through anti-discrimination lawmaking and litigation that can address the convergence of both gender and disability

41 Proclamation No. 568/2008: Art. 4.
and its resultant multiplicity of subordination. An understanding of intersecting forces of discrimination requires reconceptualizing these laws in a way that understands the interlocking nature of discrimination.

Given the way rights intersect and ways in which the Convention can be used to advance the rights of women and girls with disabilities it is important that women’s groups and disability rights groups come together to engage in human rights litigation, lawmaking, reporting and organizing.

The intersectionality approach must be mainstreamed into the legislative frameworks. This framework must reflect international human rights guarantees. This includes effective institutions to promote and protect rights. These institutions include central and local levels, governments, parliaments, the administration of justice, constitutional courts, and an independent human rights body, such as a national human rights institution and/or ombudsman. Decision-making processes must include meaningful participation and representation of marginalized groups, such as women, the poor, minorities, and persons with disabilities.

In addition to institutions, the proper procedures and process must be in place to ensure effective implementation of anti-discrimination. This includes redress mechanisms for individuals whose rights have been violated, and decision-making processes. However, there also needs to be awareness-raising by empowerment and education at the local level through programs and policies. This includes human rights education in schools, universities and professional education institutions, human rights training for law enforcement officials, judicial officials and other relevant professionals, as well as awareness-raising campaigns for the public at large.

Civil society requires strong intersecting networks. This includes a vibrant democratic civil society with the full and equal participation of men and women, persons with disabilities, an active and independent media and human rights defender communities. There needs to be additional promotion and protection for rights through national development policies and legal mechanisms.

Additionally, there needs to be formal procedure to allow all individuals to claim their human rights and obtain redress and compensation for any violations thereof. The justiciability of human rights in courts and the provision of legal aid when individuals cannot afford to claim their rights will help to broaden access to justice to persons with disabilities.

Ethiopia’s Labour Proclamation legislation must be amended to impose reasonable accommodation requirements for persons with disabilities in compliance with its obligations under the CEDAW. The laws against discrimination based on disability in the employment sphere are “limited to civil service institutions,” and are nonexistent in private institutions. The laws must be amended to require private institutions to create anti-discrimination provisions in hiring, retention, accommodation, and termination when dealing with employees with disabilities.
VIII. ADULTERY

Adultery and concubinage is criminalized in Article 652, Proclamation No. 414/2004 of the Criminal Code.

A spouse bound by a union recognized under civil law who commits adultery, is punishable, upon complaint by the injured spouse, with simple imprisonment or fine. The same punishment shall apply to the partner who commits adultery with a person whom he knows to have a valid marriage. Where the complainant has provoked the adultery consented to it, condoned it or derived profit from it no proceedings shall follow. Where the criminal installs a concubine in the conjugal home while not divorced or abandoned by his spouse, simple imprisonment shall be for not less than three months.

Recommendations for Law Reform

The UN Working Group on Discrimination against Women in Law and in Practice in 2012, has issued a call to all governments to repeal laws criminalizing adultery. In keeping with these international normative principles, Ethiopia should repeal Article 652 of the Criminal Code. The Working Group notes that the enforcement of such laws leads to discrimination and violence against women in law and in practice. Criminal law definitions of adultery may be ostensibly gender neutral and prohibit adultery by both men and women. However, closer analysis reveals that the criminalization of adultery is both in concept and practice overwhelmingly directed against women and girls. The traditionalist religious, cultural and legal concept of adultery reveal the discriminatory nature of the concept of adultery under most traditions.

Adultery laws have often been enforced in a way that disadvantages women, both because religious procedural law in some countries makes it difficult to prove that a man committed adultery, as well as because women who have been raped and are unable to prove the crime are then charged with having committed adultery. This harm is further compounded by widespread cultural practices of polygamy that are sometimes reinforced by some religious practices. Recommended revisions should decriminalize adultery and eliminate any defense based on “honour”; and disallow the partial defense of provocation based on family “honor.” Justifications for laws based on honor or customary traditions impede women’s advancement in society.

IX. CHILD MARRIAGE

Under international standards of the CEDAW and CRC, marriage must be entered into with the free and full consent of both parties and that States must specify a minimum age for marriage. It is also critical that laws, be they civil, common, religious or customary, do not mandate the payment of bride price or dowry in order to complete a marriage.

Article 16(2) of the CEDAW states that underage marriage is null and void: “the betrothal and the marriage of a child shall have no legal effect and all necessary actions, including legislation, shall be taken to specify a minimum age for marriage, and to make the registration of marriages
compulsory.” Similarly, the Protocol to the African Charter has also prescribed that state parties are obliged to “combat all forms of discrimination against women through appropriate legislative, institutional and other measures.” The minimum age of marriage for women is fixed at 18 years, to prevent the prevalent practice of early marriage in most African communities. Despite this, in several countries, customs and traditions can be interpreted to override the legal age of marriage.

An interlocking reading of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) call for full and free consent in marriage. The CEDAW Committee in General Recommendation 21 (Article 16.2) states unequivocally that “the minimum age for marriage should be 18 years for both man and woman… marriage should not be permitted before they have attained full maturity and capacity to act.”

Article 648 of the Family Code outlaws early marriage but does not prescribe the minimum age of marriage stating that “whoever concludes marriage with a minor apart from circumstances permitted by relevant Family Code is punishable with:”

a) rigorous imprisonment not exceeding three years, where the age of the victim is thirteen years or above; or b) rigorous imprisonment not exceeding seven years, where the age of the victim is below thirteen years.

Laws on the books reveal the loopholes that legally permit child marriage. While the Family Code puts the minimum age of marriage at 18, the exceptions and loops provide legal gaps that do not align with the CEDAW Committee’s recommendation. Even in countries that seem to ban child marriage, culturally sanctioned underage marriage, and legal authorization of child marriage by a father or guardians contradict these anti-child marriage laws. The consent of the guardian or the court to grant permission for child marriage provide legal loopholes that clearly undermines any good faith effort to harmonize national laws with international conventions.

The historic United Nations Resolution on Child, Early and Forced Marriage co-sponsored by 116 countries and adopted in 2014, marked the first time that U.N. Member States recognized that child, early and forced marriage violates girls’ human rights and is a cause and a consequence of extreme poverty, gender inequalities, and harmful practices. The Resolution provides a road map to address harmful cultural practices through education. Under the Resolution, countries have agreed to not only enact, enforce, and uphold laws and policies to end the practice of child, early, and forced marriage, but recognize that education is one of the most powerful tools to prevent and end such practices.

Recommendations for Law Reform

Ethiopia should revise Article 648 of the Family Code to eliminate child marriage and prescribe the minimum age of marriage as 18.

Ethiopia must enact, enforce, and uphold laws and policies to end the practice of child, early, and forced marriage, but also ensure that there are no loopholes to allow child or early marriage in certain circumstances.

In compliance with the CRC, Ethiopia must establish the minimum age of marriage at 18 years of age. This is the generally accepted standard of the 1990 African Charter on the Rights and Welfare of the Child. This has also been recommended both by the CEDAW Committee in its General Recommendation 21 and the U.N. Special Rapporteur on Violence against Women. In the CEDAW Committee’s Recommendation that the minimum age for marriage for both men and women should be 18, it commented that, when men and women marry, they assume important responsibilities. Consequently, marriage should not be permitted before they have attained “full maturity and capacity to act.” Similarly, the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children also prohibits child marriage.

Law revision should also include removing exceptions to child or early marriage, criminalizing those involved in forced marriage or child marriage, prohibiting betrothal before the age of 18, and establishing education programs around child marriage.

Following a pledge by the Ethiopian government to end child marriage by 2025, entered during a summit in London in 2015, a roadmap on child marriage and female genital mutilation had been developed. The focus in the implementation was on pastoralist communities, where those practices were prevalent. Addressing child marriage takes a multi-pronged effort that involves a holistic effort to understand the causes and consequences of child marriage. The girl child’s limited access to educational opportunities and fear of violence in school and in travel to school play a large role in child marriage.

“The girls start having their period; they don’t feel safe going to school,” said Sehin Teferra, founder of the feminist Setaweet movement that organized the clothing exhibit. “It’s a big separator. A lot of schools in rural areas don’t have separate bathrooms for girls and boys, and the sexual harassment starts.” Many parents fear that the walk to secondary school, often spaced farther apart than primary schools, can put girls at risk; abduction and forced marriage are still practiced in some regions.

The Sustainable Development Goals (SDG), especially Goal 5 is a landmark in the battle against Child Marriage. The SDGs, adopted in September 2015, include elimination of child marriage as a key target by 2030 for advancing gender equality. This provision is included in Article 250 of the Criminal Code, 2016 of Guinea.

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On June 2015, the African Union (AU) members formally adopted a common position on ending child marriage in Africa. Under the new arrangement the AU urged its member states to establish comprehensive action plans to end child marriage in Africa. Under the new arrangement, the AU urged 15 Member States to establish comprehensive action plans to end child marriage, include and enforce laws which set the minor's age for marriage at 18.

a. **Comparative Laws on Child Marriage**

Sierra Leone’s Registration of Customary Marriages and Divorce Act (2007) requires the registration of customary marriages and requires either or both parties to notify the local council in writing within six months of writing and could be a good practice case study for Ethiopia. Article 31 of the Registration of Vital Events and National Identity Card Proclamation No. 760/2012 requires all forms of marriage, including religious and customary ones, have to be registered within 30 days of being concluded. The duty to have the marriage registered is imposed on either or both spouses. Given that child marriages are often preceded by the betrothal of children, laws should also prohibit betrothal before the age of 18. Article 34 of Sierra Leone’s Child Rights Act (2007) provides that the minimum age of marriage of whatever kind is 18 years; no person is able to “force a child a) to be betrothed, b) to be the subject of a dowry transaction, or c) to be married; and notwithstanding any law to the contrary, no certificate, licence or registration shall be granted in respect of any marriage unless the registrar or other responsible officer is satisfied that the parties to the marriage are of the age of maturity.” Similarly, Gambia’s Children’s Act (2005) also prohibits child marriage as well as child betrothal.

In some countries, a ban on child marriage has been enshrined as a constitutional guarantee. For example, Rwanda has outlawed forced marriage as a Constitutional guarantee. Article 26 of its Constitution provides that no person may be married without his or her free consent.

In Burkina Faso, the Law on Prevention Punishment and Repairing Violence against women and Girls and Caring Victims 2016, in Article 49, prioritizes shelters for women fleeing from forced or arranged marriages.46

Legal reforms must also rule out exceptions for parents or guardians as they are not party to the marriage. Additionally, there must be laws that criminalize the actions of those involved in arrangement of contraction of forced or child marriage. This enforcement must align with the Family Code that defines marriage as consensual and the Criminal Code criminalizes marriage that is conclude by violating this consent of either spouses.

b. **Further Examples for Legislative Reform**

Below are further examples and explanations for legislative reforms. These recommendations include prohibitions, minimum standards, education and programming, local empowerment, monitoring and data collection, and creating institutional support.

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46 In Burkina Faso, the Law on Prevention Punishment and Repairing Violence against women and Girls and Caring Victims 2016, Article 49: “Women who are victims of violence, especially girls threatened with formal or arranged marriage, girls who are domestic workers and are sexually abused are given priority in shelters.”
Clarify Minimum Statutory Age of Marriage

Proof of age should be compulsory for marriage. Where official birth records are not available, laws should provide for alternative means of age validation, such as witness affidavits and school, baptismal and medical records. Also, laws should take into account illiteracy rates that may prevent parties from registering their marriages, for example there should be provisions for oral registration and an alternative signature, such as a fingerprint.

Render Child Marriage and Sale of Children for the Purpose of Marriage Null and Void

It is not enough to have a law prohibiting child marriage and the sale of children. Legislature should also adapt legislation that actively voids and proactively prevents child marriage. Recommendations for lawmaking reforms include establishing penalties and remedies in the law, mandating birth and marriage registration, ensuring bride and groom interviews prior to marriage, prioritizing protection of the girl child, and ensuring the right to maintenance for girl children who have been “married.”

Mandatory Birth and Marriage Registration

Countries that do not follow a stringent method of birth registration indirectly reinforce child marriage. Registration can help track the ages of the brides. This practice has been recognized to discourage the practice of child marriage. This requires institutions and formal reporting mechanisms. Recommendations include encouraging the reporting of cases, collecting data on child marriage and reporting that data, and engagement of NGOs in monitoring the law.

Investment in Girls’ Education as the Most Important Vaccine Against Child Marriage

Efforts should be made to make safe havens for girls so that families feel safe in the knowledge that their girls are not harmed or abused in any way. A legal framework that ensures equitable education for all is important. Laws on education on anti-children marriage should highlight Article 10 of the CEDAW and include equal access to extracurricular activities, food for education programs, targeted initiatives for at-risk communities, and tax incentives and social service benefits.

The following programs are comparative models to help broaden access of girls to education institutions:

Community Schools in Rajasthan

Community schools, like Shiksha Karmi in Rajasthan, use paraprofessional teachers, allow the community to select and supervise teachers, and hire part time workers to escort girls to schools. The schools also target students from scheduled castes and scheduled tribes. This approach allows all girls from all backgrounds have access to educational institutions. It further provides protections to young girls by having escorts as well as supervising and monitoring teachers in the schools. This can help in proactively monitoring and preventing harassment and discrimination.
Additionally, it provides added community involvement in decision-making. This can help increase and retain girls in schools.

**BRAC Schools in Bangladesh**

BRAC is an NGO that established informal primary education programs in Bangladesh in 1979 to provide education for girls. Seventy percent of its students are girls. Local women (with at least nine years of schooling) are teachers. Community involvement is heavy in BRAC schools. Parents are engaged with BRAC staff to select a local teacher, establish a school calendar, and send their daughters to school. This is another example of having the community involved in decision-making and ensuring added protection for girls. This provides added protection and security through community engagement and supervision.

**Bolsa Escola in Brazil**

*Bolsa Escola* is one of the most successful anti-poverty programs in Brazil. Started in 1995, the federal program administered by local government made credit-card-based transfers to mothers of poor households contingent on children aged six to fifteen maintaining 85% attendance. Participants must attend after-school activities and cannot work. These incentives and formal programming allow for additional accountability and that the Government takes girls education as a serious matter. It boosts both the economy and educational opportunities by taking an intersectional approach to gender and socioeconomic status.

**Food for Education Program in Bangladesh**

In Bangladesh, the Government designed the Food for Education Program in which monthly food is transferred to poor households contingent on 85 percent attendance by primary school age children. Similar to *Bolsa Escola* in Brazil, this incentive program allows both economical and gender empowerment. This empowers community that are most vulnerable to ensure stability and mobilization.

**Honduras, Ecuador, and Chile**

In the year 2000, Honduras centrally implemented program for cash transfers to mothers. Similarly, Ecuador established a national program, *Bono de Desarrollo Humano*, which targets poor families linking cash transfers of $15 to women who send their children to school. In 1981, Chile established *Subsidio Unitario Familiar* – a local government implemented program that provides incentives to mothers in eligible families whose school age children are in school. Scholarships for girls compensate families for both direct and indirect costs associated with girl’s education.

These programs all establish incentives and elevate burdens for families, even rural and lower-income families. These formal mechanisms for promote education and establish longevity plans for girls and women in society.

**Commit Government, Donor, and NGO Support to Combat Child Marriage**

Governments, multilaterals and donors can broaden opportunities for girls’ education. While the national legislature can administer legal reforms, it is important to have additional government, donor, and NGO support to implement and empower from a local level.
Create the Role of Protection Officers

Additional monitoring can help accountability. These Protection Officers will report on child marriage, ensure the victim is provided the necessary relief, maintain a list of service providers, make available a safe shelter home, get the victim medically examined, and ensure that protection orders are made. This responsibility should be placed in the context of the powers and responsibilities of the Ministry of Women, Children, and Youth (and its regional counterparts) and the Federal Attorney General (and its regional counterparts).

Provide for Mandatory Restraining Orders

Protection orders will prohibit the respondent from committing any act that will lead to child marriage; or aid and abet in the commission of acts leading to child marriage. Though not specific to child marriage, a court may order preventive and protective measures when a crime is likely to be committed according to Article 134 of the Criminal Code. Magistrates can pass a protection order prohibiting the child marriage and restraining the respondents from going through with the marriage. The Magistrate may impose any additional conditions or impose any other directions which may be deemed necessary to protect or provide the safety of the girl child. This allows for the mechanism of redress and sanctioning for further enforcement mechanisms.

Develop Task Forces to Monitor Situations of Conflict and Natural Disaster

The Ethiopian government must take into account specific gender-based vulnerabilities that become heightened during conflict and disasters. The absence of gender sensitivity in disaster and conflict management and the inadequate levels of security for women in conflict and emergency management efforts result in increasing gender specific risks such as child marriage. Additional legal protections are needed to address the real threats that female children faces in conflict, and situations of natural disaster must be put into place.

Strengthen Community Networks

Women are most empowered through informal community networks and local support. For example, in Zimbabwe, a NGO named Musasa provides counseling, temporary refuge, and employment support. A spectrum of issues impacts young girls and women when it comes to child and early marriage. To protect at-risk communities and women, there needs to be formal dedication to local communities.

Collect Data

Data is a powerful tool to demonstrate the ill effects of child marriage. Data should be collected at different levels on different issues. Additionally, data should be collected on incidence and prevalence of child marriage. On the status of the girl child in the marriage, data should include girl child’s education, access to resources, including health care, education, information and entertainment, and the socio-economic status of the family.
Using the Courts

Women and girls should have access to justice and legal services to address child marriage. Having access to the courts allows for legal redress and accountability to violations. Both the Federal Attorney General and the Ministry of Women, Children and Youth (and their regional counterparts) have legal responsibilities of providing support to women and girls who are victimized by crimes. Laws need stronger legal mechanisms in which they can be enforced, and which vulnerable communities can access.

X. VIOLENCE AGAINST WOMEN

Violence against women, especially sexual violence, has often been addressed under a framework of morality, public decency and honor. As a crime against the family or society, rather than a violation of an individual’s bodily integrity. The Ethiopian law continues to frame sexual violations as crimes against “morality,” “chastity,” and “honor.”

a. International Legal Framework on Domestic Violence

The Vienna Declaration and Programme of Action on Human Rights has affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking are incompatible with the dignity and worth of the human person and should forthwith be eliminated. Consistent with this definition, the Declaration on the Elimination of Violence against Women (DEVAW) defines violence as:

Any gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in the family, such as battering, sexual abuse or female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

The DEVAW and the different provisions of the CEDAW have been standard-setting blueprints for lawmaking initiatives and powerful organizing tools. The CEDAW was one of the first human rights treaties to address private forms of violence and abuse. In 1994, the first

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47 Vienna Declaration and Programme of Action. Article 18: Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated.
48 The Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23) 1993
50 The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979.
51 General recommendations made by the Committee on the Elimination of Discrimination against Women. General Recommendation No. 21 (13th session, 1994).
Special Rapporteur was appointed by the Human Rights Commission to investigate the causes and consequences of violence against women over the duration of a three year period. A 1999 report authored by the Special Rapporteur on Violence against Women adopted an expansive definition of violence in the family and included, inter alia, “battering, marital rape, incest, forced prostitution, violence against domestic workers, violence against girls, sex selective abortions and female infanticide, traditional violent practices against women including forced marriage, son preference, female genital mutilation and honor crimes.”

The DEVAW is also the first international declaration to hold the State responsible and accountable for atrocities committed against women. General Recommendation No. 12 requires that States Parties act to protect women against violence of any kind occurring within the family at the workplace or any other area of social life, and recommends that the periodic reports provide information on the legislation in force to protect women against violence in everyday life including sexual violence, abuses in the family, sexual harassment at the workplace, etc. The recommendation calls for measures to overcome family violence including criminal penalties when necessary, and civil remedies in cases of domestic violence.

In 1993, the CEDAW adopted General Recommendation 19, which explicitly states that it prohibits gender-based violence. General Recommendation No. 19 addresses violence against women (including sexual harassment) and emphasizes, among other things, that discrimination under the CEDAW is not restricted to action by or on behalf of Governments. Regarding general international law and specific human rights covenants, the Recommendation emphasizes that equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace. In order to combat such private sphere violence, the Convention also suggests that State Parties establish support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refugee services, specially trained health workers, rehabilitation and counseling. The CEDAW, in consistence with General Recommendation 19, has also urged the State Party to place high priority on implementing comprehensive measures to address violence against women and girls, and has

54 General Recommendation No. 12 (eighth session, 1989): “Considering that articles 2, 5, 11, 12 and 16 of the Convention require the States parties to act to protect women against violence of any kind occurring within the family, at the workplace or in any other area of social life, Taking into account Economic and Social Council resolution 1988/27, Recommends to the States parties that they should include in their periodic reports to the Committee information about: 1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at the workplace etc.).”
55 General Recommendation No. 12 (eight session, 1989).
56 General Recommendation No. 19, Article 14 (r)(i): “Measures that are necessary to overcome family violence should include: Criminal penalties where necessary and civil remedies in cases of domestic violence.”
58 Id, General Recommendation 19, Articles 2 (e), 2 (f) see articles 2 (e), 2 (f) and (5) of the CEDAW.
59 Id. General Recommendation 19, Articles 11, Article 16.
60 Supra, General Recommendation 19, Article 24 (iii, iv, v).
called upon states to enact legislation on domestic violence to ensure that women and girls who are victims of violence have access to immediate means of redress.\textsuperscript{61}

Since states are bound to eliminate discrimination as defined by Article 1, they are obliged to eliminate discrimination against women in all spheres of life, including the private sphere, and especially in the family.\textsuperscript{62} Addressing the private sphere, Article 2 obliges States to take concrete steps to eliminate discrimination against women. This provision also requires states to eliminate discrimination against women by any person, organization, or enterprise.\textsuperscript{63}

This provision makes the CEDAW unique since international human rights treaties are usually limited to the conduct of the State or its agencies.\textsuperscript{64} In order to combat such discrimination in the public sphere, further recommendations are made to conduct gender-sensitive training of judicial and law enforcement officers and other public officials for the implementation of the CEDAW.\textsuperscript{65} Article 16 of the CEDAW also obligates State Parties to remove discriminatory laws and practices against women.\textsuperscript{66} Article 16 (1) follows this provision by granting women and girls children equality in all matters relating to family and marriage.\textsuperscript{67}

\textit{b. The Legal Framework on Gender-based Violence in Ethiopia}

The Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution, 1995), within its chapter of fundamental rights and freedoms, contains a number of rights which have direct relevance to the right of women to be protected from domestic violence. Article 35 is specifically focused on the rights of women. The Revised Family Code, 2000 mandates joint management of family in articles 49, 50 & 56.

The Revised Criminal Code of the Federal Democratic Republic of Ethiopia (The Criminal Code, 2004) is a major area of Ethiopian law that was revised in conformity with the FDRE Constitution. The Code criminalizes most forms of violence against women and girls including rape (The Criminal Code, 2004: Articles 620-28), trafficking women (Article 597), prostitution of another for gain (Article 634), and physical violence within marriage or in an irregular union (Article 564), abduction, (Articles 587-590), Female Genital Mutilation (Articles 565-6), and early marriage (Article 649).

The criminal code also has several gaps that undermine the protection of women. It lacks a comprehensive definition of the term violence against women as consistent with the CEDAW and the DEVAW. While Article 564 references domestic violence, it limits it to marital partners and

\textsuperscript{61}Id., General Recommendation 19, Article 16, Special Recommendation (all specifications (a) through (v)).
\textsuperscript{62}Id. General Recommendation 19 at Para. 6.
\textsuperscript{63}Id. General Recommendation 19 at Para. 9.
\textsuperscript{64}Text of the CEDAW 29\textsuperscript{th} Session 30 June to 25 July 2003, Article 2(e).
\textsuperscript{65}General recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (11th session, 1992), Article 16 (24 (B)).
\textsuperscript{66}Convention on the Elimination of Discrimination against Women, 29\textsuperscript{th} Session 30 June to 25 July 2003. Part IV, article 16: Marriage and Family: 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
\textsuperscript{67}Id. Article 19 (1)(1-h), (2)
persons in co-habitation. Moreover, without a definition of domestic violence, these acts are limited to physical violence and does not cover other forms of violence including, economic, psychological and verbal abuse.

Article 587 to 590 on the abduction of women and children, Art. 596 on enslavement, Art. 597 on trafficking in women and children, Art. 598 on unlawful sending of Ethiopian for work abroad, as well as Art. 620 on sexual violence. Some of these provisions seem to be making a clear distinction based on gender that does not appear to have any legitimate ground.

Abduction of women, although a criminal offence, is still considered as a legitimate way of procuring a bride (especially in southern Ethiopia). Nearly eight percent of currently married women were abducted and forced into marriage. Similarly, although the constitution as well as the criminal code condemn harmful traditional practices, female genital mutilation remains widely practiced in Ethiopia. It is estimated that more than 74 percent of Ethiopian women of all ages have been subjected to female genital mutilation. Although the health risks associated with this is considerable, no criminal prosecutions have ever been brought against perpetrators of FGM.

According to the Government Delegation to the CEDAW, Ethiopia has adopted the National Strategy on Harmful Traditional Practices and the accompanying action plan on Female Genital Mutilation, child marriage and abduction in 2013. The Council has taken a stand to eliminate FGM and child marriage by 2025.

The legal framework on violence against women must include an intersectional analysis, that covers violence against women with disabilities, LGBTQ women, rural women and racial and ethnic minorities. Moreover, harmful traditional practices and female genital mutilation involve the girl child. These intersectional forms of gender-based violence must be addressed. The term “intersectionality” was first introduced in the 1990s by critical race feminists, whose seminal works introduced the “intersectionality” model to illustrate the inadequacies of “essentialism” and to show that we all stand at multiple intersections of identity. The anti-essentialist critique argues that women cannot be defined by one single identity but rather that their identity is shaped by multiple characteristics and experiences. The concept of multiple forms of discrimination has now entered the lexicon of national legislation. Ethiopia too has integrated this concept of intersectionality into the work of the Criminal Code.

In Article 4 of the Proclamation No. 414/2004: The Criminal Code of The Federal Democratic Republic of Ethiopia, “Equality before the Law” means that the criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.

However, the extenuating circumstances based on “honor” or “temptation” included in Article 82 could have a disproportionate impact on women and could be sexist or culturally biased in their interpretation. This article reduces penalties for those who previously had “good character,” when a criminal acted in a state of “great material or moral distress,” and when the person was led into

68 Responses to the CEDAW Committee’s Concluding Comments on Ethiopia’s combined sixth and seventh periodic report
“grave temptation by the conduct of the victim.” This leads to a “neutral law” disproportionately effecting women and not allowing them to achieve full justice. The term “when the criminal act was prompted by an honorable and disinterested motive or by a high religious, moral or civil conviction” means that religious or honorable motives could legitimize a criminal act of violence. As legal reform, Ethiopia should explicitly denounce exceptions based on “honor” or “temptation.”

The Revised Sentencing Guideline No.2 /2012 is issued by the Federal Supreme Court in 2012 to guide determination of criminal sentences. Judges are required to increase the lower end of the penalty in(sentencing gender-based violence crimes covered under articles 555-560 of the Criminal Code and sexual violence crimes covered under Articles 620-628 of the Criminal Code.

Apart from national laws and policies, Ethiopia has developed the Standard Operational Procedure (SOP) on Elimination of all forms of Gender Based Violence (GBV). The SOP is planned to standardize national preventive, protective and service provision amenities and ensure multi-sectoral coordination in support of women and children.

Ethiopia also criminalizes sexual abuse in custodial settings. The Ethiopian Government also established Child and Women Protection Units in police stations responsible for handling cases of VAW, the VAW investigation and prosecution team and child friendly and victim friendly benches within federal as well as regional courts. The Child and Women Protection Units have expanded significantly in number and coverage through the country. In addition, gender sensitive criminal proceeding; including investigation and evidence gathering has been rolled out throughout the country. Members of law enforcement organs are trained in order to ensure effective implementation of laws and gender sensitive procedures as well as to ensure they have the skills and techniques needed to handle cases on VAW. While these are not legally mandated measures, they should be considered for codification to ensure institutionalization.

**Recommendations for Law Reform**

Ethiopia must draft a stand-alone anti-gender-based violence and domestic violence law and harmonize domestic laws with international norms. Despite the criminalization of certain forms of violence against women, the lack of a separate law on domestic violence and the absence of civil remedies for victims and survivors, creates a lacuna in the law regarding protection orders, residence order, shelter or medical and psychosocial support.

Article 620 of the Proclamation No. 414/2004 of The Criminal Code. Crimes Against Morals and the Family must be revised. Rape is defined as a crime against morals. This definition is untenable as a crime against morality are generally victimless crimes. Instead rape should be defined as a form of physical, emotional and psychological violence. Marital rape needs to be recognized as a penal offence, both under the specific statute as under general criminal law of State Parties.

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70 Article 632. Participation of a Juridical Person in Sexual Outrages Committed on Minors.
The recommendations below map some new and emerging developments in lawmaking in different countries that could help guide Ethiopia’s law reform initiative. These laws can inform and shape lawmaking in Ethiopia, so that new legal reform can address domestic violence as a human rights violation, identify multiple and intersecting forms of violence, acknowledge certain culturally specific forms of violence, seek to protect a broad category of direct and indirect victims of domestic violence, and create multi-agency responses to domestic violence. An important characteristic of these laws is that they focus on critical interventions as well as punishments. Thus, Ethiopia must go beyond punishment of violence against women to create new laws that provide for prevention of violence against women though education and intervention.

c. Further Examples for Legislative Reform

The following are examples and models of new legislative reform in gender-based violence prevention.

Expanding the Definition of Violence Against Women

Historically, rape and sexual assault were not criminal offenses when committed within the context of intimate relationships. While the concept of rape within intimate relationships remains unaddressed in some countries, an increasing number of countries are removing exemptions for rape and sexual assault within an intimate relationship from their penal codes or enacting specific provisions to criminalize it. For example, Lesotho, Namibia, South Africa, and Swaziland have all criminalized marital rape.

South Africa’s expansive definition of violence against women in Domestic Violence Act 116 of 1998 is a model that can inform new lawmaking efforts and includes the following categories of violence: physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse intimidation, harassment, stalking, and damage to property, entry into the complainant’s residence, and any other controlling or abusive behavior toward a complainant. This expansive model can help inform Ethiopia’s legal reform to further address and provide redress for violence against women.

The African Charter on the Rights and Welfare of the Child includes protection from sexual abuse under the scope of "torture, cruel, inhuman or degrading punishment and treatment. . . ." The Committee of Ministers of the Council of Europe adopted a convention on preventing and combating violence against women and domestic violence in 2011. This defines violence against women as a human rights violation and as a form of discrimination. The definition of violence includes economic harm or suffering. The Convention contains both negative and positive duties on the part of States. State Parties are called upon to exercise due diligence to prevent, investigate, and punish perpetrators, and required to provide access to services—including legal and financial assistance, psychological counseling, hotlines, and sexual trauma services. Other important international declarations which have recognized violence against women as a violation of human rights include the Programme of Action of the International Conference on Population and Development (1994), the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women (1995), the Southern African Development Community’s Declaration on

Gender and Development (1997), and the Addendum on the Eradication of All Forms of Violence Against Women and Children (1998). The Addendum recognizes the deeply-rooted cultural and social norms that need to be addressed and covers a broad category of violence against women including physical and sexual violence, economic, psychological and emotional abuse, and traditional practices harmful to women including femicide and female genital mutilation. It calls for services, such as providing easily accessible information for survivors and victims of violence, including women with disabilities, and recommends the allocation of the necessary resources to support implementation.

Expanding the Definition of Family

In order to effectively fight domestic violence, the law must cover an expanded notion of family, including same sex partners, former-spouses, children, grandparents and domestic workers. To effectively capture the reality of a modern family, the law must undertake this task by first composing a broader definition of what constitutes a family, as the term family has undergone numerous changes. A more dynamic definition must include members beyond the traditional notion of family. In this way all children—whether they are victims of the perpetrator or children of relatives and house helpers—can be protected in this analysis. In recent years there has been an expansion of the categories of those protected under the law. This would continue the spectrum of expansion to ensure broader legal protections.

Protective Orders

Internationally, protective orders have proven to be some of the most important tools for protecting women and children from domestic violence. Many new laws have developed different protective orders to safeguard women and children. These orders include among others *ex parte* restraining orders. *Ex parte* temporary restraining orders can include a preliminary injunction against further violence and/or prevent the abuser/defendant from disturbing the victim/plaintiff's use of property, including the common home and orders to vacate.

Enforcement

The problem of enforcement remains as these new laws are inadequately implemented. The lack of implementation of laws often translates to impunity on the part of the State and once again begs the question of adequate State responsibility for atrocities committed against women. With recognizing the necessity of State cooperation in combating the epidemic of violence, State accountability has become a cornerstone of the CEDAW’s concluding observations to State Party reports. The guarantees under the CEDAW Convention on State responsibility for due diligence in protecting women from domestic violence have shaped groundbreaking case law. This requires more institutional and formal support in addition to adequately implementing legal reforms. Enforcement includes monitoring by various mechanisms, including implementing agencies, agencies already set up to monitor implementation of the law, and civil society. An example of a measure can be recognizing standing for civil society agencies and other third parties in cases of violence against women. Other measures can include institutionalizing and legally mandating the Child and Women Protection Units to help with gender sensitive criminal proceedings, investigations, and trainings.
Education

Perhaps one of the most critical clauses of new lawmaking in domestic violence is its call for awareness raising programs and for education on international conventions on the prevention of violence. Laws must enshrine the need to include issues of gender equality and human rights in school curriculums; thus allowing not only young women, but more importantly, young men to become educated on issues of sexuality and violence. The law must also provide for ongoing training for police officers on gender, race and ethnicity. The effects of such mandates are yet to be seen as such provisions for education and awareness raising require the economic support of the State. The provision on regular and proper data collection and an evaluation of all measures under the law is a crucial one to evaluate the extent of domestic violence and the necessary resources to address such violence.

Developing Multi-Pronged Advocacy Approaches

Although the State is primarily responsible for combating violence in the private and public spheres, engagement with civil society partners is imperative for effective implementation of the law. Just as global standards inform local movements and vice versa, so too must community-based approaches be complimented by multi-faceted advocacy approaches in the fight to eliminate domestic violence and enact effective legislation.

The Brazilian Maria da Penha Law of 2006\(^{73}\) calls for a multi-disciplinary approach to domestic violence—it requires the cooperation of the federal, state, municipal and NGO sectors\(^{74}\) and also integrates the judiciary, the prosecutor and public defender services.\(^{75}\)

The Philippines law on domestic violence is composed of several agencies including the National Commission on the Role of Filipino Women (NCRFW), the Department of Social Welfare and Development, the Council for the Welfare of Children, Departments of Justice, and the Health and Education Department.\(^{76}\) In addition to the Philippines, Hong Kong also has created multi-disciplinary task forces. These tasks work through the Committee on Child Abuse, the Working Group on Combating Violence, and the Working Group on Elder Abuse.\(^{77}\) Through these groups, victims receive support from social workers, counselors, police and lawyers.

Domestic Violence as Direct or Indirect Violence Against Children

A hallmark of domestic violence laws drafted in the last decade is the expanded category of victims that are covered in the law.\(^{78}\) The recognition that domestic violence affects many more

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\(^{73}\) Law No. 11.340 of 7 August 2006 (Lei No 11.340, de 7 de Agosto de 2006).

\(^{74}\) Id, Chapter I Article 8. The public policy aimed at restraining domestic and family violence against women will be implemented by means of an integrated set of actions by the Federal Union, the States, the Federal District and the Municipalities and nongovernment actions.

\(^{75}\) Id, Article 8, Section I - operational integration of the Judiciary Branch, the Prosecutor’s Office and the Public Defender with the areas of public security, social assistance, health, education, work and housing

\(^{76}\) Rep. Act No. 9262, § 39

\(^{77}\) Strategies and measures in tackling domestic violence in selected places (RP09/07-08) 16 June 2008.

\(^{78}\) There are some laws such as the Japanese law which only covers women. See Article 1. The term spousal violence as used in this law refers to illegal attacks from one spouse (including persons who are in a de facto state of
than those in the direct line of violence has aided not only in the formulation of more inclusive laws but also in the creation of services for family members who are both directly and indirectly threatened by domestic violence. The creation of such services and provisions emphasizing the family proves that the family is in fact the catalyst for one’s lifelong behavior.

**Expanding Categories of Violence**

Yet another novel element of new developments in domestic violence lawmaking is that new laws have covered expanded categories of violence including physical, psychological, sexual, economic and verbal violence. The framework prepared by the first U.N. Special Rapporteur on Violence against Women urges states to adopt the broadest possible definition of domestic violence which makes clear that domestic violence can be either physical, sexual or psychological and can include threats, intimidation, coercion, stalking, and humiliating verbal abuse. This allows national laws to be highly expansive; thus protecting victims from all forms of domestic violence by creating a common vernacular going beyond domestic abuse as constituting simply physical abuse.

**Should the Law be Gender Specific?**

A consideration is whether a domestic violence law would be gender specific, i.e. coverage would be confined to women, or gender neutral to cover all persons whether male or female in intimate relationships.

The formal equality model, on the other hand, regards men and women as being the same; thus advocates of this model argue that men and women should be treated in the same manner. Such a perspective simply does not suffice in the debate about international legislation against domestic violence, as domestic violence has been defined by the U.N. as gender specific. This is supported by a vast array of data. A National Crime Survey conducted in 1984 by the U.N., for example, found that women were victims of family violence by their husbands or ex-husbands at a rate three times that of men.

**Provision of Services**

The laws must provide specialized shelter services for victims/survivors of different “harmful practices.” These recommended laws should include: specialized shelter services be available for victims/survivors of “harmful practices” within established shelters for victims/survivors of violence. These “harmful practices” could include child and forced marriage, female genital mutilation, and so-called “honour” crimes.

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d. New Lawmaking and The Expanding Categories of Violence: The Evolving Scope of Protection Against Violence in The African Region

Article 2 of Angola’s Domestic Violence Law of 2011 expands its scope to cover not only the domestic abode but any violence in: kindergarten; nursing homes; hospitals; schools; and women or men’s boarding schools.

In an expansion of the classification of violence, Article 3 of the Angolan Domestic Violence Law includes a new category of violence: patrimonial violence. This is defined as “[a]ny action which provides retention, subtraction, partial or total destruction of the objects, documents, work tools, movable or immovable property rights of the victims.”

The Angolan Domestic Violence Law is a hybrid of criminal and civil law provisions and addresses issues of prevention of domestic violence, including educational and curricular reform as a tool of violence prevention.

The law includes Article 7 on Education. The provision discusses incorporating into schools the “[p]henomenon of violence and its various manifestations,” the “[s]ymbolic violence and its structural institutional character,” and violence’s “[r]elation to power, including the personal, group and social interaction.”

The Burundi Law on the prevention protection of victims and punishment of gender-based violence, 2016, includes in Section 2; Article 2, defining gender-based violence as “causing physical, sexual, economic, psychological or emotional harm or suffering, including the threat of such acts, forced or arbitrary deprivation of liberty whether in public or private life.”

Conjugal rape is defined very clearly by identifying harmful cultural practices including “martial rape, forced pregnancy, traditional practices that are harmful to gender, cultural practice that involves a man forcing his wife or daughter to have sex with a traditional healer so that the remedy has its intended effects, customary practices that recognizes the right of a man to have sexual intercourse with his daughter in law on the day of his son’s manage,” and “forced marriage for which a girl is abducted.”

In Guinea Bissau, Article 8-Principles of Confidentiality are important unique additions to the law that will be important in any new law reformist initiative. Article 8 states “[t]he technical support services to victims ensure the proper respect for the privacy guaranteeing the professional services of the information provided by them.”

XI. Abortion

An estimated 93 percent of women of reproductive age in Africa live in countries with restrictive abortion laws. Abortion is not permitted for any reason in 10 out of 54 African countries. Abortion is prohibited in Ethiopia with exceptions. The government revised the criminal code to permit abortion when the pregnancy results from rape or incest; when the health or life of the woman or the fetus is in danger; in cases of fetal abnormalities; for women with
physical or mental disabilities; and for minors who are physically or psychologically unprepared to raise a child.

Although abortion is not permitted for socioeconomic reasons, socioeconomic reasons may be an extenuating ground. The revised law notes that extreme poverty may be an extenuating circumstance for reducing the criminal penalty for abortion. Subject to the provision of Article 551, the Court shall mitigate the punishment under Article 180, where the pregnancy has been terminated on account of extreme poverty. In addition, the revised code stipulates that the woman’s word is all that is needed to justify pregnancy termination in cases of rape and incest. However, voluntary abortion is punishable by a prison sentence.

Article 546 of the criminal code punishes any “(1) pregnant woman who intentionally procures her own abortion is punishable with simple imprisonment.” The article continues by noting under sub-section (2) “[a]ny other person who procured for her the means of, or aids her in the abortion, shall be punishable as a principal criminal or an accomplice, with simple imprisonment.” Additionally, Article 848 in regard to publicity relating to abortion: “[w]hoever, apart from the cases permitted by law, advertises or offers for sale means or product designed to cause abortion, or publicly offers his services to perform abortion, is punishable with fine or arrest.”

Recommendations for Law Reform

Ethiopia must decriminalize abortion and repeal Article 546 of the criminal code. On January 18, 2016, the African Commission on Human and People’s Rights announced that, through the Special Rapporteur on Rights of Women in Africa, it will be launching a continental Campaign for the Decriminalization of Abortion in Africa.

In 2012, the WHO estimated that over six million unsafe abortions occur every year in Africa and 60 percent of these abortions are performed on women under the age of 25. The Campaign for the Decriminalization of Abortion in Africa is in line with the African Charter on Human and Peoples’ Rights’ (ACHPR) mandate to promote and fulfill the rights guaranteed in the ACHPR and the Protocol on the Rights of Women in Africa in the ACHPR. The Maputo Protocol too includes the right to control fertility, the right to decide whether to have children, and the right to choose any method of contraception.

Abortion laws must be extinguished or relaxed in order for women to have autonomy over their bodies and their decisions. The legislature acknowledges that abortion can disproportionately affect certain demographics of women as seen by the authorized exceptions. If a complete repeal is met with strong opposition, the exception pertaining to extreme poverty could be expanded.

80 Proclamation No. 414/2004: The Criminal Code. Article 550. Extenuating Circumstances. Subject to the provision of Article 551 below, the Court shall mitigate the punishment under Article 180, where the pregnancy has been terminated on account of an extreme poverty

81 Proclamation No. 414/2004: The Criminal Code. Article 551 Cases where Terminating Pregnancy is Allowed by Law: (1) Termination of pregnancy by a recognized medical institution within the period permitted by the profession is not punishable where: a) the pregnancy is the result of rape or incest
Harmful Traditional Practices that endanger the life of a pregnant woman or child are prohibited under Article 561 of the Ethiopian criminal code where crimes committed against life, person, and health through harmful practices are prohibited. These traditional practices are enumerated in Article 561 and include: a) massaging the abdomen of a pregnant woman, or shaking a woman in a prolonged labour; or b) soiling the umbilical cord of a newly-born child with dung or other similar substances, keeping a newly-born child out of the sun or feeding it butter, excising the uvula of a child or taking out milk teeth or preventing the child from being vaccinated; or c) through the exercise of other traditional practices known by the medical profession to be harmful, is punishable with fine or simple imprisonment from three months to one year.

Article 561 also states that other practices may include the exercise of other traditional practices known by the profession to be harmful. The Section entitled “Crimes Committed Against Life, Person and Health Through Harmful Traditional Practices” lays out the foundation with Article 561 (stated above) and Article 562:

Whoever causes bodily injury or mental impairment to a pregnant or delivering woman or to a newly-born child as a result of the application of a harmful traditional practice such as: a) massaging the abdomen of a pregnant woman, or shaking a woman in a prolonged labour; or b) soiling the umbilical cord of a newly-born child with dung or other similar substances, keeping a newly-born child out of the sun or feeding it butter, excising the uvula of a child or taking out milk teeth or preventing the child from being vaccinated; or c) through the exercise of other traditional practices known by the medical profession to be harmful, is punishable with fine or simple imprisonment not exceeding six months.

Furthermore, the law prohibits participation in harmful traditional practices and punishes the participation in and incitement of those harmful traditional practices. The law states that a “parent or any other person who participates in the commission of one of the crimes specified in this Chapter, is punishable with simple imprisonment not exceeding three months, or fine not exceeding five hundred Birr.”

a. Addressing Different Manifestations of Harmful Traditional Practices (HTP): Intersecting Forms of HTP

As mentioned above, deep-seated traditional cultural practices such as son preferences and devaluation of the girl child are inextricably interrelated to violence against women and must therefore be captured in any narrative on women’s rights law reform and practice. The correlation between the devaluing of the girl child and son preference impacts the underlying causes of domestic violence. Across the world, the preference for sons results in millions of missing girls. Sex-selective abortions, infanticide, and abandonment are means of controlling the birth and development of the girl child. Furthermore, such preference manifests itself in discriminatory feeding, dowry, polygamy, the devaluing of a woman’s education, and the lack of freedom of choice in marriage; all practices of which are often both a continuum of and root cause of domestic
violence which in turn affects both women and children. According to the U.N. Secretary General’s Report:

Female infanticide and prenatal sex selection, early marriage, dowry related violence, female genital mutilation/cutting, and crimes against women in the name of honor and maltreatment of widows including inciting widows to commit suicide, are harmful traditional practices” that constitute violence against women and violate women’s rights. Moreover, under documented forms of violence include: femicide; sexual violence against women in marriage, trafficking for sexual and other exploitation, harmful traditional practices (other than female genital mutilation/cutting), prenatal sex selection and neglect of infant girls, forced marriage, early marriage, acid throwing…

Recommendations for Law Reform

The Vienna Declaration and Programme of Action on Human Rights has affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking are incompatible with the dignity and worth of the human person and should forthwith be eliminated. Harmful customary practices range from virginity testing, female feticide, sex selective abortion, harmful traditional practices related to menstruation and child birth, polygamy and polyandry, witch hunting, child marriage and forced marriage, marriage of girls to older women, ghost wives, honour killings, widow burning, dowry deaths, dedication of young girls to temples (devadasi in India and deuki in Nepal), bonded labour, human trafficking and commercial sexual exploitation of girl children and women.

The above mentioned forms of gender discrimination as well as the following affect both the woman and the girl child: genital cutting; child marriage; the Chaupadi custom which requires women and girl children to leave their homes and live in cow sheds during and after child birth and during menstrual periods. Furthermore, such son preference manifests itself in discriminatory feeding practices, dowry, polygamy, the devaluing of a woman’s education, and the lack of freedom of choice in marriage, all practices of which are often both a continuum and root cause of domestic violence, affecting both women and children.

Harmful practices are referred to in the Convention on the Rights of the Child (Article 24(3)), the CEDAW (Articles 2, 5 and 16) and regional instruments. They constitute that violence against women and girls can include: acid violence, dowry and bride price, early/forced marriage and marriage by abduction/rape, female genital mutilation, ‘honor’ crimes, corrective rape, and female infanticide, ritual sexual slavery, virginity testing, practices related to initiation or menstruation, some widowhood rituals and accusations of witchcraft levied at older women.

The CEDAW Article 5 calls upon States Parties to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. These harmful

traditional practices include Female Genital Mutilation (FGM); forced feeding of women; early marriage; the various taboos or practices which prevent women from controlling their own fertility; nutritional taboos and traditional birth practices; son preference and its implications for the status of the girl child; female infanticide; early pregnancy; and dowry price. The CEDAW Committee has expressed concern on customary and religious adjudication of disputes relating to personal and family laws. Recognizing the fact that Ethiopia is a country with ancient history and diverse society with a rich tradition of administration and dispute settlement the Constitution recognizes religious and customary courts. The Committee has pointed out that each and every governmental institution has the responsibility to eradicate institutional discrimination against women. The Constitution further provides for the elimination of traditional practices harmful to women and explicitly abrogates laws, customs and practices that oppress or cause bodily or mental harm to women.

As with all forms of violence against women and girls, the root causes of harmful traditional practices are gender inequality including unequal power relations between women and men, rigid gender roles, norms and hierarchies, and the devaluation of the girl child. Ethiopia must develop educational and other intervention programs to address the devaluation of the girl child as a way to addressing harmful traditional practices.

It is important that the Ethiopian Criminal Code be expanded to cover others forms of Harmful Traditional Practices such as child marriage, bride abduction and FGM.

Ethiopia must revise Article 561 of the Ethiopian criminal code so as to clearly define Harmful Cultural Practices as prohibited by Article 5 of the CEDAW. These harmful traditional practices should include FGM; forced feeding of women; early marriage; the various taboos or practices which prevent women from controlling their own fertility; nutritional taboos and traditional birth practices; son preference and its implications for the status of the girl child; female infanticide; early pregnancy; and dowry price.

The CEDAW Committee has expressed concern on customary and religious adjudication of disputes relating to personal and family laws. Recognizing the fact that Ethiopia is a country with ancient history and diverse society with a rich tradition of administration and dispute settlement the Constitution recognizes religious and customary courts. The Committee has pointed out that each and every governmental institution has the responsibility to eradicate institutional discrimination against women. The Constitution further provides for the elimination of traditional practices harmful to women and explicitly abrogates laws, customs and practices that oppress or cause bodily or mental harm to women.

The Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children was developed by the second United Nations Regional Seminar on Traditional Practices Affecting the Health of Women and Children, held at Colombo, Sri Lanka in 1994 and was adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 199483

XIII. FEMALE-GENITAL MUTILATION

Ethiopia has committed to eliminate Female Genital Mutilation (FGM) and early marriage by 2025. In line with this, the Ministry of Health has banned medicalization of FGM in all public and private medical facilities in the country. As per the circular passed on 4 January 2017, medical personnel who engage in any form of FGM in medical facilities will be subjected to legal action.

FGM and Female Circumcision is prohibited by law in Article 565 of the Criminal Code along with punishment by stating, “[w]hoever circumcises a woman of any age, is punishable with simple imprisonment for not less than three months, or fine not less than five hundred Birr.” The law further states that:

(1) Whoever infibulates the genitalia of a woman, is punishable with rigorous imprisonment from three years to five years. (2) Where injury to body or health has resulted due to the act prescribed in sub-article (1) above, subject to the provision of the Criminal Code which provides for a more severe penalty, the punishment shall be rigorous imprisonment from five years to ten years.

Recommendations for Law Reform

Article 565 of the Ethiopian Criminal Code should be revised to address the root causes of harmful traditional practices and to take measures to harness the power of educational and advocacy programs to address those root causes. In these effort, male members and religious leaders should play a role.

The CEDAW Committee in 2019 recognized Ethiopia’s national strategy for preventing, protecting, and a provision of service for harmful tradition practice, focused on child marriage, female genital mutilation, and abduction. Additionally, the Committee noted the commitment to eliminate child marriage by 2025 with a roadmap for implement with a goal of 2019-2023. Formal institutions were established to implement and investigate crimes of gender-based violence, such as special units within the Office of the Prosecutor and the Office of the Attorney General.

The CEDAW Committee noted that women’s participation in politic is a necessity in order to achieve long term progress for addressing the root of harmful traditional practices. The strategy must include enhancing women’s participation in political, cultural, and social life. This also correlates to Ethiopia eradicating child marriage by 2025, as outlined in a prior section. Currently, the strategic plan focuses on eliminating violence against women and children, implanting an investigative unit within the police system, special sexual violence courts, and one-stop centers for victims of violence.  

Recommended law reform should define FGM as any procedure involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-

medical reasons, whether committed within or outside of a medical institution.\textsuperscript{85} This can be done in conjunction with Articles 565 and 570 of the Ethiopian Criminal Code. Additionally, in conjunction with the CEDAW Committee, Ethiopia must increase the penalty for cases of FGM in order to effectively de-incentivize the offenders.

Moreover, law reform should include the duty to report FGM and domestic violence. This mandate that all relevant professionals, including practitioners and employees in day care centers, child welfare services, health and social services, schools and out-of-school care schemes and religious communities report cases of female genital mutilation to the appropriate authorities.

Laws should also include government-led financial support for community-based approaches to prevent FGM, including where appropriate, community-based initiatives that are targeted at changing behavior and attitudes, including alternative rites of passage and the re-training of traditional practitioners for alternative professions.

\textit{a. Comparative Laws on Addressing FGM}

Gambia’s Women's Act, 2015, provides important guidance in localizing or domesticating international norms by including local customs and expanding the definition of FGM to include “symbolic practices that involve the nicking and pricking of the clitoris to release drops of blood” and “[t]he stitching with thorns, straw, thread or by other means in order to connect the excision of the labia and the cutting of the vagina and the introduction of corrosive, substances or herbs in the vagina for the purpose of narrowing it.”

The criminal law of Guinea punishes the perpetrators of FGM as well as the parents and guardians of the child who may have authorized FGM. Article 259 of the Criminal Code of 2016 provides that “[t]he parents of the person who have authority over the child or have custody thereof who have authorized or favored FGM, are punished with the same penalties as the perpetrators.”

XIV. \textbf{HUMAN TRAFFICKING}

Human Trafficking is prohibited by the Ethiopian Constitution and the 2005 Revised Criminal Code. Ethiopia enacted the Proclamation for the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants (Proclamation No. 909/2015) to bridge the gaps in the Criminal Code. The Proclamation introduced clear provisions and stringent penalties, including a fine of up to 500,000 and death penalty where the victim suffers severe injury or death. The Proclamation provides for immunity for victims of trafficking and smuggling in order to encourage victims to report offenses and collaborate with the prosecutor in providing evidence. It also envisages support services including safe return, reuniting with their families as well as integrating them into society. The law also establishes a Fund to prevent and rehabilitate victims with sources such as Government budget, proceeds of properties confiscated from perpetrators as well as grants and voluntary contributions. The Proclamation also envisages for cooperation with destination as

\textsuperscript{85} The WHO provides guidelines on the implications and complications from female genital mutilation including a definition. \url{https://www.who.int/health-topics/female-genital-mutilation#tab=tab_1}
well as transit countries. Article 635 of the Criminal Code Addresses Traffic in Women and Minors by stating that:

Whoever, for gain, or to gratify the passions of another: a) traffics in women or minors, whether by seducing them, by enticing them, or by procuring them or otherwise inducing them to engage in prostitution, even with their consent; or b) keeps such a person in a brothel to let him out to prostitution, is punishable with rigorous imprisonment not exceeding five years, and fine not exceeding ten thousand Birr, subject to the application of more severe provisions, especially where there is concurrent illegal restraint.


The 2015 Anti-Trafficking Proclamation, No. 909/2015, criminalized sex trafficking and labour trafficking, and prescribed penalties of 15 to 25 years’ imprisonment and a fine of 150,000 to 300,000 Ethiopian birr ($5,350 to $10,700) for offenses involving an adult male victim, and 25 years to life imprisonment and a fine of 200,000 to 500,000 Ethiopian birr ($7,130 to $17,830) for those involving an adult female victim or a child victim. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. The Employment Exchange Services Proclamation No. 923/2016, which governed the work of licensed labour recruitment agencies, contained various penalties for an employment agency’s failure to comply with its provisions, and provided that furnishing falsified evidence or documents, or advertisements used to recruit or deploy a worker entailed criminal liability.

In relation to the Employment Exchange Services Proclamation, it is significant to point out the fact that the significant portion, if not the majority, of workers contracted by the Agencies are women. Recurrent reports of gruesome crimes committed against migrant workers especially those working in the Middle East clearly show that the protections and mechanisms afforded by the Proclamation are weak. This is also exacerbated by the fact that the majority of such women migrant workers are employed as domestic service workers that exposes them to various crimes including sexual violence. The Proclamation does not have strong mechanisms for following up and enforcing the obligations of employment agencies in this regard. Neither is the Proclamation provide any protection to pregnant women workers.

The lack of adequate services to victims was a concern of the CEDAW Committee. The Proclamation for the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants (Proc. No. 909/2015) provides for the establishment of a “Fund” to rehabilitate victims.

Proclamation No. 909/2015; Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation too provide protection against trafficking:

Whereas, realizing that an appropriate protection, support and rehabilitation to the

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victims are important and provision of special protection, care and assistance to the most vulnerable groups of society with due consideration to their age, gender and special needs is indispensable. According to a new report from the United Nations Office on Drugs and Crime (UNODOC), the vast majority of all human trafficking victims – some 71 per cent – are women and girls and one third are children.

The law states that “if any victim of human trafficking or a smuggled migrant is compelled to stay in a foreign country for any case, the Ethiopian diplomatic mission shall take measures to provide him with legal counselling or assistance; and the Embassy hosting there or working nearby shall follow up handling of the victim and status of the case and periodically report to the Ministry of Foreign Affairs.”

Recommendations for Law Reform

Article 6 of the CEDAW calls for all measures to address trafficking in women and exploitation of prostitution of women by stating that “State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

The Human Rights Committee stated in its Concluding Observations that Ethiopia should reinforce its measures to combat trafficking in women and children and prosecute and punish perpetrators. The State Party should collect and submit data in this regard in its next periodic report. Additionally, the State Party should put in place strong programs to support the human rights of the victims. While the Committee acknowledged the efforts of the State Party to address and combat trafficking in women and children, the Committee remains concerned about the prevalence of this phenomenon in Ethiopia, about the lack of information on the investigation and prosecution of trafficking cases and the protection of the rights of victims (Arts. 3, 8, 24 and 26 of the ICCPR).

In its Concluding Observations, the CEDAW suggested prioritizing revising Ethiopia’s Proclamation No. 909/2015 to align with international standards such as the U.N. Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and ensure this law is adequately implemented and enforced. In terms of combatting trafficking and smuggling, countries need to invest in empowering local communities. This requires adequate investment and awareness raising about the trafficking of women and girls. Additionally, local law enforcement and border authorities need specialized training to identify women and girls who are victims as well as have adequate services for referrals and applicable criminal law provisions. Local communities must also have social workers and medical staff with training to support victims.

Survivors also require support for rehabilitation and reintegration into the community. This can be done by providing more access to resources and services such as shelters, medical care, psychological counselling, legal aid and rehabilitation services to provide support for women and

87 https://www.unodc.org/unodc/
girls. Additionally, Ethiopia must ensure regional and international cooperation to help with identification of victims and prevent trafficking on a larger scale.

An understanding of the multiple causes of trafficking, including climate change, migration, and urban/ rural shifts and economic insecurity will help law reform to grapple with deep seated challenges.

Ethiopia should revise its Proclamation No. 909/2015 to align with international standards such as the U.N. Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and ensure this law is adequately implemented and enforced. Moreover, the following reforms are suggested:

- Define trafficking to include trafficking into forced marriage.
- Provide a special prosecution agency or department to actively investigate, prosecute, and punish those involved in the trafficking.
- Provide provisions in the law to exempt trafficking survivors from prosecution and further victimization.
- Ensure that trafficking survivors have the opportunity to seek remedies and redress for the human rights violations they have suffered.
- Protect women's rights and addressing the inequality in status and opportunity that makes women vulnerable to trafficking and other abuses, by mandating education for girls and provide special job training for women in vulnerable populations.
- Provide women survivors with rehabilitation into society and the community including health care, education and employment.

XV. FAMILY LAW

In 2000, Ethiopia revised its family law to help eradicate legal obstacles to women’s autonomy and equality in the family and employment outside the home. All laws pertaining to family law except the Muslim and customary laws that existed before 2000 have been repealed and replaced by the Revised Family Law Code of 2000 by Proclamation No. 213/2000. Art. 3 of this Code provides that religious marriage shall take place when a man and a woman have performed such acts or rites as deemed to constitute a valid marriage by their religion or the religion of one of them. Art. 26 (1) and (2) also provide that the conclusion of religious marriage and the formalities thereof shall be as prescribed by the religion concerned and the provisions of this Code relating to the essential conditions of marriage shall be complied within religious marriage.

The Revised Family Law has brought what may be considered a revolutionary change to the parts of the Civil Code dealing with marriage and has abolished most of its discriminatory provisions. Regarding customary marriage, the Code provided in Art. 4 that marriage shall take place when a man and a woman have performed such rites as deemed to constitute a valid marriage by the custom of the community in which they live or by the custom of the community to which they belong or to which one of them belongs.

Art. 11 states that a person shall not conclude marriage as long as he is bound by bonds of a preceding marriage and Art. 33 states that the dissolution of a bigamous marriage shall be ordered on the application of either of the spouses of the bigamous marriage or the public prosecutor.
Notwithstanding this, Article 651 of the Criminal Code provides that its provisions criminalizing bigamy shall not apply when the bigamous marriage is contracted in accordance with “religious or traditional practices recognized by law.” Article 649 of the Criminal Code that precludes the criminalization of unlawful marriages where the unlawful marriage is not annulled upon the application of one of the spouses is also one that needs closer examination in light of the imbalanced relationship between men and women that entered into unlawful marital relationships.

The FDRE Constitution, the Revised Family Code and the Regional Family Laws govern marriage and family relations in Ethiopia. The Federal Supreme Court Cassation Division has provided interpretations of the family law that ensure effective protection of the rights of women.

However, more needs to be done. The CEDAW Committee has expressed concern with regards to unequal treatment of women during division of common property upon divorce. This disparately effects rural and lower incomes women and the role the economic significance this has on these women. For these laws to have full effect and accountability, it is important to ensure harmonization of regional and local laws with federal laws.

The CEDAW Committee has also questioned what was being done to raise the age of marriage to 18 under all circumstances and to expressly prohibit bigamy and polygamy. The Committee has recommended for harmonization with federal laws and to not allow exceptions for marriages below 18 or for bigamous and polygamous marriages. Local and regional laws must adhere to these standards. Additionally, there should be high-level awareness-raising and training initiatives for communities and to help enable public officials to enforce these revised laws.

Recommendations for Law Reform

In late 2018, the Tunisian cabinet—the first among Arab nations—has approved the law of gender equality in inheritance permits women and men to have an equal inheritance. The Universal Declaration of Human Rights (UDHR) 1948 defines the family as the basic unit of society. Thus, family law is a litmus test with regard to the status of women and has the most intimate and powerful impact on women's lives. The family has been described as the "site of struggle over symbols, entitlement to property and decision-making." The family is both a social and legal construct and is often the locus of gendered power relations in the family. The cultural construction of gender dictates the role of women and girls within the family, while the construction and definition of gender is deeply embedded in culture.

Family law is connected to all other legal fields in the sense that its rules about “roles and duties between men and women, parents and children, families and strangers historically and conceptually underlie other rules about employment and commerce, education and welfare, and perhaps the governance of the state.” Personal status laws that govern family pose the greatest challenge in the application of the universal concepts of human rights. Family law inequalities are


often translated into inequalities in nationality law, penal law (for example, the responses to domestic violence), and even employment law (husband's consent to employment, finances, etc.).

Under Personal Law systems, subtle but insidious discrimination against women takes place in the name of religion and culture. Women are often sacrificed at the altar of family. States reject civil marriage as an encroachment on the power of religious institutions. Women are essentially deprived of the benefits of the regulating power of international human rights norms or from the various principles of equity contained in those specific legal proposals. The discourse around marriage, reproduction, and divorce is supported by an invisible network of power exercised by all members in society. Power acts by laying down the rule. As Foucault has argued, "power's hold on sex is maintained through language, or… from the very fact that it is articulated, a rule of law."

Under the cover of law, personal laws often mask the subordination of women. These laws, at different levels, circumscribe a woman's right to travel outside the home; get a job or pursue a trade or profession without permission; sign a contract; register a business; be the "head of household" or "head of family"; be able to confer citizenship to her children; decide where her child will attend school; open a bank account; choose where to live; have ownership over property; inherit property; act against the wishes of their husbands; convey citizenship to a non-national husband; administer marital property; exercise basic guardianship and custody rights over their children and more.

Religion was seen to control affairs of the home and family even while the State remained secular. Pluralism in family law is often justified on the basis of minority, ethnic, or other group rights. However, these group rights often result in the oppression of the individual and most often the women. While gender stereotypes pervade all aspects of human existence, women's rights are at particular risk in the family, which is a locus for the perpetuation of traditional values.

Despite the fact that international law of human rights has only recently focused on discrimination and violence in the family, these gaps have been filled in most recently through the Committee of the CEDAW. Apart from the CEDAW, the Universal Declaration of Human Rights (UDHR) and the International Convention on Civil and Political Rights (ICCPR) serve as foundational documents on the rights within a family. Article 16(1) of the UDHR affirms the equality of men and women with regard to marriage, irrespective of their race, nationality or religion. Aligning with Article 16 of the UDHR, Article 16 of the CEDAW enshrines the rights for equality between women and men in all aspects of marriage and dissolution of marriage. Perhaps more so than on any other Article in the CEDAW, customs, traditions and religious practices have a large impact on the implementation of the Article. Article 16 must be read in conjunction with Article 2, which requires States Parties to prohibit discrimination in all laws including personal status laws, and Article 5, which requires States Parties to address gender stereotyping, as well as religious and customary laws that reinforce harmful practices.

Another example of equality of the family within international human rights law is in the ICCPR. Article 26 of the ICCPR mandates the equality of all persons before the law and calls upon State Parties to guarantee to all persons equal and effective protection against discrimination on any ground, such as race, sex, religion, social origin, or other status. The equal rights of men
and women to enter marriage, during marriage, and at its dissolution are affirmed in the ICCPR in Article 23(4). Moreover, the Committee on the Economic, Social and Cultural Rights affirms the equality of men and women to the enjoyment of all economic, social, and cultural rights.

The CEDAW directs State Parties to accord to women "equality with men before the law" and "in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity." Under Articles 2 and 5 of the CEDAW, State Parties are obligated to reform domestic laws that codify religious measures such as inheritance provisions, Article 5 of the CEDAW is ground-breaking in the sense that it requires States to reform the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary practices that are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for men and women. This provision establishes a legal standard for the primacy of women's right to equality over discriminatory cultural or religious practices and prohibits the invocation of culture and religion to justify discrimination and violent practices against women and girls. The Article 16(1) of the CEDAW ensures that States "shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations." This read together with Article 5 of the CEDAW calls for the dismantling of gender bias and stereotypes implicitly and explicitly perpetrated in personal laws.

In its most recent General Recommendation on Article 16 of the CEDAW, the CEDAW Committee states that: "The committee has consistently expressed concern that identity-based personal status laws and customs perpetuate discrimination against women and that the preservation of multiple legal systems is in itself discriminatory against women." Moreover, the General Recommendation states that: "Personal laws should embody the fundamental principle of equality between women and men and should be fully harmonized with the provisions of the Convention…"

Several U.N. human rights experts and special procedures mandate holders have established that neither cultural diversity nor freedom of religion may be used as authority to discriminate against women. The U.N. Working Group on the Issue of Discrimination Against Women in Law and in Practice (Working Group), one of the special procedures of the U.N. Human Rights Council, stated that:

Gender-based stereotypes, often strengthened and legitimized in national constitutions, laws and policies, are justified in the name of cultural norms or religious beliefs. Failure to eliminate these stereotypes leads to the generalization of practices that are harmful to women and girls.90

The Working Group affirmed the importance of bringing family arrangements in line with international human rights norms, thereby once and for all, tearing down the false construct of the public and private spheres that separated the family from the searchlight of international human rights principles.

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After analyzing the impact of culture and religion on the enjoyment of equal rights by women and girls in society and the family, the Working Group redefines family by incorporating a gender perspective. In reaffirming equality between the sexes and family diversity, it is necessary to apply the principle of women's right to equality in all forms of family law, in secular family law systems, State-enforced religious family law systems and plural systems.91

Finally, the recently adopted Sustainable Development Goals (SDGs) commit to ending all forms of "discrimination against all women and girls everywhere" and eliminating "all harmful practices, such as child, early and forced marriage and female genital mutilation" that are inherent to personal laws. The SDGs call for programmatic State action to prevent any cultural norms that discriminate against women and perpetuate structural discrimination, taboos or stereotypes based on gender.

a. Birth Registration and Identity

The Government enacted the Vital Events and National Identity Card Proclamation No. 760/2012 to ensure regularly updated and reliable statistical data to make relevant policy and decision-making decisions, including within court cases regarding succession and paternity. This Proclamation established compulsory, permanent, and universal registration and certification of vital events that include birth, death, marriage, and divorce. Additionally, the Vital Events Registration Agency was established to direct, coordinate, and support the registration of vital events nationally. The Agency works with international groups, such as UNICEF, to train professionals within the system. However, the Proclamation does not include registration of vital events at the lower levels.

Article 33 of the Constitution and the Ethiopian Nationality Proclamation No. 378/2003 gives any Ethiopian the right to maintain and/or change his/her nationality. The Ethiopian law guarantees to a child born from Ethiopian parents to acquire Ethiopian nationality. In addition, women have the right to maintain their Ethiopian nationality as well as pass on their nationality to their foreigner spouses.

In the Proclamation No. 414/2004: The Criminal Code under Crimes Against Compulsory Registration and Family Duties, the Government has taken steps to punish those who neglect to register births. The law statutes that “[w]hoever fails to declare the birth of an infant, as prescribed by law, to the officer of civil status, is punishable with a fine not exceeding five hundred Birr, or simple imprisonment not exceeding one month.”

The Government has enacted Vital Events and National Identity Card Proclamation No. 760/2012. The Proclamation provides for compulsory, permanent, and universal registration and certification of vital events that include birth, death, marriage, and divorce. The Ethiopian delegation was asked by the CEDAW Committee about the implementation of national identity card proclamation and especially sanctioning fraud as a mean to prevent early and forced marriages, and to update the Committee on the status of ratification of the international instruments related to stateless persons.

91 Id.
Recommendations for Law Reform

Digital ID systems in different parts of the world have brought both positive and negative results to women who are disproportionately left out of the National ID card system. Ethiopia should explore ways in which a digital ID system can expand women’s access to an ID.

XVI. SHARIAH COURTS

The Ethiopian Constitution requires the consent of both parties for a dispute to be submitted to the jurisdiction of a Shariah Court in the field of marital, personal and family rights; in practice, however, women often accept settlement of their dispute before such court due to social pressure. While acknowledging that submission to Shariah Courts can only happen with the consent of the parties, the Human Rights Committee was concerned by the fact that such courts can take binding decisions, which cannot be appealed against on the substance, in matters such as marriage, divorce, guardianship of minors, and inheritance. The Committee also notes that the Covenant is not part of the laws applied by the sharia courts (Art. 14 of the ICCPR).

Ethiopia’s Shariah Courts are headed by Kadis, who are all men. They have jurisdiction and decision-making over issues that are fundamental to women’s lives and security, including, according to Article 4 of the No. 188/1999; Federal Courts of Shariah Consolidation Proclamation, of “any question regarding marriage, divorce, maintenance, guardianship of minors and family relationships; provided that the marriage to which the question relates was concluded, or the parties have consented to be adjudicated in accordance with Islamic law;”

Moreover, any question regarding Wakf, gift, Hiba, or succession of wills; provided that the endower or donor is a Muslim, or the deceased was a Muslim at the time of his death fall under the jurisdiction of the Shariah Courts.92

The CEDAW Committee has expressed concern about the lack of harmonization between laws such as national legislation, sharia, and customary law. The Committee has also expressed concerns on customary and religious adjudication of disputes relating to personal and family laws.

The Committee has expressed concern on customary and religious adjudication of disputes relating to personal and family laws. The only religious court that exists in the country is the Islamic Court of the Country established by the Federal Courts of Shariah Consolidation Proclamation 188/1995 that has jurisdiction over matters of marriage, divorce, maintenance, and guardianship and minors and family rights if the marriage was concluded under and the parties have consented to be adjudicated by Islamic law. Thus, a party who concluded his/her marriage and does not consent to have a dispute he is a party to, to be adjudicated by the Shariah Court will not be subjected to the jurisdiction of the Court.

92 Proclamation No. 188/1999; Federal Courts of Sharia Consolidation Proclamation (Art. 4(a)): Principle; (Art. 20): Powers and Duties of the Chief Kadi
Recommendations for Law Reform

Parallel legal systems based on custom, religion, or ethnic affiliations are not always gender equal. The 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution recognizes the ethno-linguistic and religious diversity in the country. A case in point relates to matters that fall within the jurisdiction of Shariah Courts. Decisions rendered by Shariah Courts using Islamic law could conflict, in general, with human rights norms, and can also, in particular, be inconsistent with rules on gender equality and other rules espoused by the Constitution.

The Islamic Courts of the country has jurisdiction over matters of marriage, divorce, maintenance, and guardianship and minors and family rights if the marriage was concluded under and the parties have consented to be adjudicated by Islamic law.

The Ethiopian Government must require a set standard and training for authorities within Islamic Courts. These Courts must harmonize with national laws and ensure equal justice to women in these proceedings. There should be a right of appeal to formal Courts. Under such procedure, gender discriminatory rulings could be brought on appeal to the formal Courts.

The challenge is to find a way of accommodating Shariah councils within the religious and cultural freedom of Muslims in a manner that the human rights of women are protected. The question on how we limit some of the potentially harmful effects of religious rulings on women need to be asked.

The Human Rights Committee was concerned that while acknowledging that submission to Shariah Courts can only happen with the consent of the parties, such courts can take binding decisions, which cannot be appealed against on the substance, in matters such as marriage, divorce, guardianship of minors, and inheritance. The Committee also notes that the ICCPR is not part of the laws applied by the sharia courts (Art. 14 ICCPR).\textsuperscript{93}

The CEDAW Committee too has expressed concern about the lack of harmonization between laws such as national legislation, Shariah, and customary law. The Committee has also expressed concerns on customary and religious adjudication of disputed relating to personal and family laws.

XVII. ETHIOPIA’S HUMAN RIGHTS COMMISSION

The Proclamation No. 210/2000, “Ethiopian Human Rights Commission Establishment Proclamation” set up the nation’s Human Rights Commission. However, the proclamation to establish this human rights commission does not include any provision or a focus on women’s human rights. The Proclamation has one provision that mandates one of the commissioners to be responsible to women’s and children’s rights. The provisions on participating in “human rights meeting and conferences,” could include the participation of women. The only place where gender is addressed is in the collection of data for the census, where the Commission is meant to “Initiate

\textsuperscript{93} UN Human Rights Committee (HRC), Concluding Observations of the Human Rights Committee: Ethiopia, 19 August 2011, CCPR/C/ETH/CO/1, Para. 22.
that general census be conducted for the preparation of statistics of the population categorized into sex and age, in regions, zones, towns as well as in towns and rural districts.\textsuperscript{94}

\textit{Recommendations for Law Reform}

The Ethiopian Human Rights Commission (EHRC) is in the process of ongoing changes in order to further strengthen the Commission for women and children. In 2013, the EHRC received a “B accreditation” under the Paris Principles in regard to its efficiency in monitoring and regulating the national human rights commissions. In 2018, the U.N. High Commissioner for Human Rights Zeid Raad Al Hussein expressed concern that the Commission lacked independence and was not compliant with the Paris Principles on human Rights Commissions.

The current Commission has shortcomings due to its lack of independence and impartialities as well as its unenforceability with the relevant authorities. The Ethiopian Government should mandate proper gender-sensitivity training and protocols on the independence of the Commission. If not, the Commission will continue to lack credibility.

Further, the EHRC must implement high-level awareness raising in order to increase community support. This includes increasing the number of offices and expanding their reach with an intersectional approach for facilitating access to all women and children. Additionally, the EHRC ensures support from national legal aid services to ensure the reach of its impact and quality of services provided. The delegation to the CEAW reporting process stated that “The Ethiopian Human Right Commission was working with law departments of several universities to augment access of women to free legal aid.”

The EHRC needs to develop better monitoring mechanisms to evaluate its work. The Commission should also seek assistance from both community stakeholders and international bodies to help with awareness-raising and training of authorities to ensure impartialities. Additionally, the local community needs to become more informed of the Commission and its role. This includes the regional and local levels to start organizing community discussions and centers to ensure their role in decision-making and efficiency of the Commission.

Recommendation for law review must include: Independence of the Commissioners and this must be guaranteed by an independent appointments committee for a specific term of years. The commissioners should include a slot or slots for an academic and civil society member. The Commission’s work should be evaluated and monitored at regular intervals.

\textbf{XVIII. Women’s Representation in Leadership}

As discussed earlier, Ethiopia is one of the few countries in the world which has achieved gender parity in the cabinet, and where women hold the positions of President and Chief Justice. The country’s new leader, Prime Minister Abiy Ahmed, has made gender equality in politics a part of the country’s new political agenda. Ethiopia now ranks 18th in terms of women’s representation

\textsuperscript{94} Proclamation No. 449/2005; Census Commission Re-establishment Proclamation Art. 7
in Parliament according to the International Parliamentary Union. Ethiopia's new cabinet in 2018 made history for women in Government with a 50 percent female cabinet. Ethiopia is only the second state, after Rwanda, on the continent to have equal gender representation in the cabinet.\textsuperscript{95}

The participation of women in the legislature at all levels is critical to addressing the issues of gender-based violence and discrimination against women.

\textit{Recommendations for Law Reform}

Empowering women as political actors can transform policy choices and make institutions more representative. For example, in India, women’s representation in local Government has increased both female and male preferred public goods such as access to sanitation, water, and irrigation. Moreover, there is research to show that women’s representation in politics helped to reduce corruption and increase the number of reports of violence against women. More so was the intergenerational impact of women’s leadership. Exposure to role models can help break the intergenerational transmission of stereotypical gender norms thus breaking the cycle of women’s subordination and underdevelopment. A study on quotas in India shows that girls and families who are exposed to female leaders aspire more for themselves in terms of later marriage and higher education, which leads to better jobs.

The CEDAW Article 4 and General Recommendation 25 on temporary special measures provides a mechanism for eliminating systematic or structural discrimination in politics, education, employment, and other aspects of public life.\textsuperscript{96} Article 2 (b) and (e) of the CEDAW Convention obligate States Parties to "adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women" and to "take all appropriate measures to eliminate discrimination against women by any person, or organization or enterprise." Article 3 also reaffirms the commitment to take all appropriate measures to ensure the full development and advancement of women. Taken together, Articles 2, 3, and 4 create an obligation to implement affirmative action policies in an effort to end discrimination against women. Article 4 is a guarantee of substantive equality that will improve the real, material conditions of women's lives. Article 4 thus becomes an interpretive guide that helps to address all laws that directly or indirectly impact women.

Under the CEDAW, affirmative action policies are supposed to be temporary until the playing field is equalized. Although in some cases equality of opportunity and equality of results converge, equality of opportunity, or formal equality, is often inadequate to address the legacy of discrimination against women.

The CEDAW Article 7 ensures that State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, and, in

\textsuperscript{95} Under Art. 4 of the CEDAW Convention (Temporary Special Measures), the Committee notes Article 35 of the Ethiopian Constitution provides for special measures to address the historical legacy of inequality and discrimination against women; Article 2(a) of CEDAW; both call on state parties to combat all forms of discrimination against women through appropriate legislative, institutional and other measures.

\textsuperscript{96} https://www.refworld.org/docid/453882a7e0.html
particular, shall ensure to women, on equal terms with men. In conjunction with Article 3 of the CEDAW, State Parties must take action to guarantee women the enjoyment of human rights and freedoms on the same basis as men through political, social, economic, and cultural empowerment through any appropriate measures and legislation.

The CEDAW Committee Periodic Review noted that challenges remain in access to political life for women. These include the low level of women’s representation in the executive and judicial branches and the low number of women in decision-making positions. Further, increased effort is needed to translate the increasing levels of representation into meaningful participation. The Committee’s Periodic Review did note that Ethiopia permitted special media time for campaign by female candidates by ensure dedication of 10 percent of the total print media coverage to female candidates. During the 2015 national election, 40 percent of the officials responsible for election execution were women.

The CEDAW Article 8 (Women’s Representation at the International Level) states that States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

The CEDAW Committee Periodic Review noted that the Federal Ministry of Foreign Affairs has taken several measures to ensure equal representation of women in Diplomacy. The Ministry is working towards 50 percent female intake into the Foreign Relations Training Institute. In 2014-2015, the proportion of females in the training program reached 45 percent. One of the most effective ways in which Ethiopia can achieve equality in political participation is through temporary special measures aimed at accelerating de facto equality between men and women.

The language that is adopted in the laws are declaratory and not mandatory. For example, 5.2 of Proclamation 684/2010 (Amended Federal Judicial Administration Council Establishment Proclamation) states that “[e]fforts shall be made to ensure representations of women in the Council.” This provision should be revised to include stronger language that mandates the representation of women at every level of government, including at the highest levels of the foreign service.

Apart from affirmative action for political participation, Ethiopia should call upon the private sector to provide temporary special measures or quotas for women on corporate boards. Women on corporate boards have a domino effect even in public service. Several countries have adopted a quota for women on Boards. For example, in Spain, the law obligates all companies with more than 250 employers to put in place gender equal policies and to have 40 percent of women on their boards within eight years.

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97 States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

98 Proclamation No. 759/2012; Advertisement Proclamation (preamble; Art. 2)
The existing electoral law contains only incentives for political parties to include at least 30 percent of women on the ticket. However, there is no formal quota system in place in Ethiopia. More temporary special measures could be enacted to boost women’s participation in political parties and elections. This should be seen in conjunction with the engagement of the Prime Minister along with all political parties, including those that had returned to the country following the cancellation of the list of terrorist organizations, in order to promote the message that women’s empowerment was indispensable for development. Similarly, incentives should be created to hire and retain more women in the public and private sectors, especially in decision making levels. These incentives could range from tax breaks to eligibility for government contracts.

In the final analysis, Ethiopia must also enact new policies that ensure special legal measures to achieve equality of result or substantive equality for women in political and public life. The Constitution of Kenya 2010 in Article 27(8) of the Bill of Rights provides that: "The State shall take legislative and other measures to implement the principle that not more than two thirds of the members of elective or appointive bodies shall be of the same gender." This provision is echoed in Article 81(b) on the principles of the electoral system and is commonly referred to as "the gender principle". According to Article 261 of the Constitution, if parliament fails to enact legislation to enforce obligations of the Constitution, any person could petition the chief justice to advise the president to dissolve parliament.

XIX. WOMEN IN CUSTODY

The Ethiopian law enshrines a non-discrimination policy in the Basic Principles of Prison Rules and provides special provision for pregnancy. Furthermore, the Rules provide educational opportunities for female and juvenile prisoners, including the “opportunity to attend academic and different vocational training.” Despite these regulations, the Human Rights Committee remains concerned that the present prison conditions remain alarming, in particular for women and children, and not compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

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100 In 2012, the Supreme Court of Kenya gave parliament until August 27, 2015, to enact legislation to implement the provisions of Articles 27(8) and 81(b). Despite this, Parliament has failed and/or refused to enact legislation. In March 2017, the High Court once again found that parliament had failed in their constitutional obligations to enact legislation on the gender principle.

101 Basic Principles of Prison Rules (“The treatment of prisoners shall be based on the basic principles of . . . no 'discrimination on grounds of gender, language religion, political opinion, nation/ nationality, social status or citizenship.'

102 Basic Principles of Prison Rules, *Pregnant and Female Prisoners with Children* (Where a female prisoner comes with an infant not more than 18 months old and where his interest so requires, the infant shall stay in the prison with his mother . . . The infant shall, during his stay in the prison, be provided with the necessary food, vaccination, medical care as well as other necessary items.”).
Recommendations for Law Reform

On 21 December 2010, the U.N. adopted by consensus the "Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders", commonly known as the "Bangkok Rules." The international group of experts that drafted the Rules clearly recognized the fact that the "Standard Minimum Rules for the Treatment of Prisoners" adopted more than 50 years ago drew did not have a gender focus and upheld the risk of discrimination. The "Bangkok Rules" can therefore be considered as a development of the principle of non-discrimination embodied in Rule 6 of the Standard Minimum Rules, which lacked a comprehensive approach to the gender dimension in places of deprivation of liberty.

Although the Ethiopian law provides a gender sensitive focus for women in custody, there is no provision for a budget to actualize these provisions. The Basic Principles of Prison Rules must be revised to provide a budget that could be used for gender sensitive vocational and training programs and to respond to the special needs of menstruating, lactating and pregnant women.

XX. LAND RIGHTS

More than 80 percent of Ethiopia’s approximate 105 million people live in rural areas relying on agriculture. Women enjoy limited land ownership. Women typically do not own the land on which they work, usually working on farms owned by their fathers or husbands. This reflects laws in many countries prohibiting women from inheriting property and, in some cases, social attitudes that prefer men (even without legislation) to inherit property. In one-fifth of African countries, married women do not have equal ownership rights to property as men, and in more than one-third of African countries, daughters do not have the same rights to inherit from their parents as sons enjoy. This leaves many girls and women in a vulnerable position and not fairly compensated for the work they do.

Since very few women own land, they are unable to join cooperatives and enjoy the financial and business benefits that come from being a part of these organizations. In 2015, an African Development Bank report noted that in Ethiopia’s coffee market, for instance, women account for only 10 to 20 percent of cooperative members.

The Ethiopian Constitution guarantees people access to land. The Ethiopian Land Reform Act of 1975 provides the basis for land specific legislation. Amendments through more recent proclamations grant all habitants in rural areas a right to access land for livelihood purposes. The 1997 Proclamation’s Article requires that regional land administration laws be free from gender discrimination and confirm the equal rights of women in respect of the use, administration and control of land, as well as in respect of the transfer and bequest of landholding rights. It empowers regional Nation States to autonomously administer land and determine the manner in which they implement the legislation. Land registration with the provision of title certificates has occurred in a number of regions [including Tigray, Amhara, Southern Nations, Nationalities and Peoples Region (SNNPR), and Oromia] aimed at increasing tenure security and strengthening women’s rights to land. Since the land registration process began in 1998, over five million certificates have been delivered to date. In some regions these include provisions for polygamous marriages which
although not recognized by federal law are given separate attention with certificates for some landholdings being issued in the wives’ names, with their husbands having only secondary interests recorded.

Ethiopia’s Rural Land Registration Initiative is an ambitious effort to standardize local land customs and practices. This policy was an initiative intended to secure the land titles of smallholder farmers and pastoralists, to encourage gender equality, and to stimulate the conservation of land and natural resources. A general framework for implementing the land rights program was formulated in a statute enacted by the federal government (Rural Land Administration and Land Use Proclamation 456/2005), and state governments adopted laws and regulations consistent with the proclamation to carry out the registration of all rural lands within their respective territories. Unlike the system of registration envisioned by the Civil Code, which was to be implemented by expert civil servants, the current system of registration has been implemented by lay members of communities through localized processes anchored in villages and carried out in several rounds and phases.

The National Social Protection Policy of the country issued in 2014 envisages for the establishment of productive and social safety net programs to support the poor and reduce vulnerability in the rural context, including access to land. In the rural context, women’s access to land is the bedrock of a national social protection policy.

**Recommendations for Law Reform**

The 1997 Proclamation provides for gender equal registration of land. However, given the pervasive nature of gender inequality, it is important to mandate gender equal registration of land tenure. This would disallow inequities in land registration.

Recommended law reform could also include provisions that ensure that women have equal rights to occupy, use, own and inherit land and other commodities; an equitable distribution of property upon the dissolution of a marriage; and that women can be the beneficiaries of land tenure reform. The Ethiopian Government should ensure that policy reform sees the correlation between economic disempowerment and violence against women. Economic disempowerment is both a cause and a consequence of violence against women. As in the Ghanian Constitution’s Article 22, Ethiopia too should ensure that assets acquired during marriage should be distributed equally between spouses upon the dissolution of marriage.

Law reform should understand the interrelated nature of women’s access to land and harmful traditional practices. Many “harmful practices” committed against women, and older women in particular, including widow disinheri

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confirms the constitutional principle that women and men have equal rights to occupy and use land and codifies women’s right to inherit land.

XXI. CONCLUSION

Although Ethiopia covers de jure discrimination in several areas of the law, much more must be done to enforce the existing laws and close the gender gap in other areas of the legal system. The Government has pledged to draft new anti-discrimination laws and this represents a unique opportunity to address the gaps in existing law. The normative analysis of the laws and regulations of Ethiopia help to bring to the surface several important values that should guide a reformist agenda in Ethiopia. Below we look at the three important values which should guide overarching law reform initiatives.

a. Gender Stereotypes and Gender Equality in the Workplace

Special measures for women established in Ethiopia largely play a protective function and do not necessarily facilitate the empowerment of women or the equal workplace participation of men and women. These provisions may reinforce negative stereotypes of women as being in need of protection. Women’s employment opportunities in Ethiopia are also limited by laws and regulations that prevent them from performing certain physically arduous jobs. Although it is important for the law to regulate hazardous employment environments, these protections should not provide blanket prohibitions that keep women from seeking employment in these work categories. Instead, regulatory and protective provisions should be extended to both women and men employees, so that women would not be disadvantaged in employment. Laws that view women only, or primarily, in their care giving function can also disservice women’s advancement in the public and private spheres.

Within all this, there is a tension between protecting the special needs of women and achieving equality of employment between men and women. Special protection reinforces negative stereotypes because women are perceived as fragile and more deserving of work in the home, rather than advancement toward managerial positions. It is therefore important to design protective measures which shape a more dynamic conceptualization of women’s roles.

b. Clear Definitions in the Law

Gender equality is not clearly defined in the law. The same is true of other forms of gender discrimination, including gender-based violence. Recommendation 19 of the CEDAW and the CEDAW Committee makes clear that the definition of domestic violence be expanded to cover a broad category of violence including physical, sexual or psychological and economic and should include can include threats, intimidation, coercion, stalking, and humiliating verbal abuse.

Similarly, domestic violence law making must cover a broad category of persons in the family or household. The term family has undergone numerous changes and a more realistic dynamic definition of a family includes members beyond a traditional nuclear family. Idealized notions of what should constitute a family should be set aside in order to capture the reality of what constitutes
a family including those living together and in intimate partner relations. The very introduction of a Domestic Violence Law can have a powerful transformative potential.

In 1996, the U.N. Special Rapporteur on Violence against women, its causes and consequences, developed a framework for model legislation on domestic violence, which urged states to draft legislation that contained the broadest possible definition of both acts of domestic violence and relationships within which domestic violence occurs. In order to capture the reality of a modern family, the law must undertake this task by first composing a broader definition of what constitutes a family, as the term family has undergone numerous changes. A more dynamic definition must include members beyond a traditional family. For example, all children, whether they are victims of the perpetrator or children of relatives and house helpers can be protected under this analysis. In recent years there has been an expansion of the categories of those protected under the law, as new law making has abandoned idealized notions of what should constitute a family. The new definition of laws should include a plethora of causes which expand the definition of domestic violence including mental, psychological, sexual, verbal, emotional, and economic abuse occurring in the family, as well as injuries, and endangerment to the health, safety, life, limb, or well-being.

c. Developing Greater Engagement

Although the State is primarily responsible for combating gender discrimination and violence against women in the private and public spheres, engagement with civil society partners is imperative for effective implementation of the law. Just as global standards inform local movements and vice-versa, so too must community-based approaches compliment multi-faceted advocacy approaches in combating domestic violence.

Laws along do not define gender equality, despite the fact that efforts to define and reframe quality have been part of a burgeoning trend in Ethiopia. However, the value of the CEDAW and the human rights framework extends beyond its usefulness in informing legislation as it also provides accountability in challenging violations of the law and rights, serves as a benchmark in monitoring the fulfillment of rights, and functions as an organizing tool to catalyze communities into taking action. As Amartya Sen argues, “[t]he implementation of human rights can go well beyond legislation....” It is now time for their realization.

It is time now to turn the rhetoric of legal reform into reality in order to fully realize the powerful potential of those promises enshrined in the Ethiopian Constitution.