

The Ethiopian Legal Frameworks for the Protection of Women and Girls from Gender-Based Violence

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Abstract

The objective of this article is to investigate how legal frameworks address gender-based violence in Ethiopia? The research adopted a qualitative approach that utilized secondary sources and reviewed national legal frameworks promulgated and international instruments ratified by Ethiopia. According to this study, Ethiopia, where gender-based violence persistently exists, has adopted insufficient legal frameworks. Still, gender-sensitive legal frameworks shy away from giving a holistic definition to gender-based violence and did not show the scope of the term violence against women in full-spectrum either. Gender-related laws adopted by Ethiopia are inadequate to give civil remedies to those affected by gender-based violence. There are also neither separate domestic violence acts nor any kind of laws adopted to give specific civil remedies for the victims. This is attributable to the absence of comprehensive anti-violence laws in Ethiopia that affect law enforcement from pursuing incidents of violence within marriage and cohabitation on the premise that there are no clear legal provisions.

Keywords: Ethiopia, Gender, Legal, Violence, Women

Introduction

Gender-Based Violence (GBV) against women and girls is perhaps the most widespread and socially tolerated of human rights violations, cutting across borders, race, class, ethnicity, and religion (Miller, 2004). Gender-based violence has been defined by different scholars and in several international and regional legal instruments. Though not a binding legal instrument, the 1993 Declaration on the Elimination of Violence against Women defined gender-based violence as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering for women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life.”¹

The 1995 Beijing Platform for Action expanded on this definition, specifying that gender-based violence includes violations of the rights of females in situations of armed conflicts, such as systematic rape, sexual slavery, and forced pregnancy, forced sterilization, forced abortion, coerced or forced use of contraceptives, prenatal sex selection, and female infanticide. It further recognized the particular vulnerabilities of females belonging to minorities: the elderly and the

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¹ UN General Assembly, *Declaration on the Elimination of Violence against Women*, 20 December 1993, A/RES/48/104.

displaced; indigenous, refugee, and migrant communities; females living in impoverished rural or remote areas; and females in detention (Humphrey, 2000).

Gender-based violence in Africa, as elsewhere in the world, is a complex issue that has its root in the structural inequalities between males and females resulting in the persistence of power differentials between the sexes (Dobbert, 1975). Owing to this problem, the protocol to the African Human and Peoples Rights Charter defined violence against women as, “any act perpetrated against women which cause them sexual, physical, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peacetime and during situations of armed conflicts or war.” Thus, gender-based violence is a kind of threat targeted based on their sexual orientation that would result in physical, psychological, sexual harms, or economic harm in every circumstance.

The impact of gender-based violence is devastating. The individual females who are victims of such violence often experience life-long emotional distress, mental health problems, and poor reproductive health, as well as being at higher risk of acquiring HIV and intensive long-term users of health services. Besides, the cost to females, their children, families, and communities is a significant obstacle to reducing poverty, achieving gender equality (Ogato, 2013).

Females’ subordinate status to men in many societies, coupled with a general acceptance of interpersonal violence as a means of resolving conflict, renders them disproportionately vulnerable to violence from all levels of society including individual, family and community, and the state (Akiba, 2002).

The 1993 UN Declaration on the Elimination of Violence Declaration also states that the definition should encompass, but not be limited to, acts of physical, sexual, and psychological violence in the family, community, or perpetrated or condoned by the state, wherever it occurs. These acts include spousal battery; sexual abuse, including female children; dowry-related violence; rape, including marital rape; female genital mutilation/cutting and other traditional practices harmful to females; non-spousal violence; sexual violence related to exploitation; sexual harassment and intimidation at work, in school and elsewhere; trafficking in females; and forced prostitution.

The 1995 Ethiopian Constitution (under Article 35) recognizes that females shall enjoy equal rights and protections as males. In order to secure fairness and equality throughout the country, Ethiopia has also taken various steps and has recognized various international instruments that safeguard the rights of females including the Convention on the Rights of the Child, Convention on Elimination of All Forms of Discrimination Against Women (CEDW) and various labor conventions.

Statement of the Problem

Comprehensive legal frameworks are fundamental for an effective and coordinated response to violence against women and girls. States have clear obligations under international law to enact, implement and monitor legislation addressing all forms of violence against women (Martin, 2002). Legislation that criminalizes violence against women codifies the rights of women to live free of violence. Laws can play an important symbolic role, by indicating that such behavior is socially unacceptable. Gender-sensitive legislation can also be responsive to victims, by providing protection and access to support services (Leach, 2003).

Over the past two decades, many countries have adopted or revised legislation on violence against women. However, significant gaps remain as many countries still do not have in place legislative provisions that specifically address violence against women and, even where legislation exists, it is often limited in scope and coverage or is not enforced (Myton, 2009).

Ethiopia is one of the countries where gender-based violence persistently exists and has made a move, although to a limited extent, to adopt and ratify different legal frameworks that address specifically gender-based violence (Browes, 2015). In Ethiopia gender-based violence is prevalent and takes various forms of physical, sexual, and emotional abuse and 50-60 percent of females experience gender-based violence in their lifetime where the perpetrators are mainly classmates, friends, teachers, and close family members (Berhane, 2005). According to the WHO Report (2005), the number is even higher than 71 percent of women who have experienced gender-based violence in Ethiopia. This is further corroborated by The Gender Gap Index² by which Ethiopia is found at the bottom line when compared with other countries (Mesfin, 2012).

² The comprehensive gender gap index developed by the World Economic Forum (WEF), the Global Gender Gap Index (GGGI), was used in evaluating the [gender gap] in every state. GGGI examines gender gap in four fundamental categories (sub-indexes): Economic Participation and Opportunity, Educational Attainment, Health and Survival and Political Empowerment.

According to Tadiwos (2001), there are several reasons including the predominance of the system of patriarchy across the country has meant that females are still perceived of and treated as subordinate to males; violence against females is accepted as the cultural norm in many societies and is often condoned by the community and sometimes state leaders; the stigma attached to female victims of violence has resulted in very low rates of reporting; and often if females do report violence against them, they are either turned away because the authorities see violence against females as a matter to be dealt with privately or within the family, or they struggle to access justice in a criminal justice system that is not informed by or sensitive to the needs of females. The problem is also exacerbated due to the shortcomings of Ethiopian legal frameworks laid down to curb gender-based violence against women and girls.

The researchers, thus, investigate gender-sensitive legal frameworks in Ethiopia in place to address gender-based violence. Unlike other researches which focuses on specific gender-sensitive legal frameworks, this paper deals exhaustively with those gender-sensitive national legal norms adopted and similar regional and international frameworks ratified by Ethiopia. The research investigates those gender-sensitive legal frameworks adopted recently including the Labor Law. It also examines how Ethiopian Ten Years Development Plan (2020-2030) addresses gender-based violence. In a nutshell, the general objective of this article is to investigate the legal frameworks in Ethiopia to address gender-based violence. In the light of general objective, the specific objectives are: i) to investigate Ethiopian national legal frameworks adopted to address gender-based violence, ii) to analyze the conformity of Ethiopian gender-sensitive national legal frameworks with other similar regional and international legal instruments ratified by Ethiopia, and iii) to figure out the limitation of Ethiopian gender-sensitive legal frameworks.

Research Methodology

This article investigates how legal frameworks address gender-based violence in Ethiopia which requires interpreting and analyzing [legal documents] qualitatively. Based on the nature of its topic (analyzing legal documents), this research applied a qualitative approach. As it allows the researcher to accurately describe, decode, and interpret the meanings of phenomena occurring in their normal social contexts (Myton, 2009). Therefore, researchers used this approach to examine the Ethiopian national legal frameworks promulgated and international instruments ratified to address gender-based violence. Secondary sources such as articles, books, book chapters, and

research outputs, national and international legal frameworks were used for this article. However, generalizable of such research finding in its clear prediction of cause and effect (Chadwick BA, 1984) may not be possible as social norms and values differ from country to country.

Theoretical Framework on Gender-Based Violence

Gender-based violence is one of the most widespread forms of violence in the world against women and girls and has devastating consequences not only for victims but also for society as a whole (Morrison, 2004). Ellsberg opined that gender-based violence is any act or practice that results in physical, sexual, psychological, or economic harm or suffering because of a person's gender or socially defined role. It is the manifestation of control and power, mostly by men over women, resulting from unequal power relations between the sexes (Ellsberg, 2005). Historically, unequal power relations between men and women led to discrimination against women by men. The resultant women's lack of social and economic power accepted gender roles and the low value put on women's work perpetuates and reinforces this subordinate position (Johnson, 2004). Such kinds of socially entrenched backgrounds make gender-based violence the most difficult subject to study because of its sensitivity and the silence surrounds it (Alemayehu, 2008).

Gender-based violence is a phenomenon that transcends social, economic, and geographic borders and impacts girls and women all over the world (Megersa, 2007). GBV is rooted in power imbalances between the sexes and fuelled by multiple factors, including cultural norms, social acceptance of harmful practices, and insufficient legal protections. It has been defined in a number of international and regional instruments. One of the most popular such definitions is the 1993 United Nations General Assembly Resolution Declaration on the Elimination of Violence against Women (DEVAW). Art.1 of the Declaration defined violence against women as; "... any act of 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 public or in private life."

Earlier before the Declaration, the Committee on the Elimination of Discrimination against Women, in its recommendation no. 19, paragraph 6 defined gender-based violence as follows: "violence that is directed against a woman because she is a woman or that affects woman

disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”

Gender-based violence in Ethiopia, like any other poorer country, is a common problem virtually in every part of the country and in each society where culturally-based abuses, including wife-beating and marital rape, are pervasive social problems (Tadiwos, 2001). The study conducted by WHO (2005) concerning gender-based violence in Ethiopia indicated that 49 percent of women have ever experienced physical violence by an intimate partner, rising to 59 percent ever experiencing sexual violence. Another study conducted by the World Bank (2005) also confirmed the above finding and 50-60 percent of women in Ethiopia experience gender-based violence in their lifetime.

International Legal Instruments (Ratified by Ethiopia) in Response to Gender-Based Violence

Ethiopia has ratified some of international human rights treaties that obligate it to prevent and respond to sexual violence, for example, the Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social, and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and other soft laws such as Beijing Platform for Action (BPA) as well as the political declaration and outcome documents post-Beijing +5.

Universal Declaration of Human Rights (1948), the first human rights legal document, does confer all human beings [men and women] as having an equal and the same status based on the assertion that human beings are born free and with equal dignity and rights. The Committee that was established under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has adopted the General Recommendation No. 19 in 1992 on violence against women (VAW), which recognizes gender-based violence as a form of discrimination and recommending that states take measures to prevent and respond to violence against women. For example, CEDAW (1979) defines, “discrimination, exclusion or restriction made on the bases of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on the bases of equality of men and women, of human right and... in economic, social, cultural, civil, or any other field.”

CEDAW addresses the protection of women's rights and outlines the obligations of states to protect women from discrimination and violations of rights such as all forms of trafficking and the exploitation and prostitution of women. In line with this, the Committee on CEDAW, through its general recommendation mentions that state parties should establish or support services for victims of family violence, rape, sexual assault, and other forms of gender-based violence, including refugees, especially trained health workers, rehabilitation and counseling (Browes, 2015).

Another international agreement signed by Ethiopia that reaffirms its commitment to addressing and eliminating gender-based violence is the International Covenant on Civil and Political Rights ICCPR (1966). Accordingly, ICCPR under Article 26 prohibits any discrimination on any grounds by declaring that "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 prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinions, national or social origin, property, birth, or another status."

As a State Party to the Convention to the Rights of the Child, Ethiopia is obligated to protect children from violence, including sexual violence. This duty compels Ethiopia to "take all appropriate legislative, administrative, social and educational measures to protect [children] from [any] form of physical or mental violence ... while in the care of parents, legal guardians, or any other person who has the care of the child" (CRC, Article 19). This provision requires protection while in the care of education, school, and early childhood personnel, making the state responsible for the care of children at school. It is an affirmative duty of care, extending to the creation of social programs intended to provide support and treatment for child victims, as well as to prevent child abuse (Allen, 2013). Social programs must also implement reporting, referral, and investigation policies, involving the judiciary wherever appropriate (Durey, 2011).

The 1993 Vienna Declaration on Human Rights has stressed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice are incompatible with the dignity and worth of the human person, and must be eliminated. To achieve the full protection of women, the document has called upon all states to adopt the appropriate national and international laws and work in cooperation in such fields as economic

and social developments and education. It also stressed the need to eliminate gender-based violence against women in both public and private lives.

The ICESCR (Article 13) also guarantees the equal rights of girls and boys to education and the highest attainable standard of physical and mental health. States must provide free and compulsory education at the primary level and make secondary and higher education equally available to all persons. Furthermore, education is a fundamental right necessary to participate effectively in a free society (Tadiwos, 2001). Therefore, Ethiopia has a responsibility under international law to protect girls from sexual violence and harassment that violates their right to education and interferes with their ability to enjoy the right to health on a basis of equality with boys.

The Beijing Platform for Action (1995), though not legally binding, outlines a number of actions to respond to and prevent gender-based violence against women. It aims at removing all the obstacles to women's active participation in all spheres of public and private life *via* ensuring equal share in economic, social, cultural, and political decision-making.

The Beijing Platform for Action also calls for an increase in the role of States in the elimination of violence against women, ending discrimination, and promoting health, education, and economic opportunities for women. Among the priority areas identified in the 2014 National Report on the Implementation of Beijing Declaration and Platform for Action and the Outcome of the 23rd Special Session of the United Nations of General Assembly (2000) were actions to reduce the prevalence of gender-based violence including harmful traditional practices. Concerning the post-treatment to those affected by the gender-based violence, the Beijing Platform (Section 126 (a)) calls on states to provide well-funded shelters and relief support for girls and women subjected to violence, besides medical, psychological, and other counseling services. It further asserts the free or low-cost legal assistance, where it is needed, to enable them to find a means of subsistence.

Regional Instruments (Ratified by Ethiopia) in Response to Gender-Based Violence

The existence of gender-based violence against women with severe magnitude and mass violations in Africa necessitated the creation of some of the continental legal frameworks that would spell out their rights and advocate for the protection of those rights by African States (Assefa, 2013). Ethiopia has also voluntarily assumed a number of African regional human rights

obligations including the African Charter on Human and Peoples' Rights (also known as Banjul Charter, 1998) and the African Charter on the Rights and Welfare of the Child. It is, however, yet to ratify the Protocol to the African Charter on Human and Peoples' Rights on Rights of Women in Africa.

The Protocol to the African Charter on Human and Peoples' Rights also known as the Maputo Protocol is the first of its kind and was adopted in response to these problems in 2003. The Protocol aims to end the continual discrimination, abuse, and marginalization of women in Ethiopia. It acknowledges that women's rights have been guaranteed and are inalienable and indivisible human rights. The Maputo Protocol also pays attention to the equality between the sexes, the elimination of discrimination, and the need to let women participate in all spheres of life. Unlike many legal instruments that deal with gender-based violence, the Maputo Protocol has made a progressive move and tries to give clarity on the private-public dichotomy debate on the manner of women's rights abuse (Letty, 2016). The clarity was in response to the controversies among the scholars, the states, and human rights defenders on the extent to which the states intervened in the 'private' sphere whenever gender-based violence was committed. This is because many women's rights violations including rape, domestic violations, and other forms of abuses committed in the so-called 'private' spheres. And using the shielding of 'private' spheres far from the public scrutiny serves to perpetuate male domination in the family. In recognition of this fact, the Maputo Protocol perhaps for the first time has given due attention to the protection of women's rights against all forms of discrimination wherever it occurs in private or public places.

The African Charter on Human and Peoples' Rights (Article 18) is one of the most comprehensive clauses concerning the prohibition of discrimination against women by calling member states to end any discrimination, practices that hinder or endanger women's rights. Ethiopia is, thus, obligated under the African Charter to protect children's rights.

The Protocol on the Rights of Women (Article 3) requires signatory States to implement measures that "protect a woman's right to respect for her dignity and ... from all forms of violence, especially sexual violence." States must make an effort to both prevent and punish sexual violence, including educating citizens about traditional and cultural beliefs that enable sexual violence against women (Id. Article 4). Furthermore, States are required to ensure that

judicial, administrative, or legislative actors provide adequate remedies to victims (Id. Article 25).

As part of its obligation to guarantee the right of girls to education without discrimination, Ethiopia is obliged under the Protocol on the Rights of Women to protect female students from every form of sexual abuse, including sexual harassment in schools. This includes providing sanctions against any perpetrator, providing girls who experience such abuse with access to counseling and rehabilitation services, and teaching gender sensitization in schools (Id. Article 12).

The African Charter on the Rights and Welfare of the Child (Article 16) provides that Ethiopia must pursue legislative, administrative, social, and educational measures to prevent children from being tortured, treated inhumanely, or abused. Additionally, every child has the right to enjoy the best attainable state of physical, mental, and spiritual health, a right that is impaired by sexual violence in schools.

In these treaties, sexual violence refers to all harmful practices or behavior which affects negatively the fundamental rights of women and children, such as their right to life, health, dignity, education, and physical integrity. It also includes coercion, acts (or threats of acts) that inflict physical, mental, or sexual harm, and any other deprivations of liberty noted by the CEDAW Committee's General Recommendation 19.

The Ethiopian Legal Frameworks in Response to Gender-Based Violence

In the early times, the issue of gender-based violence had not been given due attention under the Ethiopian national legal frameworks. By the national legal frameworks, the researchers refer to the Ethiopian Constitution, the Revised Family Code, the Criminal Code, and other relevant policies pertinent to combating gender-based violence in Ethiopia. In this part, these national instruments will be discussed.

Gender-Based Violence under the Ethiopian Constitution

In addition to ratifying the above international and regional legal instruments, the Ethiopian Constitution (Article 9) has made these treaties to be an integral part of the law of the land. The Constitution (Article 13) also affirms the fundamental rights and freedoms [of the Ethiopian Constitution] shall be interpreted in a manner conforming to the principles of the Universal

Declaration of Human Rights, International Covenants on Human Rights, and other international instruments adopted by Ethiopia. To meet its commitments to international obligations and to protect the rights of women, Ethiopia has made different gender-sensitive constitutional provisions.

The Ethiopian Constitution (1995) espouses the equality of men and women in the social, legal, economic, and political realms. The Ethiopian Constitution under its chapter of fundamental freedoms and rights proclaimed several rights concerning the rights of women and to protect them from gender-based violence. The Constitution (Article 6) duly recognizes the equal citizenship status to men and women and it [the Ethiopian Constitution] under (Article 7) set out in the masculine gender shall also apply to the feminine gender. The Constitution (Article 25) guarantees equality before the law and prohibits sex-based discrimination. Article 33 addresses citizenship and marriage while guaranteeing the Ethiopian national of either sex to marry to foreign national which shall not annul his or her Ethiopian nationality. Article 34 also addresses marriage rights, affirming women's equal rights during marriage, divorce, and decision-making during the marriage.

The notable provision of the Constitution (Article 35) is devoted exclusively to the rights of women and enlists the specific rights of women. These rights, which the Constitution grants to women *inter alia* includes equal protection of the law, equality in marital affairs, 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, *etc.*

The Constitution has made a significant step to take corrective measures and actions in response to past wrong deeds and previous bad legacies imposed on the women's shoulders. As remedies to the historical legacy of inequality and discrimination suffered by women in Ethiopia, women are entitled to affirmative measures. The purpose of such measures shall be to provide special attention to women. It enables them to compete and participate based on equality with men in political, social, and economic life as well as in public and private institutions. The Constitution (Article 35(4)) has made the state to be responsible to protect women from any act of violence and obligates the state to eliminate the influences of harmful customs, laws, and practices that oppress or cause bodily or mental harm to women.

Generally, from the reading of the notable cited Article 35 sub-articles 1-8 of the Ethiopian Constitution, the following gender-sensitive matters are addressed: equal rights in marriage; privileges to affirmative action/measures; protection from harmful traditional practices, right to maternity leave with full pay, right to consultation in projects affecting their lives; property rights (to acquire, administer, control, use and transfer); right to equality in employment (promotion, pay, pension, entitlements) and the right to access to family planning education, information and capacity building. To increase women's political participation, the Constitution (Article 38) addresses their right to vote and to be elected. To avoid disproportionate wages, the Constitution (Article 42) guarantees that women workers have the right to equal pay for equal work.

The fact that poverty has played its role for women being subjected to all aspects of victimization, the Constitution (Article 89) calls upon the government to ensure the participation of women equal with men in all economic and social development endeavors. Despite the tremendous effort, the Ethiopian Constitution has enabled in the march toward gender equality, women are behind men in all parameters used to evaluate the rights achieved.

The Ethiopian Federal Revised Family Code

In addition to the constitutions, some other more specific gender-based laws have been enacted to protect the rights of women in general and to end gender-based violations. The Ethiopian Federal Revised Family Law which is one of such laws enacted in 2000 and is used to protect and safeguard equality between sexes in their relation concerning marriages (Proc. No. 213/2000). The Revised Family Law has played a great role and has influenced some of the parts of the Civil Code that deal with marriages. Subsequently, it has abolished most of the discriminatory articles in the 1960 Code concerning marriage. For instance, it abolished provisions from the 1960 Code that naturalized gender hierarchy by stating that a wife "owes [her husband] obedience on all lawful things which he orders" (635: 2), that "the husband was to give protection to his wife" (Article 644: 1), and that the husbands "watch over [the wife's] relations and guide her in her conduct" (Article 644: 2).

The 2000 Revised Family Law raised the legal age of marriage from 15 in the 1960 Code to 18, ensured women's equal rights in selecting their family residence, and granted them equal footing in family administration and decisions about family property. The progress in the Family Law

requires respect, support, assistance, faithfulness between the couples and requires the joint management of the family (Revised Family Law, 2000: Articles 49, 50 & 56) (Code, 2000).

The legal age of marriage for women and men is 18 years old (Family Code, Art. 7). The Minister of Justice can allow women and men to enter into marriage at the age of 16 for serious cause (Family Code, Art. 7). Child marriage is prohibited (Family Code, Art. 7 and Criminal Code, Art. 648). Whoever concludes a marriage with a minor apart from circumstances permitted by the relevant provisions of the Family Code is punishable of imprisonment of three years when the victim is 13 years old or older and seven years of imprisonment when the victim is younger than 13 years old (Criminal Code, Art. 648).

Criminal Code of Ethiopia

The Criminal Code is another instrument that can be referred to make judicial measures and corrective justice on perpetrators in Ethiopia. The Criminal Code has been revised in line with the constitutional provisions and essences in a way to confirm that those articles deal with women's rights and their protection against any form of violence.

Unlike the 1957 Penal Code, the revised Code incorporated explicit provisions tackling violence against women. The Code has elaborated the ambiguous conceptions and provisions of gender-based violence, incorporating new offenses, redefining the elements of these offenses, and revising the penalties applicable in cases of violation.

The whole Chapter III of the Criminal Code of Ethiopia is dedicated to criminalizing harmful traditional practices that cause injuries, health problems, and the deaths of human lives. Though the Chapter is of general application to men and women, it is particularly relevant to violence against girls and women. And the Criminal Code, therefore, has criminalized those forms of violence against women including rape (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), and abduction (Articles 587- 590). Traditional practices including Female Genital Mutilation (Articles 565-6), and early marriage (Article 649) are also considered as harmful traditional practices and lead to a penalty for contraventions.

The Ethiopian government has recently amended its legislation by excluding rape crimes from pardon and amnesty laws as it lengthened jail terms for sex offenders.

National Policies and other Specific Laws Combating Gender-Based Violence

Policy frameworks are documents that provide a common vision to guide policy and program development, such as national action plans, ministerial regulations, policy statements, strategic plans, protocols, and other mechanisms (McAslan, 2016). In addition to adopting those international and national gender-sensitive legal instruments, Ethiopia has taken a number of policies to mainstream gender affairs in all areas and each sector. By mainstreaming, it is to mean all institutions are urging to consider the gender aspect while designing and planning their regular tasks. A lot has been done in Ethiopia in terms of putting in place a policy framework providing for the protection of the rights of women and girls that may have direct or indirect relevance to addressing the vulnerability of women and girls to gender-based violence (Tsegahun, 2008).

In line with these premises, major policy formulations have been made to integrate gender dimension in development interventions to augment women's access to resources such as revision of credit rules and the establishment of rural credit systems to reach the marginalized grassroot women. The first Ethiopian National Policy on Women was promulgated in 1991 with the objective of ensuring human and democratic rights of women; modifying and nullifying previous legal instruments, laws, regulations, and customs which exacerbate discrimination against women. The policy also stated to safeguard women's rights and did promise a step-by-step elimination of the abuse. More recently the UN Millennium Development Goal to which Ethiopia acceded, on Gender Equality and Women Empowerment has become an effective way to bridge the gender gap in education, combat feminized poverty, and improve health and HIV/AIDS, and other sectors to stimulate development by the year 2015. But according to the Ethiopian National Plan Commission (2018), while Ethiopia recorded remarkable achievements in a number of the Millennium Development Goals (six of the eight MDGs were successfully achieved), the country did not achieve the two goals related to gender issues including i) gender equality and empowerment and ii) improving maternal health.

The workplace is one of the most common areas where gender-based discrimination is committed and in response to this problem, Ethiopia has incorporated gender-sensitive provisions in various proclamations. The Labor Proclamation No.1156/2019 is one of the laws that address gender-based violence at workplaces. Unlike the repealed Labor Proclamation No.

377/2003, the new Labor Proclamation No.1156/2019 introduced a new regime to regulate workplace sexual harassment and sexual violence. The new Proclamation under Article 1 (11-12) obviates the need for interpretation of sexual harassment and sexual violence by providing definitions. Accordingly, *sexual harassment* means to persuade or convince another through utterances, signs, or any other manner, to submit for sexual favor without his/her consent, and *sexual violence* means sexual harassment accompanied by force or an attempt thereof. The Proclamation also affirms that women shall not be discriminated against in all respects based on their sex (Ar.87).

The Proclamation under Article (14) has prohibited any attempt to commit sexual harassment or sexual violence at the workplace and physically abusing anyone in the workplace. Employees, as per Proclamation 1156/2019, that have suffered sexual harassment or sexual violence will be entitled to terminate their contracts without notice, and will also be eligible for severance payment and compensation. The law provides a higher amount of compensation payment for employees who are forced to terminate their contract, without notice, for reasons of sexual harassment and sexual violence. Forced termination of contracts by employees for reasons that are unlawful acts of the employer will entitle the employee to a one-month compensation payment whereas sexual harassment and sexual violence victims will be granted three months of compensation payment.

Another proclamation that considers gender-sensitive issues in its provisions in the *Federal Civil Servants Proclamation No.1064/2017* which repealed Proclamation No. 515/2007. Unlike the repealed Proclamation No.1064/2017, the New Proclamation No. 515/2007 tried to define *sexual harassment*. According to Article 1(13) of the Federal Civil Servants Proclamation, *sexual 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 contacts; b) following the victim or blocking the path of the victim in a manner of sexual nature; and c) putting sexual favor as a prerequisite for employment, promotion, transfer, redeployment, training, education, benefits or for executing or authorizing any human resource management act. The Federal Civil Servants Proclamation under Article 48 obligates any government institution to take affirmative actions that enable female civil servants to improve their competence and to assume decision-making positions.

As per the New Proclamation under Article 70(13), committing sexual harassment or abuse at the workplace is among the offenses that entail rigorous penalties. But the law does not define *sexual violence* nor address the *psychological attack* on females at the workplace.

The Ethiopian Ministry of Women, Children and Youth Affairs - one of the ministries taking the initiatives and mandates of women and youths - has developed in 2013 a National Strategy and Action Plan on Harmful Traditional Practices against Women and Children in Ethiopia. The Ministry also aspires to protect the rights of women and youths in all aspects of activities by educating the people, integrating those developmental initiatives to consider and target these segments of the societies.

The education sectors have also tasked enormous responsibilities to prioritize women's affairs by designing gender-friendly policies including raising the enrolment rate and retention of girls at school; reviewing the educational curricula and capacity building. The formulation of gender indicators in development projects and programs are some of the examples of gender-sensitive interventions and institutions to be evaluated using these indicators like women participation, employment, and appointments (Yohannes, 2017). On the other hand, the institutionalization of gender in all government development programs eventually allows women to benefit from development interventions at all levels. Those different policies formulated by the government at all levels can ensure to protect the basic rights of women and their basic interests: access to higher education with special considerations, prioritize in employment, political participation and appointments, control and manage resources, affirmative actions, etc.

Concerning gender-based violence in educational institutions, the Ministry of Education has taken measure and designing the 2001 "Blue Book" that could be used as a guide book on educational administration, organization, and societal participation including the rights and duties of the students, teachers, and the family to protect the rights of the women and fight against gender-based violence. Among the legal efforts issued by the Ministry of Education against gender-based violence were the directives made in 2010, aimed at reducing and eliminating sexual harassment in higher education institutions by protecting students from harassment and punishing perpetrators.

The Ministry of Education stressed that "any form of harassment and violence against female students is a serious problem and affects female students' wellbeing, academic performance and

also leads to societal problems”. To tackle the problem, the Ministry also outlines to take serious measures on those perpetrators by the higher educational institutions; development of anti-harassment code of conduct for Colleges of Teacher Education Training institutions, and training law enforcement agencies on sexual harassment and substance abuse. Accordingly, the Ministry in collaboration with UNICEF has developed anti-harassment codes of conduct for educational institutions, which are to be adopted by various educational institutions considering their local context. It also aims to institutionalize and create awareness of the society and thereby creating favorable conditions to minimize and eliminate any form of abuse to women and girls at all levels.

While Ethiopia unveiled the Ten Years Economic Development Plan (2020-2030) in mid-2020, the Ministry of Women, Children, and Youths prepared its own respective plans and programs. The plan, which was prepared by the National Planning and Development Commission incorporated, among others, gender-sensitive strategies. The ten-year plan, to reduce gender-based violence in Ethiopia, aspires to have zero tolerance stances on gender-based violence initiative, establishing anti-violence police taskforce and national sex offenders’ registration system. The plan has ambitiously proposed to reduce gender-based violence from 23% in 2016 to 5%.

Legal Limitations on Gender-Based Violence in Ethiopia

In spite of the fact that different legal measures have been adopted and policies reformed to end the plight of gender-based violence in Ethiopia, yet there are still legal gaps that lag the full protection of women's rights and thereby unable to safeguard those women being victimized.

The fact that the Ethiopian constitution has made a paradigm shift to guarantee gender equality, still there exist certain legal limitations regarding women’s rights when it comes to religious legal norms. The constitution empowers religious and customary laws as arbiters of family matters such as divorce and inheritance. For example, the Constitution (Article 34) empowers the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws if both parties arrive in agreement to do so. With the old age men-women power imbalance and societal outlook towards women, such agreement will not be on free will and thus undermines women’s constitutional protection because women are often under cultural and religious pressure to pursue the religious courts and customary elders that tend to uphold

patriarchal values (Berhane, 2005). Women face societal criticism and even exclusion whenever they bring their cases to the formal legal court.

The amount of moral compensation for such victims under Article 2116(3) of the Civil Code of Ethiopian which is 1000 birr (about \$25) is insufficient. If there were any kind of such laws promulgated, it would enable the victims the right to get a protection order, financial compensation relief, custody order, residence order, shelter, or medical benefits. Another legal gap on the protection against gender-based violence, the new Ethiopian Criminal Code did not address the severity and the magnitude of gender-based violence in an adequate manner. The only provision (Article 564) of the Criminal Code - with an exclusive reference to the term domestic violence - has narrowed and reduced the kind of domestic relationships to marriage partner and person cohabiting in a regular union. It also refers back to the provisions dealing with crimes against persons and health (Articles 555-560) for the determination of its criminality and punishments.

The 'legitimacy' nature of gender-based violence in Ethiopia as elsewhere in some other countries where patriarchal societies dominated the everyday life of the people and the scattered nature of the provisions in the Criminal Code complicated the due process of law to bring the perpetrators before justice. Using their economic dominance and acquaintance to resources, males abuse females, and such an aspect of gender-based violence has not been considered by the code.

This is attributed to the absence of comprehensive anti-gender-based violence laws in Ethiopia that affects law enforcement from pursuing incidents of violence within marriage and cohabitation on the premise that there are no clear legal provisions (Allen, 2013). During the presentation of the 6th and 7th periodic reports concerning the CEDAW in the 49th Session of Conference of the Committee held in New York, Ethiopia was recommended for the establishment of victim-friendly benches in federal courts and special units to investigate and prosecute crimes against women in some regional prosecution offices, as well as the steps are taken to train judges, prosecutors and police officers on the application of the Criminal Code and women's rights. However, the Committee also expressed concerns about the lack of conformity of the Regional Family Laws with the Federal Family Law, and recommended for the state to amend the 2005 Criminal Code in a way that will "increase penalties for FGM in Articles 561-

562, 567 and 569-570; repeal Article 563; criminalize marital rape, and exclude the applicability in domestic violence cases of the extenuating circumstances set out in Article 557 (1) (b) (gross provocation, shock, surprise, emotion or passion).

There is no such institution mandated which bears duty for protection, report, or control of problems arising from violence. Another legal gap is the failure to legally recognize marital rape. Ethiopia does not have a law that explicitly outlaws/prohibits marital rape. The criminal code of Ethiopia (Article 620) excludes marital rape, in defining rape as sexual intercourse ‘outside wedlock’ and this is inconsistent with Article 9 of the Ethiopian Constitution that accepts international legal instruments ratified by the country to be part and parcel of the country’s legal practices. There is no single, consolidated law on gender-based violence, but there are various provisions related to specific forms of gender-based violence: general violence protections for women, and sweeping declarations of equality that can be interpreted as protecting women against gender-based violence.

Conclusion

Though Ethiopia’s move to adopt national laws and ratify international legal frameworks to protect the plights of gender-based violence is commendable, there are still legal limitations that impede from protecting women’s rights. None of the national legal instruments gives conclusive definitions to gender-based violence, therefore, unable to show the scope of the term violence against women in full spectrum. Gender-related laws adopted by Ethiopia have not offered sufficient civil remedies protecting those affected by the violence. In Ethiopia, there is neither a separate domestic violence act nor any kind of laws adopted to give specific civil remedies for the victims.

Recommendations

Based on the above findings regarding the Ethiopian legal frameworks protecting women and girls from gender-based violence, this article has the following recommendations.

- Since the current gender-sensitive legal frameworks do not adequately control gender-based violence, nor are consistent with other international instruments, there is a need to revise the legal frameworks.

- Gender-based violence must be incorporated into the national policies, strategies, and action plans that recognize the need for prevention, responses to mitigate its impact.
- There must be significantly changing societal attitudes and perceptions on the place of women in society at the national, regional, local, community, and household levels.

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