



A REVIEW OF ETHIOPIAN LAW FROM A GENDER PERSPECTIVE



Cover photo: Women from rural Ethiopia under the Joint Program Rural Women Economic Empowerment (JP RWEE) commemorate International Women's Day 2019 in Ziway town, Oromia region (Photo: UN Women/Fikerte Abebe).

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UN WOMEN

January 2022

ACRONYMS

AfDB	African Development Bank
AU	African Union
BPfA	Beijing Platform for Action
CSA	Central Statistics Agency
CSO	Civil Society Organization
DEVAW	Declaration on the Elimination of Violence Against Women
EDHS	Ethiopia Demography and Health Survey
EWLA	Ethiopia Women Lawyer's Association
EPRDF	Ethiopia People's Republic Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
FGM	Female Genital Mutilation
GBV	Gender-based Violence
GEWE	Gender Equality and Women's Empowerment
GoE	Government of Ethiopia
HP	Harmful Practice
ILO	International Labor Organization
IPU	Inter-national Parliamentary Union
MoWCY	Ministry of Women, Children and Youth
NEB	National Elections Board
OAU	Organization of African Unity
OHCHR	UN High Commissioner for Human Rights
RCC	Revised Criminal Code
RFC	Revised Family Code
SDG	Sustainable Development Goal
SNNPR	Southern Nations, Nationalities and People's Region
SRHR	Sexual and Reproductive Health and Rights
UN	United Nations
UNDR	Universal Declaration of Human Rights
UNGA	United Nations General Assembly
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
VAWG	Violence Against Women and Girls

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MESSAGE FROM UN WOMEN

Equality in law is fundamental to gender equality which requires adoption and implementation of good laws that are in line with human rights principles of equality and non-discrimination. These principles are entrenched in core international human rights instruments to which Ethiopia is a party.

One of the key commitments under the 2030 Agenda for Sustainable Development is achieving gender equality and the empowerment of women and girls. In particular, ending all forms of discrimination against women and girls, and adopting enforceable legislation for the promotion of gender equality forms an essential dimension of the commitment. This presents an opportunity to the Government of Ethiopia to accelerate gender equality at all levels by taking legislative and other appropriate measures, complementing its obligation under international and constitutional human rights frameworks.

The Government of Ethiopia has shown its commitment in taking relevant legislative measures to promote and protect the equal rights of women and girls. Further steps in repealing discriminatory

laws are imperative to bring about meaningful and lasting transformation in the legal status of women and girls in the country. A systematic analysis of laws from a gender perspective was therefore desirable to detect and address existing gaps in the national legal framework.

As part of the ongoing effort towards a sweeping legal reform in Ethiopia, we are confident that the Government will also take steps to bring significant reforms of its laws to repeal those that reinforce gender inequality and adopt laws that advance the equal rights and empowerment of women and girls. We believe that the report will serve as a valuable framework for achieving *Equality in Law for Women and Girls by 2030*, and therefor catalyzing *de facto* equality for the women and girls of Ethiopia.

Letty Chiwara

UN Women Representative
to Ethiopia, African Union
and UNECA

ACKNOWLEDGEMENTS

The report would not have materialized without the active support of the Government of Ethiopia, in particular the House of People’s Representatives, The Federal Supreme Court, the Federal Attorney General and the Minister of Women, Children and Youth.

Special thanks are owed to Professor Rangita de Silva de Alwis (PhD) at the University of the Pennsylvania Law School and Yitayew Alemayehu (PhD) of the Addis Ababa University Law School for jointly writing the report. Thanks also to Robin N. Haarr (PhD) for editing the report. UN Women also wishes to acknowledge the valuable contributions of Review Committee members – Meskerem Geset, Luwam Zenebe, Addisalem Befekadu, Anna Parini, Yelfigne Abegaz, Selam Gebretsion, Etsehiwot Eguale, Beatrice Akua Duncan

(PhD), Claire Mathellie, and Maureen Shonge—for their substantive and technical guidance in the preparation of the report.

The report is presented by UN Women with the conviction that it will serve as a useful framework for necessary legislative action by the Government of Ethiopia in harmonizing national laws with international obligations pertinent to the promotion and protection of the rights of women and girls in Ethiopia.

LIST OF LEGISLATION REVIEWED

1. Census Commission Reestablishment Proclamation No. 449/2005
2. Central Statistics Agency Establishment Proclamation No. 442/2005
3. Civil Code of Ethiopia Proclamation No. 165/1960
4. Civil Procedure Code
5. Commercial Code of Ethiopia Proclamation No. 1243/2020
6. Constitution of the Federal Democratic Republic of Ethiopia, 1995
7. Criminal Code of the FDRE Proclamation No. 414/2004
8. Criminal Procedure Code of Ethiopia Proclamation No. 185/1961
9. Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018
10. Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation No. 1162/2019
11. Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000 as amended by Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No. 1224/2020
12. Ethiopian Nationality Proclamation No. 378/2003
13. Federal Civil Servants Proclamation No. 1064/2017
14. Federal Courts Proclamation Reamendment Proclamation No.454/2005
15. Federal Courts of Sharia Consolidation Proclamation No.188/1999.
16. Federal Judicial Administration Council Establishment Proclamation No. 684/2010
17. Foreign Service Proclamation No. 790/2013
18. Institution of the Ombudsman Establishment Proclamation No. 211/2000
19. Labor Proclamation No. 1156/2019,
20. National Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015
21. Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015
22. Private Organization Employees' Pension Proclamation No. 715/2011
23. Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010
24. Public Servants' Pension Proclamation No. 714/2011
25. Refugees Proclamation No. 1110/2019
26. Registration of Vital Events and National Identity Cards Proclamation No. 760/212
27. Revised Family Code Proclamation No. 213/2000
28. Rural Land Administration and Land Use Proclamation 456/2005

EXECUTIVE SUMMARY

Legislative Reform to Ensure Gender Equality in Ethiopia

Ethiopia's commitment to ensuring gender equality is enshrined in its Constitution which recognizes the rights of everyone to equality, non-discrimination and participation. Article 35 of the Constitution reflects the country's focus on ensuring gender equality and realizing the rights of women (see box). Ethiopia is also party to international and regional human rights treaties including the *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW), and the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (the Maputo Protocol). Both the Constitution and the international treaties to which Ethiopia is a State Party to require the review of laws and the taking of legislative measures to ensure the equality and full respect of the rights of women.

Ethiopia has made substantive and remarkable progress in ensuring that its laws recognize the equal rights of women. Apart from the Constitution, several laws, including Family and Criminal Codes, and Labor and Public Service Proclamations establish specific mechanisms to ensure women's rights to equality and non-discrimination, and that protect women from inequitable and discriminatory practices. Legislative measures implemented over the past few years have done away with laws and practices that legally and explicitly subject women to subservience.

Despite these advances, there are still laws with provisions that discriminate against women. Some of these laws emanate from outdated and discriminatory beliefs that see women as less capable or more fragile than men. Purporting to "protect" women, such laws preclude women from opportunities and resources that are available to men. Other laws that on their face treat men and women equally result in discrimination because they fail to address historical and institutionalized structures of inequality. The existence of such laws highlights the need to proactively tackle institutionalized discrimination through implementing special measures that level the playing field for women.

In other cases, the absence of effective mechanisms of enforcement, including mechanisms to investigate and remedy grievances of discrimination and abusive practices, weaken or invalidate the rights and protections guaranteed to women under the law. Living up to the commitments of the Constitution calls for identifying and remedying discriminatory laws and gaps in the design, implementation and enforcement of such laws that result in the less than full realization of the rights to equality, non-discrimination and protection of women. Given recent developments in Ethiopia, this task has added urgency.

Since 2018, Ethiopia has committed itself to ensuring better respect for human rights, including women's rights. There is stronger political will to see to the equitable treatment of all Ethiopians, and to ensure the equal participation of women in the country's political life. A comprehensive process of legal reform is underway resulting in major changes in some of the laws that impinge on human rights. Based upon these considerations, the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) commissioned a comprehensive review of existing laws to make recommendations for legislative reform measures aimed at making Ethiopian laws gender sensitive and equitable.

The assessment adopted the normative and analytical framework of the Federal Democratic Republic of Ethiopia (FDRE) Constitution, Ethiopia's treaty obligations and the observations of the UN Committee on Women on Ethiopia's progress in reviewing existing laws. Findings from the review and assessment led to the recommendations below for legal reform. The adoption of these recommendations will contribute to making sure that Ethiopian law aligns with the Constitution and Ethiopia's obligations under international human rights law.

Recommendations for Legislative Reform

The assessment offers a series of measures for reforming Ethiopian law to ensure that laws are gender sensitive and more effective at ensuring gender equality and non-discrimination. Most notable is that a total of 5 laws or provisions must be repealed in whole or in part; 26 laws must be revised or amended and two (2) new laws must be enacted to bring Ethiopia's legislative framework in line with its regional and international obligations on gender equality and women's empowerment. The report also emphasizes the need to prioritize the implementation of national laws that comply with gender equality standards, and in this context, recommends one policy measure to ensure that laws fully deliver on women's rights.

The recommendations that follow are clustered around the following seven themes.

1. Legal Recognition of the Right to Equality and Non-discrimination

While the Constitution recognizes the rights to equality and non-discrimination, existing laws lack specific provisions or clauses that help to define the scope and content of these rights. Nor do existing laws establish mechanisms for the judicial or administrative investigation and remedy of violations of the right to equality and non-discrimination. Therefore, the assessment recommends adoption of a comprehensive law on equality and non-discrimination.

Such a law should recognize the *intersectionality* of gender and other factors of advantage and disadvantage combine to create different experiences of discrimination and privilege. By recognizing the intersectionality of gender, the law consciously acknowledges that other markers of social exclusion such as social and economic status, age, religion and disability operate in tandem with gender to compound discrimination and oppression.

2. Improving Mechanisms of Enforcement and Monitoring

Agencies within the executive branch, courts, and independent human rights institutions are the mechanisms for the enforcement of the constitutional and legal rights of women. Sector agencies responsible for addressing women's issues, particularly the Ministry of Women, Children and Youth, is responsible for coordinating measures and programmes to advance the rights and status of women. Each of these entities are also responsible for monitor progress in improving the status of women and in realizing the rights of women. Existing gaps in the legal frameworks for some of these entities, coupled with legal provisions that are antithetical to women's rights to equality and non-discrimination necessitate the following legal reforms:

- Amend proclamations that establish the Ministry of Women, Children, and Youth, the Ethiopian Human Rights Commission and the Institution of the Ombudsman to enhance their role in monitoring, coordinating and enforcing the rights of women.
- Amend proclamations that establish the Federal Supreme Court and *Sharia* courts to ensure that *Sharia* courts better protect the rights of women, as recognized in the Constitution.
- Amend the proclamation that establish the Central Statistics Agency to ensure the collection of sex-disaggregated data and gender statistics to regularly assess the status of women in society.

3. Women's Political and Civic Participation

Historical and structural legacies of oppression and exclusion severely curtail women's participation in political and civic life. A proactive legislative approach to address this challenge calls for a series of measures:

- Adopting a constitutionally or legally set allocation of seats to women in all elected and appointed political positions.
- Amending laws on election, civil and diplomatic services, and the judiciary to ensure the effective and wide representation of women in the recruitment for and appointments of judicial, civil and foreign service positions.

- Amending the law on elections and political parties to recognize gender discrimination as grounds for censuring a political party.
- Repeal the provision of the Foreign Civil Service Proclamation that identifies HIV/AIDS as a ground of exclusion from appointment in the foreign service.

4. Nationality and Civil Registration

Recommendations for legislative reform as it relates to nationality and civil registration include:

- Amend the law on refugees to recognize gender-based violence as grounds for granting asylum.
- Repeal the provision of the law on vital events and registration that requires the inclusion of ethnic and religious affiliation in national identity cards.

5. Violence Against Women

Protecting women from various forms of gender-based violence requires that clearly state what constitutes gender-based violence against women, and identify the availability of effective mechanisms to ensure enforcement of such laws. To this end, the assessment makes the following recommendations:

- Streamline and clarify the provisions of the Revised Criminal Code that dealing with various forms of violence against women and girls;
- Revise Criminal and Criminal Procedure Codes, and the Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation to ensure gender sensitivity of the criminal justice processes are gender sensitive and provide protection and care to survivors of gender-based violence crimes.
- Amend the Labor Proclamation to define more completely “sexual harassment.”
- Align provisions of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation with the UN Convention against Transnational Organized Crime and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.
- Provide a stronger mechanism for enforcement of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation;

- Amending existing Family Codes to prohibit marriage and betrothal before the age of 18.
- Repealing provisions in Criminal and Family Codes that provide for exceptions for the legal minimum age of marriage.
- Amending the law establishing the Risk Management Commission to ensure risk responsiveness is sensitive to and addresses gender-based violence in humanitarian and emergency situations, including during disasters and conflicts.
- Decriminalizing abortion.
- Enacting a comprehensive law on violence against women.

6. Employment and Labor Relations

Some of the challenges for ensuring gender equality and non-discrimination in the laws on employment and labor relations stem from rules that exhibit holdover paternalistic views on women. There are instances where the law appears to treat men and women equally, however, remains skewed against women because of the structuring of the economy, or because the law fails to effectively address the particular challenges women face in the workplace. Accordingly, the assessment recommends the following:

- Establish mechanisms to ensure non-discrimination and freedom from harassment in the workplace.
- Regulate employment conditions of domestic workers.
- Establish mechanisms, such as tax incentives, to promote the employment and career advancement of women.
- Repeal the provision of the labor law that precludes women from employment opportunities deemed “dangerous.”

7. Marriage, Family Relations and Property Rights

The Revised Family Code represents major advances in protecting women and ensuring gender equality. For the most part, the Revised Family Code recognizes the equal rights of women in enjoying property rights; nonetheless, the overall progressiveness of the law is hindered by traditional cultural practices, some of which influence the interpretation and application of the law. The Family Code also seems to be lagging in taking a proactive role in reshaping established cultural practices to ensure their adherence to the equality and non-discrimination precepts of the Constitution. Thus, the assessment recommends:

- Revisit the Revised Family Code to clarify and strengthen its rejection of polygamy.
- Harmonize regional family codes with the constitutional requirements of equality and non-discrimination of men and women in marriage, and encourage the adoption of family codes by regions that have not yet enacted such laws.
- Revise the Civil Code to ensure that its rules on succession are in line with the requirements of the Maputo Protocol on the rights of widows and widowers.
- Adopt new rules protecting the rights of women to remain in the marital residence during divorce proceedings.
- Adopt new rules recognizing the enhanced earning capacity of a spouse in the course of marriage as forming part of the common property.
- Amend the laws on pensions to recognize the rights of a divorced spouse to part of the pension payment accumulated during marriage.
- Amend pension laws to eliminate the distinction between men and women in pension payments to widows and widowers.
- Revise the Commercial Code to protect the interests of the spouse who is not actively engaged in trading activities.

- Review property, and especially land laws, to address structural and cultural practices that preclude women from the full enjoyment of property rights.

Charting Our Future: Developing a Strategy of Action for Comprehensive Legal Reform

The assessment and its recommendations serve as input for wider discussion among relevant stakeholders at federal and regional levels, including state agencies (legislature, executive and judiciary) and civil society and women's organizations, representatives of religious and cultural institutions, and the media. The discussion will help identify appropriate strategies and alliances, as well as possible bottlenecks and resistance, and the mechanisms to address them in an action plan. Having shared understanding and collective action of all stakeholders, including women and organizations, will help to ensure that the review and reform of Ethiopian law will make it an effective instrument of promoting gender equality and non-discrimination, and protection of women's rights.

PART I:

INTRODUCTION

Globally, gender discrimination are pervasive and constrain the ability of women to participate fully and meaningfully in society. Gender discrimination are crucial factors in the perpetuation of political and social marginalization of women, the exclusion of women from contributing to and benefitting from development, and the occurrence of violence against women and girls (VAWG) and harmful practices (HPs), including child marriage and female genital mutilation (FGM). Gender discrimination is economically costly, as it contributes to the inefficient use of women's potentials and resources, and devalues their contributions to families, communities and society.

The past several decades demonstrate the global community's recognition of the injustice and costliness of gender discrimination, and the emergence of a commitment to end gender discrimination. The latest expression of efforts to end gender discrimination are reflected in 2030 Agenda for Sustainable Development¹, which ensures the continued relevance of gender equality as a cornerstone for transformative change. Sustainable Development Goal (SDG) 5 of is a statement of the global community's commitment to "achieve gender equality and empower all women and girls,"² and provides the overarching framework to globally address de jure discrimination. All targets to SDG 5 have direct or indirect bearing on legislation. Among those targets that make an explicit reference to legislation are those that call for "end[ing] all forms of discrimination against all

women and girls everywhere³ [and]...ensuring" universal access to sexual and reproductive health and reproductive rights."⁴

SDG 5, Target 5.a calls for "reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws."⁵ Also, Target 5.c urges states to "adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels."⁶ Indicators to measuring progress in achieving these targets that are directly related to national legislation include:

- Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex.⁷
- Adoption of laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education.⁸
- Presence of legal framework (including customary laws) that guarantee women's equal rights to land ownership and/or control.⁹

Pursuant to global commitments expressed in SDG 5, UN Women, the African Union (AU), the Commonwealth, the Inter-Parliamentary Union (IPU) and the Organization International de la Francophonie and Secretariat General Ibero-Americana launched

1 UN General Assembly, Transforming Our World: The 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1. Retrieved on 5 June 2021 from: [Refworld | Transforming our world : the 2030 Agenda for Sustainable Development](#)

2 SDG 5.

3 SDG 5, Target 5.1.

4 SDG 5, Target 5.6.

5 SDG 5, Target 5.a.

6 SDG 5, Target 5.c.

7 UN Statistical Commission. (2017). Resolution adopted by the General Assembly on Work of the Statistical Commission pertaining to the 2030 Agenda for Sustainable Development(A/RES/71/313), Annex., 1–21. Retrieved on 5 June 2021 from: <https://undocs.org/A/RES/71/313>

8 SDG 5, Indicator 5.6.2.

9 SDG 5, Indicator 5.a.2.

*Equality in Law for Women and Girls by 2030: A Multistakeholder Strategy for Accelerated Action*¹⁰ as a roadmap for the elimination of laws that discriminate against women and girls. The strategy focuses on repealing or revising discriminatory laws as an important part of a broader legal reform agenda that supports the achievement of gender equality and seeks to ensure the elimination of all discriminatory legislation by 2030. As part of this effort, UN Women Ethiopia engaged a team of national and international consultants to carry out a comprehensive assessment of Ethiopian laws from a gendered perspective, to provide an in-depth understanding of the current legal framework and the existence of gaps and discriminatory provisions. This report highlights the results of that assessment, which explored Ethiopian laws to assess their gender-responsiveness.

This report serves as a frame of reference for a long-term road map for legal reform that will ensure laws are free from discriminatory content, as well as serve as an instrument for promoting gender equality; this can only be achieved through enacting new laws and repealing or revising existing laws. To this end, this assessment employs an expansive definition of discrimination, which encompasses: direct discrimination that takes place when the law makes clear gender-based distinctions and treats women/girls as lesser than to men/boys; and indirect discrimination that results from laws that make no gender-based distinction on their face, but result in or perpetuate discrimination against women and girls due to historical and institutional conditions of inequality that make formal equality of law meaningless, unless the law is attuned to them and explicitly and proactively addresses them.

Methodology

This assessment is primarily a critical and evaluative desk review of national laws and judicial decisions; thus, it references Ethiopia's Constitution and its regional and international legal commitments on the rights of women and gender equality as a framework for evaluating the country's national laws.

The fundamental pillar of this framework is the Constitution of the Federal Democratic Republic of Ethiopia (FDRE) which recognizes equality of men and women, prohibits discrimination based upon gender, and provides for a specific set of rights to women, including the right to protection and affirmative action. Apart from its detailed rules on human rights and dedicated provision on the rights of women, the FDRE Constitution makes international human rights treaties, that Ethiopia has ratified as part of the law of the land, a binding guide for interpreting its own human rights provisions.¹¹ Accordingly, this assessment uses international human rights treaties, particularly the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereinafter referred to as the Maputo Protocol) to assess the conformity of Ethiopian law to the norms and standards of the rights of women. Furthermore, in clarifying Ethiopia's obligations under these treaties, especially CEDAW, this assessment integrates the concluding observations and recommendations that the UN Committee on the Elimination of Discrimination against Women forwards when examining Ethiopia's state reports under CEDAW.

10 UN Women, (2019). *Equality in Law for Women and Girls by 2030: A Multi-stakeholder strategy for accelerated action*. UN Women: New York, NY, USA. Retrieved on 5 June 2021 from: [equality-in-law-for-women-and-girls-en.pdf \(unwomen.org\)](https://unwomen.org/publications/equality-in-law-for-women-and-girls-en.pdf).

11 Article 13(2), FDRE Constitution provides that, "The fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and international instruments adopted by Ethiopia."

Initially, this assessment was intended to review both federal and regional laws; that is laws issued by the Federal Government and those promulgated by the Governments of the Regional States that comprise the FDRE. Given the assessment's time constraints and inaccessibility of many regional laws, this assessment does not focus on the latter; this is a limitation of this assessment.

Constitutionally, in Ethiopia, regional states are autonomous as far as enactment of laws are concerned. Theoretically, regional states can issue laws that are different from each other's and those of the federal government; however, in practice, this has not generally been the case. This, in part, is due to the fact that the FDRE Constitution grants the Federal Government exclusive legislative power in many of the key areas that are covered in this assessment, such as matters relating to utilization of land,¹² the enforcement of political rights and elections,¹³ nationality and immigration,¹⁴ labour and employment relations,¹⁵ and the enactment of commercial,¹⁶ criminal¹⁷ and civil¹⁸ codes. Even in areas where regions have sole legislative powers, there are significant, if not identical, similarities among the laws issued by the Federal Government and Regional States. This is due not only to the influence of federal laws on regional laws, but also to the fact that from the adoption of the federal arrangement in 1995 to the present, the Ethiopian People's Revolutionary Democratic Front (EPRDF) and its allies have been in power in all regions and at the federal level. The only significant exception from the perspectives of this assessment is in the area of family law where there are discernible differences among federal and some regional laws; differences that this assessment addresses in the relevant section.

Ethiopia's legal system is based on explicitly enacted laws that lawmakers' issue. The rule-making function of the judiciary is nonexistent, with the exception of the powers of the Cassation Division of the Federal Supreme Court to make interpretive decisions that are binding on lower courts. This assessment has integrated a discussion of relevant decisions of the Cassation Division of the Federal Supreme Court, where appropriate.

This assessment was prepared through a combination of international and local expertise in close consultation with relevant governmental and civil society organizations (CSOs), including women's organizations. A consultation workshop with these stakeholders served to disseminate the findings of the assessment and to integrate their views and perspectives.

As already stated, this assessment is designed to serve as input for sustained and broad-based processes of legal reform; such reform can only happen and be successful if embraced by and engaged in by Ethiopian actors. The role of state agencies from Parliament to the Office of the Federal Attorney General and Ministry of Women, Children and Youth (MoWCY), as well as other offices, is indispensable in this regard, as is the role of CSOs, especially women's organizations. This assessment will be useful in serving as an additional resource for these bodies to identify, strategize and embark on systematic advocacy, and coordinated legal reform to ensure that the rights of women and gender equality become a reality in Ethiopia.

12 Article 55(2)(a), FDRE Constitution.

13 Article 55(2)(d), FDRE Constitution.

14 Article 55(2)(e), FDRE Constitution.

15 Article 55(3), FDRE Constitution.

16 Article 55(4), FDRE Constitution.

17 Article 55(5), FDRE Constitution.

18 Article 55(6), FDRE Constitution.

Overview of the Report

This report offers a review the legislation relevant to women's rights and gender equality in Ethiopia and offers recommendations for legislative action based upon normative frameworks on women's rights which are recognized in the FDRE Constitution and in ratified international and regional conventions and treaties.

The review is organized into 10 parts. **Part II** provides a brief overview of Ethiopia's international treaty obligations and the steps taken by the Government to domesticate the provision of CEDAW and other global and regional international agreements and treaties. **Part III** includes a review and analysis of equality and non-discrimination domestic legislation, starting with the Constitution as the fundamental law. **Part IV** offers a review and analyses of proclamations that establish the mechanisms of enforcement and

monitoring of progress made to translate international agreements and treaties into domestic laws and practices. **Part V** reviews and analyses laws that formalize women's rights to political and civic participation and representation, whereas **Part VI** reviews and analyses laws that formalize nationality and civil registration. **Part VII** reviews international commitments and national laws to address VAWG, HPs and trafficking in persons. Next, **Part VIII** focuses on laws related to employment and labor relations, and **Part IX** reviews and analyses marriage, family relations and property rights. Finally, **Part X** offers a brief analysis of case law, including decisions of the House of Federation of the FDRE and the Cassation Division of the Federal Supreme Court. Conclusions and recommendations from this legal analysis are addressed in **Parts XI** and **XII**.

PART II:

OVERVIEW OF ETHIOPIA'S GENDER EQUALITY COMMITMENTS

Overview of Ethiopia's Global and Regional Gender Equality Commitments

Ethiopia, with a population estimated to be more than 112 million, is the second-most populous nation in Africa.¹⁹ Ethiopia was a founding member of the Organization of African Unity (OAU), the predecessor of the current AU, which is headquartered in Addis Ababa. Ethiopia was also one of few African nations that voted for the adoption of the United Nations (UN) Charter of 1945, and subsequently ratified the Universal Declaration of Human Rights (UDHR) in 1948 and CEDAW in 1981.²⁰

From 1991 to 2019, the EPRDF was the dominant ruling political party. In fact, it was in the 1990s that Ethiopia saw the adoption of a new constitution and the signing and ratification of international treaties, as well as the passage of legislation to address a range of women's rights issues. Since then, policies have been developed to support gender equality in representation in political and other institutions, including the legislative and executive branches of government. Over the years, legislation and constitutional reforms have challenged customary practices, and new laws have been drafted and adopted to protect women's bodily integrity by addressing VAWG and HPs (e.g., domestic violence, child marriage, FGM and more). In late 2019, the EPRDF was succeeded by the current ruling Prosperity Party.

In Ethiopia, national legislative reform initiatives have taken place against the backdrop of a changing international landscape that has promoted women's human rights. In 1979, the UN General Assembly (UNGA) adopted CEDAW as an international treaty; thereafter, at global and regional levels, new vocabulary and categories of analysis for understanding women's human rights and infringements on women's rights emerged, and global platforms for action developed. In 1995, the Beijing World Conference on Women was an important turning point, and the Beijing Declaration and Platform for Action (BPfA) served as the foundation for establishing a global transformational gender equality agenda. Since then, women's rights movement and organizations have focused on advancing gender equality and women's empowerment (GEWE) and ending violence against women and girls (EVAWG) and HPs, among other issues relevant to women and girls. As women's issues were integrated into the human rights agenda, the women's movement brought issues of GEWE and EVAWG to the forefront globally, but also shaped national agendas where they are most needed.²¹

19 World Bank. *The World Bank in Ethiopia*. Retrieved on 23 May 2021 from: [Ethiopia Overview \(worldbank.org\)](https://www.worldbank.org/et).

20 Schabas, W.A. (2013). *The Universal Declaration of Human Rights: the travaux préparatoires, Volume I: October 1946 to November 1947*. Cambridge University Press: Cambridge, UK, p. cxi.

21 de Silva de Alwis, R. (2014). Women's Voice and Agency: The Role of Legal Institutions and Women's Movements." Gender Equality & Development, Women's Voice and Agency Research Series 2014 No.7, p. 3 Retrieved on 23 May 2021 from: [World Bank Document](#)

Overview of the State of De Jure Equality in Ethiopia

Against this backdrop, under the rule of the EPRDF, Ethiopia experienced major political, economic, social and legal changes that impacted gender relations and the status of women. In 1995, the FDRE Constitution was adopted and it established the country as a federation of nine regional states drawn mainly along ethnic and linguistic lines. In theory, the FDRE Constitution grants extensive and residual legislative, judicial, and executive powers to the regional states, while limiting the powers of the Federal Government to a list of explicitly stated realms. In practice, however, the centralized and regimented organization of the EPRDF and its dominant position in federal and regional governments resulted in substantial policy, legislative, executive and institutional similarities between the federal and regional governments, and across regional states. Underlying the federal restructuring of state power was a conviction to recognize and respect the collective rights of different ethnic and cultural communities in Ethiopia, which are important parts of the political, constitutional and legal order. Benefitting from the ascendance of human rights norms and instruments, the FDRE Constitution has extensive provisions that recognize both individual and group rights,²² including a specific provision on the rights of women.²³ Human rights provisions²⁴ are further strengthened by the Constitution's mandate that they should be interpreted in line international human rights law and agreements.²⁵

Since the 1990, substantial progress has been made to promote gender equality and women's rights in Ethiopia. An important development was the adoption of the National Policy on Women in 1993, soon after the EPRDF came into power. In addition, a MoWCY was established at the federal level, and at regional levels similar regional cabinet bureaus were

set up to coordinate and mainstream gender equality and women issues.

Subsequently, the Government of Ethiopia (GoE) and its partners have succeeded at advancing GEWE and EVAWG, including developing legal provisions to end HPs of child marriage and FGM. In particular, family law was revised at the federal level and adopted as the Revised Family Code (RFC)²⁶ to ensure consistency with international women's rights norms and standards. The RFC has served as a model for the adoption of similar family codes by most all regional states, except Afar and Somali Regional States which are still in the process of drafting family laws. The RFC introduced progressive provisions, including, but not limited to: setting the minimum age for marriage at 18 years for both men and women; establishing a valid marriage as one that takes place only when the spouses have given their free and full consent; stipulations for equal rights of spouses in management of the family; allowing divorce by mutual consent or petition of any spouse, without the need to prove fault; and limiting the role of family arbitration to voluntary deliberations between spouses.²⁷ The Criminal Code was also revised and adopted as the Revised Criminal Code (RCC); the RCC better protects women from gender-based violence (GBV) and HPs.

National development plans have also provided for the mainstreaming of gender, including increased participation of women in the political system as members of elected legislative bodies at federal and regional levels.

Despite this progress, the strong-armed and top-down rule of the EPRDF, coupled with its intolerance of dissent, led to increased dissatisfaction, disenfranchisement and frustration among a growing population of young people. Starting in 2015, this led

22 Chapter 3, FDRE Constitution, Fundamental Rights and Freedoms, has 42 articles constituting nearly a third of the total provisions of the Constitution. The rights recognized in Chapter 3 include civil, political, economic and social rights, as well as collective rights, right to development and rights of ethnic groups to self-determination.

23 Article 35, FDRE Constitution.

24 Article 14-44, FDRE Constitution.

25 Article 13(2), FDRE Constitution.

26 Federal Negarit Gazette Extra Ordinary Issue No. 1/2000 The Revised Family Code Proclamation No. 213/2000.

27 Articles 6-7, 50, 77-80, 81-84 and 119-122, RFC of 2005

to widespread protests²⁸, which led the EPRDF to take repressive measures, including successive declarations of states of emergency, when they were unable to quell the protests and opposition.

In 2018, the EPRDF recognized the need to make fundamental changes in the way the country was ruled. In response, the EPRDF elected a new chairperson, Abiy Ahmed, as its leader, and Parliament appointed him as the new Prime Minister on 2 April 2018.²⁹ The Prime Minister showed his commitment to gender equality when he appointed women to nearly half the ministerial positions in his cabinet; a ratio that has remained over the past two years. At the time of

this report, Ethiopia ranked 18th globally in women's representation in Parliament. According to the IPU, Ethiopia is only the second African country, after Rwanda, to have achieved gender parity in its Cabinet.

Notwithstanding the symbolic significance of having gender parity in the Cabinet and near gender parity in the Federal Parliament, there are still no legal requirements for ensuring the representation of women in decision-making bodies. On the 25th anniversary of the BPfA, there is much more that needs to be done in Ethiopia to meet its obligations for GEWE under its international agreements, and as set out in the FDRE Constitution.

28 Freedom House (2017). Freedom in the World 2017: Ethiopia. Retrieved on 23 May 2021 from: [Ethiopia - Freedom in the World 2017 \(justice.gov\)](#)

29 US Department of State (2018). *Ethiopia 2018 Human Rights Report*. US Department of State: Washington, DC, USA. Retrieved on 23 May 2021 from: [ETHIOPIA 2018 HUMAN RIGHTS REPORT \(state.gov\)](#)

PART III:

EQUALITY AND NON-DISCRIMINATION IN DOMESTIC LAWS

This section of the report entails an analysis of domestic laws in Ethiopia, with a focus on equality and non-discrimination. The natural starting point of the analysis is the FDRE Constitution, as the fundamental law through which all other statutes derive their validity, followed by other federal legislation, regulations, orders and case law, which directly and indirectly affect the lives of women and girls in Ethiopia.

FDRE Constitution

The FDRE Constitution incorporates provisions on the rights of women. The Preamble emphasizes the necessity of “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.” In addition, Article 25 on the Right to Equality provides 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 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.” Clauses to Article 25 allow for the possibility of expanding such prohibited grounds through constitutional interpretation.

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 conventions and treaties ratified 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 to other laws and should be of equal status with the Constitution. While domestic laws must conform to international treaties, direct applicability or need of enabling domestic laws is currently an ongoing debate in Ethiopia.

Article 26 of the Constitution calls for equal rights in the family, including equal rights in marriage and divorce. Accordingly, men and women of legal age have equal rights “while entering into, during marriage and at the time of divorce.”

Article 35 deals specifically with women’s rights and provides for temporary special measures as guaranteed in Article 4 of CEDAW. Article 35 imposes on the State a duty to “enforce the rights of women to eliminate the influences of harmful customs” and explicitly prohibits “laws, customs and practices that oppress or cause bodily or mental harm to women.” Article 35 also provides for special measures to address the historical legacy of gender inequality and discrimination against women. Despite progressive reforms, there is no legal quota requirements for legislative or executive bodies in Ethiopia.

BOX 1.1

Intersectionality (Intersectional Approach)

Intersectionality is an analytical framework for understanding how aspects of a person's social and political identities combine to create different experiences of discrimination and privilege. Intersectionality identifies multiple factors of advantage and disadvantage, including, both not limited to: sex, gender, race, class, sexuality, religion, disability, immigrant status and physical appearance. These intersecting and overlapping social identities may be both empowering and oppressing.

The term was conceptualized and coined by Kimberlé Crenshaw, a professor at the University of California Los Angeles School of Law and Columbia School of Law. In 2001, the definition of intersectionality was expanded at the UN Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance at Durban, South Africa. At that conference, the UN High Commissioner for Human Rights (OHCHR) 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."

RECOMMENDATIONS

1. In 2019, UN Committee on the Elimination of Discrimination Against Women Concluding observations and recommendations to Ethiopia,³⁰ recommended that the GoE build on the promise of its constitutional guarantees in the following areas:
 - a. Review and strengthen the Constitution's legislative framework to ensure that it covers all forms of discrimination against women and to ensure its effective implementation, monitoring and assessment.³¹
 - b. Revise the RCC of 2005 to include all forms of discrimination against women.³²
 - c. Adopt a regulatory framework to ensure effective, harmonized and mandatory implementation of temporary special measures to achieve substantive equality between women and men, particularly in political and public life, while ensuring the establishment of accountability mechanisms to monitor compliance.³³
2. The UN Committee on the Elimination of Discrimination Against Women also urged the GoE to:
 - a. Remove the exception to the minimum age for child marriage.
 - b. Harmonize legal provisions on bigamous/polygamous marriage at the federal level.
 - c. Remove reservations to the Maputo Protocol regarding marital rape and polygamy
3. The UN Committee on the Elimination of Discrimination Against Women also recalled its previous recommendation (CEDAW/C/ETH/CO/6-7, para. 15) and called upon the State Party to ensure that Afar and Somali Regional States adopt family laws in conformity with the RFC and CEDAW, and take measures, including awareness-raising and training initiatives, to raise the awareness of the

30 UN Committee on the Elimination of Discrimination against Women Concluding observations to the Committee on the Elimination of Discrimination against Women—Ethiopia, 5 March 2019, CEDAW/C/ETH/CO/8. Retrieved on 23 May 2021 from: <https://digitallibrary.un.org/record/3801130?ln=en>

31 UN Committee on the Elimination of Discrimination Against Women Concluding observations to the Committee on the Elimination of Discrimination against Women - Ethiopia, 27 July 2011, CEDAW/C/ETH/CO/6-7. Para (10)(a).

32 Ibid, Para (10)(c)

33 Ibid, Para (20) (a)

population and enable public officials to effectively enforce the RFC.³⁴

4. While the Constitution establishes the basic norms of equality and nondiscrimination, effective realization of these norms requires their elaboration in enforceable and detailed legal precepts. Specific laws dealing with matters of the family and labor give effect to aspects of gender equality and non-discrimination of women; however, the fact that gender relations permeate all aspects of public and private life necessitates a comprehensive law providing for the protection of women's rights to equality and non-discrimination. A foundational premise of such a law should be a recognition that people experience stereotyping and discrimination based upon the intersectionality of sex, gender, race, ethnicity, class, location, disability and other factors. In other words, such a law needs to adopt an intersectional approach to addressing discrimination (Box 1).
5. It is also recommended that the GoE adopt a comprehensive law on equality and non-discrimination

that integrates an intersectional approach. Such a law should:

- a. Define the substance of the rights to equality and non-discrimination through clarifying, *inter alia*, the requirements of achieving both formal and substantive equality, direct and indirect discrimination by law and through practice, as well as discrimination in both public and private spaces.
- b. Specify and sanction instances that constitute the violation of such rights.
- c. Set up the institutional framework and allocate resources to realize and enforce these rights.
- d. Establish the processes and mechanisms of redress when such rights are violated.
- e. Spell out the special temporary legislative and programmatic measures that are mandated by the Constitution and CEDAW to address the structural and historical imbalances and inequities that women labor under because of their gender.

³⁴ Ibid, Para (58).

PART IV:

MECHANISMS OF ENFORCEMENT AND MONITORING

The following proclamations establish the mechanisms of enforcement and monitoring of progress made to translate international agreements and treaties into domestic laws and practices. Each of the proclamations identified below are addressed in the sections that follow:

- Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018
- Ethiopian Human Rights Commission Establishment Proclamation No. 210/2010, and amended by Proclamation No. 1224/2020
- Institution of the Ombudsman Establishment Proclamation No. 211/2000
- Central Statistics Agency Establishment Proclamation No. 442/2005
- Census Commission Reestablishment Proclamation No. 449/2005
- Federal Courts of Sharia Consolidation Proclamation No. 188/1999.
- Federal Courts Proclamation Reamendment Proclamation No. 454/2005

States Parties to CEDAW are obligated to include the adoption of a comprehensive policy on women and designate an empowered agency within the Executive that “will take initiatives, coordinate and oversee the preparation and implementation of legislation, policies and programmes necessary to fulfill the obligations of the State Party under the Convention.”³⁵ The UN Committee on the Elimination of Discrimination Against Women also noted that

“the policy should ensure that independent monitoring institutions, such as national human rights institutes or independent women’s commissions . . . receive a mandate to promote and protect the rights guaranteed under the Convention.”³⁶

Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018

Article 10(1)(3) of the Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018 mandates that every ministry of the Federal Government “ensure that the policies, laws, development programs and projects it formulates benefit women, children, and youth.” In other words, this Proclamation ensures the participation of women in political, economic and social spheres of society.

More specifically, Article 28 of the Proclamation establishes the MoWCY and designates it as the focal agency of the Federal Executive Branch that is mandated to design, facilitate, lead and coordinate on women’s issues and monitor relevant interventions. MoWCY’s functions include: study and design affirmative action plans and mechanisms to overcome discriminatory practices that negatively impact women and girls; collect data and information on women and girls, including the status of their lives and roles in society; and design evidence-based projects and approaches to ensure gender mainstreaming by government agencies. Despite such extensive powers, Proclamation 1097/2018 does not have an explicit provision on the role of the MoWCY to coordinate

³⁵ UN Committee on the Elimination of Discrimination Against Women. Paragraph 28 “General recommendation No. 28 on the core obligations of States Parties under Article 2 of the CEDAW.” UN Doc No CEDAW/C/GC/28, 2010.

³⁶ Ibid.

actions of public and private agencies in addressing women's issues; although the Proclamation does provide the MoWCY with a coordinating role as it relates to children (Article 28(1)(m)).

Ethiopian Human Rights Commission Establishment Proclamation No. 210/2010, as amended by Proclamation No. 1224/2020 and Institution of the Ombudsman Establishment Proclamation No. 211/2000

In Ethiopia, there are two entities that comprise the system of national human rights institutions – Human Rights Commission and the Institution of the Ombudsman. The Ethiopian Human Rights Commission is established by Proclamation No. 210/2010, and amended by Proclamation No. 1224/2020. Article 5 of Proclamation 210/2010 defines the objectives of the Ethiopian Human Rights Commission as “to educate the public to be aware of human rights, see to it that human rights are protected, respected and fully enforced, as well as to have the necessary measure taken where they are found to have been violated.” Article 6 grants the Ethiopian Human Rights Commission the powers and responsibilities of, *inter alia*, to: ensure respect for the human rights and freedoms provided for in the Constitution; ensure that laws, regulations and directives respect human rights; educate the public about human rights; and investigate human rights violations.

Article 5 of the Institution of the Ombudsman Establishment Proclamation No. 211/2000 sets the objectives of the Institution of the Ombudsman as “bringing about good governance that is of high quality, efficient and transparent, and . . . based on the rule of law by . . . ensuring that citizens' rights and benefits provided by law are respected by organs of the executive.” According to Article 6, the Institution of the

Ombudsman has the power to investigate and remedy violations of maladministration, i.e., inefficient or dishonest administration or mismanagement.

Proclamations No. 210/2010 and 211/2000 share similar features regarding the organization and processes of the two human rights institutions. The Ethiopian Human Rights Commission has a Commissioner, whereas the Institution of the Ombudsman has an Ombudsperson specifically responsible for women and children. Still, however, neither proclamation outlines the responsibilities or powers of these leadership positions in ensuring the rights of women, nor do they have detailed provisions on the responsibilities of the respective institutions to promote and protect women's rights. Nevertheless, both the Human Rights Commission and the Institution of the Ombudsman have the powers to receive, investigate and remedy complaints of rights violations.³⁷

Despite the establishment of positions responsible for women and children in the Human Rights Commission and Institution of the Ombudsman, there are no legal requirements for gender parity in appointments to these institutions.³⁸ To some extent, the Ethiopian Human Rights Commission Establishment, as amended by Proclamation No. 1224/2020 attempts to address this gap by introducing a new provision regarding the composition of the Nomination Committee established to select candidates for appointment as Chief and Deputy Chief. Accordingly, revised Article 11(3) of the Commission's Establishment Proclamation requires the Nomination Committee to ensure that the list of nominees it presents to Parliament “to the extent possible . . . take(s) into consideration gender diversity and representation from different parts of the country.”

Furthermore, although neither proclamation establishes specific processes, mechanisms or protections to ensure accessibility of complaint procedures to

37 Articles 22 to 28, Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000 and Articles 22 to 28, Institution of the Ombudsman Establishment Proclamation No. 211/2000.

38 Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No. 1224/2020 introduced a new provision regarding the composition of the Nomination Committee established to select candidates for appointment as the Chief, Deputy Chief and sector (including women and children's rights) Human Rights Commissioners. According to revised Article 11(3), Proclamation, the Nomination Committee is required to ensure that the list of nominees it presents to Parliament “to the extent possible . . . take [s] into consideration gender diversity and representation from different parts of the country.”

women or to be responsive to gender, the Ethiopian Human Rights Commission Establishment, as amended by Proclamation No. 1224/2020 does provide for the extension of the witness protection scheme established under the Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010.³⁹

Central Statistics Agency Establishment Proclamation No. 442/2005 and Census Commission Reestablishment Proclamation No. 449/2005 and Census Commission Reestablishment Proclamation No. 449/2005

MoWCY has the responsibility of gathering and disseminating data and information about the status of women in Ethiopia; however, Proclamation No. 449/2005 does not provide clarification as to the type of data and information that MoWCY should gather or the mechanisms for gathering such data and information. It is a challenge for MoWCY to measure the status of women in society and to identify issues relevant to women and girls in public and private spaces, as well as to measure progress and shortfalls in women's abilities to realize their full potential. To do so requires sex-disaggregated data, some of which are sensitive in nature (e.g., data on VAWG and HPs), which are lacking in Ethiopia.

Given this context, the UN Committee on the Elimination of Discrimination Against Women recommended that “States Parties should make every effort to ensure that their national statistical services [see to it that] data can be segregated according to gender.” In fact, the BPfA identified generating and disseminating “gender disaggregated data and information for planning and evaluation” as one of its strategic objectives.⁴⁰

In Ethiopia, there are two entities that are responsible for collecting national demographic data in Ethiopia – the Central Statistics Agency (CSA) and the Census

Commission. The CSA was established under Central Statistics Agency Establishment Proclamation No. 442/2005. Article 6 of Proclamation No. 442/2005 defines the CSA as responsible for collecting demographic data and providing support to government agencies to analyse and disseminate data. There is no requirement of the CSA to ensure sex-disaggregated data and statistics are gathered or used to inform national, regional and local planning. In addition, the Census Commission was established under the Census Commission Reestablishment Proclamation No. 449/2005. In keeping with this Proclamation, the Census Commission is required to collect and present census data disaggregated by sex. This mandate falls short of the recommendations offered by the UN Committee on the Elimination of Discrimination Against Women and BPfA that sex-disaggregated data are systematically collected, analysed and disseminated for purposes of monitoring the status of women in society, and to support gender-responsive planning and budgeting to advance GEWE in society.

Federal Courts of Sharia Consolidation Proclamation No. 188/1999

Article 79(1) of the FDRE Constitution gives judicial power to the courts and other judicial bodies, whereas Article 34(5) acknowledges the rights of disputing parties to have their cases on matters of personal and family law adjudicated by customary or religious courts, if they so desire. While Article 78(4) of the FDRE Constitution vests judicial power only in regular courts and prohibits the establishment of special or ad hoc courts, Sub-article 5 allows the Federal House of Representatives and State Councils to establish religious or customary courts.

The only religious courts that exist in Ethiopia are Sharia courts, which were established pursuant to Federal Courts of Sharia Consolidation Proclamation No. 188/1999. Sharia courts have jurisdiction over issues that are fundamental to women's lives and security, such as “any question regarding marriage,

39 Article 25(4), Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000 as amended by Article 10, Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No. 1224/2020.

40 UN Beijing Declaration and Platform of Action adopted at the Fourth World Conference on Women, 27 October 1995, paragraphs 206-207.

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” (Article 4). More specifically, Article 4(5) of Proclamation No. 188/1999 rules that Sharia courts can have jurisdiction “only where . . . the parties [to a case] have expressly consented to be adjudicated under Islamic law.” This requires the consent of both parties to have a Sharia court adjudicate their dispute, if the dispute relates to marital, personal and/or family rights. In practice, however, women may succumb to cultural and familial pressures to accept settlement of their dispute before a Sharia court.

In considering Ethiopia’s Country Report under the International Covenant on Civil and Political Rights, the Human Rights Committee observed:

“While acknowledging that submissions to sharia courts can only happen with the consent of the parties, the Committee remains 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 on Civil and Political Rights is not part of the laws applied by the sharia courts.”⁴¹

It is notable that Federal Sharia Courts Consolidation Proclamation No. 188/1999 does not explicitly require Sharia courts to conform to the FDRE Constitution, including human rights provisions that provide for the rights and protection of women. In addition, there is no explicit provision in the law empowering regular courts to review decisions of Sharia courts when the decisions of a Sharia court violate the fundamental principles of the FDRE Constitution.

Another area of concern is Article 5(2) of Proclamation No. 188/1999 which provides for the jurisdiction of a

Sharia court, where one of the parties is served with a summons of the Sharia court, but fails to appear before the court to register their objection to the jurisdiction of the court. In light of strong cultural pressures that women may be subjected to if they object to the jurisdiction of the Sharia court, the provision is likely to subject women to the jurisdiction of the Sharia court, when in reality, resorting to the civil courts is more likely to ensure women’s rights.

RECOMMENDATIONS

1. Legal reform measures should aim at clarifying and strengthening the coordination role the MoWCY in realizing the rights of women and monitoring women’s status in society. In relation to national human rights institutions, such measures should aim to ensure that the processes and mechanism of these institutions serve to ensure women’s rights and encourage gender parity in women’s representation and participation in politics and governance.
2. In addition, laws establishing national statistical bodies should be amended to ensure the collection, analysis and dissemination of sex-disaggregated data, and data that accurately documents the status of women in society.
3. Article 28 of the Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018 should be amended to clearly stipulate the national coordination role of MoWCY in relation to women, and ensure the provision of financial, human and technological resources needed to effectively carry out such a role.
4. Ethiopian Human Rights Commission Establishment Proclamation No. 210/2010 and Institution of the Ombudsman Establishment Proclamation No. 211/2010 should be amended to: legally establish the powers and responsibilities of the Commissioner for Women and Children and the Ombudsperson for Women and Children; and establish mechanisms and procedures to proactively promote, investigate and remedy violations of women’s rights.

41 UN Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding Observations of the Human Rights Committee*, Ethiopia. 102nd Session, Geneva, 11-29 July 2011. CCPR/C/ETH/CO/1 para. 22.

5. Central Statistics Agency Establishment Proclamation No. 442/2005 and Census Commission Reestablishment Proclamation No. 449/2005 should be amended to ensure that data collected and analysed, and statistics generated and disseminated by the CSA and Census Commission are sex-disaggregated and portray the status of women in society.
6. Federal Courts of Sharia Consolidation Proclamation No.188/1999 and Federal Courts Proclamation Reamendment Proclamation No.454/2005 should be amended. Legal reform measures related to Sharia courts should be aimed at ensuring that the application of Islamic Law by Sharia courts does not violate the rights of women enshrined in the FDRE Constitution. Legal reforms should also provide for effective mechanisms of reviewing the decisions of Sharia courts to ensure that they conform to the fundamental principles of the Constitution, including those of equality and non-discrimination. Accordingly, the law on Sharia courts should be amended to require that the courts ensure that their processes and decisions respect the human rights provisions of the FDRE Constitution. Similarly, the law on the powers of the Federal Supreme Court, and especially its Cassation Division, should be amended to clearly provide for the review power of the Federal Supreme Court over decisions of Sharia courts when the latter violate the principles of equality and non-discrimination, and human rights provisions provided for in the FDRE Constitution.

PART V:

WOMEN'S POLITICAL AND CIVIC PARTICIPATION AND REPRESENTATION

The following laws formalize women's rights to political and civic participation and representation. Each of the laws identified below are addressed in the sections that follow:

- FDRE Constitution
- Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation No. 1162/2019
- Federal Civil Servants Proclamation No. 1064/2017
- Federal Judicial Administration Council Establishment Proclamation No. 684/2010
- Foreign Service Proclamation No. 790/2013

Empowering women as political actors can transform policy choices and help to ensure institutions are more representative of the communities and populations they serve and address issues the impact women's lives. For example, in India, women's representation in local governments has increased; as a result, both men and women in communities have seen improved access to sanitation, water and irrigation. These are issues that women representatives have advocated for improving because they impact the greatly impact women's lives.

Research also demonstrates that women's representation in politics has helped to reduce corruption and increase the number of reports of incidents of VAWG. In Moreso, Ethiopia, where women have long held leadership positions, communities have seen the intergenerational impact and benefits of having women in leadership positions in local government. For instance, women role models in leadership position can help to break the intergenerational transmission of stereotypical gender norms, thus breaking the cycle of women's subordination and underdevelopment.

For instance, a study in India shows that quotas for women's representation and participation in local government has helped to ensure that there are females in leadership positions, providing girls and young women with female role models who can inspire them to postpone marriage and pursue higher education, employment and careers.

Article 4 of CEDAW states that "temporary special measures aimed at accelerating de facto equality before men and women shall not be considered discrimination." This means that measures, such as quotas requiring 50 per cent of seats be allocated to women in parliament are permitted under human rights law. Such guarantees of gender parity helps to improve women's representation and participation in politics and governance, and opportunities for gender equality. In addition, General Recommendation No. 25, on Article 4 of CEDAW, on temporary special measures, clarifies the nature and meaning of Article 4, paragraph 1, in order to facilitate and ensure its full utilization by States Parties in the implementation of the Convention. The UN Committee on the Elimination of Discrimination Against Women encourages "States Parties to translate this general recommendation into national and local languages and to disseminate it widely to the legislative, executive and judicial branches of government, including their administrative structures, as well as civil society, including the media, academia, and human rights and women's associations and institutions."

In addition, Article 2(b) and (e) of CEDAW obligates 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.” Likewise, Article 3 reaffirms the commitment to take all appropriate measures in political, social, economic and cultural spheres, as well as legislation, to ensure the full development and advancement of women. Together, Articles 2, 3 and 4 create an obligation to implement affirmative action policies that benefit women in an effort to end discrimination against women.

FDRE Constitution

The FDRE Constitution is aligned with CEDAW and is committed to political and public participation and representation of women. In particular, Article 35(3) of the FDRE Constitution recognizes the rights of women to temporary remedial measures to overcome historical legacies of inequality and discrimination, and to ensure their equal participation in political, economic and social life in public and private spheres. Article 35(3) is aligned with Article 8 of CEDAW which requires States Parties to the treaty to “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.”

As previously mentioned, globally, Ethiopia is one of few countries that has achieved gender parity in the Federal Cabinet, where women hold the positions of President and Chief Justice. The country’s new Prime Minister, Abiy Ahmed, has made gender equality in politics a part of the country’s new political agenda. According to IPU, as of 1 April 2021, Ethiopia ranked 31st in women’s representation in Parliament.⁴² In 2018, Ethiopia’s new Cabinet made history for women in government with 50 per cent of the Cabinet being female; making Ethiopia the second country in Africa, after Rwanda, to have gender parity in the country’s Cabinet.⁴³

Ethiopian Electoral, Political Parties Registration and Election’s Code of Conduct Proclamation No. 1162/2019

Article 74(4) of the Ethiopian Electoral, Political Parties Registration and Election’s Code of Conduct Proclamation No. 1162/2019 requires that elections for leadership positions within a party need to ensure gender representation. Article 100(2)(c) and (d) of this Proclamation also mandate that government subsidy to a party will take into account the number of women members and leaders of that party, as well as the number of women candidates the party fields in an election.

Despite this Proclamation, women are most often empowered through informal community networks and local support. There are a range of issues that impact young girls and women, including VAWG and HPs (e.g., child/early marriage). In Ethiopia, CSOs provide counseling, temporary refuge and income-generating opportunities to VAWG survivors; however, there needs to be more formal dedication from local communities to protect women and girls and at-risk communities.

Article 69(1)(c) of the Proclamation No. 1162/2019 cites discrimination based on ethnicity, religion and identity. This Proclamation also cites the promotion of interethnic, interreligious or other forms of violence as grounds for denying the registration of a political party. While it has been argued that gender discrimination or denigrating women are implied in this Proclamation, these concepts are not explicitly included as grounds for denying the registration of a party.

42 International Parliamentary Union (IPU) Parline, *Global Data on National Parliaments: Monthly ranking of women in national parliaments*. Retrieved on 23 May 2021 from: [Monthly ranking of women in national parliaments | Parline: the IPU's Open Data Platform](#)

43 “Ethiopia’s Abiy gives half of ministerial posts to women.” BBC News, 16 October 2018. Retrieved on 23 May 2021 from: [Ethiopia’s Abiy gives half of ministerial posts to women - BBC News](#)).

Federal Civil Servants Proclamation No. 1064/2017

Recently enacted, Federal Civil Societies Proclamation No. 1113/2019 provides a conducive legal environment for CSOs, including women's organizations and networks, to engage in promoting the rights and interests of women by removing previous restrictions on the ability of CSOs to raise and utilize funds from international sources for such activities. Steps should be taken to identify ways to enhance the role of law and policy to strengthen women's organizations and networks by availing them access to public funding and public facilities, and mandating their participation in local and national decision-making processes.

While gender parity has been achieved in the Cabinet and women's representation in Parliament is considerable, there are no legal requirements for gender parity within the legislative or executive branches of government. In 2019, the UN Committee on the Elimination of Discrimination Against Women Concluding observations and recommendations to Ethiopia welcomed measures to enhance women's political participation, including the appointment of women to high positions, such as President of the Republic, Federal Supreme Court and Chair of the National Election Board (NEB). The Committee also expressed concern that women remain "underrepresented in permanent positions of the civil service, managerial positions and in the diplomatic and judicial service."⁴⁴

Among the challenges is that laws on the appointment of judges and recruitment of civil servants and foreign service officers does not have any requirements to ensure gender parity within the judiciary or the civil and foreign services.

Foreign Service Proclamation No. 790/2013

Article 21(1)(e) of the Foreign Service Proclamation No. 790/2013 has a provision that precludes persons living with HIV from joining the foreign service; thus, perpetuating stigmatization and discrimination against persons with HIV, including women living with HIV.

RECOMMENDATIONS:

1. A constitutional or legal requirement, such as an affirmative action quota for women, that mandates women's representation in all elected and appointed political positions at all levels of government is needed.
2. Amendments are needed to the Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation No. 1162/2019, Federal Civil Servants Proclamation No. 1064/2017, Federal Judicial Administration Council Establishment Proclamation No. 684/2010 and Foreign Service Proclamation No. 790/2013 to include requirements for gender equality, such as achieving gender parity in the appointment of judges, civil servants and foreign service officers.
3. Amendments are needed to Article 69(1)(c) of the Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation No. 1162/2019 to explicitly include gender discrimination as ground for denying the registration of a party.
4. Article 21(1)(e) of the Foreign Service Proclamation No. 790/2013 should be repealed to eliminate HIV as a ground to preclude employment in the Foreign Service.

44 UN Committee on the Elimination of Discrimination Against Women Concluding observations on the eighth periodic report of Ethiopia, 14 March 2019, CEDAW/C/ETH/CO/8 at paragraph 27

PART VI:

NATIONALITY AND CIVIL REGISTRATION

The following laws formalize nationality and civil registration. Each of the laws identified below are addressed in the sections that follow:

- FDRE Constitution
- Ethiopian Nationality Proclamation No. 378/2003
- Registration of Vital Events and National Identity Cards Proclamation No. 760/212
- Refugees Proclamation No. 1110/2019

FDRE Constitution and Ethiopian National Proclamation No. 378/2003

Article 6 of the FDRE Constitution recognizes that “any person of either sex shall be an Ethiopian national where both or either parent is Ethiopian.” Article 33 of the FDRE Constitution and the Ethiopian Nationality Proclamation No. 378/2003 gives Ethiopians the right to maintain and/or change their nationality. Women have the right to maintain their Ethiopian nationality and to pass on their nationality to their foreign spouses. It should be noted, however, that although provisions of this Proclamation are understood to be applicable to both men and women, the law uses the masculine pronoun. Unlike other laws, including the FDRE Constitution, Proclamation No. 378/2003 does not include a provision extending the use of the masculine pronoun to apply to the feminine gender.

Registration of Vital Events and National Identity Cards Proclamation No. 760/212

Registration of Vital Events and National Identity Card Proclamation No. 760/2012 aims to ensure the availability of regularly updated and reliable statistical data to make relevant policy and decision-making. This Proclamation establishes compulsory, permanent and universal registration and certification of vital events, including birth, death, marriage and divorce. The Vital Events Registration Agency was established to direct, coordinate and support the registration of vital events nationally.

Article 57(2)(g) of this Proclamation lists ethnicity and religious affiliation among the required particulars to be included in the registration of national identity. While there does not seem to be any compelling reason for the inclusion of ethnicity and religious affiliation on the national identity card, it should be noted that ethnic and religious attacks have been occurring in Ethiopia, making this provision a potential danger to registrants, including women.

Refugees Proclamation No. 1110/2019

Refugees Proclamation No. 1110/2019 regulates the conditions under which refugee status is granted in Ethiopia. Article 4 of this Proclamation prohibits discrimination based upon “race, religion, nationality, membership of a particular social group or political opinion or other similar group.” Similarly, Article 5(1) (a) establishes that refugee status is granted to those who demonstrate credible fear of prosecution on the grounds of “race, religion, nationality, membership of a particular social group or political opinion.”

In line with the OAU Refugee Convention, Article 5(1) (c) of Proclamation No. 1110/2019 extends refugee status to those displaced due to national or man-made disasters. In this regard, the Proclamation is aligned with international and regional instruments on refugees. The UN Committee on the Elimination of Discrimination Against Women, however, has noted that “gender-related forms of persecution are forms of persecution that are directed against a woman, because she is a woman, or that affect women disproportionately.”⁴⁵

RECOMMENDATIONS

1. Ethiopian Nationality Proclamation No. 378/2003 should be amended to replace masculine pronouns with gender neutral language.
2. Refugees Proclamation No. 1110/2019 should be amended to recognize GBV and other forms of discrimination as grounds for granting refugee status.
3. This legal review also highlights the need to repeal Article 57(2)(g) of Registration of Vital Events and National Identity Card Proclamation No. 760/2012 in order to eliminate ethnic and religious affiliation as particulars included on national identity cards.

⁴⁵ UN Committee on the Elimination of Discrimination Against Women, General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, 14 November 2014. CEDAW/C/GC/32 paragraph 12.

PART VII:

VIOLENCE AGAINST WOMEN, HARMFUL PRACTICES AND TRAFFICKING IN PERSONS

The following laws address VAWG, HPs and trafficking in persons. Each of the laws identified below are addressed in the sections that follow:

- Constitution of the FDRE, 1995
- Revised Criminal Code (RCC) of 2004
- Criminal Procedure Code of Ethiopia Proclamation No. 185/1961
- Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010
- Revised Family Code (RFC) Proclamation No. 213/2000
- Civil Procedure Code
- Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015
- Labor Proclamation No. 1156/2019
- Federal Civil Servants Proclamation No. 1064/2017
- Employment Exchange Services Proclamation No. 632/2009
- Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018
- National Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015

Ethiopia's constitutional commitments to protect women from violence are aligned with international and regional human rights treaties that Ethiopia has ratified. For instance, Article 5 of the UDHR, to which Ethiopia is a signatory, prohibits torture, cruel or degrading treatment or punishment. Similarly, Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment obligates Party States to prevent torture, which is defined as "any act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person . . . for any reason based on discrimination of any kind." The Committee against Torture has acknowledged that gender plays a key role in the implementation of the Convention, as being female intersects with other identifying characteristics. Thus, women and girls may be subject to violations of the Convention against Torture on the basis of their actual or perceived non-conformity with socially determined gender roles.⁴⁶

In 1993, the Vienna Declaration and Program of Action on Human Rights, adopted by the World Conference on Human Rights in Vienna, 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."⁴⁷ That same year, the UN Declaration on the Elimination of

46 UN Committee against Torture. General Comment No. 2, Implementation of article 2 by States parties. 24 January 2008, CAT/C/GC/2, para. 22.

47 UN. World Conference on Human Rights: The Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23, para. 18.

Violence Against Women (DEVAW) adopted by the UNGA reinforced the need for states to develop comprehensive legal, political, administrative and cultural programmes to prevent VAWG, as well as to provide training to law enforcement officials and to collect statistics about incidence of acts of VAWG. DEVAW defines VAWG 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.”⁴⁸

Although CEDAW does not explicitly address the subject of VAWG, VAWG constitutes a form of discrimination experienced by women and girls.⁴⁹ CEDAW General Recommendation No. 35 on GBV against Women, updating General Recommendation No. 19, frames VAWG within the overall context of discrimination against women as defined by CEDAW in UNGA Resolution 34/180. CEDAW General Recommendation No. 35 also emphasizes that specific acts of VAWG can amount to torture or cruel, inhuman or degrading treatment as defined in the Convention against Torture. These acts include:

“Violations of women’s sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of GBV that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.”

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

To combat such violence, CEDAW General Recommendation No. 19 provides that States Parties establish support services for victims of family violence, rape, sexual assault and other forms of GBV, including refugee services. The UN Committee on the Elimination of Discrimination Against Women also urges States Parties to place high priority on implementing comprehensive measures to address VAWG, and to enact legislation on domestic violence to ensure that women and girls who are victims of violence have access to immediate means of redress and that

⁴⁸ UN General Assembly, Declaration on The Elimination of Violence Against Women, 20 December 1993, A/RES/104.

⁴⁹ Article 2, CEDAW obligates States Parties to condemn discrimination against women in all its forms, and agree to pursue by all appropriate means, and without delay, a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.

criminal penalties are applied when necessary, and civil remedies are provided.⁵⁰

In addition, CEDAW General Recommendation No. 12, requires States Parties to protect women against violence of any kind occurring within the family, at the workplace or any other area of social life. It also recommends that periodic reports provide information on the legislation in force to protect women against violence in everyday life, including sexual violence, abuses in the family and sexual harassment at the workplace.⁵¹ DEVAW also prohibits sexual harassment at work, in educational institutions and elsewhere, and encourages development of penal, civil and other administrative sanctions, as well as preventative approaches to EAWG. In 1995, the BPfA also recognized sexual harassment as a form of VAWG and discrimination, and called on governments, 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.⁵²

In November 2018, the UNGA adopted its first ever resolution on sexual harassment, intensifying efforts to prevent and eliminate all forms of VAWG. The Resolution calls on States Parties to adopt codes of conduct and reporting mechanisms based on zero tolerance for sexual harassment and other forms of VAWG, and to develop comprehensive legislation addressing sexual harassment. The Resolution noted there are different forms sexual harassment, including sexual harassment perpetrated by school staff (e.g., teachers and other students) and that occurs in digital contexts, especially on social media and through trolling, cyber-bullying and other forms of cyber-harassment, as well as unwanted verbal and non-verbal conduct of a sexual nature with a view to discrediting women and girls and/or inciting other violations and abuses against them.

More recently, the International Labour Organization's (ILO's) Violence and Harassment Convention, 2019 (No. 190) aims to secure "a general environment of zero tolerance to violence and harassment in order to facilitate the prevention of such behaviour and practices, and that all actors in the world of work must refrain from, prevent and address violence and harassment."⁵³

It is well documented that sexual harassment has enormous social and economic costs for women, as it undermines women's professional and economic attainment, and contributes to declines in job satisfaction, organizational commitment, and performance and productivity. Sexual harassment also leads some women to leave the labour force.

Over the years, the AU has translated international conventions and treaties into regional treaties and protocols, such as the Maputo Protocol and the African Charter on the Rights and Welfare of the Child, to which Ethiopia is a signatory. At the regional level, the Maputo Protocol offers a comprehensive definition of VAWG:

"All acts perpetrated against women which causes or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restriction on or deprivation of fundamental freedoms in private or public life in peace time and during situation of armed conflict or of war."

50 General Recommendation 19, Article 16, Special Recommendation (all specifications (a) through (v)), and 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."

51 UN Committee on the Elimination of Discrimination Against Women, CEDAW General Recommendation No. 12: Violence against women, 1989; General Recommendation No. 12 (eight session, 1989).

52 UN, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 15 September 1995, A/CONF.177/120 (1995) and A/CONF.177/20/Add.1 (1995).

53 See the Preamble to the Violence and Harassment Convention, 2019 (No. 190).

Article 12(1)(a) of the Maputo Protocol also obligates States Parties to take 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.”⁵⁴

HPs, referred to in CEDAW Articles 2, 5 and 16, and the Convention on the Rights of the Child (CRC) Article 24(3), are also addressed in the Maputo Protocol. In particular, Article 1 of the Maputo Protocol defines HPs as, “All behavior, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity.” HPs includes, but is not limited to: acid violence; dowry and bride price; child marriage and forced marriage; marriage by abduction/rape; FGM; ‘honour’ crimes or honour killings; corrective rape; female infanticide; ritual sexual slavery; virginity testing; practices related to initiation or menstruation; some widowhood rituals; and accusations of witchcraft levied at older women. In an effort to end HPs, Article 5 of the Maputo Protocol imposes on States Parties the duty to take legislative and other measures to eliminate HPs. It also requires States Parties to provide health, legal, judicial and other appropriate support to victims, and protection of women from being subjected to HPs.

The Maputo Protocol also requires States Parties to “protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus.” The UN Committee

on the Elimination of Discrimination Against Women, in General Comment No. 35 on GBV, argued that violations of women’s sexual and reproductive health rights (SRHR) is a form of VAWG that depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.⁵⁵ Violations of women’s SRHR include, but are not limited to: forced sterilization; forced abortion; forced pregnancy; criminalization of abortion; denial or delay of safe abortion and post-abortion care; forced continuation of pregnancy; and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services.

In keeping with international law, Article 14(2)(c) of the Maputo Protocol requires states to interpret this provision. Similarly, the African Commission on Human and Peoples’ Rights noted that ‘health’ is about more than the absence of disease and infirmity, but refers to overall physical, mental and social well-being. In keeping, the Commission pointed out that States Parties have to refrain from “hindering directly or indirectly, women’s rights and to ensure that women are duly informed on family planning/contraception and safe abortion services, which should be available, accessible, acceptable and good quality.”

FDRE Constitution

The FDRE Constitution has very clear provisions that protect women from violence. In particular, Articles 14 to 17 recognize the rights of every citizen to life, security and liberty. In addition, Article 18 protects all citizens from cruel, inhumane and degrading treatment, and Article 26 protects the rights of all citizens to privacy. The most direct statement in the Constitution that prohibits VAWG is Article 38(4) that establishes that, “The State shall enforce the right of women to eliminate the influences of harmful customs” and “Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited.” Constitutional commitments to protect women from violence are reinforced by international

54 African Union, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, 11 July 2003, Article 12(1)(a)-(d)

55 UN Committee on the Elimination of Discrimination Against Women. General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. 14 July 2017. CEDAW/C/GC/35, para. 18.

and regional human rights treaties that Ethiopia has ratified.

Revised Criminal Code (RCC) of 2004

The protection of women from different forms of VAWG and HPs is addressed in numerous laws; but the main law is the RCC of 2004. Title IV of the RCC defines what is designated as “crimes against morals and the family.” Chapter I of Title IV details what the RCC considers to be crimes against morals and the family. This includes, but is not limited to: rape (Article 620); compelling a man to sexual intercourse (Article 621); sexual outrages accompanied by violence (Article 622); sexual outrages on unconscious or deluded persons, or on persons incapable of resisting (Article 623); sexual outrages on persons in hospital, interned or under detention (Article 624); taking advantage of the distress or dependence of a woman (Article 625); sexual outrages on minors between the ages of thirteen and eighteen years (Article 626); sexual outrages committed on infants (Articles 627); homosexual and other indecent acts (Article. 629); homosexual and other indecent acts performed on minors (Article 631); and sexual intercourse with an animal (Article 633).

The RCC represents improvements over its predecessor, the Penal Code of 1957. Still, however, there are a number of concerns with the RCC, particularly when viewed with a gendered lens. First and foremost, is the absence of any comprehensive definition of what constitutes VAWG. Many acts of violence committed against women, as defined in the RCC, are classified as offences against morals. This appears to be a remnant from the Penal Code of 1957, which similarly categorized many acts of violence committed against women and girls as offences against morals. As a result, Article 599 of the Penal Code of 1957 precluded the prosecution of offences when committed against women, if the perpetrator of the act was married to the victim of the crime. While the RCC does not espouse such preclusion, its categorization of these offences as “moral crimes” detracts from the gravity of the violence and serious danger that VAWG poses to the life and security of women, and threatens the public health and safety of society at-large.

Sex Crimes. Another area of concern in the RCC relates to the definition of rape under Article 620, which limits rape to sexual intercourse and excludes sex in the context of marriage. According to Article 620, the crime of rape can only be committed against a woman. Article 620 also sets a very high bar to establish that there was no consent; thus, the perpetrator is considered to have committed rape only if there is a clear act of violence or an act that incapacitates the victim or renders the victim unconscious. Short of this, the threat of violence or other harm will not constitute rape, unless it is ‘grave’. Thus, Article 620 sets a standard that does not take into account how the victim experiences or assesses the threat of harm.

According to Article 621, a woman can compel a man to sexual intercourse, but the punishment imposed in such a case is a maximum of five years in prison; substantially less than if the act of rape were committed by a man against a woman, in which case the punishment is no less than five years with a maximum of 15 years. No such gender distinction is evident in Article 622 that covers sexual acts other than intercourse; however, the punishment is much less than for rape, as defined in Article 620, even though the offender employs violence, grave intimidation and/or incapacitates the victim.

When the strict standards of Articles 620 and/or 621 are not met, and in the absence of violence, grave intimidation or incapacitation, the only recourse a non-consenting woman may have is Article 625. According to Article 625, a woman (not a man) who is forced by a man (not a woman) “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” to have intercourse or “any other indecent act” is punishable with simple imprisonment. Even worse, the crime will be prosecuted, not as a public offence, but as a private offense, only when the victim lodges a complaint.

Gendered differentiation is also visible in Article 626 on sexual crimes committed on children between the ages of 13 and 18 years. Under Article 262, a male offender can be imprisoned for up to 15 years, whereas a female offenders can be imprisoned for up to seven

years. A similar distinction is observed under Article 627, dealing with sexual outrages against children younger than 13 years of age, where a male offender can be imprisoned for 13 to 25 years, whereas a female offender can be imprisoned for no more than 10 years.

In addition, the RCC criminalizes homosexuality under Article 629, and increases the penalty for homosexual acts committed on minors, as per Article 631. Article 631 sets the minimum penalty at 13 years for male offenders, whereas limits the penalty to a maximum of 10 years for female offenders. There are similar gendered distinctions in Articles 587 to 590 as it relates to abduction of women and children, as well as Article 596 on enslavement, Article 597 on trafficking in women and children, and Article 598 on unlawful sending of Ethiopian for work abroad.

Harmful Practices (HPs). One of the major innovations introduced in the RCC is its explicit prohibition of HPs. Chapter 3 of Book V, Title I of the RCC specifically deals with HPs. Articles 561 and 562 of the RCC criminalize HPs committed on pregnant women and newly born children. Articles 565 and 566 criminalize female circumcision and the infibulation of the female genitalia. Article 567 is a catch-all provision that criminalizes all other HPs that result in bodily or mental injury. Finally, Article 568 deals with situations in which a HP results in transmitting a communicable disease, while Articles 569 and 570 criminalize participation in and incitement to perform HPs.

Domestic Violence. Another limitation of the RCC is the insufficient protection from domestic violence that it affords to women. Article 654 criminalizes domestic violence and recognizes as crime the infliction of bodily harm on a domestic partner, whether married or living together. Article 654 limits its protection to cases that rise to the level of grave or common injury that are included in other provisions of the RCC. In effect, the RCC fails to provide women with any more protection from domestic violence than those afforded under the other provisions of the RCC. Moreover, without a definition of domestic violence, these acts are limited to physical violence and do not cover other forms of violence, such as economic and psychological violence or stalking. It is also notable that the RCC

does not criminalize sexual harassment that takes place in the workplace or other environments.

Abortion. Abortion is not totally prohibited in Ethiopia; however, the limited circumstance under which abortions may be carried out are outlined in the RCC. Article 551 limits abortions to situations where 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 and/or mental disabilities, and for minors who are physically or psychologically unprepared to raise a child.

While Article 551 seems to align with Article 14(2)(c) of the Maputo Protocol, in reality, Article 551 is unnecessarily restrictive as it limits abortion to cases in which the life of the mother is at risk, rather than allowing the termination of pregnancy when the health and well-being of the mother demands it, as outlined in the Maputo Protocol.

Article 848 of the RCC also states, “Whoever, 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.”

Restrictions on Perpetrators. Another limitation of the RCC is that it has no provisions to provide care, sensitivity and protection to VAWG survivors. The RCC does, however, have preventive and protective measures aimed at limiting the ability of a perpetrator to commit further crimes, including against the victim. These include: guarantees of good conduct (Article 135); seizure of dangerous articles (Article 140); suspension and withdrawal of licenses (Article 1420); prohibition and closure of an undertaking (Article 143); prohibition from or restriction to specific places (Articles 145-147); and placement under supervision (Article 148). Theoretically, courts can impose these measures during the trial of GBV-related crimes or in conjunction with sentences passed on offenders; however, the absence of clear guidelines for applying these measures in VAWG cases means that, at best, their use is at the discretion of prosecutors and judges. In practice, these preventive measures are typically not applied in VAWG cases. Moreover, the focus of these preventive measures is on limiting perpetrators from committing further crimes, and not on providing

protection and care to crime victims, including VAWG survivors.

Extenuating Circumstances. Article 82 of the RCC defines the factors that should be taken into account in extenuating circumstances, such as reducing the punishment imposed on an offender. These include circumstances under which the offender was motivated by honorable, moral or civic convictions, or as a consequence of the so-called tempting behaviour of the victim. Article 82 opens the possibility for backward conceptions of moral and harmful traditional attitudes and practices, and sexist views that blame or fault women for their own victimization, which can be considered as factors in reducing penalties for perpetrators of GBV-related crimes committed against women. These victim-blaming practices should not be allowed to exist in laws, as they shift responsibility away from perpetrators and place blame on the victims, negating the negatives consequences and impacts of GBV on women and girls.

Criminal Procedure Code of Ethiopia Proclamation No. 185/1961

In Ethiopia, the laws that constitute the main framework of the criminal justice system are not mindful of the challenges that women face in reporting GBV-related crimes and preventing their further victimization during and after criminal investigation and prosecution. The psychological, economic and personal security harms that VAWG survivors experience do not end with the commission of the crime. Insensitive criminal justice procedures and processes executed by criminal investigators, prosecutors and judges often subject VAWG survivors to further trauma, expose them to retaliation by their perpetrators and mark them for social exclusion and negative labeling, which can deprive them of their means of livelihood and systems of support. Because of these realities, VAWG survivors are often reluctant to speak out or come forward and report GBV-related crimes or to actively participate in the investigation and prosecution of their cases.

The Criminal Procedure Code does not have provisions to provide care, sensitivity or protection to VAWG survivors, nor does it have any special procedures or processes for the investigation and prosecution of GBV-related crimes.

Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010

Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010 addresses the gap in the RCC and provides protection and care measures to victims of crimes, including GBV-related crimes. The protection and care measures under Proclamation No. 699/2010 include: physical protection of victims; providing victims a secure residence; concealing victims' identities; victim immunity from prosecution; hearing testimony in camera; and providing victims with information on the progress of investigation. The law also allows victims of crimes to be provided with transportation, relocation, monetary support, counseling, medical treatment, and assistance in seeking jobs and education.⁵⁶

Similar to the preventive measures of the RCC, theoretically, VAWG survivors may benefit from the protective and care measures of Proclamation No. 699/2010. However, the apparent gender-neutrality of provisions in this law not explicitly factor in the disadvantaged or vulnerable position of VAWG survivors. Thus, extension of these measures to survivors of GBV-related crimes is at the discretion of administrative agencies. In addition, protection and care measure become operational only in cases of offences that are punishable by at least ten years of rigorous imprisonment or death; thus, excluding many GBV-related crimes.

Revised Family Code (RFC) Proclamation No. 213/2000

In keeping with international and regional conventions, marriage must be entered into with the free and full consent of both parties, and States must specify a minimum age for marriage and make registration

⁵⁶ Article 4(1), Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010.

of marriages mandatory. In essence, marriage and betrothal of children is prohibited and States are required to take legislative and law enforcement measures to see to it that children are not subjected to marriage. These formal requirements are largely reflected in Ethiopia's federal and regional laws, which have raised the age of marriage to 18 years. The RFC, however, has provisions on exceptions that allow this requirement to be waived. Federal and Regional Attorney Generals may grant an exemption which allows a person 16 years of age to marry; this exception is also reflected in Article 648 of the RCC, which criminalizes early marriage, except "under circumstances permitted by relevant Family Code." Tigray Regional State, is the only regional state with a Family Code that does not have a similar exemption.

Such legislative exceptions to the minimum age requirement of 18 years for marriage is a violation of Ethiopia's international and regional commitments to the rights of children and women. For instance, Paragraph 18 of the Joint General Comment of the Maputo Protocol and the African Committee of Experts on the Rights and Welfare of the Child on Ending Child Marriage elaborate the legislative obligation of States Parties to prohibit child marriage, without exception, and to grant precedence to such prohibition over customary, religious, traditional and sub-national laws and practices.

Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015

Two provisions of the RCC, Articles 587 and 635 deal with the abduction of women and human trafficking respectively; these Articles are supplemented by the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015. Proclamation No. 909/2015 introduces clear provisions and stringent penalties, including a fine of up to 500,000 Ethiopian Birr or the death penalty in cases where the victim suffers severe injury or death.

Proclamation No. 909/2015 also provides victims of human trafficking and smuggling with immunity, to encourage victims to report offenses and collaborate with prosecutors in providing evidence. The law also ensures victims of human trafficking and smuggling are provided with protection against trafficking and support services, including repatriation and reunification with their families, as well as reintegration into society. In particular, Proclamation No. 909/2015 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."⁵⁷

Proclamation No. 909/2015 also establishes a fund to prevent and rehabilitate victims. The fund is subsidized by the government, grants and voluntary contributions, as well as proceeds from properties confiscated from perpetrators. This Proclamation also provides for cooperation with destination and transit countries.

The Human Rights Committee expressed concern about the prevalence of trafficking in persons in Ethiopia, and the lack of information on investigations and prosecutions of trafficking in persons cases and the protection of survivors' rights. The Committee stated in its concluding observations that Ethiopia should reinforce its measures to combat trafficking in women and children, prosecute and punish perpetrators, and put in place strong programmes to support survivors rights. Similarly, the UN Committee on the Elimination of Discrimination Against Women Concluding observations were to revise Proclamation No. 909/2015 to align with international agreements outlined in the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and to ensure that the law is adequately implemented and enforced. Concluding observations also identified that need for local law enforcement and border authorities to be specially trained to identify women and girls who are

57 Article 72(3), Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015.

victims of human trafficking and sexual exploitation, and ensure that referrals are made to services (e.g., shelters, medical care, psychological counselling, legal aid and rehabilitation services) and criminal laws are properly applied.

Labor Proclamation No. 1156/2019 and Federal Civil Servants Proclamation No. 1064/2017

Labor Proclamation No. 1156/2019 and Federal Civil Servants Proclamation No. 1064/2017 define sexual harassment. Article 2(11) of Labor Proclamation No. 1156/2019 defines sexual harassment as “an act committed with the intention to persuade or convince another to sexual relations.” As such, it excludes abusive and harassing communication, actions and behaviors that create an atmosphere of discomfort, fear and pain. In comparison, the definition of sexual harassment in Federal Civil Servants Proclamation No. 1064/2017 is more complete and includes “any unwelcome sexual advance or request or other verbal or physical conduct of a sexual nature.” While both laws prohibit sexual harassment in the workplace, neither of these are penal law; thus, they do not criminalize sexual harassment.

In 2019, the UN Committee on the Elimination of Discrimination Against Women Concluding observations and recommendations noted that Ethiopia needs to effectively implement Proclamation No. 1064/2017 and ensure that victims of sexual harassment in the workplace have access to effective complaint procedures, protection measures and recourse to remedies, as well as ensure that perpetrators are prosecuted and punished appropriately. The Committee also noted that women domestic workers should be guaranteed the same level of protection and benefits as other workers, and there is a need to strengthen efforts to protect women domestic workers from abusive and exploitative working conditions.

Employment Exchange Services Proclamation No. 632/2009

Ethiopia has laws relating to employment and migration that provide a measure of protection against violence; however, the Employment Exchange Services Proclamation No. 632/2009 is weak. This Proclamation does not have strong mechanisms for following up on or enforcing the obligations of employment agencies to protect migrant workers from violence, nor does it provide any protection to pregnant women workers.

Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018 and National Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015

Women are particularly at risk of victimization in situations of disaster and conflict. Approaches to assessing risks of victimization and designing mechanisms to respond to VAWG survivors in situation of disaster and conflict should be attuned to the impacts of being a woman and the role of gender relations in these situations. As per Article 13 of the Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018, the Ministry of Peace is the main federal executive body responsible for assessing risks for and responding to disasters and conflicts in the country. In accordance with Article (10) (3) of Proclamation No. 1097/2018, while the Ministry of Peace has the overall responsibility of protecting the rights and interests of women in all its activities, there is no legal requirement for a gendered approach to disaster and conflict risk assessment and response. This is also evident in the National Disaster Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015.

RECOMMENDATIONS:

This legal review and analysis highlights the need for legal reforms and repeals, and the development of new comprehensive laws on VAWG.

1. The RCC and Criminal Procedure Code need to be revised and amended, along with Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010. Revision and amendments should include the following:
 - a. Streamline the definition of sexual crimes in a manner that reflects the experiences of women victims of sexual crimes.
 - b. Eliminate unnecessary and unjustifiable gender differences in the RCC and CPC.
 - c. Criminalize sexual harassment in places of work, education and other public places.
 - d. Provide for gender sensitive procedures, processes and institutional set ups for reporting, investigation, prosecution, and court proceeding related to GBV crimes.
 - e. Provide procedures and mechanisms of protection and care to survivors of GBV crimes during criminal processes by explicitly extending the prevention, protection, and care provisions of the RCC and Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010 in cases of GBV crimes.
 - f. Article 565 of the RCC 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. The penalty for cases of FGM should be one that effectively de-incentivize the perpetrators of FGM.
 - g. Article 561 of the RCC should clearly define HP as prohibited by Article 5 of CEDAW. While it may not always be possible to exhaustively and conclusively list all actions that constitute harmful practices, it is possible to identify the core elements of discriminatory actions that are justified as cultural and traditional. The Joint General Recommendation No. 31 of the UN Committee on the Elimination of Discrimination Against Women and General Comment No. 18 of the Committee on the Rights of the Child on HP can be useful in this regard.
2. Article 11 (2) of the Labor Proclamation No. 1156/2019 should also be amended to provide a more complete definition of “sexual harassment” that aligns with the definition of sexual harassment under Article 2(13) of Federal Civil Servants Proclamation No. 1064/2017.
3. Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015 should be amended to align with international standards, such as the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, to ensure the law is adequately implemented and enforced. Moreover, the following reforms are also suggested:
 - a. Define trafficking to include trafficking into forced marriage.
 - b. Provide a special prosecution agency or department to actively investigate, prosecute and punish those involved in trafficking in persons.
 - c. Provide provisions in the law to exempt trafficking survivors from prosecution and further victimization.
 - d. Ensure that trafficking survivors have the opportunity to seek remedies and redress for the human rights violations they have suffered.
 - e. Protect women’s rights and address the inequality in status and opportunity that makes women vulnerable to trafficking in persons and other forms of violence, abuses and exploitation, by mandating education for girls and providing job training for women from vulnerable populations.
 - f. Provide women survivors with community-based rehabilitation and reintegration services, as well as health care, education, job skills training and income-generating employment.

4. The RFC should also be revised. Revisions should include: prohibition of marriage and betrothal before the age of 18; and should establish educational programmes and institution to address child marriage through incentivizing programmes and mechanisms that promote opportunities for young girls.
5. Article 13 of Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018 and National Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015 should be amended to ensure that the legal framework dealing with disaster prevention and response considers gender-specific vulnerabilities that increase women and girls risks of GBV in humanitarian and emergency situations during disasters and conflicts. These two Proclamations should also be amended to provide additional legal protections to address the threats that women and girls face in humanitarian and emergency situations during disasters and conflicts.
6. The exceptions to the minimum age requirements under Article 7(2) of the RFC and Article 648 of the RCC should be eliminated.
7. Article 546 of the RCC should be repealed to decriminalize abortion.
8. VAWG requires a response that goes beyond criminal prosecution and punishment. Despite the criminalization of certain forms of VAWG, the lack of a separate law on domestic violence, and the absence of civil remedies for VAWG survivors creates a legal gap as related to protection orders, residence orders and shelter, medical and psychosocial support. The law should provide victims with appropriate care and support, as well empower law enforcement, social services and community organizations to support women, combat violence, promote public awareness and education, and help transform gender social norms. To this end, it is recommended that Ethiopia adopt a comprehensive law addressing VAWG, including domestic violence, that is harmonized with international norms. The GoE must also consider ratifying and domesticating the ILO Violence and Harassment Convention No. 190 (2019).

PART VIII:

EMPLOYMENT AND LABOUR RELATIONS

The following laws address employment and labour relations. Each of the laws identified below are addressed in the sections that follow:

- Constitution of the FDRE, 1995
- Federal Civil Servants Proclamation No. 1064/2017
- Labor Proclamation No. 1156/2019
- Public Servants' Pension Proclamation No. 714/2011
- Private Organization Employees' Pension Proclamation No. 715/2011

In 1999, Ethiopia ratified the ILO Convention concerning Minimum Age for Admission to Employment of 1973 (No. 138). This Convention sets the general minimum age for admission to employment or work at 15 years (13 years of age for light work) and the minimum age for hazardous work at 18 years (16 years of age under certain strict conditions). The Convention also provides for the possibility of initially setting the general minimum age at 14, where the economy and educational facilities are insufficiently developed.

Ethiopia has also adopted the ILO Convention No. 156 which requires governments to take measures to ease the burden on women in the household. This Convention applies to both women and men workers whose responsibilities of caring for and supporting their dependent children and/or other members of their immediate family may restrict their possibilities of preparing for and/or entering, participating or advancing in economic activity. This Convention was adopted in recognition that caregiving responsibilities affect society at-large and should be taken into account in national policies.

FDRE Constitution

Article 41 of the FDRE Constitution recognizes the right of every Ethiopian to freely choose and engage in gainful economic activity and imposes on the State the duty to “undertake all measures necessary to increase opportunities for citizens to find gainful employment.” In addition, Article 42 addresses labour rights and recognizes the rights of workers, *inter alia*, to organize trade unions and engage in collective bargaining, as well as to limited working hours, to leave and to safe and healthy working conditions. Sub-article 1(d) of Article 42 specifically recognizes the rights of women workers to equal pay for equal work.

Federal Civil Servants Proclamation No. 1064/2017 and Labor Proclamation No. 1156/2019

Two pieces of legislation – Federal Civil Servants Proclamation No. 1064/2017 and Labor Proclamation No. 1156/2019 – regulate labor relationships and rights. Both laws recognize equality, including the right to equal pay for work of equal value, and outlaw gender discrimination during recruitment, promotion and other aspects of employment. Despite recognition of the principle of equal pay for work of equal value, the UN Committee on the Elimination of Discrimination Against Women was concerned about payment gaps between men and women in the private sector.⁵⁸ In Ethiopia's report on the implementation of CEDAW, it was noted that 63 per cent of women remained outside of the economically active population.⁵⁹

Both Federal Civil Servants Proclamation No. 1064/2017 and Labor Proclamation No. 1156/2019 also provide for protection of health and safety in working conditions,

⁵⁸ UN Committee on the Elimination of Discrimination Against Women, Concluding observations on the eighth periodic report of Ethiopia, 14 March 2019. CEDAW/C/ETH/CO/8, Para. 35(a).

⁵⁹ UN Committee on the Elimination of Discrimination Against Women. Eighth periodic report submitted by Ethiopia under Article 18 of CEDAW (due in 2015), 21 November 2017 CEDAW/C/ETH/8, Para. 93.

and provide for paid maternity leave and guaranteed job security during pregnancy and immediately after delivery. More specifically, Labor Proclamation No. 1156/2019 allows a 30-day pre-birth and 90-day post-birth maternity leave for women workers, and a three-day paternity leave for a working man of a spouse who gives birth. Federal Civil Servants Proclamation No. 1064/2017 extends maternity leave to four months and paternity leave to 10 days, and recommends that childcare facilities at workplaces be accessible to all parents. This Proclamation also prohibits discrimination in recruitment or selection of federal civil servants.

Stereotypes and over protection in laws can impact women negatively. Unlike providing women additional legal protections, laws that perpetuate stereotypes by not allowing women autonomy over choosing employment based on biology impacts them negatively. This issue is observable in the provisions of Article 87(3) of Labor Proclamation No. 1156/2019, which precludes women, in general, from jobs that the Ministry of Labor may designate as dangerous, and in Article 87(4) which prohibits pregnant women from night or overtime work.

While the laws dealing with employment relations address legacies of inequality and inequity, they are not strong enough in providing preferential treatment to women, when necessary.⁶⁰ Moreover, there are no mechanisms to safely investigate allegations of gender discrimination or to protect complainants and whistleblowers from retaliation.⁶¹ Also, these laws provide no protection to domestic workers who are predominantly women.⁶²

Public Servants' Pension Proclamation No. 714/2011

Public Servants' Pension Proclamation No. 714/2011 provides for the principle of non-discrimination based upon sex in the age of retirement, payment of social security and the transfer of those rights to survivors. The Ethiopian social security scheme

covers employees in both public and private sectors, and provides for conditions to receive social security payments during retirement and in the event of incapacity to work due to illness and/or injury. Therein, the benefits are retirement pension, invalidity pension, incapacity pension or survivors' pension, and include gratuity and refundable pension contributions.

Private Organization Employees' Pension Proclamation No. 715/2011

Private Organization Employees' Pension Proclamation No. 715/2011 fills the gap in the social security legal framework that previously covered only government employees. This Proclamation contains the principle of non-discrimination on the basis of sex in the payment of pensions and other benefits, and the transfer of those right to survivors.

RECOMMENDATIONS

Ethiopian law is relatively well positioned in protecting the rights of women, however, measures are needed to further promote the rights of women in both the formal and informal sectors. This can be accomplished by:

1. Establish mechanisms and protections to ensure the rights of women to non-discrimination and to freedom from sexual harassment in the workplace.
2. Recognize and establish mechanisms to enforce the labour rights of domestic workers.
3. Establish mechanisms, such as tax incentives, to further the employment of women and to provide women with friendly work environments.
4. This legal review and analysis also highlights the need to repeal Article 87(3) of Labor Proclamation No. 1156/2019 which is overgeneralized in the way it restricts women's employment opportunities.

60 UN Committee on the Elimination of Discrimination Against Women. Concluding observations on the eighth periodic report of Ethiopia, 14 March 2019. CEDAW/C/ETH/CO/8, para. 36(a).

61 Ibid., para. 36(e).

62 Ibid., para. 35(b).

PART IX:

MARRIAGE, FAMILY RELATIONS AND PROPERTY RIGHTS

The following laws address marriage, family relations and property rights. Each of the laws identified below are addressed in the sections that follow:

- Constitution of the FDRE, 1995
- Revised Family Code (RFC) Proclamation No. 213/2000
- Revised Criminal Code (RCC) of 2004
- Civil Code of Ethiopia Proclamation No. 165/1960 (Rules on Succession)
- Public Servants' Pension Proclamation No. 714/2011
- Private Organizations Employees' Pension Proclamation No. 715/2011
- Commercial Code of Ethiopia Proclamation No. 1243/2020
- Rural Land Administration and Land Use Proclamation No. 456/2005

Revised Family Code (RFC) Proclamation No. 213/2000

In Ethiopia, the FDRE Constitution, the RFC and Regional Family Codes govern marriage and family relations. All Regional States, except Somali and Afar Regional States, have adopted Regional Family Codes which are modeled after the RFC.⁶³

The RFC and Regional Family Codes recognize three types of marriages – civil, religious and customary marriages. As it relates to customary and religious marriages, Articles 3 and 4 of the RFC provide that a marriage is recognized when the acts or rites of a religion are performed in line with the customs of a

community. All marriages, in whatever form they are performed, have the same effect.

The RFC and Regional Family Codes prohibit polygamous marriages; the only exception is the Regional Family Code of Harari Regional State that allows polygamous marriage if they are conducted in line with religious rules. Similarly, the Regional Family Code of Oromia Regional State does not explicitly prohibit polygamous marriages, although a previous legal provision that explicitly allowed the practice was repealed.

Article 11 of the RFC prohibits anyone from marriage if they are bound by a preceding marriage. According to Article 33 of the RFC, the dissolution of a polygamous marriage will be ordered when applied for by either one of the spouses or the public prosecutor. Typically, decisions regarding divorce and the dissolution of marriage are made by Regular Courts; however, the Regional Family Code of Tigray Regional State grants this power to Social Courts, also known as neighborhood courts composed of elected, nonprofessional and community members.

There is a clarity and consistency in the law as it relates to prohibition of polygamy, as seen in the RFC and Regional Family Codes, some of which allow for polygamous marriages. As a result, the practice of polygamy is prevalent in many parts of the country. In many cases, women are forced into polygamous marriages; thus, automatic dissolution of such marriages would mean further oppression of women.

In an effort to make the best out of a bad situation, the Cassation Division of the Federal Supreme Court,

⁶³ References to the Family Code in this report are to the RFC of 2004 issued by the Federal Government, unless Regional Family Codes are specifically mentioned.

which has the power to make binding decisions of precedential value, adopted an interpretation of the RFC that in effect recognizes the validity of polygamous marriages. In *Case no. 45548 - Mr Aminat Ali v. Respondents: Mrs. Fatuma Wubet*, the Cassation Division of the Federal Supreme Court decided that both wives in a polygamous marriage were entitled to a share of the matrimonial property that they acquired through their respective contributions. The Court concluded that each spouse should be allowed to take their respective personal property and that the remaining property shall be presumed to be the common property of all three spouses, unless any one of the spouses proves it is their personal property.

The governing principle of Ethiopian law on marital property is that of common property; in other words, all property acquired during marriage is the common property of both spouses. The law extends common property to wages and salaries that are earned during the marriage; thus, contributions made from the salary of one spouse to pension schemes are contributions made from the common income of the spouses. Only property that belonged to one of the spouses before the marriage is the separate property of that spouse. Even in that case, the burden of proof lies on the party who claims the property is separate property. In inheritance, the governing principle is that property is divided equally between the two spouses. The Cassation Division of the Federal Supreme Court has provided interpretations of the principle that ensures effective protection to the rights of women. For example, in *Case no. 43988 Appellant:- Mrs. Sniya Shetemam v. Respondents: Mrs. Belaynesh Matebo and Mr. Shrif Ahmed*, the Court ruled that the RFC presumes the property of spouses as the common matrimonial property because each spouse is believed to contribute to the development of the family.

The principles of the RFC can generally be considered as meeting the equitable standards of Article 21 of the Maputo Protocol. The major exception to this relates to the situation of widows or widowers. The Maputo Protocol recognizes the right of a surviving spouse to continue living in the marital residence after the death of their spouse. This right is particularly salient for women in Ethiopia, due to their overall subordinate economic position. The inheritance rules of the

Civil Code of Ethiopia Proclamation No. 165/1960 (hereinafter referred to as the Civil Code) that pass the property of a deceased spouse, including the share of the common property, to his or her relations means that the surviving spouse is subjected to the possibility of eviction from the matrimonial home. Neither the RFC nor the Civil Code have explicit provisions protecting the rights of women to stay in the marital home during the process of divorce.

Gendered norms and practices that suppress women's participation in the labor market and the economy, as well as in public life, means that women are particularly vulnerable to abuse in the course of divorce proceedings. The law does not have mechanisms to protect women during these proceedings, especially by ensuring their continued occupation of the marital residence.

Public Servants' Pension Proclamation No. 714/2011 and Private Organizations Employees' Pension Proclamation No. 715/2011

Public Servants' Pension Proclamation No. 714/2011 and Private Organizations Employees' Pension Proclamation No. 715/2011 govern public and private sector pension schemes. Both of these laws recognize the rights of a widow or widower to pension payments when their public servant or private organization employee passes away; however, neither law recognizes the right of a spouse to a portion of the pension payment acquired during the validity of the marriage in cases of divorce. Thus, while the salary of a spouse is common property and contributions to pension schemes are made from the salary (thus from the common property), only the employed spouse is entitled to get pension payments.

Given the fact that most jobs in the formal sector, which are the subject of pension laws, are held by men, whereas most women are employed in the informal sector and are responsible for unpaid domestic and care work in the home and family; thus, seemingly gender-neutral laws related to pensions have adverse effects on women by systematically excluding them from social benefits. For instance, Article 41(2) of the Public Servants' Pension Proclamation No.

714/2011 and Article 40(2) of the Private Organizations Employees' Pension Proclamation No. 715/2011 terminate the payment of pensions to a widow or widower in cases of remarriage, if the widow is less than 45 years of age and the widower is less than 50 years of age.

Similarly, the benefits a spouse accrues due to enhanced earning capacity through education and training opportunities obtained during the course of the marriage by one of the spouses is not considered part of common property. Thus, a spouse who has invested in education and/or training of their spouse, either directly (through paying for such education and/or training) and/or indirectly (through supporting the educated or trained spouse during the course of their education and/or training), is precluded from the benefits of the education and/or training in which they invested.

Revised Criminal Code (RCC) of 2005

Article 650 of the RCC also criminalizes polygamous marriages; however, notwithstanding this, Article 651 of the RCC provides that polygamy shall not be criminal when the polygamous marriage is contracted in accordance with "religious or traditional practices recognized by law."

Commercial Code of Ethiopia Proclamation No. 1243/2020

Article 19 of the Commercial Code rules that debt contracted individually by a married trader, without consulting the other spouse, would be considered as secured in the interest of the household; therefore, such debt is claimable as common marital property. Although this provision is gender-neutral on its face, it affects women disproportionately because historically and culturally it is predominately men who engage in trading; women are usually entrusted with

caring for the home and family. Thus, Article 19 of the Commercial Code places women at risk of being excluded from managing and making decisions in matters related to common property and dispossession of property through fraudulent means.

Rural Land Administration and Land Use Proclamation No. 456/2005

In one-fifth of African countries, married women do not have equal ownership rights to property as do men, and in more than one-third of African countries, daughters do not have the same rights to inherit from their parents as do sons.⁶⁴ This leaves many girls and women in a vulnerable position and not fairly compensated for the work they do in the home and family.

According to the World Bank, in 2019, 79 per cent of Ethiopia's population was living in rural areas.⁶⁵ Persons living in rural areas tend to be engaged in agriculture work. In Ethiopia, women have limited land ownership and rights. According to the 2016 Ethiopia Demographic and Health Survey (EDHS), only 40 per cent of women own land, and among women landowners, only 1 in 2 say the title or deed for the land is in their name.⁶⁶ Under such circumstances, women are unable to join or participate in cooperatives and enjoy the financial and business benefits that can be derived from being a part of these organizations. The African Development Bank (AfDB) notes that, "In Ethiopia, just 10 to 20 per cent of cooperative members are women, and only 3 per cent of women hold leadership positions, compared to 15 per cent of men."⁶⁷

The FDRE Constitution guarantees the right of Ethiopians to have access to land and Public Ownership of Rural Lands. Proclamation No. 31/1975 provides the basis for land-specific legislation, whereas Rural Land Administration and Land Use Proclamation No. 456/2005 governs the allocation and use of all rural

64 World Bank. Women, Business and the Law Data. Retrieved from: [Data \(worldbank.org\)](https://data.worldbank.org)

65 World Bank. Rural population (% of total population) – Ethiopia. Retrieved on 23 May 2021 from: [Rural population \(% of total population\) - Ethiopia | Data \(worldbank.org\)](https://data.worldbank.org).

66 Central Statistical Agency (CSA) [Ethiopia] and ICF. (2016). *Ethiopia Demographic and Health Survey 2016*. Addis Ababa, Ethiopia, and Rockville, Maryland, USA: CSA and ICF, p. 255

67 African Development Bank (2015). *Economic Empowerment of African Women through Equitable Participation in Agricultural Value Chains*. AfDB: Côte d'Ivoire, p. 71.

land in Ethiopia. Article 5(c) of Proclamation No. 456/2005 recognizes the rights of women wanting to engage in agriculture to have “the right to get and use land.” In addition, Article 6(4) provides that the title certificate of land owned by a married couple will be issued in both spouses’ names.

Land registration, with the provision of title certificates, has occurred in a number of Regional States (e.g., Amhara, Oromia and Tigray Regional States and Southern Nations, Nationalities and Peoples Region (SNNPR)) in an effort to increase tenure security and strengthen women’s rights to land. Since the land registration process began in 1998, over five million land certificates have been delivered. In some regions, there are provisions for polygamous marriages, although such marriages are not recognized by federal law. Polygamous marriages are given separate attention with certificates for some landholdings being issued in the names of the wives, 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. The aim was to secure land titles for small-holder farmers and pastoralists, encourage gender equality and stimulate the conservation of land and natural resources. A general framework for implementing the Rural Land Registration Initiative was formulated in Rural Land Administration and Land Use Proclamation No. 456/2005. Regional States also adopted laws and regulations consistent with Proclamation No. 456/2005 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.

RECOMMENDATIONS:

1. The primary consideration should be to ensure that Regional States that have not yet adopted a Regional Family Code, modelled after the RFC, should adopt such a code.
2. The RFC and Regional Family Codes do not allow for polygamous marriages; however, the courts, including the Federal Supreme Court, have recognized the validity of polygamous marriages. While outright prohibition of polygamous marriages may not be palatable for many, the law’s potential in shaping what is acceptable and proper needs to be examined and used to protect the rights of women. It is therefore recommended that:
 - a. The law’s commitment to abolishing polygamous marriages should be clear. This requires resolving inconsistencies and ambiguities in the RFC and RCC, and harmonization of Regional Family Codes with the RFC.
 - b. Civil Code provisions on succession should be amended to conform with the provisions of the Maputo Protocol recognizing the right of widows/widowers to remain in the marital residence.
 - c. The RFC should have explicit rules that:
 - i. protect the rights of women to remain in the marital residence during divorce proceedings; and
 - ii. recognize enhanced earning capacity of a spouse attained in the course of marriage as forming part of the common property.
3. Public Servants’ Pension Proclamation No. 714/2011 and Private Organizations Employees’ Pension Proclamation No. 715/2011 should be amended to:
 - a. Recognize the rights of a spouse who is divorced from a pensioner to a share of the pension payment in proportion to the contribution made during the time of the marriage;
 - b. Eliminate the distinction between men and women in relation to the effect of remarriage on the payment of pension to widows and widowers.

4. It is recommended that provisions of Article 19 of the Commercial Code be reviewed to protect the interests of the spouse who is not actively engaged in trading activities, when the trading spouse accrues a debt for the trade. While it is important to ensure that day to day trading activities are not stalled by unnecessary or overcautious formality requirements, it is necessary to secure the interests of the non-trading partner when such trading activities are likely to result in substantial harm to the common property of the marriage.
5. Legal reform should take into account the interrelated nature of women's access to land and harmful practices. Many HP committed against women, particularly older women, include widow disinheritance and maltreatment of widows; these HP are closely related to the denial of women's property and inheritance rights. Women's limited access to land also has an impact on domestic violence, because men's right to property is often an impediment to women's ability to leave an abusive relationship/marriage and to live a life free from violence. Therefore, legal reform should be aimed at addressing the entrenched structural and cultural practices that preclude women from benefitting from formal laws that are committed to gender equality and women's equal access to land.

PART X:

ANALYSIS OF CASE LAW

Decisions of the House of Federation of the FDRE

The FDRE Constitution vests judicial power on federal and regional courts.⁶⁸ The judicial power of courts, however, does not extend to constitutional interpretation, which is reserved to the House of Federation of the FDRE, the second chamber of Ethiopia's Federal Parliament. According to Article 83(1) of the FDRE Constitution, "all constitutional disputes shall be decided by the House of the Federation." The House of Federation is a political body, not a judicial body, that is "composed of representatives of Nations, Nationalities and Peoples."⁶⁹ In its constitutional interpretation function, the House of Federation is advised by the Council of Constitutional Inquiry⁷⁰ which is established by Article 82(1) of the Constitution.

The Council of Constitutional Inquiry has made recommendations and the House of Federations has made binding decisions, interpreting Article 35 of the FDRE Constitution on the rights of women. In *Rania Ahmed Ibrahim vs. Dr. Ibrahim Mohammed Hassan* (File

No. 1352/07, decided on 14 May 14 2015)⁷¹ the underlying divorce case was entertained by the Sharia court, which followed procedures prescribed under the Federal Courts of Sharia Consolidation Proclamation No.188/1999 in establishing the consent of both parties to its jurisdiction by issuing a summons to the wife and having it published in a newspaper.⁷² Although the wife was outside the country and was not personally issued the summons, the Sharia court ruled that the publication of the summons in a nationally circulating newspaper, and the failure of the wife to appear before it, showed her consent to be bound by its decisions, since Article 5(2) of the Proclamation presumes the consent of a party to the jurisdiction of the court unless they appear before the Sharia court and explicitly object to such jurisdiction.

The Council of Constitutional Inquiry found the decision of the Sharia court to be unconstitutional, because Article 34(5) of the FDRE Constitution

⁶⁸ Article 79(1), FDRE Constitution provides "judicial powers, both at Federal and State levels, are vested in the courts."

⁶⁹ Article 61(1), FDRE Constitution.

⁷⁰ Article 84, FDRE Constitution on the powers and responsibilities of the Council of Constitutional Inquiry provides the following: 1) The Council of Constitutional Inquiry shall have powers to investigate constitutional disputes, yet should the Council, upon consideration of the matter, find it necessary to interpret the Constitution, it shall submit its recommendations thereon to the House of the Federation; 2) Where any federal or state law is contested as being unconstitutional and such a dispute is submitted to it by any court or interested party, the Council shall consider the matter and submit it to the House of the Federation for a final decision; and 3) When issues of constitutional interpretation arise in the courts, the Council shall: (a) Remand the case to the concerned court if it finds there is no need for constitutional interpretation; the interested party, if dissatisfied with the decision of the Council, may appeal to the House of the Federation; and (b) Submit its recommendations to the House of the Federation for a final decision if it believes there is a need for constitutional interpretation.

⁷¹ Secretariat of the Council of Constitutional Inquiry, 2011 (EC) (2018). Hige Mengistawi Jomal: Ye Hige Mengist Gudayoch Atari Guba'e Yewisane Hasaboch. Be E Fe De Ri Ye Hige Mengist Gudayoch Atari Guaba'e Tsihifet Bet Yetezegaje (Journal of Constitutional Matters: Recommendations of the Council of Constitutional Inquiry. Prepared by the Secretariat of the FDRE Council of Constitutional Inquiry): Addis Ababa. Pp. 112-114).

⁷² Article 5, Federal Sharia Courts Consolidation Proclamation No. 188/1999 provides determination of consent or objection: 1) where a party brings a case before a court of Sharia, such court shall issue summons to the other party for confirmation, in accordance with the form attached herewith, of whether or not he consents to the adjudication of the court; 2) Where a party properly served with summons, pursuant to Sub-Article (1) of this Article, does not confirm his objection or consent by appearing before; 3) the registrar of the court, he shall be presumed not to have objected and the case shall be heard ex parte; 4) In the absence of clear consent of the parties for the case to be adjudicated by the court of Sharia before which the case is brought, such court shall transfer the case to the regular federal court having jurisdiction; and 5) Under no circumstance shall a case brought before a court of Sharia the jurisdiction of which has been consented to, be transferred to a regular court; nor shall a case before a regular court be transferred to a court of Sharia.

requires the consent of all parties to be bound by the decisions of customary and religious courts.⁷³ The decision of the Council was based on the fact that the wife, who is disputing the decision of the Sharia court, was abroad, casting doubt on the fact that she was properly served the summons of the Sharia court. While the decision of the Council precludes the presumption of consent in the absence of a properly served summons, it still obliges a party to explicitly reject the jurisdiction of a religious or customary court not to be bound by the jurisdiction of such court. As noted earlier, a major problem of the Federal Sharia Courts Consolidation Proclamation No. 188/1999 is the undue pressure a party may be under to submit to the jurisdiction of a Sharia court; the Council's decision failed to address this challenge.

The Council of Constitutional Inquiry further dealt with the question of consent in proceedings before religious and customary courts in *In re Kedija Beshir* (no file number or dates given).⁷⁴ *In re Kedija Beshir*, the Ethiopian Women Lawyers' Association (EWLA) represented the petitioner who appeared before the Sharia court, but objected to the jurisdiction of the court. The petitioner's objection was based on Article 34(5) of the FDRE Constitution that provides, "This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute. Particulars shall be determined by law." The Sharia court and the Federal Supreme Court's Cassation Division rejected the petitioner's objection on the grounds that it was made prior to the promulgation of the Federal Sharia Courts Consolidation Proclamation No. 188/1999. In rejecting the rulings of the courts and upholding the objection of the petitioner, the Council of Constitutional Inquiry emphasized the indispensability of the consent of the parties for the jurisdiction of religious courts and the application of religious laws in personal matters. The decision, however, does not address the questions of what happens when religious laws do not conform to

constitutional standards or whether anything more is required to establish consent, other than appearing before religious courts and responding to already instituted suits.

In *Azeb Tufa vs. Alemayehu Mengistu* (File No. 1550/08, decided on 9 April 2016),⁷⁵ the Council of Constitutional Inquiry reviewed the decision of the Federal Supreme Court's Cassation Division regarding the division of marital property in divorce proceedings. In this case, the husband obtained land to build a house before marrying his wife. The courts adjudicating the divorce, including the Cassation Division, found that the main house, built on the land, was the private property of the husband, although an extension built during the marriage was common property; thus, the Council rejected the courts' decision because it violated Article 35(7) of the FDRE Constitution on the right to property of women. The Council based its decision on the fact that the title documents for the house were issued after the marriage, and the husband had acknowledged the house to be common property in his statement to another government body. While the decision was based on a constitutional provision, it did not actually provide any elaboration on the scope and content of the provision that has a broader application outside the particular case before the Council.

In *Wedere Tachbele vs. Like Gurmu* (File No. 825/05, decided on 19 October 2014)⁷⁶ the petitioner was separated from her husband for more than 18 years because of sickness. The Council of Constitutional Inquiry noted, however, that during this time the petitioner was living on the agricultural land held by the late husband and was receiving portions of the produce from the land. Oromia Regional Courts and the Federal Supreme Court's Cassation Division found the petitioner's claim to a share of the land, upon the death of the husband, to be barred by the statute of limitations. The Council found the decisions of the courts violated the rights of women to use, transfer and administer land as per Article 35(7) of the FDRE Constitution. The decision of the Council appears to

73 Article 34(5), FDRE Constitution provides, "This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute."

74 Secretariat of the Council of Constitutional Inquiry, *Supra* note 71, at pp. 79-81.

75 *Ibid.*, pp. 115-118.

76 *Ibid.*, pp. 119-121.

suspend the application of the statute of limitations where it results in depriving women of their property rights; however, it is not clear whether this interpretation was an absolute one or one that was based on the fact that the relationship of the spouses to each other and the land was a continuing one during the period covered by the statute.

In *Halima Mohammed vs. Adem Abdi* (File No. 713/04, decided on 14 August 2013)⁷⁷ the petitioner was married to the brother of the respondent. During the marriage, the spouses had acquired agricultural land that they cultivated for a prolonged period. Upon the death of the husband, the respondent married the petitioner in accordance with the customary practice of wife inheritance, whereby a brother marries the wife of his deceased brother. After living together for several years, the petitioner and the respondent were divorced. During the divorce, the respondent claimed the land that the petitioner brought with her from her previously deceased husband as inheritance from his father, and disposed the petitioner from it. Oromia Regional Courts decided that land (which is publicly owned in Ethiopia) cannot be considered as private property, and is thus subject to be shared by the two divorcing spouses. The Council of Constitutional Inquiry found the decision and reasoning of the courts as violating the rights of women to hold and administer property equally to men, and as encouraging the practice of polygamy by men. Unlike other decisions of the Council, this case represented a stronger and wider statement of the rights of women that goes beyond the confines of the case at hand.

Decisions of the Cassation Division of the Federal Supreme Court.

In general, the Ethiopian legal system does not recognize the principle of *stare decisis* where decisions of higher courts are binding precedent on lower courts; however, the Cassation Division of the Federal Supreme Court has the power to render interpretive decisions that are binding on federal and regional courts at all levels.⁷⁸ Decisions of the Cassation Division of the Federal Supreme Court are intended to bring about a uniform application of the laws enacted by the legislative branch of government. Since its establishment, the Cassation Division has made hundreds of such decisions that give clarity and uniformity to many specific provisions of the law. Most decisions that bear on gender are made in the context of family law, while some are related to criminal law.

Many of the decisions of the Cassation Division in the realm of family law deal with the status of polygamous marriages and their effects. As already noted, one of the challenges of the law is its lack of clarity and consistency in its prohibition of polygamy as exhibited in the RFC and RCC, as well as in Regional Family Codes. This inconclusiveness of the law, coupled with the prevalence of retrograde practices, means that polygamous marriages are prevalent in many parts of the country. In many cases, women are forced into polygamous marriages, so automatic dissolution of such marriages would mean their further subjugation of women. Trying to make the best out of a bad situation, the Cassation Division of the Federal Supreme Court has adopted an interpretation of the RFC that in effect recognizes the validity of polygamous marriages. In the case of *Animaw Zegeye vs. Worke Mekonnen*, (File no. 23493, decided on 3 July 2007),⁷⁹ the Cassation Division recognized two women who were married at different times to the deceased, whose marriage was not formally annulled at the time of the death of their spouse, to be equally valid. In this case, the

⁷⁷ Ibid, pp. 122-125.

⁷⁸ Article 10 (4), Federal Courts Proclamation No. 25/1996 as amended by the Federal Courts Proclamation Reamendment Proclamation No. 454/2005.

⁷⁹ Federal Supreme Court (nd). *Ye Federal Teklay Fird Bet Seber Semi Chilot Kesetoch Mebitina Tikim Indihum Setoch Betekerakarinet Tesatafi Yehonubet Yehig Tirgum Yetesetebachew Yetemeretu Wusanewoch* (Selected Decisions of the Cassation Division of the Federal Supreme Court Interpreting Laws in Cases Affecting the Rights and Interests of Women and in Cases in which Women were Litigants. Federal Supreme Court and the Network of Ethiopian Women's Associations: Addis Ababa. Pp. 25-27.

principle established by the Cassation Division was affirmed by other decisions including that of *Sadia Ahmed vs. Rahima Ali* (Cassation File No. 24625)⁸⁰ and *Aminat Ali v. Fatuma Wubet* (Cassation File No. 45548, decided on 1 October 2010),⁸¹ and later affirmed in *Zeyneba Kelifa vs. Kedija Siraj* (Cassation File No. 50389, decided on 6 October 2010).⁸² The Cassation Division of the Supreme Court decided that both wives in a polygamous marriage were entitled to a share of the matrimonial property that they acquired through their respective contributions. The Court ordered each spouse to take their respective personal property and the three to share the remaining property, which the court presumed to be the common property of all three. In *Senia Sheh Temam vs. Belaynesh Matebo and Sherif Ahmed* (Cassation File No. 43988, decided on 6 October 2010),⁸³ the Cassation Division extended the protection it afforded to a polygamous marriage, affirming the right of both wives in polygamous marriages to a share of the common property. The decision was later affirmed in *Jeato Yasin Shibeshi vs. Hassan Mohammed* (Cassation File No. 93779, decided on 7 January 2012).⁸⁴

While these and other decisions of the courts recognize the validity of a polygamous marriage, while a previous marriage is still valid, the Cassation Division also rules that the separation of spouses (without having a valid divorce declared) and their subsequent conclusion of another marriage will invalidate the first marriage. This is a decision the Cassation Division held in *Abebech Yeshewalul vs. Itagegnehu Admasu et al.* (Cassation File No. 14290, decided on 5 April 2007).⁸⁵ In *Abebech Yeshewalul vs. Itagegnehu Admasu et al.*, the deceased husband and the respondent in the case were living separately for some 13 years before the death of the husband. In the meantime, the respondent was married to another man without getting a judicial declaration of divorce. The Cassation

Division took the facts that the deceased and the respondent were separated for a long time and that the respondent had entered into a legal polygamous marriage, as grounds to rule that the previous marriage between the deceased and the respondent was dissolved. The decision was later confirmed in *Iniley Iniyew et al. vs. Merem Tuha*, (Cassation File No. 31891, decided on 24 April 2008)⁸⁶ and *Miniya G/Sellase vs. Meseret Alemayehu* (Cassation File No. 67924, decided on 6 April 2012).⁸⁷

Another area where the Cassation Division issued a binding decision is in the apportionment of pension payments. In *Kebede Muhe vs. Fanaye Bizuneh* (Cassation File No. 34387, decided on 21 May 2008),⁸⁸ the Cassation Division decided that a spouse is not entitled to a share of pension payments of the other spouse where the two spouses are divorced, even though the contributions to the pension funds were made during the validity of the marriage from the salary of the spouse that is deemed to be part of the common property of both spouses. In rendering the decision, the Cassation Division held that the decision of the Federal High Court that allowed both ex-spouses to share the pension payments because the contribution to pension funds were made during a time when the salary was common property to be erroneous. The Division argued that the lawmaker's intent in establishing and contributing to pension funds was only to provide protections to the employed spouse only. The decision of the Cassation Division highlighted the gap in pension laws disproportionately burdens women who do unpaid domestic and care work in the home and family, to their formally employed husbands.

In some areas, the Cassation Division extended the legal protections to women through its interpretations. One such area concerns the liability of employment agencies that engage workers to provide domestic

80 Ibid, pp. 28-29.

81 Ibid, pp. 229-234.

82 Ibid, pp. 119-123.

83 Ibid, pp. 167-171.

84 Ibid, pp. 235-240.

85 Ibid, pp. 2-4.

86 Ibid, pp. 51-54.

87 Ibid, pp. 205 – 210.

88 Ibid, pp. 74-76.

services abroad, in relation to the harm suffered by the workers they send abroad. In *Mahider Agency vs. Alem Mesfin* (Cassation File No. 74111, decided on 11 July 2021), the plaintiff was recruited and sent abroad to serve as domestic help. While abroad, the plaintiff was pushed from the third floor by her employer and sustained serious injuries. The Cassation Division asserted the extracontractual (tort) liability of the employment agency that recruited and sent the plaintiff abroad, arguing that such agencies have the legal duty of ensuring safe employment conditions for the workers they recruit and send abroad.

Another area where the Cassation Division's decision strengthened protections afforded to women is that of criminal law. A significant decision of the Cassation Division clarified the ambiguity of RCC provisions that designated the provocative behaviour of the victim of a crime as an extenuating circumstance to lessen the penalty imposed on the perpetrator of a crime. In the *Public Prosecutor of the Amhara Region vs. Merigeta Asterarayatsige Woldeyesus* (Cassation Decision

File No. 80066, decided on 17 October 2012),⁸⁹ the accused murdered his wife, beheading her and mutilating her body. During sentencing at the zonal court, the accused argued that he was entitled to a lesser punishment because he was provoked to commit the crime because of the extramarital affair that his wife had. The zonal court denied the application and sentenced the accused to life in prison. On appeal, the Amhara Regional Supreme Court and its Cassation Bench reversed the decision of the zonal court, rejecting the accused's allegation of the victim's behavior as provocation, and lessened the penalty to five years imprisonment. The Cassation Division of the Federal Supreme Court reversed the decisions of the Amhara Regional Supreme Court and its Cassation Bench, denying that the victim's behavior in the case could be considered as an extenuating circumstance. Broadly taken, the Cassation Court's decision in the case did away with the provocation justification in cases where spouses inflict serious offences on their partners.

89 Ibid, pp. 316-320.

PART XI:

CONCLUSIONS

This review and analysis of Ethiopian law from a gendered perspective or through a gendered lens demonstrates that for the most part Ethiopian law conforms to the normative standards of CEDAW and other international and regional instruments, most notably, the Maputo Protocol. Yet, apart from the immense challenges of implementation and translating the norms and principles of law, there are many areas where laws perpetuate structural inequities directly through establishing unjustifiable gender distinctions, or as is usually the case, indirectly, when it maintains and reproduces structural inequalities when it fails to directly address the legacies of such inequalities.

This report has also identified specific deficiencies and inconsistencies of laws in seven thematic areas. To address these deficiencies and inconsistencies, this report offers specific recommendations, ranging from amending or repealing specific provisions of laws to developing comprehensive laws that address gender equality and non-discrimination, and aim to end VAWG and HPs.

The recommendations are consistent with Ethiopia's obligations under CEDAW and the Maputo Protocol, and in line with the UN Committee on the Elimination

of Discrimination Against Women Concluding observations and recommendations. No less significantly, the recommendations offered in this report are also consistent with and rooted in the FDRE Constitution that forms part of the analytic framework of this legal analysis.

As Ethiopia embarks on a new era of legal reform, it has to take measures to ensure that its laws, including those identified in this report, are consistent with its Constitution and its commitments under international and regional human rights treaties. The legal revision process currently underway, under the auspices of the Office of the Federal Attorney General, is one mechanism to ensure that the review of laws from a gendered perspective is carried out. It is, however, the responsibility of all stakeholders, including government agencies, CSOs and development partners to see to it that such reviews are carried out periodically, because law and society is dynamic. Because new realities inevitably give rise to new challenges, it is necessary to ensure that the review of laws from a gendered perspective is not just a one-off event, but is an institutionalized and sustained process and practice.

PART XII:

SUMMARY OF RECOMMENDATIONS FROM THE LEGAL ANALYSIS

The assessment offers a series of measures for reforming Ethiopian law to ensure that laws are gender sensitive and more effective at ensuring gender equality and non-discrimination. Most notable is that a total of 5 laws or provisions must be repealed in whole or in part; 26 laws must be revised or amended and two (2) new laws must be enacted to bring Ethiopia's legislative framework in line with its regional and international obligations on gender equality and women's empowerment. The report also emphasizes the need to prioritize the implementation of national laws that comply with gender equality standards, and in this context, recommends one policy measure to ensure that laws fully deliver on women's rights

Laws and Provisions to be Repealed

The following discriminatory laws and provisions should be repealed:

1. Article 21(1)(e) of the Foreign Service Proclamation No. 790/2013.
2. Article 57(2)(g) of the Vital Events and National Identity Card Proclamation No. 760/2012 to eliminate ethnic and religious affiliation as particulars included on national identity cards.
3. Exceptions to minimum age requirements under Article 7(2) of the RFC and Article 648 of the RCC need to be eliminated.
4. Article 546 of the RCC should be repealed to decriminalize abortion.
5. Article 87(3) of the Labor Proclamation No. 1156/2019 should be repealed to eliminate gender stereotyping in the field of employment relations, and eliminate restriction on women's empowerment opportunities.

Laws and Provisions to be Revised/ Amended

FDRE Constitution

The Constitution should be revised/amended to include a constitutional or legal requirement, such as an affirmative action quota for women, that mandates women's representation in all elected and appointed political positions at all levels of government. The focus should also be on strengthening the Constitution's legislative framework to ensure that it covers all forms of discrimination against women and to ensure its effective implementation, monitoring and assessment

Census Commission Re-establishment Proclamation No. 449/2005

This Proclamation should be revised/amended to ensure that data and statistics generated, analyzed and disseminated by these agencies are disaggregated by sex, and that data collected and analysed and statistics generated and disseminated by the Census Commission are sex-disaggregated and portray the status of women in society. Data should accurately, regularly and comprehensively to represent the realities of both women and men.

Central Statistics Agency Establishment Proclamation No. 442/2005

This Proclamation should be revised/amended to ensure that data and statistics generated, analyzed and disseminated by these agencies are disaggregated by sex, and that data collected and analysed, and statistics generated and disseminated by the CSA are

sex-disaggregated and portray the status of women in society. Data should accurately, regularly and comprehensively represent the realities of both women and men.

Civil Code of Ethiopia Proclamation No. 165/1960

Civil Code provisions on succession should be revised/amended to conform with the provisions of the Maputo Protocol recognizing the right of widows/widowers to remain in the marital residence.

Commercial Code of Ethiopia Proclamation No. 1243/2020

Article 19 should be revised/amended reviewed to protect the interests of the spouse who is not actively engaged in trading activities, when the trading spouse accrues a debt for the trade. While it is important to ensure that day-to-day trading activities are not stalled by unnecessary or overcautious formality requirements, it is necessary to secure the interests of the non-trading partner when such trading activities are likely to result in substantial harm to the common property of the marriage.

Criminal Procedure Code of Ethiopia Proclamation No. 185/1961

The CPC should be revised/amended to:

- Provide for gender sensitive procedures, processes and institutional set ups for reporting, investigation, prosecution, and court proceeding related to GBV crimes.
- Provide procedures and mechanisms of protection and care to survivors of GBV crimes during criminal processes by explicitly extending the prevention, protection, and care provisions of the RCC
- Eliminate unnecessary and unjustifiable gender differences
- The penalty for cases of FGM should be one that effectively de-incentivize the perpetrators of FGM

Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018

Article 28 should be revised/amended to clearly stipulate the national coordination role of MoWCY in relation to women, and to ensure the provision of financial, human and technological resources needed to effectively carry out such role. Legal reform measures should aim to clarify and strengthen the coordination role the MoWCY in realizing the rights of women and monitoring women's status in society.

Article 13 should be revised/amended to ensure that the legal framework dealing with disaster prevention and response considers gender-specific vulnerabilities that increase women and girls' risks of GBV in humanitarian and emergency situations during disasters and conflicts. This Proclamations should also be amended to provide additional legal protections to address the threats that women and girls face in humanitarian and emergency situations during disasters and conflicts.

Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation No. 1162/2019

Amendments are needed to include requirements for gender equality. Article 69(1)(c) of this Proclamation should be revised/amended to explicitly include gender discrimination as grounds for denying the registration of a party.

Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No. 210/2000

In relation to the Human Rights Commission, measures should aim to ensure that processes and mechanisms of this Commission serve to ensure women's rights and encourage gender parity in women's representation and participation. In particular, this Proclamation should be revised/amended to define the powers and responsibilities of the Commissioner for Women and Children Affairs, and establish mechanisms and procedures to proactively promote, investigate and remedy violations of the rights of women.

Ethiopian Nationality Proclamation No. 378/2003

This Proclamation should be revised/amended to replace masculine pronouns with gender-neutral language to ensure the law is inclusive of all genders.

Federal Civil Servants Proclamation No. 1064/201

This Proclamation should be revised/amended to requirements for gender equality, such as achieving gender parity in the recruitment of civil servants.

Federal Courts Proclamation Reamendment Proclamation No. 454/2005

The law on the powers of the Federal Supreme Court, and especially its Cassation Division, should be amended to clearly provide for the review power of the Federal Supreme Court over decisions of Sharia courts when the latter violate the principles of equality and non-discrimination, and human rights provisions provided for in the FDRE Constitution.

Federal Courts of Sharia Consolidation Proclamation No. 188/1999

This Proclamation should be revised/amended to ensure that application of Islamic law does not violate the constitutional rights of women. Legal reform measures related to Sharia courts should be aimed at ensuring that the application of Islamic Law by Sharia courts does not violate the rights of women enshrined in the FDRE Constitution. Legal reforms should also provide for effective mechanisms of reviewing the decisions of Sharia courts to ensure that they conform to the fundamental principles of the Constitution, including those of equality and non-discrimination. Accordingly, the law on Sharia courts should be amended to require that the courts ensure that their processes and decisions respect the human rights provisions of the Constitution. provided for in the FDRE Constitution.

Federal Judicial Administration Council Establishment Proclamation No. 684/2010

This Proclamation should be revised/amended to include requirements for gender equality, such as achieving gender parity in the appointment of judges.

Foreign Service Proclamation No. 790/2013

This Proclamation should be revised/amended to include requirements for gender equality, such as achieving gender parity in the appointment of foreign service officers.

Article 21(1)(e) should be repealed to eliminate HIV as a ground to preclude employment in the Foreign Service.

Institution of the Ombudsman Establishment Proclamation No. 211/2000

In relation to the Institution of the Ombudsman, measures should aim to ensure that processes and mechanism of this institution serves to ensure women's rights and encourage gender parity in women's representation and participation. In keeping, this Proclamation should be revised/amended to legally establish the powers and responsibilities of the Ombudsperson for Women and Children, and establish mechanisms and procedures to proactively promote, investigate and remedy violations of the rights of women.

Labor Proclamation No. 1156/2019

Article 11(2) should be revised/amended to provide a more complete definition of "sexual harassment" that aligns with the definition of sexual harassment under Article 2(13) of the Federal Civil Servants Proclamation No. 1064/2017.

National Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015

This Regulation needs to be revised/amended to ensure that the legal framework dealing with disaster prevention and response considers gender-specific vulnerabilities that increase women and girls risks of GBV in humanitarian and emergency situations during disasters and conflicts. This Proclamation should also be amended to provide additional legal protections to address the threats that women and girls face in humanitarian and emergency situations during disasters and conflicts.

Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015

This proclamation should be revised/amended to align with international standards, such as the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, to ensure the law is adequately implemented and enforced. The following reforms are suggested:

- Define trafficking to include trafficking in persons into forced marriage.
- Provide a special prosecution agency or department to actively investigate, prosecute and punish those involved in trafficking in persons.
- Provide provisions in the law to exempt human trafficking survivors from prosecution and further victimization.
- Ensure that human trafficking survivors have the opportunity to seek remedies and redress for the human rights violations they have suffered.
- Protect women's rights and address the inequality in status and opportunity that makes women vulnerable to trafficking in persons and other forms of violence, abuse and exploitation by mandating education for girls and providing special job training for women in vulnerable populations.
- Provide women survivors with community-based rehabilitation and reintegration services, as well as health care, education, job skills training and income-generating employment.

Private Organization Employees' Pension Proclamation No. 715/2011

The Proclamation should be revised/amended to:

- Recognize the rights of a spouse who is divorced from a pensioner to a share of the pension payment in proportion to the contribution made during the time of the marriage.
- Eliminate the distinction between men and women in relation to the effect of remarriage on the payment of pension to widows and widowers.

Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010

This Proclamation should be revised/amended to eliminate unjustified gender differences and provide

Private Organization Employees' Pension Proclamation No. 715/2011

procedures and mechanisms of protection and care to survivors of GBV crimes during criminal processes and in cases of GBV crimes

Public Servants' Pension Proclamation No. 714/2011

This Proclamation should be revised/amended to:

- Recognize the rights of a spouse who is divorced from a pensioner to a share of the pension payment in proportion to the contribution made during the time of the marriage.
- Eliminate the distinction between men and women in relation to the effect of remarriage on the payment of pension to widows and widowers.

Refugees Proclamation No. 1110/2019

This Proclamation should be revised/amended to recognize VAWG and other forms of gender discrimination as grounds for granting refugee status.

Revised Criminal Code (RCC) of 2005

The RCC should be revised/amended to:

- Include all forms of discrimination against women
- Streamline the definition of sexual crimes in a manner that reflects the experiences of women victims of sexual crimes.
- Criminalize sexual harassment in places of work, education and other public places.
- Eliminate unnecessary and unjustifiable gender differences
- Article 561 should clearly define HP as prohibited by Article 5 of CEDAW. While it may not always be possible to exhaustively and conclusively list all actions that constitute HP, it is possible to identify the core elements of discriminatory actions that are justified as cultural and traditional. The Joint General

Recommendation No. 31 of the UN Committee on the Elimination of Discrimination Against Women and General Comment No. 18 of the Committee on the Rights of the Child on HP can be useful in this regard.

- Article 565 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. The penalty for cases of FGM should be one that effectively de-incentivize the perpetrators of FGM.

Revised Family Code (RFC) Proclamation No. 213/2000

The RFC should be revised/amended to:

- Unequivocally prohibit marriage and betrothal before the age of 18
- Clearly prohibit polygamous marriages.
- Ensure the rights of spouses to share as common property the enhanced earning education and training gained during marriage.
- Protect the rights of women to remain in the marital residence during divorce proceedings.
- Recognize enhanced earning capacity of a spouse attained in the course of marriage as forming part of the common property.
- Establish educational programmes and institution to address child marriage through incentivizing programmes and mechanisms to promote opportunities for young girls.

Proposals for New Laws

The following new legislation are proposed in the following areas:

1. A comprehensive law on equality and nondiscrimination that defines the substance of the rights to equality and non-discrimination and sets the procedures and mechanisms to enforce these rights, and that integrates an intersectional approach. The law should define rights to equality and non-discrimination through clarifying, *inter alia*, the requirements of achieving both formal and substantive equality, direct and indirect discrimination by law and through practice, as well as discrimination in both public and private spheres.
2. Adopt a regulatory framework to ensure effective, harmonized and mandatory implementation of temporary special measures to achieve substantive equality between women and men, particularly in political and public life, while ensuring the establishment of accountability mechanisms to monitor compliance
3. Specify and sanction instances that constitute the violation of such rights.
4. Set up the institutional framework and allocate resources to realize and enforce these rights.
5. Establish the processes and mechanisms of redress when such rights are violated.
6. Spell out the special temporary legislative and programmatic measures that are mandated by the Constitution and CEDAW to address the structural and historical imbalances and inequities that women belabor under because of their gender.
7. A comprehensive law addressing GBV and domestic violence that is harmonized with international norms and agreements, and explicitly addresses sexual harassment (everywhere), and establishes clear procedures to ensure protection from harassment.
8. New family codes that are consistent with the RFC and Ethiopia's constitutional commitments to advance and protect the rights of women, including rights of women to equality within the family,

should be adopted by those Regional States that have not yet adopted such family codes.

9. New law (or amendments to existing laws) in the field of employment relations that:
 - Establish mechanisms and protections to ensure the rights of women to non-discrimination and freedom from harassment in the workplace.
 - Recognize and establish mechanisms to enforce the rights of domestic workers.
 - Establish mechanisms, such as tax incentives, to further the employment of women and provide women with friendly work environments and flexible hours.
10. Legal reform should take into account the interrelated nature of women's access to land and harmful practices. Many HP committed against women, particularly older women, include widow disinheritance and maltreatment of widows; these HP are closely related to the denial of women's property and inheritance rights. Women's limited access to land also has an impact on domestic violence, because men's right to property is often an impediment to women's ability to leave an abusive relationship/marriage and to live a life free from violence. Therefore, legal reform should be aimed at addressing the entrenched structural and cultural practices that preclude women from benefitting from formal laws that are committed to gender equality and women's equal access to land.



APPENDIXES

Kebele Gure, one of the Rural Women Economic Empowerment Joint Program (RWEE JP) beneficiaries in Adamitulu district, Oromia region of Ethiopia works with her husband in her bigger maize plantation she invested in using the income generated from her small land through loan she received under the program.(Photo:UN Women/Fikerte Abebe)

APPENDIX A:

REVIEW COMMITTEE MEMBERS

Name	Institution	Position
Meskerem Gest	UN Human Rights Council - Geneva	Former chairperson and current member of the Global UN Working Group on Discrimination against Women and Girls
Luwam Zenebe	UN Women Ethiopia	Programme Analyst, Women Access to Justice Programme
Addisalem Befekadu	UN Women Ethiopia	Programme Specialist, Human Rights and Ending Violence Against Women
Anna Parini	UN Women Ethiopia	Deputy Country Representative
Yelfigne Abegaz	UN Women Ethiopia	National Programme Coordinator
Selam Gebretsion	UN Women Ethiopia	Programme Coordinator, UN Joint Programme on accelerating progress towards the economic empowerment of rural women in Ethiopia (JP-RWEE)
Etsehiwot Eguale	UN Women Headquarters	Programme Specialist, UN Trust Fund to End Violence Against Women
Beatrice Akua DUNCAN	UN Women Headquarters	Policy Advisor, Rule of Law, Justice and Constitution, Leadership & Governance
Claire Mathellie	UN Women Headquarters	Policy Analyst, Rule of Law, Leadership & Governance
Maureen Shonge	UN Women Zimbabwe	Regional Policy Specialist

APPENDIX B:

TABLE OF CONSOLIDATED RECOMMENDATIONS

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
1	Title & Date of Law: FDRE Constitution		
		<ul style="list-style-type: none"> There are no affirmative action quotes for women for the legislative or executive bodies in Ethiopia Does not cover all forms of discrimination against women or ensure its effective implementation, monitoring and assessment 	The Constitution should be revised/ amended to include a constitutional or legal requirement, such as an affirmative action quota for women, that mandates women's representation in all elected and appointed political positions at all levels of government. The focus should also be on strengthening the Constitution's legislative framework to ensure that it covers all forms of discrimination against women and to ensure its effective implementation, monitoring and assessment.
2	Title & Date of Law: Census Commission Re-establishment Proclamation No. 449/2005		
		The law does not mandate systematic collection and analysis of sex-disaggregated data or dissemination of gender statistics needed to monitor the status of women in society, and to support gender-responsive planning and budgeting to advance GEWE in society.	This Proclamation should be revised/amended to ensure that data and statistics generated, analyzed and disseminated by these agencies are disaggregated by sex, and that data collected and analysed and statistics generated and disseminated by the Census Commission are sex-disaggregated and portray the status of women in society. Data should accurately, regularly and comprehensively represent the realities of both women and men.
3	Title & Date of Law: Central Statistics Agency Establishment Proclamation No. 442/2005		
			This Proclamation should be revised/amended to ensure that data and statistics generated, analyzed and disseminated by these agencies are disaggregated by sex, and that data collected and analysed, and statistics generated and disseminated by the CSA are sex-disaggregated and portray the status of women in society. Data should accurately, regularly and comprehensively represent the realities of both women and men.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
4	Title & Date of Law: Civil Code of Ethiopia Proclamation No. 165/1960		
		Does not have explicit provisions protecting the rights of women to stay in the marital home during the process of divorce.	Civil Code provisions on succession should be revised/amended to conform with the provisions of the Maputo Protocol recognizing the right of widows/widowers to remain in the marital residence.
5	Title & Date of Law: Commercial Code of Ethiopia Proclamation No. 1243/2020		
	Although this law is gender-neutral on its face, it affects women disproportionately. Article 19 places women at risk of being excluded from managing and making decisions in matters related to common property and dispossession of property through fraudulent means.		Article 19 should be revised/amended reviewed to protect the interests of the spouse who is not actively engaged in trading activities, when the trading spouse accrues a debt for the trade. While it is important to ensure that day-to-day trading activities are not stalled by unnecessary or overcautious formality requirements, it is necessary to secure the interests of the non-trading partner when such trading activities are likely to result in substantial harm to the common property of the marriage.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
6	Title & Date of Law: Criminal Procedure Code of Ethiopia Proclamation No. 185/1961		
		<ul style="list-style-type: none"> • Laws that constitute the main framework of the criminal justice system are not mindful of the challenges that women face in reporting GBV-related crimes and preventing their further victimization during and after criminal investigation and prosecution. • Insensitive criminal justice procedures and processes executed by criminal investigators, prosecutors and judges often subject VAWG survivors to further trauma, expose them to retaliation by their perpetrators and mark them for social exclusion and negative labeling, which can deprive them of their means of livelihood and systems of support. Because of these realities, VAWG survivors are often reluctant to speak out or come forward and report GBV-related crimes or to actively participate in the investigation and prosecution of their cases. • The Criminal Procedure Code does not have provisions to provide care, sensitivity or protection to VAWG survivors, nor does it have any special procedures or processes for the investigation and prosecution of GBV-related crimes. 	<p>The CPC should be revised/amended to:</p> <ul style="list-style-type: none"> • Provide for gender sensitive procedures, processes and institutional set ups for reporting, investigation, prosecution, and court proceeding related to GBV crimes. • Provide procedures and mechanisms of protection and care to survivors of GBV crimes during criminal processes by explicitly extending the prevention, protection, and care provisions of the RCC • Eliminate unnecessary and unjustifiable gender differences • The penalty for cases of FGM should be one that effectively de-incentivize the perpetrators of FGM

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
7	Title & Date of Law: Definition of Powers and Duties of the Executive Organs of the FDRE Proclamation No. 1097/2018		
		In accordance with Article (10)(3), while the Ministry of Peace has the overall responsibility of protecting the rights and interests of women in all its activities, there is no legal requirement for a gendered approach to disaster and conflict risk assessment and response.	<ul style="list-style-type: none"> Article 28 should be revised/amended to clearly stipulate the national coordination role of MoWCY in relation to women, and to ensure the provision of financial, human and technological resources needed to effectively carry out such role. Legal reform measures should aim at clarify and strengthen the coordination role the MoWCY in realizing the rights of women and monitoring women's status in society. Article 13 should be revised/amended to ensure that the legal framework dealing with disaster prevention and response considers gender-specific vulnerabilities that increase women and girls' risks of GBV in humanitarian and emergency situations during disasters and conflicts. This Proclamations should also be amended to provide additional legal protections to address the threats that women and girls face in humanitarian and emergency situations during disasters and conflicts.
8	Title & Date of Law: Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation No. 1162/2019		
		It has been argued that gender discrimination or denigrating women are implied, these concepts are not explicitly included as grounds for denying the registration of a party.	Amendments are needed to include requirements for gender equality. Article 69(1)(c) of this Proclamation should be revised/amended to explicitly include gender discrimination as grounds for denying the registration of a party.
9	Title & Date of Law: Ethiopian Human Rights Commission Establishment (Amendment) Proclamation No. 210/2000		
		Despite the establishment of positions responsible for women and children in the Human Rights Commission, there are no legal requirements for gender parity in appointment to this institution.	In relation to the Human Rights Commission, measures should aim to ensure that processes and mechanisms of this Commission serve to ensure women's rights and encourage gender parity in women's representation and participation. In particular, this Proclamation should be revised/amended to define the powers and responsibilities of the Commissioner for Women and Children Affairs, and establish mechanisms and procedures to proactively promote, investigate and remedy violations of the rights of women.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
10	Title & Date of Law: Ethiopian Nationality Proclamation No. 378/2003		
		Although provisions are understood to be applicable to both men and women, the law uses the masculine pronoun; unlike other laws, including the FDRE Constitution, this law does not include a provision extending the use of the masculine pronoun to apply to the feminine gender.	This Proclamation should be revised/ amended to replace masculine pronouns with gender- neutral language to ensure the law is inclusive of all genders.
11	Title & Date of Law: Federal Civil Servants Proclamation No. 1064/201		
		<ul style="list-style-type: none"> • This law on the appointment and recruitment of civil servants and foreign service officers does not have any requirements to ensure gender parity within the civil or foreign services. • This law prohibits sexual harassment in the workplace, but there is no penal law; thus, they this law does not criminalize sexual harassment. • Ethiopia needs to effectively implement this law and ensure that victims of sexual harassment in the workplace have access to effective complaint procedures, protection measures and recourse to remedies, as well as ensure that perpetrators are prosecuted and punished appropriately. 	This Proclamation should be revised/amended to requirements for gender equality, such as achieving gender parity in the recruitment of civil servants.
12	Title & Date of Law: Federal Courts Proclamation Reamendment Proclamation No. 454/2005		
			The law on the powers of the Federal Supreme Court, and especially its Cassation Division, should be amended to clearly provide for the review power of the Federal Supreme Court over decisions of Sharia courts when the latter violate the principles of equality and non-discrimination, and human rights provisions provided for in the FDRE Constitution.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
13	Title & Date of Law: Federal Courts of Sharia Consolidation Proclamation No. 188/1999		
	Article 5(2) provides for the jurisdiction of a Sharia court, where one of the parties is served with a summons of the Sharia court, but fails to appear before the court to register their objection to the jurisdiction of the court. In light of strong cultural pressures that women may be subjected to if they object to the jurisdiction of the Sharia court, the provision is likely to subject women to the jurisdiction of the Sharia court, when in reality, resorting to the civil courts is more likely to ensure women's rights.	This law does not explicitly require Sharia courts to conform to the FDRE Constitution, including human rights provisions that provide for the rights and protection of women. In addition, there is no explicit provision in the law empowering regular courts to review decisions of Sharia courts when the decisions of a Sharia court violate the fundamental principles of the FDRE Constitution.	This Proclamation should be revised/amended to ensure that application of Islamic law does not violate the constitutional rights of women. Legal reform measures related to Sharia courts should be aimed at ensuring that the application of Islamic Law by Sharia courts does not violate the rights of women enshrined in the FDRE Constitution. Legal reforms should also provide for effective mechanisms of reviewing the decisions of Sharia courts to ensure that they conform to the fundamental principles of the Constitution, including those of equality and non-discrimination. Accordingly, the law on Sharia courts should be amended to require that the courts ensure that their processes and decisions respect the human rights provisions of the Constitution. provided for in the FDRE Constitution.
14	Title & Date of Law: Federal Judicial Administration Council Establishment Proclamation No. 684/2010		
			This Proclamation should be revised/amended to include requirements for gender equality, such as achieving gender parity in the appointment of judges.
15	Title & Date of Law: Foreign Service Proclamation No. 790/2013		
	Article 21(1)(e) has a provision that precludes persons living with HIV from joining the foreign service; thus, perpetuating stigmatization and discrimination against persons with HIV, in general, including women living with HIV, in particular.		<ul style="list-style-type: none"> • Repeal Article 21(1)(e) • This Proclamation should be revised/ amended to include requirements for gender equality, such as achieving gender parity in the appointment of foreign service officers. • Article 21(1)(e) should be repealed to eliminate HIV as a ground to preclude employment in the Foreign Service.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
16	Title & Date of Law: Institution of the Ombudsman Establishment Proclamation No. 211/2000		
		Despite the establishment of positions responsible for women and children in the Institution of the Ombudsman, there are no legal requirements for gender parity in appointments to this institution.	In relation to the Institution of the Ombudsman, measures should aim to ensure that processes and mechanism of this institution serves to ensure women's rights and encourage gender parity in women's representation and participation. In keeping, this Proclamation should be revised/amended to legally establish the powers and responsibilities of the Ombudsperson for Women and Children, and establish mechanisms and procedures to proactively promote, investigate and remedy violations of the rights of women.
17	Title & Date of Law: Labor Proclamation No. 1156/2019		
	<ul style="list-style-type: none"> Article 87(3) precludes women, in general, from jobs that the Ministry of Labor may designate as dangerous. Article 87(4) prohibits pregnant women from night or overtime work. 	<ul style="list-style-type: none"> There are no mechanisms to safely investigate allegations of gender discrimination or to protect complainants and whistleblowers from retaliation. This law provides no protection to domestic workers who are predominantly women. This law prohibits sexual harassment in the workplace, but there is no penal law; thus, they this law does not criminalize sexual harassment. Women domestic workers should be guaranteed the same level of protection and benefits as other workers, and there is a need to strengthen efforts to protect women domestic workers from abusive and exploitative working conditions. 	<ul style="list-style-type: none"> Article 87(3) of the should be repealed to eliminate gender stereotyping in the field of employment relations, and eliminate restriction on women's empowerment opportunities. Article 11(2) should be revised/amended to provide a more complete definition of "sexual harassment" that aligns with the definition of sexual harassment under Article 2(13) of the Federal Civil Servants Proclamation No. 1064/2017.
18	Title & Date of Law: National Risk Management Commission Establishment Council of Ministers Regulation No. 363/2015		
		There is no legal requirement for a gendered approach to disaster and conflict risk assessment and response.	This Regulation needs to be revised/amended to ensure that the legal framework dealing with disaster prevention and response considers gender-specific vulnerabilities that increase women and girls risks of GBV in humanitarian and emergency situations during disasters and conflicts. This Proclamation should also be amended to provide additional legal protections to address the threats that women and girls face in humanitarian and emergency situations during disasters and conflicts.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
19	Title & Date of Law: Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015		
			<p>This proclamation should be revised/amended to align with international standards, such as the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, to ensure the law is adequately implemented and enforced. The following reforms are suggested:</p> <ul style="list-style-type: none"> • Define trafficking to include trafficking in persons into forced marriage. • Provide a special prosecution agency or department to actively investigate, prosecute and punish those involved in trafficking in persons. • Provide provisions in the law to exempt human trafficking survivors from prosecution and further victimization. • Ensure that human trafficking survivors have the opportunity to seek remedies and redress for the human rights violations they have suffered. • Protect women's rights and address the inequality in status and opportunity that makes women vulnerable to trafficking in persons and other forms of violence, abuse and exploitation by mandating education for girls and providing special job training for women in vulnerable populations. • Provide women survivors with community-based rehabilitation and reintegration services, as well as health care, education, job skills training and income-generating employment.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
20	Title & Date of Law: Private Organization Employees' Pension Proclamation No. 715/2011		
		<ul style="list-style-type: none"> This law recognizes the rights of a widow or widower to pension payments when their private organization employee passes away; however, neither law recognizes the right of a spouse to a portion of the pension payment acquired during the validity of the marriage in cases of divorce. Thus, while the salary of a spouse is common property and contributions to pension schemes are made from the salary (thus from the common property), only the employed spouse is entitled to get pension payments. Given the fact that most jobs in the formal sector, which are the subject of pension laws, are held by men, whereas most women are employed in the informal sector and are responsible for unpaid domestic and care work in the home and family; thus, seemingly gender-neutral laws related to pensions have adverse effects on women by systematically excluding them from social benefits. For instance, Article 40(2) terminates the payment of pensions to a widow or widower in cases of remarriage, if the widow is less than 45 years of age and the widower is less than 50 years of age. Benefits a spouse accrues due to enhanced earning capacity through education and training opportunities obtained during the course of the marriage by one of the spouses is not considered part of common property. Thus, a spouse who has invested in education and/or training of their spouse, either directly (through paying for such education and/or training) and/or indirectly (through supporting the educated or trained spouse during the course of their education and/or training), is precluded from the benefits of the education and/or training in which they invested. 	<p>The Proclamation should be revised/amended to:</p> <ul style="list-style-type: none"> Recognize the rights of a spouse who is divorced from a pensioner to a share of the pension payment in proportion to the contribution made during the time of the marriage. Eliminate the distinction between men and women in relation to the effect of remarriage on the payment of pension to widows and widowers.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
21	Title & Date of Law: Protection of Witnesses and Whistleblowers of Criminal Offences Proclamation No. 699/2010		
		<ul style="list-style-type: none"> • VAWG survivors may benefit from the protective and care measures; however, the apparent gender-neutrality of provisions in this law not explicitly factor in the disadvantaged or vulnerable position of VAWG survivors. Thus, extension of these measures to survivors of GBV-related crimes is at the discretion of administrative agencies. • Protection and care measure become operational only in cases of offences that are punishable by at least ten years of rigorous imprisonment or death; thus, excluding many GBV-related crimes. 	This Proclamation should be revised/amended to eliminate unjustified gender differences and provide procedures and mechanisms of protection and care to survivors of GBV crimes during criminal processes and in cases of GBV crimes
22	Title & Date of Law: Public Servants' Pension Proclamation No. 714/2011		
		<ul style="list-style-type: none"> • Recognizes the rights of a widow or widower to pension payments when their public servant passes away; however, does not recognize the right of a spouse to a portion of the pension payment acquired during the validity of the marriage in cases of divorce. While salary of a spouse is common property and contributions to pension schemes are made from the salary (thus from the common property), only the employed spouse is entitled to get pension payments. • Article 41(2) terminates the payment of pensions to a widow or widower in cases of remarriage, if the widow is less than 45 years of age and the widower is less than 50 years of age. • Benefits a spouse accrues due to enhanced earning capacity through education and training opportunities obtained during the course of the marriage by one of the spouses is not considered part of common property. Thus, a spouse who has invested in education and/or training of their spouse is precluded from the benefits of the education and/or training in which they invested. 	<p>This Proclamation should be revised/amended to:</p> <ul style="list-style-type: none"> • Recognize the rights of a spouse who is divorced from a pensioner to a share of the pension payment in proportion to the contribution made during the time of the marriage. • Eliminate the distinction between men and women in relation to the effect of remarriage on the payment of pension to widows and widowers

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
23	Title & Date of Law: Refugees Proclamation No. 1110/2019		
		Gender-related forms of persecution are forms of persecution that are directed against a woman, because she is a woman, or that affect women disproportionately.	This Proclamation should be revised/amended to recognize VAWG and other forms of gender discrimination as grounds for granting refugee status.
24	Title & Date of Law: Revised Criminal Code of the FDRE Proclamation No. 414/2004		
	<ul style="list-style-type: none"> Article 654 limits its protection to domestic violence cases that rise to the level of grave or common injury that are included in other provisions of the RCC. RCCs categorization of crimes against women as “moral crimes” detracts from the gravity of the violence and serious danger that VAWG poses to the life and security of women, and threatens the public health and safety of society. Definition of rape under Article 620 limits rape to sexual intercourse and excludes sex in the context of marriage. According to Article 620, the crime of rape can only be committed against a woman. Article 620 sets a very high bar to establish that there was no consent; thus, the perpetrator is considered to have committed rape only if there is a clear act of violence or an act that incapacitates the victim or renders the victim unconscious. 	<ul style="list-style-type: none"> Absence of any comprehensive definition of what constitutes VAWG. Many acts of violence committed against women are classified as offences against morals. This appears to be a remnant from the Penal Code of 1957, which similarly categorized many acts of violence committed against women and girls as offences against morals. Insufficient protection from domestic violence that it affords to women. RCC fails to provide women with any more protection from domestic violence than those afforded under the other provisions of the RCC. Without a definition of domestic violence, these acts are limited to physical violence and do not cover other forms of violence, such as economic and psychological violence or stalking. RCC does not criminalize sexual harassment that takes place in the workplace or other environments. Another limitation of the RCC is that it has no provisions to provide care, sensitivity and protection to VAWG survivors. The RCC does, however, have preventive and protective measures aimed at limiting the ability of a perpetrator to commit further crimes, including against the victim. 	<ul style="list-style-type: none"> Repeal exceptions to minimum age requirements under Article 648 Article 546 of the RCC should be repealed to decriminalize abortion. <p>The RCC should be revised/amended to:</p> <ul style="list-style-type: none"> Include all forms of discrimination against women Streamline the definition of sexual crimes in a manner that reflects the experiences of women victims of sexual crimes. Criminalize sexual harassment in places of work, education and other public places. Eliminate unnecessary and unjustifiable gender differences Article 561 should clearly define HP as prohibited by Article 5 of CEDAW. While it may not always be possible to exhaustively and conclusively list all actions that constitute HP, it is possible to identify the core elements of discriminatory actions that are justified as cultural and traditional. The Joint General Recommendation No. 31 of the UN Committee on the Elimination of Discrimination Against Women and General Comment No. 18 of the Committee on the Rights of the Child on HP can be useful in this regard. Article 565 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. The penalty for cases of FGM should be one that effectively de-incentivize the perpetrators of FGM.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
	Title & Date of Law: Revised Criminal Code of the FDRE Proclamation No. 414/2004, Continued		
	<ul style="list-style-type: none"> • Short of this, the threat of violence or other harm will not constitute rape, unless it is 'grave'. Thus, Article 620 sets a standard that does not take into account how the victim experiences or assesses the threat of harm. • When strict standards of Articles 620 and/or 621 are not met, and in the absence of violence, grave intimidation or incapacitation, the only recourse a non-consenting woman may have is Article 625. • Article 625, a woman (not a man) who is forced by a man (not a woman) "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" to have intercourse or "any other indecent act" is punishable with simple imprisonment. Even worse, the crime will be prosecuted, not as a public offence, but as a private offense, only when the victim lodges a complaint. 		

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
	Title & Date of Law: Revised Criminal Code of the FDRE Proclamation No. 414/2004, Continued		
	<ul style="list-style-type: none"> Gendered differentiation is visible in Article 626 on sexual crimes committed on children between the ages of 13 and 18 years. A male offender can be imprisoned for up to 15 years, whereas a female offenders can be imprisoned for up to seven years. A similar distinction is observed under Article 627, dealing with sexual outrages against children younger than 13 years of age, where a male offender can be imprisoned for 13 to 25 years, whereas a female offender can be imprisoned for no more than 10 years. Article 629 criminalizes homosexuality and increases the penalty for homosexual acts committed on minors, as per Article 631. Article 631 sets the minimum penalty at 13 years for male offenders, whereas limits the penalty to a maximum of 10 years for female offenders. 		

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
	Title & Date of Law: Revised Criminal Code of the FDRE Proclamation No. 414/2004, Continued		
	<ul style="list-style-type: none"> • Similar gendered distinctions in Articles 587 to 590 as it relates to abduction of women and children, Article 596 on enslavement, Article 597 on trafficking in women and children, and Article 598 on unlawful sending of Ethiopian for work abroad. • Article 551 seems to align with Article 14(2)(c) of the Maputo Protocol, however, it is unnecessarily restrictive as it limits abortion to cases in which the life of the mother is at risk, rather than allowing the termination of pregnancy when the health and well-being of the mother demands it, as outlined in the Maputo Protocol. • Article 650 criminalizes polygamous marriages; however, notwithstanding this, Article 651 provides that polygamy shall not be criminal when the polygamous marriage is contracted in accordance with “religious or traditional practices recognized by law.” 		

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
Title & Date of Law: Revised Criminal Code of the FDRE Proclamation No. 414/2004, Continued			
	<ul style="list-style-type: none"> Article 82 defines the factors that should be taken into account in extenuating circumstances, such as reducing the punishment imposed on an offender. Article 82 opens the possibility for backward conceptions of moral and harmful traditional attitudes and practices, and sexist views that blame or fault women for their own victimization, which can be considered as factors in reducing penalties for perpetrators of GBV-related crimes committed against women. 		
25	Title & Date of Law: Revised Family Code (RFC) Proclamation No. 213/2000		
	<p>RFC has provisions on exceptions that allow this requirement to be waived. Such legislative exceptions to the minimum age requirement of 18 years for marriage is a violation of Ethiopia's international and regional commitments to the rights of children and women.</p>	<ul style="list-style-type: none"> RFC does not have explicit provisions protecting the rights of women to stay in the marital home during the process of divorce. Gendered norms and practices that suppress women's participation in the labor market and the economy, as well as in public life, means that women are particularly vulnerable to abuse in the course of divorce proceedings. The law does not have mechanisms to protect women during these proceedings, especially by ensuring their continued occupation of the marital residence. 	<p>Repeal exceptions to minimum age requirements under Article 7(2) The RFC should be revised/amended to:</p> <ul style="list-style-type: none"> Unequivocally prohibit marriage and betrothal before the age of 18 Clearly prohibit polygamous marriages. Ensure the rights of spouses to share as common property the enhanced earning education and training gained during marriage. Protect the rights of women to remain in the marital residence during divorce proceedings. Recognize enhanced earning capacity of a spouse attained in the course of marriage as forming part of the common property. Establish educational programmes and institution to address child marriage through incentivizing programmes and mechanisms to promote opportunities for young girls.

S/No.	Explicitly or Implicitly Discriminatory Sections	Gaps in the Law	Recommended Actions
26	Title & Date of Law: Registration of Vital Events and National Identity Card Proclamation No. 760/2012		
	Article 57(2)(g) lists ethnicity and religious affiliation among the required particulars to be included in the registration of national identity. While there does not seem to be any compelling reason for the inclusion of ethnicity and religious affiliation on the national identity card, it should be noted that ethnic and religious attacks have been occurring in Ethiopia, making this provision a potential danger to registrants, including women.		Repeal Article 57(2)(g) of the to eliminate ethnic and religious affiliation as particulars included on national identity cards.

APPENDIX C:

LIST OF HUMAN RIGHTS TREATIES RATIFIED BY ETHIOPIA AS OF JULY 2021

TITLE	Date of Ratification (Accession)
International Human Rights Treaties⁹⁰	
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	14 Mar 1994
International Covenant on Civil and Political Rights	11 Jun 1993
Convention on the Elimination of All Forms of Discrimination against Women	10 Sep 1981
International Convention on the Elimination of All Forms of Racial Discrimination	23 Jun 1976
International Covenant on Economic, Social and Cultural Rights	11 Jun 1993
Convention on the Rights of the Child	14 May 1991
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	14 May 2014
Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	25 Mar 2014
CRPD - Convention on the Rights of Persons with Disabilities	07 Jul 2010
African Human Rights Treaties⁹¹	
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	15 Oct 1973
African Charter on Human and Peoples' Rights	30 Dec 2008
African Charter on the Rights and Welfare of the Child	02 Oct 2002
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	18 July 2018

⁹⁰ UN Office of the High Commission for Human Rights. "Ratification Status for Ethiopia." Retrieved on 21 July 2021 from: [Treaty bodies Treaties \(ohchr.org\)](https://treaties.un.org/doc/Treaties/SummaryTable/treaties-summary-table-ethiopia.pdf)

⁹¹ The African Union. "OAU/AU Treaties, Conventions, Protocols & Charters." Retrieved on 21 July 2021 from: [OAU/AU Treaties, Conventions, Protocols & Charters | African Union](https://www.africau.edu/en/au-treaties-conventions-protocols-charters)

TITLE	Date of Ratification (Accession)
ILO Conventions⁹²	
Forced Labor Convention, 1930 (No. 29)	02 Sep 2003
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	04 Jun 1963
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	04 Jun 1963
Equal Remuneration Convention, 1951 (No. 100)	24 Mar 1999
Abolition of Forced Labor Convention, 1957 (No. 105)	24 Mar 1999
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	11 Jun 1966
Minimum Age Convention, 1973 (No. 138)	27 May 1999
Worst Forms of Child Labor Convention, 1999 (No. 182)	02 Sep 2003
Unemployment Convention, 1919 (No. 2)	11 Jun 1966
Right of Association (Agriculture) Convention, 1921 (No. 11)	04 Jun 1963
Weekly Rest (Industry) Convention, 1921 (No. 14)	28 Jan 1991
Final Articles Revision Convention, 1946 (No. 80)	23 Jul 1947
Employment Service Convention, 1948 (No. 88)	04 Jun 1963
Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)	28 Jan 1991
Final Articles Revision Convention, 1961 (No. 116)	11 Jun 1966
Occupational Safety and Health Convention, 1981 (No. 155)	28 Jan 1991
Workers with Family Responsibilities Convention, 1981 (No. 156)	28 Jan 1991
Termination of Employment Convention, 1982 (No. 158)	28 Jan 1991
Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)	28 Jan 1991
Private Employment Agencies Convention, 1997 (No. 181)	24 Mar 1999

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APPENDIX D:

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