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**CHALLENGES ON IMPLEMENTATION OF**  
**CEDAW IN ETHIOPIA**

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***ADDIS ABABA, ETHIOPIA***

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## **Abbreviations**

**CEDAW** **Convention on Elimination of Discrimination against Women**

**CSW** **Commission on the Status of Women**

**FDRE** **Federal Democratic Republic of Ethiopia**

**FGM** **Female Genital Mutilation**

**WADS** **Women Affairs Departments**

**WAO** **Women Affairs Office**

**UN** **United Nation**

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## **Introduction**

Women rights are the totality of those norms of conventional and customary that seek to protect women through the establishment of specific women rights related to normative standards that are accepted in international law and within the system that seek to implement those norms.

Enhance as human beings women are entitled to enjoy rights of freedoms enshrined in the Universal declaration of Human rights which Ethiopia endorsed in 1991 and international convention on civil and political rights and economic ,social and cultural rights 1966 that Ethiopia accepted and ratified and made them part of law of the country.

The most basic of Human rights, the right to life is upheld for every one in international Bill of Human rights .

The adoption of the convention on Elimination of discrimination against women and commitments made by world leaders at the world summit for women were recognition by the international community the women human rights demand special priority attention.

This recognition of the right of the women has to be reflected in policies and legal instruments of every nation. The effect Ethiopia accepted and ratified the CEDAW in December 10, 1981, once Ethiopia has ratified the convention, the Country is under a strict obligation to bring its national law compatible with the convention to facilitate its application.

The government has political commitment by ratifying relevant international conventions concerning human rights in general and the Convention on the Elimination of discrimination against women it tried to set up ministers but it is weak for implementation due to the less enforcement of the law and lack of creating awareness among the society the ratified convention are not fully implemented

The objective of this paper is to assess and examine the problem in implementing of the convention (CEDAW) in Ethiopia in line with Ethiopian law and propose recommendation. It classified in 5 parts, The first part deals with the back ground of the convention and general overview of he convention. The Second part deals with the measure taken by the government, The third part deals with the specific situations of the rights in regard to Ethiopian laws, The fourth part deals with the challenges to implement the convention and fifth part is recommendation and conclusion.

In this globalize world gender equality is a measurement of a developed society. This study could try to provide information about he challenges for implementation of the convention and try to show the gap b/n the law and the practice and to recommend to improve for the low mechanism of the enforcement.



## CHAPTER ONE

### 1. **Back ground of the Convention**

Before II world war , the treatment of citizens in individual state was outside the reach of international law. However, this is no more so. International law has now extended to govern the conduct of states in relation to the human rights of their own citizens. Different human rights instruments have been adopted with the aim of setting the obligations of states and the minimum standards to be complied with.

From those instruments CEDAW is the one. It provide minimum standards for the human rights of women. The aim of ensuring equal rights for women and eliminating discrimination against women have long been on the agenda of the international community. This vision has been reflected in different general and specific instruments adopted at different levels. The international human rights instruments, which entered into force prior to CEDAW, suffered from different shortcomings and were not found to be sufficient to ensure the human rights of women. Hence, CEDAW was adopted on the human rights of women.

The adoption of international or regional human rights instruments is of little value unless accompanied by enforcement. The enforcement of human rights instruments is the primary responsibility of states. Therefore, following the ratification or accession human rights treaties, states are duty bound to take different measures towards implementation. The particular obligations of states arising from international human rights instruments depend on the provision and objectives of the instruments.

The CEDAW imposes different obligation on the states parties to ensure the equal enjoyment of human rights and the elimination of discrimination against women, state parties to CEDAW should take the measures required by the convention to discharge their obligations.

Equality of rights for women is a basic principle of the United Nations. The Preamble to the Charter of the United Nations sets as one of the Organization's central goals the reaffirmation of "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women". Article 1 proclaims that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to, inter alias, sex. By the terms of the Charter, the first international instrument to refer specifically to human rights and to the equal rights of men and women, all members of the United Nations are legally bound to strive towards the full realization of all human rights and fundamental freedoms. The status of human rights, including the goal of equality between women and men, is thereby elevated: a matter of ethics becomes a contractual obligation of all Governments and of the UN.

The International Bill of Human Rights strengthens and extends this emphasis on the human rights of women. The Universal Declaration of Human Rights proclaims the entitlement of everyone to equality before the law and to the enjoyment of human rights and fundamental freedoms without distinction of any kind and proceeds to include sex among the grounds of such impermissible

distinction. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of 1966, which translate the principles of the Declaration into legally binding form, clearly state that the rights set forth are applicable to all persons without distinction of any kind and, again, put forth sex as such a ground of impermissible distinction. In addition, each Covenant specifically binds acceding or ratifying states to ensure that women and men have equal right to the enjoyment of all the rights they establish.

The International Bill of Human Rights, combined with related human rights treaties, thus lays down a comprehensive set of rights to which all persons, including women, are entitled. However, the fact of women's humanity proved insufficient to guarantee them the enjoyment of their internationally agreed rights. Since its establishment, the Commission on the Status of Women (CSW) has sought to define and elaborate the general guarantees of non-discrimination in these instruments from a gender perspective. The work of CSW has resulted in a number of important declarations and conventions that protect and promote the human rights of women.

Originally established in 1946 as a sub commission of the Commission on Human Rights, but quickly granted the status of full commission as a result of the pressure exerted by women's activists, the mandate of the CSW included the preparation of recommendations relating to urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women should have equal rights, and the development of proposals to give effect to such recommendations.

Between 1949 and 1959, the Commission elaborated the Convention on the Political Rights of Women, adopted by the General Assembly on 20 December

1952, the Convention on the Nationality of Married Women, adopted by the Assembly on 29 January 1957, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages adopted on 7 November 1962, and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages adopted on 1 November 1965. Each of these treaties protected and promoted the rights of women in areas in which the Commission considered such rights to be particularly vulnerable. But it was believed that, except in those areas, women's rights were best protected and promoted by the general human rights treaties.<sup>1</sup>

Although these instruments reflected the growing sophistication of the UN system with regard to the protection and promotion of women's human rights, the approach they reflected was fragmentary, as they failed to deal with discrimination against women in a comprehensive way. In addition, there was concern that the general human rights regime was not, in fact, working as well as it might to protect and promote the rights of women. Thus, the General Assembly, on 5 December 1963, adopted its resolution 1921 (XVIII), in which it requested the Economic and Social Council to invite the CSW to prepare a draft declaration that would combine in a single instrument international standards articulating the equal rights of men and women. This process was supported throughout by women activists within and outside the UN system. Drafting of the declaration, by a committee selected from within the CSW, began in 1965, with the Declaration on the Elimination of Discrimination against Women ultimately being adopted by the GA on 7 November 1967. Although the Declaration amounted only to a statement of moral and political intent without the contractual force of a treaty, its

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<sup>1</sup> [Http://www un.org/womenwatch/daw/cedaw/history/htm](http://www.un.org/womenwatch/daw/cedaw/history/htm).

drafting was none the less a difficult process. Article 6, concerning equality in marriage and the family, and article 10, relating to employment, proved to be particularly controversial, as did the question of whether the Declaration should call for the abolition of the customs and laws perpetuating discrimination or for their modification or change.

The 1960s saw the emergence, in many parts of the world, of a new consciousness of the patterns of discrimination against women and a rise in the number of organizations committed to combating the effect of such discrimination. The adverse impact of some development policies on women also became apparent. In 1972, five years after the adoption of the Declaration and four years after the introduction of a voluntary reporting system on the implementation of the Declaration by the Economic and Social Commission, the CSW considered the possibility of preparing a binding treaty that would give normative force to the provisions of the Declaration and decided to request the Secretary-General to call upon UN Member States to transmit their views on such a proposal. The following year, a working group was appointed to consider the elaboration of such a convention. In 1974, at its twenty-fifth session and in the light of the report of this working group, the Commission decided, in principle, to prepare a single, comprehensive and internationally binding instrument to eliminate discrimination against women. This instrument was to be prepared without prejudice to any future recommendations that might be made by the United Nations or its specialized agencies with respect to the preparation of legal instruments to eliminate discrimination in specific fields.

The text of the Convention on the Elimination of All Forms of Discrimination against Women was prepared by working groups within the Commission during 1976 and extensive deliberations by a working group of the Third Committee of the General Assembly from 1977 to 1979. Drafting work within the Commission was encouraged by the World Plan of Action for the Implementation of the Objectives of the International Women's Year, adopted by the World Conference of the International Women's Year held in Mexico City in 1975, which called for a convention on the elimination of discrimination against women, with effective procedures for its implementation. Work was also encouraged by the General Assembly which had urged the Commission on the Status of Women to finish its work by 1976, so that the Convention would be completed in time for the 1980 Copenhagen mid-decade review conference (World Conference on the United Nations Decade for Women: Equality, Development and Peace). Although suggestions were made to delay completion of the text for another year, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979 by votes of 130 to none, with 10 abstentions. In resolution 34/180, in which the General Assembly adopted the Convention, the Assembly expressed the hope that the Convention would come into force at an early date and requested the Secretary-General to present the text of the Convention to the mid-decade World Conference of the United Nations Decade for Women.

At the special ceremony that took place at the Copenhagen Conference on 17 July 1980, 64 States signed the Convention and two States submitted their instruments of ratification. On 3 September 1981, 30 days after the twentieth members state had ratified it, the Convention entered into force - faster than any previous human rights convention had done - thus bringing to a climax United Nations efforts to codify comprehensively international legal standards for women<sup>2</sup>

### 1.1 **General Overview of the Convention**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

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<sup>2</sup> \* extracted from Progress achieved in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women: Report by the Committee on the Elimination of Discrimination against Women (A/CONF.177/7).

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.<sup>3</sup>

The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women's rights to acquire, change or retain their nationality and the nationality of their children. States parties also agree to take appropriate measures against all forms of traffic in women and exploitation of women.

Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations.

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<sup>3</sup> <http://www.un.org/womenwatch/daw/cedaw/index.html> 4/14/2008



## 1.2 Obligation of States under CEDAW

Human rights conventions give rise to different obligations on the part of states depending on the type of the rights guaranteed and the problem it was to address<sup>4</sup>. From these classification negative and positive duties is one of such categorizations. The negative duties restricted the government not to interfere in the exercise of the rights. So all the governments required to do refrain for interfering. On the other hand, the positive duties, impose on states the duty of taking positive action to ensure the realization of the rights. The state is required to take specific measures to ensure the enjoyment of the rights. It is questionable however which of the rights involve just negative duties have come to be understood as requiring positive measures through time.

The other method of classification of obligations of states under human rights treaties is between that of conduct and result. Obligation of conduct requires states to act in a certain manner with the aim of achieving a certain end. Obligation of result gives states the liberty to choose the manner of achieving a certain end.

In general the obligation of states under human rights convention could be summarized as obligation to respect, protect, fulfill and promote.<sup>5</sup> The obligation to respect relates to rights; which require nothing but the non-interference of the

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<sup>4</sup> Henry J. Steiner and Philip Alston, International Human Rights in Context: Law, Politics and Morals, second ed., 2000,p181

<sup>5</sup> Human right course lecture

state in the enjoyment of the right. The other obligation is relates to the duty of protection that state have to ensure the enjoyment of the rights by providing protection against possible interference both on the government organ and private parties. So the states have duty to provide protection against right violations by individuals and its own organs. In addition, the duty of the states to promote requires the states to involve in promotional activities to create awareness of the society to guarantee the observation of human rights.

CEDAW aims to eliminate all forms of discrimination against women so as to ensure the equal enjoyment of human rights by women and the equal participation of women in all aspects of life. For the realization of this goal, article 2 begins by obligating states to condemn discrimination in all its forms and to take measures towards the elimination of discrimination against women. The article enumerates the specific measures states should take for the purpose. Accordingly, states are required to incorporate a principle of equality in their constitution and to ensure its implementation. They are also expected to prohibit discrimination against women to provide legal protection for the equal rights of women and to ensure the effectiveness of such protection through national and other public institutions. Article 2, in addition, obligates states not only to refrain from discriminating against women but also to take appropriate measures to eliminate discrimination against women by non-state agents. The obligation of states to take appropriate measures to modify or abolish existing laws, customs and practices, which constitute discrimination against women, is also contained under the article. This obligation is further strangled by article 5 of the convention. Article of the

convention hence, obligates states parties to eliminate cultural and other practices based on the prejudice of the stereotyped roles for men and women.

The obligation of states under CEDAW touch up on the different categories of duties which are expressed earlier, the obligation of states to respect, protect, fulfill and promote are incorporated.

## CHAPTER TWO

### **2. Ethiopian Government activity to implement CEDAW**

Before attempting to review the situation of human rights of women in Ethiopia it is important to have some background information on the country's social, economic, and legal environment. Ethiopia is a country comprising different ethnic groups with varying languages, religions and cultures.

In December 1994 , the constitution of the Federal Democratic Republic of Ethiopia was adopted replacing the 1987 Dergue's constitution. The Constitution proclaims that the system of government is parliamentary composed of two houses: the House of people's Representatives and the House of Federation. The FDRE is composed of nine states. The respective division of power between the regional states and the federal government is indicated in the constitution. The constitution devotes a chapter to fundamental rights and freedoms. This chapter, which is further divided into two parts, lists all generations of rights with subdivision into human rights and democratic rights however, the aim and ground of the division is confusing(not clear). The first part, which has the title of human rights, is composed of provisions dealing with the right to life, liberty, and security of persons, freedom of opinion, religion and belief, rights of arrested convicted and accused person, the right to privacy, honor and reputation, and the right to equality. The second part of the third chapter of the constitution entitled democratic rights incorporates rights of thought, opinion and expression right to assembly, demonstration and petition, freedom of association and movement, right to nationally, marriage and family life, rights of women and children, right of access to justice, the right to elect and be elected, the rights of nation, nationalities and peoples, the right to property, economic, social and cultural rights, labour rights, the right to development, and environmental rights.

The Constitution under article 13 imposes the duty of respecting the rights and freedoms contained on all state organs. It further provides a principle of interpretation that all the rights are to be interpreted in conformity with the human rights instruments adopted by Ethiopia. The place of international instruments to which Ethiopia is part is further dealt with under article 9 sub paragraphs 4 which provides that such instruments shall form part of the law of the land.

Ethiopia is party to most international human rights instruments. CEDAW is among the international human rights instruments adopted by Ethiopia. The optional protocol to CEDAW, which provides for complaint mechanisms however, is not adopted by Ethiopia. Being a state party to CEDAW Ethiopia has undertaken the duty of ensuring the elimination of all forms of discrimination against women and the equal enjoyment of civil, political, social or any other right by women. The country has also obligation of presenting state report to the committee according to article 18 of the convention on the measures that have been taken to give effect to the provisions of the convention.

Ethiopia has submitted the initial, fourth and fifth reports so far and has received the suggestions of the committee. The committee after considering the reports submitted by Ethiopia it expressed its appreciation for the political will demonstrated by the government to ensure the human rights of women the adoption of the women's policy and the establishment of gender focal points at different levels.<sup>6</sup> The committee further commended the government's affirmative action efforts for women at university level. In addition, the committee forwarded recommendations on the measures that need to be taken in the future.

As it discussed earlier CEDAW does not enumerate all the rights however it deals with specific issues which are found to make women susceptible to discrimination. Therefore, resort should be had to other instruments to give content to the protection afforded by CEDAW.

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<sup>6</sup> CEDAW/C/ETH/4-5/C/2004/CRP.3/Add.Rev.1

Different measures have been taken by the Ethiopian government to ensure compliance with its duties under CEDAW. The measures could be generally categorized as legislative, policy measures and other measures aimed at ensuring the implementation of legislative and policy measures. Legislative measures revisions of different laws. Policy measure on the other hand includes different policies formulated by different government offices with the objective of achieving their respective goals. The implementation measures refer to mechanisms devised by both federal and regional governments to ensure the enforcement of legislations and policies, which include the judiciary and other independent offices established for the purpose such as the human rights commission and the women's affairs office.

## **2.1. Policy Measures**

Both the Transitional government and the Federal government of Ethiopia have formulated several policies in different areas. The National Policy on Ethiopian Women, the Education and Training policy, and the Health policy could be mentioned among such policies. As the name of each implies the policies are meant to address different socio economic issues.

### **2.1.1 The National Policy on Ethiopian Women**

The Transitional Government of Ethiopia formulated the National policy on Ethiopian Women in 1993. The policy takes as its basis the existing situation of Ethiopian women with respect to the enjoyment of their human rights and their participation in the effort towards sustainable development. The document indicates that Ethiopian Women though commit their labor for long hours to sustain their family, their contribution in the society has not been acknowledged. It further notes that women form one of the major victims of poverty and natural and man-made disasters. They are deprived of equal opportunities and lag behind their male counterparts in all fields. It is also stated in the policy document that the condition of the Ethiopian women is further wide and prevalent for gender bias of the society, which is demonstrated in many forms hindering their full development and advancement. The policy further holds that sustainable

development and democratic process could not be realized without the full participation of women.

The National policy indicates that there has been no organized effort to address the problem before it. It states, the efforts to improve the conditions of women have been disorganized and fragmented in that there was neither a government policy nor responsible authority for the purpose. As a result, it notes the efforts till then were suffering from duplication and lack of coordination.

The National policy clearly indicates that it is based on the principle of respect for human rights with out distinction as proclaimed in the UN charter and other international instruments to which Ethiopia is a party including CEDAW. Having regard to the problems faced by the Ethiopian women and the principle of equal rights for all the policy adopts the following objectives.

1. Facilitating conditions to enable women enjoy their human rights on equal basis with men and to ensure their equal participation in political, social and economic life.
2. Facilitating conditions for rural women to have access to basic social services and to find ways of lightening their workload.
3. Eliminating prejudices, customs and practices that are based on male supremacy and enable women take part in decision-making processes at all levels.

The policy lists down specific contents to lead to the accomplishment of the above policies objectives.

1. The ensuring of the full development and advancement of women and guarantee them the enjoyment of their human rights.
2. Modifying or abolishing discriminatory laws, practices and customs and ensuring the equal participation of women in economic, social and political life as well as in decision making processes at all levels.

3. Creating awareness to change the discriminatory attitudes towards women
4. Ensuring the participation of women in the formulation and implementation of laws, policies, projects and programs that concern and benefit them.
5. Encouraging research on the ways of lightening the workload of women and increasing their income.
6. Coordinating and following up the implementation of all government programs concerning women to avoid duplication.
7. Incorporating women's affairs into the government structure and establishing branches in all ministries and government organs.
8. Ensuring that all government laws and policies are not discriminatory, afford protection to the rights of women, give special attention to the conditions of rural women and make sure that women participate in and enjoy the fruits of development activities on equal basis with men.

The policy contains a more detailed strategy for the implementation of the objectives and specifies the organs responsible for the implementation of the policy.

### **2.1.2 Implementation of the Policy**

The task of implementing the policy is entrusted to three organs. The women's affairs Office in the prime Minister's office, the regional Women's Affairs Sector and the Women's Departments in ministries and public organizations nearly it expands to Woreda and Keble.

#### **a. The Women's Affairs Office**

The Women's Affairs Office (here in after WAO) at the national level works under and is accountable to the Prime Minister's office. The duties of the WAO are stipulated in the policy. Accordingly, the WAO has the duty of coordinating, facilitating and monitoring women's affairs activities at the national level. It is expected to take and initiate the taking of necessary measures including to create favorable atmosphere for the implementation of the policy and to arrange information exchange forum between governmental and non governmental women's organizations. It



also has the responsibility of encouraging women to struggle for their rights by organizing them based on their needs, interests and nature of their problems. The WAO, by and large is expected to encourage the establishment of women's affairs organs in the regions and in different government organizations as well as the formation of voluntary women's organizations and establish a close working relationship with them. It also has the task of undertaking and encouraging studies focusing on the problems of Ethiopian women with the view of finding practical solutions.

**b. Sector of Women Affairs offices in Regions**

The Regional Women's Affairs Sector is accountable to the Regional Administrative Council and has the duty of facilitating and coordinating activities related to women's affairs in the regions. It is also expected to organize women's affairs bureaus within the region in line with organizational system of implementation introduced by the policy. The Women's Affairs sector has the duty of devising ways and creating conducive atmosphere for the effective implementation of the women's policy in the respective region. When deemed necessary, the Women's Affairs sector further has the duty of initiating the formulation of new policies. It is also to make every effort to ensure the active participation of women in various activities in the region. The Women's Affairs Sector, in addition, has the duty to ensure that gender concerns are reflected in the preparation of plan, researches and projects in the region. The duty of creating a forum where by different organizations to exchange experience is also attributed to the women affairs sector in each region.

**c. The Women's Affairs Department in different Organizations**

The Women's Affairs Department in Ministries and public organizations is the third organ with the responsibility of implementing the national women's policy. This organ is accountable to the Ministry or public organization under which it is established and has the same power as the

other departments. It should be noted here that such a department is foreseen by the policy in the regional Ministries and public organizations. The policy stipulates that the Women's affairs Department has the duty of monitoring, following up and designing ways of implementing the policy in line with the powers and duties of the organizations in which it is based. It has also the task of presenting policy proposals for higher authorities by closely monitoring women's activities. It is further expected to encourage, assist and monitor the active participation of women in different activities and ensure that women are afforded equal opportunities. In addition, this organ monitors and assesses the proper treatment of gender considerations in relation to policies, plans, studies and researches.

### **2.1.3 Evaluation of the policy and Implementation**

The National policy on Ethiopian women manifests the commitment of the Ethiopian government to uphold the human rights of women. The fact that the policy entrusts the task of implementing the policy to specified organs further indicates the effort to improve not only the de jure situation but also that of de facto.

The responsible organs have undertaken different activities towards the implementation of the policy. Different workshops aimed at bringing about attitudinal changes have been organized at national, regional and organizational levels. There have been educational activities aimed at educating the public at large through mass media. Efforts to put an end to discriminatory and harmful practices against women have been made. Attempts have also been made to ensure the incorporation of gender concerns in policies and plans formulated at different levels. The Women's Affairs organization has organized a national workshop twice in which many governmental and non governmental organizations working on women's affairs have shared information. There have also been different discussions organized by Women affairs sector in the regions on the incorporation of the new family law adopted by the federal government abolishing the discriminatory provisions of the old family law.

The policy and its implementation, however, were not free from limitations. The relationship between the different implantation organs is one of the major constraints to the effective implantation of the policy indicates that there is no direct relationship between the responsible organs. The system indicates that they only have working relations. Thus, the Women's Affairs Organization, having a working relationship with the other organs which can not go beyond providing advise when asked, can not effectively monitor and coordinate the tasks of different Women's Affairs Sectors and Women's Affairs Department. The regional Women's Affairs sectors in like manner, though it is entrusted with the task of coordinating and facilitating the activities of women's bureaus and organization in the regions, it only has a working relationship with them. More over, the WADS in the Ministries of the Federal government do have a direct relation with the women's affairs departments in sectoral regional bureaus. The absence of a direct relationship between the responsible organs for the implementation of the policy makes unlikely of the coordinated and organized effort, that the policy aims to bring.

The other shortcoming in relation to the implementation system of the policy is that it does not get down to the grass roots level. The fact that the organizational system of implementation does not go under the district level detaches the policy from its main beneficiaries. Lack of clarity on the duties and roles of the respective implementing organs is another weakness spotted by an assessment made on the implementation of the policy.<sup>7</sup> The committee on the CEDAW has also expressed its concern on this matter that areas of competence of the different organs working on gender issues were not clearly defined<sup>8</sup>.

Apart from the obstacles to the implementation of the policy arising from the nature of the policy and its implementation system, problems of qualified human resource and adequate capital budget have also been faced. The implementing organs are not performing effectively due to lack of human and material resource.

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<sup>7</sup> Implementing the Ethiopian National policy for Women, Institutional and Regulatory issue, The WAO and the World Bank, 1998, p.3

<sup>8</sup> [www.un.org/womenwatch/daw/cedaw](http://www.un.org/womenwatch/daw/cedaw), 15<sup>th</sup> session of the CEDAW report page 2,

## **2.2 LEGISLATIVE MEASURES**

States parties to CEDAW are obligated to ensure that their constitution incorporates a principle of equality between men and women. It further obligates states to take all the necessary measures including legislation to eliminate discrimination against women and to ensure the realization of the principle of equality and the enjoyment of human rights by women on equal basis with their male counterparts.

Following the federal system of government, the regional states have adopted their own constitutions. The regional constitution is hardly different from the federal one. They only differ in that they leave out provisions that relate to matters corresponding to jurisdiction of the federal government. Therefore, for the sake of convince reference shall be had only to the national Constitution and it should be understood that the same holds for the regional constitutions too. It should also be noted that the laws in force until the adoption of the constitution apply for both the federal and regional states.

The FDRE Constitution under article 35/1/ guarantees that women shall have equal rights in the enjoyment and protection of the rights recognized in the Constitution. The provision further provides specific guarantees to the equal rights of women in relation to marriage, employment, and property. It is indicated under article 35 that women have a right to participate in the formulation and implementation of the policies and projects. The duty of the state to eliminate laws, customs and practices that oppress or cause bodily or mental harm to women is contained under this provision. It also under article 35 of the Constitution that temporary special measures with the aim of accelerating the de facto equality of women are recognized. Furthermore, the Constitution under article 25 stipulates the right to equality before the law and the right to equal protection of the law without discrimination on different grounds including sex.

It is provided under Article 9 that the Constitution is the supreme law of the land and any law, customary practice or decision of an organ of state or a public official cannot contravene it. It further imposes the duty of ensuring the observance of the supremacy of the constitution on all citizens, organs of state, political organization or other associations and officials. On the basis of this provision no custom, practice, law or decision could go against the equal rights guaranteed under the constitution for women. Furthermore, citizens and different organs and associations have the duty of ensuring the observance of such guarantees of equal rights.

The Constitution though is said to be the supreme law of the land, it is hardly cited either in arguments before or decisions of courts of law in Ethiopia. Therefore, the constitutional guarantee is not sufficient to ensure the realization of the rights there in. Hence, it is important to ensure the inclusion of such provisions in different laws and regulations in a manner they could be enforced.

Most of the laws in force in Ethiopia were legislated during the Emperor's era (prior to 1974), even though amendments have been made upon them at different times. The major change in the law was marked by the adoption of the revised family law by the federal government in 2000 the Penal code in 2005. This law, which is at the moment effective only at the federal level, replaced the discriminatory provisions of the 1960 Civil Code. Some the regional state (**Amhara, Oromia Southern Nation Nationalities and Tigray**) lately legislate there own regional family law. The Penal Code repealed that of the 1997 and it bring some special changes regarding crimes. With the exception of this law, no significant revision has been made so far with the objective of keeping national legislations in pace with international standards . As a result, even though, the constitution declares all law in contradiction with it to be of no effect, many discriminatory provisions are found in the legal system. Therefore, the government should take all the necessary measures to discharge its obligation under CEDAW to abolish or modify discriminatory laws.

## **CHAPTER THREE**

### **3. The Definite Situations of the Rights**

The proper enforcement of the rights protected by the CEDAW is more manifested in the definite situation of the rights which are protected by CEDAW and implemented in different situation. Which means by applying it with the specific situations for instance during manifestation of the right to nationality, marriage and family life, the right to education and health.

#### **3.1.1 The right of Nationality**

The constitution provides under Article 6 that any person born of an Ethiopian parent will have an Ethiopian Nationality. It also provides that foreign nationals may acquire an Ethiopian nationality. The provision does not make any distinction between the sexes on the acquisition and transfer of nationality. Article 33 of the constitution provides further guarantee in relation to the right to nationality and stipulates that Ethiopians of either sex are not to be deprived of there nationality due to marriage to a foreign national. Moreover, the article contains the right of any Ethiopian national to change their nationality . Both articles state that the particulars are to be governed by specific laws.

The nationality law of Ethiopia in force is that enacted in 1930 as amended by the 1933 proclamation.. According to Article 2 of this law a man of Ethiopian national married to a foreign women entitle the wife to an automatic Ethiopian nationality.

This is not true when an Ethiopian woman gets married to a foreign national. Rather, article 4 of this law provides that an Ethiopian woman married to a foreign national will lose her Ethiopian nationality up on marriage provided that the law of the husband's nationality grants her his nationality. Article 11 further strengthens this provision by noting that one ground for losing nationality is marriage to a foreigner. According to Article 4 only women nationals are deprived of their Ethiopian nationality up on marriage.

However, the FDRE constitution declares that marriage of foreign nationality of either sex to a foreign national shall not annul his or her Ethiopian Nationality.<sup>9</sup> this show that the improvement of such a discriminatory law be repealed and replaced by a non- discriminatory nationality law. This kind of improvement is help to meet the commitment made under different convention and treaties.

### **3.1.2 Marriage and Family Life**

The constitution treats marital, personal and family rights under Article 34. It is proclaimed under this provision that men and women have equal rights while entering into , during and up on termination of marriage. The 1960 Civil Code of Ethiopia has been the only law governing marriage and family life in Ethiopia until very recently. In July 2000, the federal government with the objective of ensuring that the family law goes along with socio economic developments and the constitution has proclaimed a revised family law. It is noted in the preamble of the revised family law that it aims to provide a guarantee to the equality of the spouses in the formation, during and up on dissolution of marriage. The revised family law is applicable in the territories administered by the federal government.

The 1960 Civil Code contains many discriminatory provisions, that have caused many sufferings on women. Governmental and non –governmental organizations working on gender issues have been pushing for the abolishment of the discriminatory provisions. Nevertheless, so far their effort has succeeded only at the federal level.

Three types of marriages are recognized under both laws, civil , religious and customary marriages, Both laws provide that the same rights and duties shall ensue from either forms of marriage. It is also provided by the Civil Code and the revised family law that all types of marriages should meet certain basic conditions. The conditions relate to the minimum age for marriage, the consent of the spouses and the number of spouses.

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<sup>9</sup> FDRE constitution Art. 33(11)

### **3.1.2.1 Minimum Age**

The revised family law establishes the minimum age of marriage for both spouses to be 18, which can in exceptional cases be reduced to 16<sup>10</sup>. The distinction made in the civil code by providing different minimum age requirements for the spouses conflicts with the constitution And CEDAW which provide equal right guarantees to enter in to marriage . By and large, considering the traditional outlook in Ethiopia that considers men as a head of the house and women as child bearers, this distinction seems to allow the continued dependence of women on men as women get married at an earlier age with out pursuing their education and gaining their independence. Recognizing the discriminatory nature of this provision the CEDAW committee in its recommendation has called for the adoption of the same minimum age for both spouses. The revised family law which sets the same minimum age for both spouses though is commendable has limited effects in that it can only be applied in areas under the jurisdiction of the federal government . Therefore, the government has to see to it that the same minimum age is set in the regional states as well.

### **3.1.2.2 Consent**

The requirement of consent is the other condition governing all types of marriages. Both the civil code and the revised family law require the full and free consent of the intending spouses<sup>11</sup>. In practice however, arranged marriage is exercised.

Although arranged marriages affect both spouses, since women are not consulted in such arrangements and are not usually in a position to give their full and free consent due to their age and lack of experience they stand to suffer more. This necessitates the taking of measures to ensure the enjoyment of the protection afforded by the law against entering into marriage without their full and free consent.

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<sup>10</sup> Article 7 of the revised family code

<sup>11</sup> Articles 6 of revised family code



Abduction is the other practice forcing that women to marital ties without their consent. Abduction is practiced throughout the country though is very common in two regions; Oromiya and Southern Nations, Nationalities and Peoples Regional states.

Pressurized by the community and their parents who have negotiated with the abductor, the victims usually consent to marriage. In addition the fact that abduction usually entails cohabitation with the abductor implying sexual experience, leaves the woman with no prospect of future marriage and would have no option other than agreeing to the marriage. This practice goes against the provisions of the Constitution and CEDAW which guarantee the right to marry with free and full consent, since a consent secured after abduction could in no way be considered as free. Therefore to ensure the equal right of women in entering in to marriage, the government has to take strong measures than the loose stipulation of the Penal Code to eliminate the practice of abduction.

### **3.1.2.3 Prohibition of Bigamy**

The other common condition for all types of marriage is prohibition of bigamy. The civil code and the revised family law under articles 585 and 11 respectively provide that a person already bound by a marriage cannot enter in to another. This is further strengthened by the provision of the Penal law, article 650, which penalizes bigamy. Despite such a prohibition polygamy is common among both Muslim and Christian men in Ethiopia<sup>12</sup>. The practice of polygamy, which is a manifestation of the society's attitude towards women and questions the dignity of women, has to be eliminated to ensure the equal rights of women in marriage. The prohibition of polygamy under the law has not stopped the practice so far. Being a party to CEDAW the government is under an obligation to take a combination of other measures to eliminate this discriminatory practice.

These three conditions apply equally to civil, religious and customary marriages. There is no organ, however, to check the fulfillment of the conditions of marriages. Since there is no office of civil status or notoriety in Ethiopia to

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<sup>12</sup> Daniel Haile, Law and the status of women in Ethiopia, 1980p.6

register birth, death and marriage. The absence of an organ to check the fulfillment of these conditions coupled with the legality of customary and religious marriages makes women susceptible to discriminatory practices in contravention with the law. Therefore, to give effect to the protections afforded by the law it is important to ensure the establishment of such an organ to check the fulfillment of the conditions.

#### **3.1.2.4 Obligation of the Spouse During Marriage**

The equal right of spouses during marriage is guaranteed under CEDAW and the constitution. An overview of the provisions of the Civil Code reveals a fact to the contrary. Under Article 635 of the Civil Code the husband is stated to be the head of the family owing the obedience of his wife in all the lawful things he orders her. The family is also put under the guidance of the husband in relation to moral and material direction and the upbringing of children by Article 637. By the same token, article 656 provides that the common property is to be administered by the husband. The common residence of the spouses is also to be chosen by the husband. The common residence of the spouses is also to be chosen by the husband, article 641. Article 644 goes much further and provides that the husband is to protect, watch over and guide his wife in her relations and conduct. In addition, article 646 obligates the wife to attend to the household duty when the husband is not in a position to provide her with servants. These provisions which treat women like minors could not be tolerated in light of the equal right guaranteed under CEDAW and the constitution.

The revised family law is free from such discriminatory provisions. It clearly indicates that marriage is to be based on mutual respect, support and assistance. It also recognizes that both spouses should administer and direct the family including the upbringing of children. The law also leaves the determination of the common residence to the two spouses jointly. Furthermore, unless the parties agree otherwise, the common property is to be administered jointly.<sup>13</sup>

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<sup>13</sup> Article 40, 49, 50, 54 and 66 of the revised family code.

### 3.1.2.5 Dissolution of Marriage

The causes and effects of dissolution of marriage are the same for the three types of marriage. Both the Civil Code and the revised family law stipulate that marriage could be terminated either by death, court order as a sanction for failing to fulfill the conditions of marriage or by divorce. It is provided under the Civil Code the serious and non –serious grounds could cause divorce. The civil code that enumerates adultery, desertion of the marital residence, confinement to a mental institution, judicial declaration of absence, or annulment of a religious marriage by a religious authority as the serious grounds of divorce.<sup>14</sup> It should be noted at this point that domestic violence is not considered as a serious cause of divorce. When a serious ground imputable to a spouse causes dissolution, the spouse at fault is to be penalized up on property partition following the divorce. In like manner, the spouse petitioning for divorce in the absence of a serious ground is to be penalized.<sup>15</sup> Since battery is not one of the serious grounds of divorce, a wife petitioning for divorce on this ground according to this may be subject to this penalty which may entail a maximum loss of a third of her personal property plus her share of the communal property.

The revised family law relieves women seeking divorce on the grounds of domestic violence from such a penalty since it makes distinction between serious and non –serious grounds. It rather provides under article 84 that when the cause of the divorce is imputable to one of the spouses and when justice so requires the court may order such spouse to make good the damage sustained by the other .

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<sup>14</sup> Article 667 and 669 Civil Code

<sup>15</sup> Article 692, and 694 Civil Code

### **3.1.2.6 Irregular Union**

The other form of family life between a man and a woman recognized by the law is irregular union. It connotes the cohabitation of a man and a woman as husband and wife without contracting marriage. According to the Civil Code, irregular union does not give rise to community of property. Hence, upon termination of the relationship, there would be no property partition. Only in cases when the husband made the termination, the woman if equity so requires may be awarded maintenance for maximum of six months.<sup>16</sup> Most women in Ethiopia being economically dependent on the man suffer a great disadvantage by virtue of this law since no consideration is made to the contribution they made through their labor. Therefore, according to this law the maximum a woman would get is a six-month allowance. This however, has been changed by the revised family code in that it provides for community of property on condition that the union has lasted for a certain minimum period. Therefore property shall be partitioned in the same way as the case of divorce so long as the minimum time limit is met<sup>17</sup>.

### **31.4 Participation in Public matters and politics**

The Convention under Articles 7 and 8 obligates states to take all the necessary measure to ensure the equal participation of women in public and political life. The Ethiopian Election Law which declared in 1993 provides that any Ethiopian who is above the age of eighteen and who has been residing in the constituency for some years is eligible to elect and be elected. This is further strengthened under Article 38 of the Constitution, which provides that every Ethiopian national has a right to take part in the conduct of public life.

Despite the guarantee of the constitution and the electoral law, the percentage of women in public and political life is very low. However, a slight improvement is being made over the recent years. Unlike the previous election in which women took only 2.38% of the seats in parliament, currently women take 7.68% of the

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<sup>16</sup> Articles 708, 712, and 717 of the civil code.

<sup>17</sup> Article 102 and 103 of the Revised Family law.

seats.<sup>18</sup> This slight improvement does not in any way imply that the end has been attained rather the government will have to take all the necessary measures to ensure the equal participation of women in political life. The CEDAW committee in its recommendations has indicated the need to increase the number of women in decision making positions and the need to develop programs aimed at encouraging women to take decision-making positions.

### **3.1.4 Participation in Education**

Education is a key factor to the realization of the equal enjoyment of the human rights of women. Realizing the crucial role of education, CEDAW guarantees the equal right of women in the field of education under Article 10. The joint reading of articles 41 and 35 of the Constitution, likewise, establishes the right of women to have equal access to education. The recognition of temporary special measures under Article 35 further indicates that differential treatments could be adopted to neutralize the effects of the historical legacy of discrimination against women.

The 1994 Education and Training policy which entails one of its objectives the making of education accessible to all by the year 2015 gives due emphasis to the education of women. Accordingly, it aims to recruit more female teachers, give priority to female students and provide financial assistance to female students to raise the participation of women in education. The Ministry of Education together with the regional education bureaus with the aim of translating the policy into practice. According to the education sector development programme which is launched in 1997 efforts shall be made to improve the accessibility of education to children, especially girls in rural areas.

The Woman's Affairs Department in the Ministry of Education has also adopted a program which targets five regions where the number of female enrolments is very low and the drop out rate is high. This program, which is implemented

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<sup>18</sup> Haregwoin Chirent and Emebet Mulugea Country Gender profile Ethiopia 2002 page34

through Women's Affairs Department's in regional bureaus with the support of the WAD under the Ministry of Education, involves a combination of measures aimed at increasing the number of female students. Hence, capacity building for female teachers, guidance and counseling for female students and awareness raising activities targeting the community are underway . In addition, temporary special measure are being taken by the government at university level in that the entrance requirement for female students is less than that for male students.

Despite these promising initiatives on the part of the government the result of a survey conducted in 2000 indicates that a lot remains to be done. According to the survey, the illiteracy rate for women is 74% while that of men is 54% It also indicates that 47 and 67.3 percent of school age girls and boys respectively have been enrolled for the 1999/2000 academic year. The survey indicates in the same year the enrolment of girls represented 41.5% of the total enrolment in high school, 24.4% in colleges at diploma level and 13.2% in education institutions with degree programs.<sup>19</sup>

The committee on CEDAW, which expressed its appreciation for the affirmative action efforts for women at university level , expressed its concern about the high illiteracy and drop out rates . The committee has suggested the taking of measures including temporary special measures to ensure equal access of girls and women to education. Therefore, in accordance with the recommendation of the committee efforts should continue to ensure the equal rights of women and girls to education<sup>20</sup>. The strengthening of the women's Affairs Departments in the Ministry of Education and in Regional Education Bureaus need also special attention to ensure the success of the program which is being jointly implemented.

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<sup>19</sup> The journal of Ethiopian Women Lawyers' Association Volume 1, no. 1 p.47

Haregwoin cherinet and Emebet Mulugeta, Country Gender profile Ethiopia, 2002, p.26

<sup>20</sup> Report on Thirteen session CEDAW/C/2004/I/CRp.3/Add7/Rev.1

## Health

One of the suggestions forwarded by the committee on CEDAW relate to women's right to have equal access to health care facilities . Accordingly, it noted that the government should ensure women's access to health services especially reproductive health and family planning services. CEDAW under article 12 obligates states to eliminate discrimination against women in the provision of health services including those related to family planning . The FDRE constitution proclaims the state's duty to allocate increasing resources for health , education and other services. Women's right to have equal access to the available health facilities is there by guaranteed since all the rights in the constitution are to be availed to all. In addition , the constitution provides a further guarantee for women to have access to family planning under Article 35(8).

The health policy of the country which was adopted in 1993 accords special attention to the health needs of women among other groups. To implement this policy the Ministry of Health has formulated a Health Sector Development Program in 1996. The National Program of action for children and women for the period between the years 1996 and 2000 is the other program drawn by the Ministry of Health dealing with the health situation of women. The program indicates that the health problems of women are strongly tied with the socio economic and cultural environment. Hence, the program notes their life in impoverishment, early marriage and conception of many children without family planning services, has caused women a multitude of health hazards.

The guidelines for Family Planning services prepared by the Ministry of Health in 1996 incorporate ways of improving the quality and expansion of reproductive health care facilities. The other policy relevant to the health condition of women in Ethiopia is the 1998 National Policy on the prevention and control of HIV/AIDS. One of the specific objectives of the policy is to empower women to enable them protect themselves against the deadly disease.<sup>21</sup>

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<sup>21</sup> Statement by H.E Mrs .Tadelech H/Michael 23<sup>rd</sup> special session of the UN general assembly  
Http:// [www.un.org/womenwatch/daw/followup/beijin+5stat/statments/ethiopia8.htm](http://www.un.org/womenwatch/daw/followup/beijin+5stat/statments/ethiopia8.htm) Page 2.

The National Policy also has a significant bearing on women's health. Giving a central position to the empowerment of women, the policy has among its objectives the reduction of fertility rate, maternal and infant morbidity as well as mortality rates.

The issue of health being an inter sect oral matter, it involves the application of other policies in addition to those listed above . Despite the inclusion of provisions in favor of women's health conditions and access to health care facilities statistics depicts a very poor situation. The information availed by the Ministry of Health in 1998 on the national indicators for the years 1995 to 2000 shows a fertility rate of 6.1% infant mortality rate of 105 children per 1000 and the maternal mortality rate of 560-850 per 1000,000.<sup>22</sup>

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<sup>22</sup> Hadera Tesfay, Country Gender profile: Ethiopia 1999 p.14



## Chapter FOUR

### 4. Challenges In Implementing CEDAW in Ethiopia

CEDAW strives to achieve not only formal equality but also equality in practice to fulfill the duty of ensuring actual equality that states are under obligation to provide avenues whereby women could seek the enforcement of their rights or remedy in cases of violation. Article 2(C) of CEDAW clearly obligates states to ensure through competent national tribunals and other public institutions for the effective protection of women against any act of discrimination.

The FDRE constitution imposes the duty to respect and enforce the rights protected by the constitution on all state organs i.e legislative, judiciary and executive. The legislature hence has an obligation of issuing laws that ensure the realization of the rights. It is also the legislature's duty to abolish laws that conflict with human rights and freedoms enshrined in the constitution and international agreements such as CEDAW. As was discussed laws have been issued with the aim of ensuring the respect and protection of human rights. However, when we look in our country a lot remain to be done both by the federal and regional legislative organs with respect to the repealing of old laws and enactment of new ones to effectively discharge their duty of respecting and enforcing human rights. In addition, to ensure the incorporation of gender elements in all the laws and policies issued by the legislative organ, awareness raising programs targeting the members of the legislative organs should be launched.

The FDRE Constitution state that all international agreement ratified by Ethiopia are an integral part of the law of the land. So the government has taken measures to implement the convention's provisions and principles into paratactic in the country. However there are challenges affecting to implement the convention.

The FDRE government has taken measures to implement the convention's provisions and principles into practice in the country, however, challenges affect its implementation due to the results of poor economy. Bringing awareness among the government organ and the society is a very less activity.

#### **4.1 Capacities**

In order to coordinate the efforts of all concerned governmental and non-governmental organizations both at Federal and Regional levels in the country, sufficient financial and manpower resources are highly required. To this effect, the empowered Ministry of Women's affairs of Ethiopia designated to coordinate the implementation of the convention in the country.<sup>23</sup>

However, there is limited administrative structures both at Federal and Regional levels for the follow-up and monitoring the implementation of the convention. Thus, lack of institutional structures and limited resources have jeopardized the implementation of the convention on the enhancing, recording and reporting the cases of sexual abuse, abduction, rape, etc. at Federal and Regional levels are even absent. In relation to this, the availability of redressing service is minimal.

Lack of specialized court system with specialized judges is another problem. The FDRE Constitution establishes an independent judiciary both at federal and regional levels. Courts, which are vested with judicial power to interpret and apply laws, issued by the legislature play a significant role in the realization of human rights. The Constitution under Article 13/2/ provides that the fundamental rights and freedoms contained in it are to be interpreted in conformity with international instruments adopted by Ethiopia. However, a survey indicates that the reference at courts level to International human rights instruments like CEDAW and provisions of the constitution dealing with human rights is very minimal

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<sup>23</sup> <File://A:/Abstract for EEA Julie Newton.Htm> Gender mainstreaming in Ethiopia translation of policy in practice and implication on the ground page23

## 4.2 Cultural barriers and lack of awareness

Harmful traditional practices are the most obstacle in the realization of the convention on the rights of women. Society does not accept women as a full person or always imagine that their capacity and awareness about everything is less than that of men. Societies do not willing to allow women to speak, express, especially in rural area. The idea of the husband most of the time considered as of the wife. The administration of property and family is under the control of the husband.

### a. .An equal division of labour

Agriculture is a main source of livelihood for the majority of the Ethiopian population who are poor and rural. In most rural areas women have been suffering many challenges. Women comprise approximately 65% of the informal sector and provide 60% of the total agricultural labour(ADB,2004). In addition, they perform a key role in maintaining and managing the house hold through their responsibilities for reproductive activities such as food preparation, health and hygiene and child care. Women perform longer working days than men, yet the lack access to modern technologies they walk long distances to fetch water, collect fuel wood, and preparing food through labour intensive tasks(e.g. milling flour). In spite of this key role in the Ethiopian economy and household welfare, they experience persistent inequality and discrimination. Women are culturally regarded as inferior to men and are marginalized by hazy legal rights and male biased institutions and markets which ignore the needs of women farmers.<sup>24</sup>

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<sup>24</sup> [File://A:\Abstract](#) for EEA Julie Newton. htm. Gender mainstreaming in Ethiopia translation of policy in practice and implication on the ground Page2

## **b. Early marriage and polygamy**

The other problem in relation to the minimum age requirement is wide spread practice of early marriage for girls. In most rural areas, girls marry before reaching the legal age for marriage. Early marriage exposes girls to different harms. They are exposed to different health problems and complications at birth contributing to the inflated maternal mortality rate. They also suffer from psychological and emotional problems which are, manifested by their running away from their husbands to cities. As a result, women are being made more prone to prostitution. A survey conducted on women working in drinking houses in Addis Ababa has indicated that 70 percent were married before attaining the legal age of marriage under the Civil Code i.e. 15<sup>25</sup>. The Committee on CEDAW has also expressed its concern on the practice of early marriage in Ethiopia . The government , therefore, should not only ensure the setting of equal minimum ages for the spouses it should also see to it that such laws are observed.

It is common in t the rural area (Specially in Amhara Region) <sup>26</sup>to marry early which in turn results in early pregnancy that create difficulties of young girls as their bodies are not fully developed to handle pregnancy.

Polygamy and inheritance of a widow by a dead husbands brother or through the replacement of a dead wife by her sister is most common in Muslim Oromo<sup>27</sup>.It has negative consequences for wives and children where tensions between wives can lead to competition for resources within households and mistreatment of children. The practice of having multiple partners has also contributed to the spread of sexual diseases which have disproportionately affected women. This is compounded by adultery among men.

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<sup>25</sup> Daniel Haile, Law and the status of women in Ethiopia, 190 p. 5

<sup>26</sup> Ibid

<sup>27</sup> Ibid

### **c. Abduction**

Abduction is one of the violence committed against women. It is common throughout the country, it is more spread in Southern parts.<sup>28</sup> This act, reflects, the superior position claimed by the abductors over women. In addition threatening the dignity and integrity of women has limited access to education to a large extent, Besides this proved to be a strategy used by poorer men to either avoid or reduce the large bride wealth payments. Fearing abduction on the way between their home and the schools, which usually is very far and has to be covered on foot, many female students drop out from schools. The government has to take all necessary measures to ensure the elimination of this harmful practice. The Penal Code express that whoever with intent to marry a woman abducts a women by violence is punishable with rigorous imprisonment from three year to ten years.<sup>29</sup>It is also necessary to strengthen the legal prohibition.

### **d. Female Genital Mutilation.**

The other most horrible problem of culture is that Female Genital Mutilation (FGM) is a collective name given to different traditional practice which involve the cutting and removing of parts or all of the female gentlia. The practice led to complication of painful intercourse, prolonged labour, psychological truma and also it is a very means of transmission of the HIV/AIDS.

It is the wide spread violence committed on the girl child in Ethiopia. It is most practiced in Gurage, Tigre, Oromo, Afar and Somali regions. 80% of the total population of women and in some areas up to 100% are victimized by FGM<sup>30</sup> The Penal Code does cover the FGM as a crime,

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<sup>28</sup> Andargachew Tesfaye Rape and abduction: Ahistorical perspective a paper presented at the ntional workshop on Rape and Abduction by A-BK-GI-DA14-15/May 1996

<sup>29</sup> Penal code Atr. 587(1)

<sup>30</sup> Haregewoin Chrinet and Embet Mululgeta, Country Gender profile Ethiopia, 2002, p.26

but it put a punishment of simple imprisonment for not less than three months.<sup>31</sup>.

The efforts of the government to eliminate this hazardous practice leading to the death of women due to infections ( since the mutilation is conducted with minimum sanitary condition )and complication related to birth have very much been limited to awareness raising activities. Therefore, as the CEDAW committee pointed out rightly, the government should accompany its awareness raising activities with legal measures. Presently the general provision of Article 565 of the Penal Code dealing with female Circumcision expressed whoever circumcises a woman of any age is punishable with simple imprisonment for not less than three months, or fine not less than five hundred perpetrators of FGM could prosecute by this Article. However, considering the gravity of its consequences and its wide spread practice, it is necessary to have a special provision on FGM, Alongside the taking of legal measures the government should adopt different measures to ensure the elimination of FGM and other customary practices and stereotypes in accordance with its obligation under Article 5 of the CEDAW.

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<sup>31</sup> Articles 565 of the penal code.

## CHAPTER FIVE

### 5. Conclusion and recommendation

Human rights of women have been recognized in different international and regional human rights instruments. The CEDAW, which is the most International human rights instruments. It is, the most comprehensive instrument on the human rights of women, provides minimum standards that need to be met by every state party to it. The convention strives to ensure the elimination of all forms of discrimination against women there by ensuring the equal enjoyment of human rights by women. The convention obligates states parties to take all the necessary measures including legislative ones to achieve this end.

The state obligations emanating from the convention or other international laws could be generally categorized as obligation to respect, protect, fulfill and promote. Hence to meet the first obligation a state should ensure that all its organs do not discriminate against women.. This imply that a state should provide effective protection against discriminations by privates as well as state organs according to its duty to protect. The duty to fulfill, on the other hand, obligates states to provide what is necessary for the effective realization of the rights, which includes the provision of effective avenues to ensure the observance of the rights. The fourth type of obligation, duty to promote, imposes an obligation on states to disseminate information about the right with the aim of avoiding right violation emanating from lack of awareness and modifying customs and practices detrimental to the realization of the rights.<sup>32</sup>

The FDRE constitution and the policies are adequate to interpret the convention on the Elimination of Discrimination against women. But the implementation in practice is still remained in very low situation. Generally Challenges faced in implementing the convention are acute problems due to less enforcement mechanisms of existing laws at federal and regional levels.

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<sup>32</sup> From Human right course lecture

In the convention the rights of the women welfare rights should be respected and promoted however health status of Ethiopia is extremely poor when compared with other low income countries and regarding primary education, there are many policies that conform to the convention and encouraging the participation of girl students, however when the implementation practice being taken in to account the enrollment of the girl student is very minimal.

Thus, provisions of the convention are not fully being implemented in the country even though some laws are compatible with the principles and provision of the convention.

Therefore to bring visible change in the well being of Ethiopian women, Ethiopian government has take proper measures to facilitate the implementation of the convention .

The following specific measures are recommended to ensure the effective enforcement of CEDAW in Ethiopia

- The government should put achievable plan and programs for realization of the convention
- Concerted efforts of all governmental and non-governmental organization, local authorities, religious bodies civil society and community , the family and every individual are required for the implementation of the convention.
- To implement the convention government should enact new law and re-enforcing the existing laws by raising the level of consciousness of the people thought awareness and tackling harmful traditional practices in the country as a whole at federal and regional levels
- Facilitate the coordination of different implementing organs by creating a network starting from the Federal level to the regional and zonal administrators.



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# ANNEX

## Case

File No.14766

Court: Arsi zone Gona Woreda 1<sup>st</sup> instance Court

Plentif      Public Prosecutor

Defendant   Aberra Negussie and five person

In this case the public prosecutor V Abera Negusse and five persons , the accused was convicted in the In Oromia regional state Arsi zone Gunna Woreda First instance court against the Penal code 587 Abduction .

The crime was committed in Oromiy regional state Arsi zone Woreda Gunna, in March 3 1993 in the evening 5:30 the Accused and his supports broken the house and they beat badly w/t Woinshet zebene and took her to there village. And the accused raped her.

After the police finished his investigation the prosecutor prepared a sue at Guna Woreda first instance court. After proceeding the case brought to the worda court . after the proceeding of sue the court give a decision the accused will free because the public prosecutor evidence do not prove that the accused did the abduction and rape.

But the public prosecutor appeal to the Oromiya high court. Because of the lack of communication with the high court I couldn't get the final decision of the high court

## STATEMENT OF DECLARATION

I HERE BY DECLARE THAT THE PAPER IS MY ORIGINAL WORK AND I WILL TAKE FULL **RESPONSIBILITY** FOR ANY FAILURE TO OBSERVE THE CONVENTIONAL RULES OF CITATION.

Name Zewdnesh Zegeye

Signature\_\_\_\_\_