



Gender Briefing

ETHIOPIA

SIHA NETWORK

GENDER BRIEFING I

ETHIOPIA

The aim of this **Gender Briefing** is to examine four countries that have, over the past decade, passed and adopted gender-progressive legislation and policies. The four countries are Sudan, Somalia, Ethiopia and Uganda. Against an inventory of the existing, recent gender policy and legal progress made in each of these countries, this brief will present a short analysis covering:

- a. A general review of the social and political context in which the gender laws and policies are being implemented (broad contextual analysis) in each country.
- b. An overview of the existing laws/policies that have direct or indirect implications for gender equity in each country.
- c. For each country, a brief background of the major issues facing women's rights and gender activists. The brief shall focus on issues of VAWG, informal sector employment, women's political participation, and finally, marriage and succession.
- d. A structural analysis per country of (a), (b) and (c) above – highlighting and summarizing the major factors deepening the gap between laws/policies and women's lived realities. This brief will look at policies and laws against actual practices.
- e. This brief will highlight the women's movement situation in each country employing the SIHA community activism guide.

1. BACKGROUND: SOCIAL AND POLITICAL CONTEXT OF GENDER ACTIVISM IN ETHIOPIA

After a 17-year period of socialist experimentation, Ethiopia's socialist military government imploded in 1991. Ethiopia was reincorporated into the sphere of neoliberalism and adopted a social engineering project that brought unprecedented misfortune in the modern history of the country. The Ethiopian People's Revolutionary Democratic Front (EPRDF) assumed power and adopted market-oriented structural and institutional reforms as a condition of getting an infusion of transnational capital and credit to resituate the Ethiopian economy. Ethiopia's economy had been stagnant throughout the 1970s and 1980s.¹ Since 2005, civil society organizations in Ethiopia have faced political repression. Critical voices in civil society can no longer be heard and women's public and political activism is now tightly controlled by the regime and faces an uncertain future.² The nature of the repression being experienced by gender and women's rights activists needs to be understood against the backdrop of Ethiopian women's long history of involvement in public life despite the persistence of strong traditional and patriarchal cultures. The initial introduction of political space for civil society activism under the new regime created opportunities and a new type of activism based around women's rights. Ironically, this also resulted in activists being re-designated as political actors by the ruling party. Activists were perceived as a political threat and a challenge to opposition party politics. The response from the ruling regime has been to close down the space for civic society activism and rights-based work.

The response by women's rights organizations and activists at grassroots level is largely a reaction to the deepening social crisis caused by high levels of poverty and unemployment, low literacy levels, sexual and gender based violence, slave-like labor conditions, general cultural and patriarchal domination, and the stigma of caste. The Ethiopian women's movement has secured significant victories and concessions from the state in terms of gender-progressive policies and laws. At present, much of the gender discrimination faced by women is, at least somewhat addressed in various existing legal and policy documents. Yet despite these efforts, little or slow progress has been recorded in practical terms. By blocking Ethiopian NGOs from accepting more than 10 percent of their funding from foreign sources and imposing strict and unregulated criminal and administrative penalties for violations, Ethiopia's Charities and Societies Proclamation law (CSP law) has had a disastrous effect on programming and on women's human rights in general. The CSP law criminalizes human rights activities and allows government surveillance of, and interference in the operation and management of civil society organizations. This imposes significant barriers to the work of women's organizations and other civil society organizations.

Two major issues are highlighted as barriers to the realization of gender equality under the current social and political context in Ethiopia. The first and primary issue is that the

¹ Demissie, 2008: 505.

² Burgess, Gemma (2013). A Hidden History: Women's Activism in Ethiopia. *Journal of International Women's Studies*, 14(3), 96-107

innovative programmatic approaches that women's organizations have had to develop in order to survive, either **cannot enjoy the full protection of existing policies and laws**, or are **being undermined because of conflict between legal and policy provisions, and actual experience on the ground**. For instance, a recent SIHA study examining women's organizing through the creation of savings and credits cooperatives at the community level found that the approaches adopted by women's rights groups are severely limited by the very laws and policies that are supposed to facilitate the operation of the cooperatives.³

Secondly, the nature of state feminism visible in Ethiopia's gender policies presents an obstacle to the deepening of gender-progressive outcomes. This is because many grassroots initiatives are being mediated through women's NGOs, which are at the same time legitimizing state feminism through compliance with conservative gender policies. The root of this problem is to be found in the imposition of a women's machinery as a means for the state to access the grassroots, which has been "normal procedure from the EPRDF's/TPLF's perspective of a top-down process under which all policies, plans, orders and directions move from the top political cadres to the lower rungs of the ladder, finding their way from there down to society."⁴ The EPRDF/TPLF government sees itself as all-powerful, the supreme authority on women's emancipation strategies. The EPRDF/TPLF has an intractable perception of the 'woman question' in Ethiopia, one in which there is no place for 'gender.' The state has tended to blame Western radicals for attempting to inject alien habits into Ethiopia in the name of 'gender' reform, fearing that if gender issues were to receive attention women would become too radical and rise up against its oppressive rule. Therefore, it has made the de-politicization and de-radicalization of women's issues one of its main concerns, backed by the establishment of Ministry of Women's Affairs.⁵

The EPRDF/TPLF stubbornly insists that women's issues only concern women and should be solved by women alone. Such an attitude translates into giving the ministry little or no political support, following the rationale that as long as women's issues remain isolated from the rest of society, they will not be a threat to the political rule of the party. Rather, the problem will only emerge if 'gender' is allowed to take a front seat and begin a radical politicization of all women's issues, problems and concerns.⁶ As such, while progressive laws and policies exist formally, there is little political goodwill in ensuring that they achieve their purpose. What the state's formal cooptation of the women's movement under the rubric of state protection might conceal are thus the relations of economic exploitation and dispossession that persist. In this regard, the state's relation, for instance, to informal sector production is better understood as incoherent and even contradictory, by simultaneously endorsing actions, which destroy informal trade, protect it, promote it and permit it through enforcement failures and neglect.

3 SIHA (2013), "Reinforcing Community Activism and Intergenerational Bridges for Women's Rights and Equality," *A Guide on Community Activism – Ethiopia*, Kampala, SIHA Network.

4 Bisewar, 2008: 408.

5 Ibid.

6 Ibid.

2. MAJOR ISSUES IMPACTING GENDER EQUITY AND LEGAL/POLICY FRAMEWORK

This gender briefing highlights five key and crosscutting issues on which women's rights activists in Ethiopia have focused their efforts in hopes of influencing legislative and policy reforms:

2.1. Violence against women and girls

A recent study has highlighted astonishing figures of gender-based violence in Ethiopia. It found that the lifetime domestic violence against women by husband or intimate partner in Ethiopia ranges from 19.2% to 78.0 %. The lifetime physical violence by husband or intimate partner against women or wives ranges from 31% - 76.5 % in different parts of Ethiopia. The lifetime sexual violence against women by husband or intimate partner in Ethiopia ranges from 19.2% - 59 %. Of these, one in five women has experienced forced sexual intercourse by their husband/intimate partner. Similarly, one in five women have experienced forced sex and experienced violence during their pregnancy period. The lifetime prevalence of emotional violence was 51.7 %. Approximately three quarters of Ethiopian women experienced repeated beatings including being hit by sticks, slapped, kicked on different parts of their bodies, punched, stabbed and generally harassed. More than one third, 35.7 %, of women reported experiencing threats of battering, threats of abandonment, verbal degradation, not being able to freely come and go and having money and other family support withheld. More than a quarter of the women experienced moderate or severe forms of emotional violence, and more than half were partially or completely restricted in what they could do always requiring permission from their spouse before acting.⁷ A 2013 study further showed that 17% of respondents had married before the age of 15 and 30% had married between ages 15-17. Most of those who married before the age 18 years had never been to school. Compared with young women who had married at 18 or 19, those married before age 15 were less likely to have known about the marriage beforehand and more likely to have experienced forced marital sex.⁸

GBV-Related Laws and Policy Framework:

- **Family Law and Penal Code**

- » The Family Code was enacted in 2000 and the Penal Code in 2004. The revised Family Code of the Federal Government applies only in the administrations that are directly accountable to the federal government in the capital city Addis Ababa and in Dire Dawa.
- » The 2004 Penal Code applies in all the federal administrations and all the regional states. Most of these regional states have power to adopt their own

7 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4553009/>

8 <https://www.ncbi.nlm.nih.gov/pubmed/23584463/>

family law/personal status law in situations where cultural provisions can be satisfied however; they must be in line with the principles of the constitution.⁹

- **The Federal Democratic Republic of Ethiopia Constitution (1994)**

- » Article 9 – provides that the constitution is the supreme law of the land and any law, customary practice or decision of an organ of state or of 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 organizations or other associations and officials. On the basis of this provision, no custom, practice, law or decision can go against the constitutional guarantee of equal rights for women.
- » Article 25 – stipulates the right to equality before the law and the right to equal protection under law without discrimination on different grounds, including sex.
- » Article 34 (1) – guarantees women and men equal rights in the process of contracting marriage and the duration and dissolution of a marriage.
- » Article 35 – guarantees that women shall have equal right in the enjoyment and protection of the rights recognized in the constitution; provides specific guarantees of the equal rights of women in relation to marriage, employment, and property; guarantees that women have a right to participate in the formulation and implementation of policies and projects; provides that it is the duty of the state to eliminate laws, customs and practices that oppress or cause bodily or mental harm to women.¹⁰

- **The Revised Family Law (2000)**

- Raises the minimum legal age for marriage to 18 years for both men and women
- Abolishes the provision conferring marital power on the husband as the head of the family
- Adds additional grounds for divorce by mutual consent of the spouses
- Indicates that marriage is to be based on mutual respect, support and assistance
- Recognizes the responsibility of both spouses to administer and direct the family including the upbringing of children
- Leaves the determination of the common residence to the two spouses jointly¹¹

- **The Revised Penal (Criminal) Law (2004)**

- » Criminalizes several harmful traditional practices, such as abduction, female circumcision, infibulations and other harmful practices, early and forced marriage, polygamy and domestic violence
- » Imposes severe penalties compared to the previous penal laws.¹²

9 Ibid, p. 21

10 Ibid, p. 22

11 Ibid, p. 22

12 Ibid, p. 22-3

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- **Customary Law: The Gadaa System**

- » A parallel or dual legal system encompassing both customary and statutory/formal laws governs certain parts of Ethiopia.
- » The *Gadaa* system, which many believe to be divine law, is a complex system of social ordering which sees various classes of Oromo pass through various classes of *Gadaa*, which each last eight years.
- » Admittance to the *Gadaa* system is limited to men only; women are not a direct part of the system and its classes. There are several different levels that are used for judicial matters within the *Gadaa*: (1) tribal, clan-based and the *JaarsaBiyyaa*; (2) the *Gadaa* and *Yaa'a*; and (3) the Gumii.
- » The first level is generally where family and personal matters are taken, either to family members (*Warra*), to sub-clan members (*Fira*) or to the *JaarsaBiyyaa*, a group of respected elders. The *JaarsaBiyyaa* are often used widely, especially for domestic issues.

- **Sharia Law**

Article 4(1) of Proclamation No. 188/1999 stipulates that Federal Courts of Sharia have common jurisdiction over the following matters:

- » Any question regarding marriage, divorce, maintenance, guardianship of minors and family relationships, provided that the marriage to which the question relates, was concluded, or the parties have consented to be adjudicated in accordance with Islamic law
- » Any question regarding inheritance (*Wakf, Hiba*) in Islamic Sharia, provided that the endower or donor is a Muslim or the deceased was a Muslim at the time of his death;
- » Any question regarding payment of costs incurred in any suit relating to the aforementioned matters.
- » According to Ethiopian Law, there is no possibility of appealing the decisions of the Sharia courts in Ethiopia to the regular court structure.¹⁴

Existing laws vs. Women's lived experiences

The primary reasons why the existing legal framework has not been able to reduce incidences of gender-based violence and discrimination in Ethiopia are as follows:

- a. A number of factors influence a woman's decision when she chooses whether to go to a formal or to a customary court. These factors are: whether she lives in urban or rural areas, her degree of access to formal courts and the affordability of

¹³ Ibid, p. 22-3

¹⁴ SIHA (2012), *Between Modernism and Heritage: The application of the parallel legal system to the Oromo women of Ethiopia*, Kampala: SIHA Network

court fees, whether or not she is educated, her awareness of the statutory law and of her own rights and the degree to which she adheres to cultural systems. The existing legal provisions do not recognize and/or fully account for these factors.

- b. Clash between modern and traditional legal systems (parallel legal systems) – even though the traditional laws do not protect individual rights in the way that statutory laws do, many women still prefer the cultural preservation accorded to them under customary laws.
- c. Women’s fear of being ostracized by the community if they choose a formal court - many report that the shame or humiliation that husbands might feel dissuades women from using a formal court. In addition, it is considered taboo to bring family issues into the public arena.
- d. Although the constitution states that customary law is to be used only in family and personal matters, evidence shows that customary laws and institutions are used in criminal cases, including domestic abuse, rape and murder.
- e. When a civil court uses evidence from a customary court, they may be upholding judgments that are discriminatory to women. This is because, as stated above, customary courts are informed by a culture that is deeply patriarchal.
- f. In Ethiopia, Sharia Law offers no possibility of appeal in courts outside of it thus increasing women’s vulnerability. Sharia, in Ethiopia and the Horn, is greatly influenced by the Wahabi Salafi position towards women where women are not only subjected to extreme violence and social exclusion, but are also criminalized. This criminalization is based on the belief that women are problematic objects to be controlled by the power of their male guardians: husbands, fathers, relatives and that their existence should be confined strictly to the home. According to this belief system, when a woman wishes to appear in public, she must be fully covered. All these elements of alienation and subjugation are reflected in the Salafi legal Sharia principles.
- g. Conflicts arise due to the statutory legalization of work such as prostitution. This is an area of work in which women and girls in Ethiopia experience significant violence. While legal, there exists little recognition of the nature of the work, and thus, there is little protection for commercial sex workers. Prostitution is not recognized as work under Sharia or customary law so there is no protection for women who live by these laws.
- h. A major problem within the customary legal system is the gap in elders’ awareness of formal laws. The parallel legal system has emerged in Ethiopia as a result of the government trying to introduce a progressive, formal legal framework, while simultaneously trying to preserve customary systems of justice in order to avoid upsetting or disempowering the various individual cultures that exist in the state. This, in itself, has critical implications for women because traditional patriarchal structures have been further reinforced.¹⁵

¹⁵ Ibid.

2.2 Labour migration and trafficking

Increasingly, Ethiopian women are migrating abroad particularly to the Middle East, in search of work. Working in the Middle East promises better wages and the possibility of improving the situation of family back at home. This labor migration is caused by a lack of opportunities for women within Ethiopia. In turn, this lack of opportunity is driven by policies and practices that discriminate against women and which have undermined development in the country. In this context, migration seems an attractive option and is indeed, sometimes the only option. While labor migration can improve the situation of some women, the pressures on these women make them vulnerable to traffickers who misrepresent the terms and conditions of employment abroad. Most women find the reality extremely difficult. Alone in a strange land, they find themselves facing culture shock and loneliness as well as long working hours with inadequate breaks. Too often, women are isolated and confined in private homes, refused pay and forced to work in slave-like conditions. It is not uncommon for them to face physical and sexual abuse. Those who survive the experience often return home traumatized and at times, physically impaired, only to find that there is little support for their reintegration into society. The returnees may also face economic challenges and social disapproval for failing to meet their own and their families' expectations of bettering their economic situation. They suffer from self-blame and shame which leave them isolated. Destitute and with few other options, they risk becoming caught up in the trafficking chain again. The exploitation of female labor migrants continues due to significant limitations in the existing legal framework that ought to protect them.¹⁶

Recently, the Ethiopian government lifted the ban on foreign travel to the Middle East. This represents a new challenge to the war on trafficking. The ban had been put into effect 4 years ago when Saudi Arabia deported thousands of illegal Ethiopian migrants. In 2013, over 100,000 Ethiopians were forced to return home from Saudi Arabia because they lacked legal documentation to work there. There were reports of brutality towards the mainly female domestic workers at the hands of some of their employers. The government banned further travel for employment purposes until binding bilateral labor agreements could be produced between Ethiopia and the Middle Eastern countries. Despite the closure of employment agencies after the ban, many Ethiopians continued traveling illegally causing a spike in human trafficking. In 2017, Ethiopia was again forced to repatriate over 50,000 of its nationals whom the Saudi Arabian government was threatening to deport for being in the country illegally. This new proclamation lifting the travel ban defines the roles and responsibilities of private recruiting agencies and the agents in the receiving countries. The government is taking a regulatory role by licensing and making inspections and is entering bilateral labor agreements with a number of countries including Jordan, Kuwait, Lebanon, UAE and Bahrain.¹⁷ This move is most likely based on an economic rationality and is unfortunately, likely to legalize the extreme abuse and neglect that many low paid, female labor migrants have been experiencing in the Middle East.

16 SIHA (2017), "Caught between Poverty and Trauma: Addressing the Human Rights of Trafficked Domestic Workers," Kampala: SIHA Network.

17 <https://africa.cgtn.com/2018/02/03/ethiopia-lifts-ban-on-foreign-travel-to-the-middle-east/>

Anti-Trafficking Related Laws & Policy Framework:

- **The Trafficking Protocol to the Transitional Organized Crime Convention.**
 - » This is the cornerstone of the international legal regime on trafficking.
 - » The Protocol commits states to criminalizing trafficking in their national jurisdictions, preventing trafficking and protecting those who have fallen victim to it.
 - » Ethiopia acceded to the protocol on 22 June 2012 and has also ratified the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air (2000).
- **The 1995 Constitution**
 - » The 1995 Ethiopian law criminalizes trafficking.
 - » Article 597 of the 2004 Criminal Code prohibits trafficking of women and children and provides for penalties of from 5 to 20 years of imprisonment and a fine of up to 50,000 Birr (2,260 USD).
- **The Prevention and Supervision of Trafficking in Persons and Smuggling of Migrants Proclamation, No. 909/2015**
 - » In July 2015, Ethiopia adopted this new anti-trafficking legislation that defines trafficking broadly in conformity with international law and increases the punishments that can be applied.¹⁸
- **The EU-Horn of Africa Migration Route Initiative (Khartoum Process)**
 - » The Khartoum Process aims at establishing a continuous dialogue for enhanced cooperation on migration and mobility. It identifies and implements concrete projects to address human trafficking and the smuggling of migrants thus giving new impetus to the regional collaboration between countries of origin, transit and destination on the route between the Horn of Africa and the European Union (EU).
 - » On the African Union side, the African Union Migration Policy Framework for Africa, the Ouagadougou Action Plan, and the AU Commission Initiative against Trafficking guide the efforts against human trafficking and smuggling of migrants. The African Union endorsed the AU Horn of Africa Initiative (AU-HOAI) on human trafficking and smuggling of migrants by AU Assembly Declaration in June 2015.
 - » On the European Union side, the Global Approach to Migration and Mobility (GAMM) published in 2011 provided for the possibility of establishing a regional dialogue and cooperation process in the Horn of Africa/East Africa. The Commission's approach to trafficking ostensibly begins from a gender and human rights perspective and focuses on prevention, prosecution of criminals and protection of victims.¹⁹

¹⁸ Under the new law, human trafficking is punishable by 15 to 25 years in jail and a fine of 150,000-300,000 Birr (7,000-14,000 USD). The punishment is harsher if the victim is a child, a woman or anyone with a mental or physical impairment, rising to life imprisonment and a fine of 200,000-500,000 Birr (9,300-23,300 USD). Inflicting physical or psychological harm on victims is also punishable in this category.

¹⁹ <https://www.iom.int/eu-horn-of-africa-migration-route-initiative-khartoum-process>

- **The Private Employment Agency Proclamation No. 104/1998 and the Employment Exchange Services Proclamation No. 632/2009.**²⁰

- » Through these policies, the government of Ethiopia has also attempted to address the problem by regulating recruitment.

Laws vs. Practice: While laws are useful in combatting trafficking, legal measures alone are insufficient because:

- a. Enforcement is crucial.²¹ Enforcement is likely to be undermined or complicated further by the recent lifting of the ban on travel to the Middle East.
- b. Second, unless the demand aspect of the migration equation - the factors that make people desperate to migrate and more vulnerable to trafficking - is addressed, then these actions, which deal with the supply side of the trafficking dynamic only risk driving traffickers underground and making migrants more vulnerable.²²
- c. The Khartoum Process is a framework with a narrow security-based focus that is unlikely to prevent unsafe migration by boat to Europe. More specifically, the process is based on an incentive strategy, where EU countries have chosen to focus more on building capacity and offering technical assistance to East African states, even those states with poor human/women's rights records. The specific human rights abuses experienced by migrants are likely to receive less attention from these states since their prime focus will be "border security".
- d. The Khartoum Process seeks to establish "reception centers" for asylum seekers. This is likely to deepen the problem of refugee warehousing, especially when the causes of migration are not being addressed and the possibility of issuing visas in third countries does not exist.

2.3 Informal sector employment

Women in Ethiopia are involved in all forms of informal sector work, most of which offers minimum wage, is dangerous at times and has failed to significantly lift them out of poverty. Women working in the informal sector face significant challenges related to a weak legal and policy regime. Approximately 50.6% of urban people employed in Ethiopia are located in the informal sector. Because this sector is unregulated, most women working in this sector receive no social benefits such as pensions or insurance and are unprotected by labor laws. They earn below minimum (survival) wages with no savings and work in harsh and inappropriate conditions. They face constant insecurity, including harassment from local authorities and criminals and they face sexual and gendered forms of violence because of the exploitative nature of their work and their devalued status in society. They work long and odd hours and at times, suffer grievous illness or injury due to the nature of the work performed without any protective clothing or equipment. Women in the informal sector engage in many forms of labor including firewood collection/carriage, clearing of dumpsites, prostitution, street vending, street cleaning, market vending, domestic labor and street vending. There are no laws in Ethiopia directly addressing the informal sector.

²⁰ The proclamations emphasize protections on the rights, safety and dignity of Ethiopians by establishing Private Employment Agencies (PEAs) to legalize migration, and by deploying labor attachés in countries of employment to ensure that workers' rights are protected. The government passed additional amendments to these proclamations in 2015.

²¹ Ethiopia notably pursued traffickers more aggressively in 2015 than it had before, convicting 69 traffickers under the new anti-trafficking law (compared with 46 convicted in the previous year) - SIHA (2017), *Caught between Poverty and Trauma*.

²² SIHA (2017), *Caught between Poverty and Trauma*.

This is not unique to Ethiopia, as informal sectors in many countries and in the official discourse is often associated with “illegality” and as falling beyond the official revenue boundary of the state and thus wrongly considered as untaxed. There exists, however, a legal and policy framework from which women in the informal economy ought to be able to derive some benefit or which directly/indirectly affects their work.

Labour-related Laws and Policy Framework

• The Proclamation to Provide for the Regulation and Registration of Charities and Societies, No. 621/2009 (Civil Society Law)

- » The Proclamation to Provide for the Regulation and Registration of Charities and Societies, No. 621/2009, was enacted on January 6, 2009.
- » Its key provisions severely weaken the work of independent civil society organizations, particularly human rights defenders through provisions that:
 - i) prohibit foreign NGOs from engaging in activities pertaining to human rights, women’s rights, children’s rights, disability rights, citizenship rights, conflict resolution or democratic governance
 - ii) consider local NGOs that receive more than ten percent of their funding from foreign sources as “foreign” for the purposes of the proclamation

• The Labour/Employment Law (1993)

- » This law contains provisions consistent with the guarantees of equal rights under CEDAW and the constitution.
- » The law
 - i) prohibits discrimination by gender in employment
 - ii) provides protection against working conditions that are harmful for women’s health
 - iii) provides for the protection of pregnant women from assignments hazardous to their conditions and from dismissal during pregnancy and until four months after giving birth
 - iv) guarantees pregnant workers the right to paid leave upon the recommendation of a doctor and to 30 and 60 days paid pre-natal and post-natal leave respectively

Women’s organizations have shown remarkable initiative with regards to organizing women around savings and cooperative schemes aimed at mobilizing women to save and regenerate their incomes. These schemes enjoy a broad reach, including women working as coffee sellers, weavers, street vendors, domestic workers, firewood carries, garbage collectors and even beggars. There are a number of initiatives to empower women who have no education and income, through savings, loans and income generating activities. Many women are organized under self-help groups and cooperatives, which offer not only economic incentives, but also play a significant social and cultural role in bringing together women who previously would not work side by side due to discrimination and stigma around certain work like garbage collection, which is identified with a lower caste. These initiatives are challenging the gendered, ethnicized, political economy of labor relations in Ethiopia. Yet the sustainability of such women activists’ grassroots labors depends

crucially on the support of the state and implementation of existing laws and policies that are designed to promote gender equity. Below are five reasons why the above legal/policy frameworks may be failing to meet this aspiration:

- a. The CSP law is functioning as a tool for co-opting and controlling women's organizations. The law imposes strict and unregulated criminal and administrative penalties for violations and criminalizes human rights activities undertaken by Ethiopian organizations. It also establishes a Charities and Societies Agency with broad discretionary power over CSOs, enabling government surveillance and interference in the operation and management of CSOs.²³
- b. A key response to NGO repression has been fragmenting and reconstitution of smaller organizations in order to circumvent funding restrictions. Some women's organizations have narrowed down their work to focus only on economic empowerment – deemed as less political – as a means of retaining the prerogative to raise 100% of their funding from both local and international sources. Other organizations remain focused on human rights while accepting to operate within the funding restrictions.²⁴
- c. Human rights organizations that previously relied on consistent funding cycles from donors now have to dedicate a substantial amount of time and resources towards fundraising activities. The possible long-term impact of these market-oriented fundraising approaches is that organizations receiving donations from big business, powerful individuals and other interested parties may become beholden to the profit-oriented interests of corporate donors. This may not necessarily be congruent with the solidarity economy objective of serving the welfare of people and the environment.
- d. The government's propaganda machinery and its tactics of beating activists and dissidents into silence have led to the retreat of critical voices in civil society. A number of activists have been arrested, jailed, harassed and others have been forced into exile by the state. This weakens the legal claims, which activists mediate between the people and the state.
- e. The new law has discouraged community activist discourses that espouse 'women's rights' and 'human rights' and has instead, encouraged discourses generalizing the conditions of all women as based on 'economic empowerment' needs. Because of difficulty in obtaining statistical and factual evidence based on an 'empowerment' discourse, there is risk that laws and policies that specifically target *women's rights* will not be implemented, or may not effectively target those in greatest need of redress.

²³ See The International Center for Not-for-Profit-Law (2012), *NGO Law Monitor: Ethiopia*, <http://www.icnl.org/research/monitor/ethiopia.pdf> (accessed 12/09/2012), for an outline of these barriers.

²⁴ A good example of this kind of re-organization occurred with the formation of the Union of Ethiopian Women Charitable Associations (UWECA), whose members previously were hosted by the Network of Ethiopian Women's Associations (NEWA). While the latter was constituted to bring together NGOs and CBOs whose primary focus is women's economic empowerment and enjoys a broader funding base from international donors, NEWA has retained focus on human/women's rights issues, albeit with weakened capacity as it is now compelled to raise most of its funds locally.

2.4 Literacy, training and education

Ethiopia is ranked 126th out of 127 countries in the Education for All (EFA) development index and it is unlikely to meet the EFA Goals by 2015.²⁵ Available statistics show that Ethiopian boys have more access to education than Ethiopian girls, and that the greatest disparity can be found in secondary education and adult literacy. The number of female dropouts is high in the country especially in the transition from primary to secondary education. In 2009, only 41% of girls finished the last grade of primary education and there were only 30% of girls enrolled in secondary education. Over 1.8 million adolescent girls were not attending school in 2009. The adult literacy rate in the country is also of concern. Statistics from 2009 indicate that 82% of Ethiopian women aged 15 and over are illiterate, compared to 58% of men. Poverty is one of the main barriers to girls' and women's education. Socio-cultural factors such as social norms and traditional practices concerning the role and position of women in Ethiopian society, gender-based violence, early marriage and teenage pregnancy, are also affecting girls' and women's access to and completion of education.²⁶ There are also various school-related factors affecting educational opportunities for girls such as the lack of motivated and gender-sensitive teachers, the lack of girl-friendly school environments, the absence of targeted interventions to support girls and quality education, as well as long distances to schools, all negatively affect the chances of girls' access to and retention in secondary education.²⁷

Ethiopia has ratified a number of international conventions, which directly address the question of literacy in their provisions.

These include:

- » **Convention on the Rights of the Child 1981**
- » **African Charter on the Rights and Welfare of the Child 2002**
- » **International Covenant on Civil and Political Rights 1993**
- » **The Convention on the Elimination of All Forms of Discrimination Against Women 1981**
- » **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 1993.**

Why then, is Ethiopia failing to close the gender literacy and education gap for women and girls? A number of issues arise with regard to existing legal provisions and actual existing practices among communities:

- a. Stricter enforcement of the Family Law, which prohibits marriage of children, specifically girls, under the age of 18 years. The push for legal reform needs be supplemented by efforts at community level with initiatives that address cultural barriers that violate the human rights of women, girls and children.
- b. There are no laws that address child labor, which is rampant in the country. Due to extreme poverty and lack of educational opportunities, children are involved in activities such as collecting firewood and fetching water, which become

²⁵ http://www.unesco.org/eri/cp/factsheets_ed/ET_EDFactSheet.pdf

²⁶ Ibid.

²⁷ Ibid.

generational burdens. Legal incentives to get children and especially girls into school are lacking in related domestic legislation.

- c. Extreme levels of poverty mean that the labor of children and women has to be directed towards the social reproduction of whole families. Girls are especially vulnerable, as the laws that legalize prostitution do not enforce sufficient checks to ensure that the 18-year age limit is observed.
- d. There is no legal provision and affirmative action built into existing policy framework that guarantees the rights of minority, ethnic communities. The wider structures of societal discrimination are likely to affect the ability of children from these communities to access educational opportunities.

2.5 Women agenda influencing in decision-making.

In Ethiopia, women's status in the political and public sector is a very recent phenomena and participation is still very low. Women are underrepresented in decision-making positions at all levels and have not made major progress in attaining political power in legislative bodies. The number of elected women representatives is still low and while an increasing number of women are engaged in formal employment, they are underrepresented in middle and higher management positions. The number of women leaders and decision makers at the various levels of the decentralized government structure is also still very low. Women's underrepresentation is embedded in a conservative history under the imperial government of Haile Selassie, which did not acknowledge women as worthy political, let alone social subjects. Under Orthodox Christianity and its guiding *Fetha-Nagast*, women were subjected to powerful autocratic ideological control and none of them could challenge the emperor. The Emperor had no agenda and did not consider women's advancement as an issue. The Dergue regime, like many of its communist counterparts, did not seriously consider gender issues as a worthwhile autonomous issue. The Dergue made it clear that it would not tolerate any resistance to achieving its own goals. In the first year of its power, women activists worked on state structures, peasant associations and women's commission, to advance their agenda in mobilizing rural women in some regions. They exploited the available opportunities at the time, but that did not last long. The Dergue assumed complete monopoly on the emancipation of women, dictating its course and actions from a distorted woman question paradigm. Within this woman question, there was no indication of altering the traditional female and male domains. In fact, these domains were enforced and exploited to the maximum by the institutional arm of the Dergue that represented all women in the country, namely the Revolutionary Ethiopian Women's Association.²⁸ Women have fared better under the EPRDF, which has enacted many of the laws highlighted in this briefing. Women's decision-making participation at all levels (Federal, Regional, Zonal and Woreda legislative, Judiciary, Executive and civil service) has increased, although their status still remains low.

Laws related to women's public participation:

- **The African Charter on Human and People's Rights**

- » Guarantees the rights of women as equal to those of men in all spheres including equality in marriage, the right to equal employment, rights to maternity leave

²⁸ Biseswar, Indrawatie (2011), "The Role of Educated/Intellectual Women in Ethiopia in the Process of Change and Transformation towards Gender Equality 1974-2005," Submitted in fulfillment of the requirements for the degree of PhD in the subject Sociology, university of South Africa.

with pay, the right to acquire, administer, control, use and transfer property with emphasis on land and inheritance issues and the right to access family planning and education.

- **National Policy on Ethiopian Women (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. In regard to the problems faced by Ethiopian women and within the context of the principles of equal rights for all, the policy adopted the following objectives:
 - i) Facilitating conditions to enable women to enjoy their human rights on an equal basis with men and to ensure their equal participation in political, social and economic life
 - ii) Facilitating conditions for rural women to have access to basic social services and to find ways of lightening their work load
 - iii) Eliminating prejudices, customs and practices that are based on male supremacy
 - iv) Enabling women to take part in decision-making processes at all levels.²⁹

- **The Federal Family Code**

- » It has provisions that raise the minimum age of marriage from 15 to 18 years and establishes the rights of women to share any assets accumulated by the household if a couple has been living together for at least three years.

- **The Civil Service Reform Program**

- » Article 13 (1) of the Civil Service Proclamation No.262/2002 prohibits discrimination among job seekers on the basis of sex.
- » The Proclamation also incorporates affirmative action by stating that preference shall be given to female candidates who have equal or close scores to that of male candidates. As a result, the number of women in different, decision-making positions has increased significantly.

- **Laws and policies at federal, regional and Woreda (district) level governance structures**

- » These have been created to focus on women's issues.
- » The Ministry of Women's Affairs sits at the federal level, while regional and *Woreda* Women's Affairs Bureaus implement the Women's National Policy produced at the Ministerial level.
- » In doing this, the government is supposed to mainstream gender awareness into the various levels of governance structures so that empowerment of women in political, economic and social matters is made possible.³⁰

The government's renewed commitment to equal gender representation and participation has not, however, trickled down to the grassroots, where the majority of women still experience marginalization and lack of social or political recognition. Some reasons for

²⁹ Ibid, p. 23

³⁰ Ibid.

this include:

- a. Rural-urban disconnect – the failure of the urban-based women’s rights organizations to operate with ease in rural areas, partly due to the new funding restrictions under the CSP law
- b. Ethiopia does not have a specific affirmative action law, which in other countries has boosted women’s entry into political and legislative spheres of decision-making.
- c. Existing legal and policy provisions affirm gender equality but do not specify how this is to be achieved
- d. Regressive cultural and social norms remain strong. They devalue women, keep them in subordinate positions and undermine their confidence and ability to influence decisions at household, community and societal levels.
- e. It is not clear how federal, regional and district level gender laws and policies are expressed in state/national laws and policies. Legal ambiguity may hinder progress in the realization of legislative reforms.
- f. With the exemption of the Somali regions, Family Law in Ethiopia operates at the federal level. As a result, Ethiopian courts do not have strong jurisdiction over matters such as divorce, which at the federal level are still subjected primarily to arbitration through traditional and religious law mechanisms that may or may not be favourable to women’s claims.

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