

Dereje Feyissa

Working Paper

The praxis of combating VAW in Ethiopia: A political interpretation

DIIS Working Paper, No. 2020:10

Provided in Cooperation with:

Danish Institute for International Studies (DIIS), Copenhagen

Suggested Citation: Dereje Feyissa (2020) : The praxis of combating VAW in Ethiopia: A political interpretation, DIIS Working Paper, No. 2020:10, ISBN 978-87-7236-028-7, Danish Institute for International Studies (DIIS), Copenhagen

This Version is available at:

<https://hdl.handle.net/10419/238132>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.

**THE PRAXIS OF COMBATING VAW IN
ETHIOPIA: A POLITICAL INTERPRETATION**

Acknowledgements

Working Papers make DIIS researchers' and partners' work in progress available to readers prior to formal publication. They may include documentation which is not necessarily published elsewhere. DIIS Working Papers are published under the responsibility of the author alone.

The Working Paper is published as part of the international research programme GLOW – Global Norms and Violence Against Women in Ethiopia – financed by the Danish Ministry of Foreign Affairs.

Dereje Feyissa

Adjunct associate professor, Addis Ababa University

derejefdori2011@gmail.com

DIIS WORKING PAPER 2020: 10

DIIS · Danish Institute for International Studies

Østbanegade 117, DK-2100 Copenhagen, Denmark

Tel: +45 32 69 87 87

E-mail: diis@diis.dk

www.diis.dk

ISBN 97887-7236-028-7

DIIS publications can be downloaded free of charge from www.diis.dk

© Copenhagen 2020, the author and DIIS

THE PRAXIS OF COMBATING VAW IN ETHIOPIA: A POLITICAL INTERPRETATION

Dereje Feyissa

TABLE OF CONTENTS

Introduction	2
The making of global norms regarding VAW	3
The prevalence of VAW in Ethiopia	5
Ethiopia’s VAW policy landscape	6
The lag in enforcing VAW policies in Ethiopia: a political interpretation	8
The ideological variable – TPLF/EPRDF and the ‘women question’	8
Political legitimacy – Ethnic federalism and the precedence of cultural rights	13
Entrenched authoritarianism and the closing of civic space for gender activism	19
Conclusion	22
References	26

INTRODUCTION

Violence against Women (hereafter VAW) is among the human rights violations that women face globally every day. In its declaration on the Elimination of VAW (1993), the UN defines VAW as ‘any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life’, and it includes but is not limited to ‘physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution, and violence perpetrated or condoned by the State, wherever it occurs’ (UN 1993: 2).

However, VAW received greater attention from UN platforms after the General Assembly’s adoption, on 19 December 2006, of an action-oriented resolution on the ‘Intensification of efforts to eliminate all forms of violence against women’ because such violence ‘stops women from fulfilling their potential, restricts economic growth and undermines development’ (UN 2006: i). Accordingly, the roots of VAW are acknowledged to lie in historically unequal power relations between men and women and pervasive discrimination against women in both the public and private spheres. The resolution further noted that patriarchal disparities of power, discriminatory cultural norms and economic inequalities serve to deny women human rights and perpetuate violence against them.

VAW is a global phenomenon that is not limited to certain cultures or countries. However, the form it takes is context-specific. In Ethiopia VAW is pervasive, occurring at all three levels identified by the UN: family (such as intimate partner violence, forced marriage and female genital mutilation or FGM); community (such as rape and sexual harassment); and the state (such as the use of rape as a weapon of political violence in conflict situations). Policy responses to VAW include a constitutional order that is aligned with global norms regarding VAW. However, despite policy pronouncements and the implementation of some practical measures, VAW is still prevalent in Ethiopia. This contribution offers a political interpretation to explain the gap between policy and practice.

The rest of this working paper proceeds by outlining global norms regarding VAW against the backdrop of which the Ethiopian experience is being gauged. Section two discusses the prevalence of VAW in the Ethiopian context and is followed in section three by a discussion of how the Ethiopian government has responded to VAW through various laws and policies with the declared objective of ultimately eliminating it. The discussion in section four offers an explanation for why the

government has not been able to enforce its laws and policies effectively, despite their being aligned with VAW global norms. Specifically, I argue that the gap between policy and practice lies in the type of regime in Ethiopia, which has undermined the political will and limited the space for gender activism. This has also been evident ideologically (the Marxist frame of the 'women question' and the vanguardism connected with it), and also in respect of political legitimacy (ethnic federalism and the priority given to cultural rights), entrenched authoritarianism and the limited space available for gender activism by women's right groups. The policy response, on the other hand, is largely explained in terms of formal compliance with global norms, itself part of the government's wider strategic rent-seeking behaviour as it relates to the global agenda for gender justice and the resources connected with it. Ethiopia, a country with a high level of dependence on foreign aid for development finance and humanitarian assistance, cannot afford to reject the global normative order. Instead it negotiates and in certain areas resists the imposition of global norms by signifying formal compliance while at the same time maintaining a distinct *modus operandi* in the manner in which it has addressed women's rights in general, VAW included.

However, I am not suggesting that the type of regime and its ideological constitution, political structure and mode of governance are the only factors explaining the gap between policy and practice when it comes to enforcing VAW policies. Alternative explanations might include the strong cultural embeddedness of norms (and thus their resilience, even if there is strong political will against them), weak voluntarism (reflected in the dependence of civil-society organisations (CSOs) on external assistance and thus their inability to set their own agendas that reflect local realities), the disarticulation between national and global priorities with regard to VAW norms, etc. In this contribution, the focus is rather on the political variable.

THE MAKING OF GLOBAL NORMS REGARDING VAW

To date, the only international convention to focus specifically on women's human rights and to contain detailed provisions on gender discrimination is the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Considered to be a 'bill of rights' governing women's human rights, CEDAW provides more specific guarantees in this regard. In addition to the obligation to condemn discrimination against women, state parties to the Convention undertake, *inter alia*, 'to embody the principle of equality of men and women in their national constitutions or other appropriate legislation,' and to adopt laws or other measures, 'including sanctions where appropriate, prohibiting all discrimination against women.' The Convention also requires the state parties to take a series of measures in the political, social, economic and cultural realms to advance the enjoyment of equal rights by women in all walks of life.

However, CEDAW did not initially define 'discrimination against women' as specifically including VAW. It was rather the 1992 General Recommendation of the

Committee on the Elimination of Discrimination Against Women that described gender-based violence as a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men. In December 1993, the UN General Assembly further adopted the Declaration on the Elimination of Violence against Women (DEVAW), which elaborated on the definition of gender-based violence and classified it as a critical human rights issue (Rakeb 2013). DEVAW is a non-binding declaration issued by the General Assembly of the UN aimed at strengthening state commitments to global participation and policy formation regarding violence against women. The resolution is 'the first international tool explicitly dealing with violence against women, which it defines as any physical, sexual, or psychological violence or the threat of it, toward women and girls occurring in the home, the community, and/or condoned by the state' (King 2019: 1).

Since DEVAW, three UN conventions have been passed that are of particular importance to ending VAW. These are 'Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice' (UN General Assembly 1997), the 'Elimination of All Forms of Discrimination Against Women, Optional Protocol' (UN General Assembly 1999) and the 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children' (UN General Assembly 2000). Considered a landmark in the global advancement of women's rights, the CEDAW Optional Protocol contains two procedures: a communications procedure, whereby individuals or groups of individuals may submit claims of violations of rights enshrined in the Convention to the Committee; and an inquiry procedure, whereby the Committee may initiate inquiries into situations of grave or systematic violations of rights under the Convention. In either case, a state must be a party to the Convention and the Protocol.¹ While women can and should file complaints under the procedures of the other human-rights treaty bodies, the Optional Protocol to CEDAW provides a targeted procedure to tackle discrimination against women on the basis of sex. The Optional Protocol entered into force on 22 December 2000. As noted by the UN Chief of Staff Kofi Anan, the CEDAW Protocol was conceived as the main vehicle through which global norms with regard to women's rights will be disseminated:

In the course of the twentieth century, we have made great strides in defining universal norms of gender equality. As we enter the twenty-first century, it is time to implement those norms. The Optional Protocol we have opened for signature today will be an invaluable tool for doing that. In States that have ratified it, women whose rights have been violated will henceforth be able, once they have exhausted national remedies, to seek redress from an international body – the Committee on the Elimination of Discrimination against Women.²

¹ <https://www.un.org/womenwatch/daw/cedaw/protocol/>

² https://www.un.org/womenwatch/daw/public/handbook_parliamentarians_cedaw_en.pdf

A complaint can only be made against a state party to the Convention and the Protocol. The alleged violations must be linked to the action, inaction or conduct of state officials in carrying out their public functions (e.g. discriminatory laws, policies, programmes and practices, sex-discriminatory conduct or abuse by law-enforcement officials or the military). The inquiry procedure, on the other hand, enables the Committee to initiate inquiries into reliable indications of grave or systematic violations by a state party of the rights set out in the Convention. Women's rights activists hope that, through the Protocol, the international legal system will lead governments to address the issue of VAW and other violations of their rights (Tang 2000).

As of 2020, CEDAW had been ratified by 189 states and the CEDAW Optional Protocol by 125 states. Ethiopia *ratified CEDAW in 1981, but not the 1999 Optional Protocol*. Moreover, CEDAW has not been officially translated and published in the *Federal Negarit Gazeta*, despite a constitutional commitment that international agreements ratified by the state party form an integral part of its domestic law and a provision that the core international human rights treaties will be translated into local languages.

THE PREVALENCE OF VAW IN ETHIOPIA

In Ethiopia VAW is deeply entrenched and is accepted rather than challenged. In a 1998 survey, the National Committee on Traditional Practices in Ethiopia (NCTE) listed 88 practices as harmful to women. A study by the WHO (2005) showed that 71% of Ethiopian women experience either physical or sexual violence. Data from the Ethiopia 2016 Demographic Health Survey (DHS) revealed that 33% of women aged 15-49 had experienced physical or sexual violence and that domestic violence is the most common form of violence that women experience. The DHS data also show that around 65% of women between the ages of 15-49 have been circumcised in Ethiopia and that child marriage is still a significant problem in the country, as around 58% of women aged 25-49 were married before their 18th birthday. Lastly, among women aged 15-49, 10% reported having experienced sexual violence at some point in their lives from someone or other. The EDHS did not find significant variation in the extent of physical violence in rural and urban settings. Rural women were only slightly more likely to have experienced violence since the age of fifteen than urban women (24% as opposed to 21%).

Ethiopia is also known for having one of the highest prevalence rates for FGM. According to EGLDAM (2007), FGM is common among 46 of the country's 66 largest ethnic groups. The 28 Too Many (2013) Ethiopia Profile shows that more than 23.8 million girls and women in Ethiopia have undergone FGM – the second highest figure in Africa after Egypt. According to UNICEF (2013), Ethiopia is a Group 2 country, with a moderately high prevalence of FGM (i.e., 50-80 per cent). Government statistics show that the practice is much more widespread in some regions than in others. For example, 75 per cent of girls aged 15-49 in Southern Nations, Nationalities and Peoples Region (SNNPR) report having undergone FGM

(Tamire and Molla 2013), compared with 92 per cent in Afar, 97.3 per cent in the Somali region and 92.3 per cent in Dire Dawa (28 Too Many 2013). Forced marriage, particularly child marriage, is another major form of VAW in Ethiopia. According to UNICEF, Ethiopia has the fifteenth highest prevalence rate of child marriage in the world and the fifth highest absolute number of child brides.

ETHIOPIA'S VAW POLICY LANDSCAPE

To date, there is no single, consolidated law on VAW in Ethiopia, but there are various provisions related to specific forms of gender-based violence (GBV), general protections against violence for women, and sweeping declarations of equality that can be interpreted as protecting women against violence. The National Policy on Women (1993) has set up structures in government at all levels to implement gender-sensitive policies and has created gender machinery such as the Ministry of Women's Affairs in 1995.

The 1995 Constitution contains progressive provisions with regard to women's rights. The National Committee for Traditional Practices (NCTPE), currently known by its Amharic abbreviation EGLDAM, was established in 1997 to help abolish traditional practices that are harmful to women's and children's health. It is currently the strongest working network of organisations to deal mainly with FGM in Ethiopia. Various provisions recognise and promote women's rights, most of which are translations of global norms on gender equality. The Constitution guarantees women rights that are equal to those of men. Directly challenging patriarchal norms, Art. 34 of the Constitution declares that men and women have equal rights before the law when it comes to marriage, founding a family and instituting divorce proceedings. Furthermore, Article 35 guarantees equality in the enjoyment of rights and protection from harmful laws, customs and practices. Importantly, the Constitution declares its own supremacy, and any law or customary practice that contradicts it is declared null and void. According to Art. 16, 'Everyone has the right to protection against bodily harm', while Art. 35 declares: 'The State shall enforce the right of women to eliminate the influences of harmful customs. Laws, customs and practices that oppress and cause bodily or mental harm are prohibited'. These declarations are bold and egalitarian.

Some of the specific legal measures that have been established in Ethiopia at the federal level to address acts of violence include the 2000 Revised Family Code and the 2005 Revised Criminal Code. The adoption of amendments to the Family Code in 2001 raised the minimum legal age for marriage to eighteen for both men and women (Art. 7), abolished the provision conferring marital power on the husband as the head of the family and added additional grounds for divorce (Art. 76) by mutual consent of the spouses. The Revised Criminal Code includes prohibitions and penalties against specific forms of GBV. It criminalises several harmful traditional practices, including female circumcision and infibulations. Law-enforcement agencies are increasingly looking to prosecute perpetrators of FGM/C and other harmful practices (28 Too Many 2013). In addition, the Ethiopian

government has established institutions, federally and regionally, such as the Ministry of Women, Children, Youth Affairs Offices (MOWCYA), special police units aimed at protecting children and women, and a Special Bench within the federal criminal court specifically for cases that relate to violence against women. The Ethiopian government is trying to tackle harmful traditional practices by including them 'in all the major policy and legal plans across the country, including policies on women, on health, on education and on social policy' (ibid.: 57; EGDLM 2007).

There are also laws, policies and directives regarding specific forms of violence such as FGM and child marriage. The new criminal code acknowledged the suffering caused by harmful traditional practices to women and girls. Article 565 states that 'Whoever circumcises a woman of any age is punishable with simple imprisonment for not less than three months or fine of not less than five hundred Birr [US\$ 45]'. Article 566 contains a law against Infibulations of the Female Genitalia: 'whoever infibulates the genitalia of a woman is punishable with rigorous imprisonment from three years to five years'. In addition, Article 569 states that 'persons who are accomplices to the crime as parents, guardians or in any other capacity are punishable with imprisonment not exceeding three months or a fine not exceeding Birr 500 [US\$ 45]' (Dagne 2009: 6). GTP I (2010-2015), the five-year national Growth and Transformation Plan, also included an ambitious plan to eliminate FGM/C almost entirely to 0.7 per cent by 2014/15 (Boyden et al. 2013). Acknowledging that FGM remained widespread despite the ban, in 2013 the Ethiopian government launched a national plan to stop the practice. In 2014 it followed this up with a pledge at the UK- and UNICEF-sponsored Girl Summit in London to end FGM entirely by 2025. In 2017 the Ministry of Health banned the medicalisation of FGM in all public and private medical facilities in the country.³ In addition, on 19 August 2019 the government launched a five-year national road map to end child marriage and FGM.

Similarly, Ethiopia has committed itself to eliminating child, early and forced marriage by 2030 in line with the Sustainable Development Goals 5.3. During its Voluntary National Review at the 2017 High Level Political Forum, the government highlighted that its women and policy strategies address the elimination of child marriage. Ethiopia acceded to the Convention on the Rights of the Child in 1991, which sets a minimum age for marriage of eighteen, and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1981, which obliges states to ensure free and full consent to marriage. Ethiopia is a focus country of the UNICEF-UNFPA's Global Programme to Accelerate Action to End Child Marriage, a multi-donor, multi-stakeholder programme working in twelve countries over four years. In 2002 Ethiopia ratified the African Charter on the Rights and Welfare of the Child, including Article 21 regarding the prohibition of child marriage. In 2004 Ethiopia signed, but has not yet ratified, the African Charter on Human and People's Rights on the Rights of Women in Africa, including Article 6, which sets the minimum age for marriage at

³ <https://www.afro.who.int/news/ethiopia-bans-medicalization-female-genital-mutilation-fgm>

eighteen. Ethiopia has also ratified most international agreements that protect the rights of women and girls, such as CEDAW. However, indicating a degree of norms contestation Ethiopia has registered reservations to some of these international treaties such as the Optional Protocol to CEDAW and the Maputo Protocol for the reasons explained in section four.

THE LAG IN ENFORCING VAW POLICIES IN ETHIOPIA: A POLITICAL INTERPRETATION

As we have just seen, Ethiopia has many laws in place at all levels of the legal system that guarantee equal rights and prohibit most forms of gender-based violence (GBV), including female genital mutilation (FGM), child marriage, most forms of rape and some intimate partner violence (IPV). However, for many reasons these policies have proved widely ineffective at preventing this violence. The slow progress in effectively combating VAW is often attributed to an entrenched patriarchy, that is, to the power dynamics between men and women. Patriarchal societies in Ethiopia include a level of power and control in which traditionally perceived masculine roles are more likely to involve abuse against their female counterparts (Vass and Gold 1995; Milner 2004).

Other explanations include the strength of the government's political will, which is often hidden under a practice of formal compliance with global norms. According to the UN, the continued prevalence of violence against women is testimony to the fact that states have yet to tackle it with the necessary political commitment, visibility and resources. Inadequate and inconsistent implementation nationally has contributed to the gap between policy and implementation.⁴

In the Ethiopian context, this gap can be attributed to the type of regime and its ideological constitution, with its core basis of political legitimacy built around the primacy of cultural rights and entrenched authoritarianism, especially since the contested national election in 2005. In this section I put forward a political interpretation of the lag in the enforcement of VAW policies and laws in Ethiopia with reference to these three variables: ideology, political legitimacy and authoritarianism, all related to the type of regime represented by the Tigrayan People's Liberation Front (TPLF), which waged an armed struggle against the Derg (1976-1989) and the coalition, the Ethiopian People's Revolutionary Democratic Front (EPRDF), that ruled Ethiopia from 1991 to 2019.

The ideological variable - TPLF/EPRDF and the 'women question'

Over half a century, the contours of Ethiopian politics have been heavily informed by Marxist ideas in general and the Leninist variety in particular. The Marxist frame has been so hegemonic in the conception of Ethiopian politics as to make politics a

⁴ https://www.un.org/womenwatch/daw/public/VAW_Study/VAWstudyE.pdf

matter of who is more authentically Marxist in the government and the wide variety of opposition parties with roots in the student movement of the 1960s and 1970s. Among the political organisations with a longer and perhaps greater level of engagement with Marxist ideology is the TPLF (Tigrean People's Liberation Front) which helped establish a coalition of liberation fronts called the Ethiopian People's Revolutionary Democratic Front (EPRDF) which overthrew the military government (Derg) and seized state power in 1991. EPRDF's conception of politics had continued to be informed by Marxist ideas, despite the collapse of the socialist project internationally since the fall of the Berlin Wall and 'the end of History' associated with it. In fact, the TPLF/EPRDF officially renounced its commitment to the socialist vision only in 2001, after a major split within the party.

Although in 2001 the late prime minister, Meles Zenawi, declared that the EPRDF had been repurposed to build capitalism, Marxist ideas continued to be relevant within the governance structure, including the redeployment of revolutionary democracy for the new capitalist project (Vaughan 2012). The belief in the importance of the state's agency in transforming both economy and society has also informed EPRDF's self-understanding as a vanguard party, as reflected in the specific breed of capitalism it has sought to build: the developmental state, which Toni Weis (2015) calls 'vanguard capitalism'.

Ideologically, the TPLF is a blend of ethnonationalism and class-based Marxist politics. By the mid-1980s Marxist ideas had taken root within it, as made evident by the establishment of the Marxist-Leninist League of Tigray (MLLT) within the TPLF. True to its Marxist persuasion, the TPLF's notion of 'the women question' was subordinated to the 'higher' goal of the revolutionary emancipation of society, not being considered an issue that was worth struggling for in its own right. The TPLF, like other Marxist organisations elsewhere, mobilised women during the armed struggle (1976-1991) for practical reasons, a mobilising tool used in combating the Derg, which had one of the largest and strongest armies in Africa. In fact, by the mid-1980s, the TPLF was claiming that one third of its army consisted of women fighters (Veale, 2003). There was also a very active women's organisation, the Association for Women Fighters (AWF), which operated under the aegis of the TPLF. According to Yewubmar Asefa, a former female fighter in the TPLF and the author of the book *Finixua Mutam Tenesalech: The Unfinished History of Tigray Women* (2011), the motivating factors for younger Tigray women to join the TPLF were 'the perpetuated injustice of the country's political system in general and the repression of women in Tigray region in particular' (Yewubmar, 2011:36). The author argues that, besides allowing women to be involved in combat, the TPLF adopted reformist measures to address women's interests in the liberated zones. Among these measures were the criminalisation of VAW violence against women, including abduction, and raising the minimum age of marriage. Despite these progressive reforms, female combatants in the TPLF were denied the right to organise and assemble in accordance with their gender, the justification being that 'MLLT is an organisation of members united by a single ideology of Leninism and Socialism. Other than espousing this outlook, there is no need to carry out other forms of organisations' (ibid.: 111-112). In fact, in 1987, the TPLF politburo criticised the leaders of the Tigray Combatants Women's Association as 'feminists' and

accused them of choosing solutions other than Marxism and Leninism for the liberation of women.

In the Marxist conception of politics, women's right issues, as is the case with other social questions, are subsumed within an overarching class structure. This is certainly true of the Tigrayan People's Liberation Front (TPLF) and the coalition it formed under the Ethiopian People's Revolutionary Democratic Front (EPRDF). One of the central Leninist ideas with a bearing on women's rights in Ethiopia, one that was effectively incorporated into the TPLF's organisational principles, is vanguardism. In the context of the Leninist theory of revolutionary struggle, vanguardism is 'a strategy whereby the most class-conscious and politically advanced sections of the proletariat or working class, described as the revolutionary vanguard, form organisations in order to draw larger sections of the working class towards revolutionary politics and serve as manifestations of proletarian political power against the bourgeois'.⁵ In the specific Russian context, this took the form of the Bolshevik Party emerging as a vanguard party practically ruling as an enlightened despot, but subordinating everything to the issue of class. From the vanguardist point of view, there is no room for any autonomous social space. Mass-based political organisations such as women associations are effectively controlled so that they serve a 'higher' public good, namely the socialist vision of society under the leadership of the vanguard party.

In 1991 the TPLF/EPRDF overthrew the Derg regime, which itself claimed to be Marxist, and took power in Ethiopia after a protracted armed struggle. It had a reform agenda in its first decade of power, signing various human rights conventions, changing the Ethiopian Constitution to include a strong emphasis on rights and equality, revising national legislation, introducing new economic and social policies, and permitting the establishment of civil-society organisations (Dessalegn 2002). Aligned with global norms with regard to women's rights, the TPLF/EPRDF government established instruments such as Women's Machinery, Women's Policy, a National Action Plan, constitutional measures and decentralisation policies to provide the government with a basis for the Marxist-Leninist notion of the 'woman question' rhetoric. As Bieswark noted (2008), 'the aim of such instruments, in the main, is to provide the government with a monopoly position on the agenda of women's emancipation in the country. The result is the absence of a comprehensive radical gender discourse; in its place there is a rigorous focus on a depoliticised national women's discourse. This has an extremely narrow outlook that is actively promoted as meeting the demands of women's emancipation, rights and freedom in the country'.

In introducing these measures, the EPRDF government aligned itself with other socialist regimes. The state-led 'women' discourse in Ethiopia had been entrenched since the revolution. In common with other socialist regimes, under the rule of the Derg there was a need to provide a channel for mass participation. Women were specifically targeted by the socialist state. The Revolutionary Ethiopia Women's

⁵ <https://www.coursehero.com/file/37413617/Vanguardism-Essaydoc/>

Association (REWA) was established in 1980, a large state organisation with on paper almost five million members. The organisation contributed to the establishment of various development projects, such as handicrafts, retail shops, flour mills and the expansion of kindergartens. However, the REWA organised women to serve government policies and promote the regime's propaganda: it did not greatly benefit women and was highly instrumental (Clapham, 1988).

The state-led Marxist-Leninist vision of the women question differs radically from the historical experiences of women's rights movements, which operated within a different framework. Historically, 'VAW was drawn out of the private domain into public attention and the arena of State accountability largely because of the grass-roots work of women's organisations and movements around the world. This work drew attention to the fact that violence against women is not the result of random, individual acts of misconduct, but rather is deeply rooted in structural relationships of inequality between women and men'. Equally, women's organisations played a key role in the making of VAW global norms: 'the interaction between women's advocacy and United Nations initiatives has been a driving factor in establishing violence against women as a human rights issue on the international agenda' (UN 2006: ii). After all, the state itself could be a perpetrator of VAW 'through its agents, through omission, or through public policy, [which] spans physical, sexual and psychological violence. It can constitute torture. The high incidence of violence against women in armed conflict, particularly sexual violence including rape, has become progressively clearer' (ibid.).

The EPRDF's Marxist-Leninist framework views women's emancipation only in terms of their active participation in the revolution and separates the social aspects of gender by treating the 'woman question' as a product of class within Ethiopian society. As Bieswark noted, 'just like the Derg, EPRDF assumed itself to be the supreme authority on dealing with women's issues – resulting in a distortion of women's emancipation [...] At the time, the TPLF had endorsed the formation of a separate women's organisation in Tigray, the Women Fighters' Association of Tigray (WFAT), as long as the revolutionary goals remained clear. The emancipation of women outside this party-induced goal has never been considered an important issue' (2008: 410). Gender machinery such as the Women's Affairs Office or the Ministry of Women's Affairs have failed because 'from the outset it was regarded with suspicion and evasion by civil society [...]. It not only became directly dependent and accountable to the government; worse still, it failed to become genuinely representative of Ethiopian women across the board' (ibid.).

Ideological factors in dealing with VAW in Ethiopia have also been played out in terms of the Marxist bias towards the sequencing of rights. As Engels remarked, 'to emancipate woman and make her the equal of the man is and remains an impossibility so long as the woman is shut out from social productive labour and restricted to private domestic labour. The emancipation of woman will only be possible when woman can take part in production on a large, social scale, and

domestic work no longer claims anything but an insignificant amount of her time'.⁶ In this Marxist framing of the women's question, socio-economic empowerment takes precedence over VAW, which is construed as a form of superstructure. A similar sequencing of rights can be discerned in the EPRDF's various policy documents. For instance, the three main objectives of the NPEW are conceived sequentially, from economic empowerment and access to basic social services to the elimination of VAW and political representation, as the following excerpt indicates:

...facilitating conditions conducive to the speeding-up of equality between men and women so that women can participate in the political, social and economic life of their country on equal terms with men and ensuring that their right to own property, as well as their other human rights, are respected and that they are not excluded from the enjoyment of the fruits of their labour or from performing public functions and being decision-makers.

This is to be followed by

...facilitating the necessary condition whereby rural women can have access to basic social services and to ways and means of lightening their work-load;

And finally

...eliminating, step by step, prejudices as well as customary and other practices that are based on the idea of male supremacy and enabling women to hold public office and to participate in the decision-making process at all levels. (Transitional Government of Ethiopia 1993: 25–26)

The idea of the sequencing of rights can also be found in a document drawn up by the Ethiopian government entitled 'The Ethiopian Human Rights Landscape in the Context of Right-Based Approach to Development':

The law prohibits archaic traditional practices that inflict bodily harm to women and children, regardless of the claim that such ritual acts bear religious sanction. [...] the government believes that a better result can be obtained through increased public awareness of the country's edifying plurality of faith and culture and greater institutional mainstreaming of the values of human rights. Tied to this is guarded optimism in the salutary social effects of accelerated development in terms of eroding deep-seated retrograde cultural rituals and injurious practices. In plain language, the hope is that as the country continues to surge ahead with an eye to catch-up with the world's middle-income nations, democratic culture is likelier to thrive across all social strata of the diverse nationalities [...] paramount in this regard is adjusting to a normative behavior consistent with the values of the rights treaties ratified by Ethiopia. (2015: 151)

⁶ <https://revolutionarydemocracy.org/rdv16n2/feminism.htm>

These ideological factors – the top-down, party-led approach to women’s rights and the vanguardism associated with it, as well as the sequencing of rights – seem to have undermined whatever political will can be extracted from the policy texts of the EPRDF government and the gender reform measures it introduced, ostensibly all aligned with global norms.

Political legitimacy – Ethnic federalism and the precedence of cultural rights

The TPLF/EPRDF has occupied various positions in the Marxist ideological spectrum. It started as an ethnonationalist organisation within a Marxist framework based on ‘the nationality question’ in line with the Austro-Marxists’ notion of cultural autonomy, which, developed further by Stalin, provided a theoretical and historical analysis of the national problem within the framework of a Marxist sociology. By the mid-1980s class had become the TPLF’s primary organising principle and the basis of its political alliances. With the collapse of socialism internationally, however, from 1991 the TPLF/EPRDF placed a new emphasis on ‘the nationality question’, although class was still relevant in its conception of politics. Ethnicity was elevated from an ideology into a core basis for political legitimacy, as Stalin’s 1913 essay on ‘the nationality question’ was used as a foundational principle in the restructuring of the Ethiopian state as a multinational federation, widely known in the literature as ‘ethnic federalism’. The 1995 constitutional order has made cultural diversity a new national priority (Turton 2006).

Eschewing the conventional geography-based federalism, the EPRDF has privileged ethnicity as a building block of the Ethiopian federation. Not only are Ethiopia’s regional states largely based on ethnic identity, according to the controversial Article 39 (1), ethnic groups are also accorded the right to self-determination, up to and including secession. Furthermore, and more relevant to the discussion here on the primacy of cultural rights, is Article 39(2): ‘Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history’. What constitutes a valid cultural practice and the norms that uphold it are to be decided by ‘nations and nationalities,’ as opposed to a top-down definition of what is and is not a harmful traditional practice. The spirit and letter of the 1995 Constitution is suffused with a sense of multicultural justice. In fact, sovereignty in the Ethiopian federation resides not in ‘the peoples of Ethiopia’, as is the case in many constitutions, but rather in the ‘Nations, Nationalities and Peoples’ – ethnic groups in Ethiopian parlance – terms borrowed from the Stalin lexicon. As Tesfa notes (2014: 9), ‘it is the mere ideological predilection of the ruling party, not political expediency, which was actually behind the constitutionalisation of the right to secede in the federal system of Ethiopia’.

A corollary of the EPRDF’s advocacy of ethnic federalism, however, is legal pluralism, which has generated a situation of conflicting rights, namely ethnic rights (and the patriarchal values that underpin local cultural practices) and women’s rights, despite both being legitimised by the constitutional order and justified by their respective global norms. Legal pluralism is a feature of cultural diversity

because what gives rise to pluralism is the existence of multiple bodies of customary rules or normative orders embedded in a multicultural society (Merry 1988). In recent years, governments around the world have shown much interest in customary laws mainly for practical reasons, especially to reduce caseloads and thereby give citizens better access to justice. In the Ethiopian context the interest in customary judicial systems is not only practical but also ideological. Article 38 of the Constitution states that groups and individuals can use their customary and traditional laws in so far as this usage is consistent with the human rights provisions of the Constitution. Under Article 78, regional governments are given the power to promulgate legislation that establishes rules of procedure for the work of customary laws. Article 34(5) states that ‘this Constitution shall not preclude the adjudication of disputes relating to the personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute’.

Therefore, the very constitution that grants women equal rights also contains laws that infringe these rights. There is evidently a tension between customary rights and women’s rights, as the former condones most acts of VAW, such as early or forced marriage and FGM, as meaningful local cultural practices. Ethiopia’s recognition model of the customary justice system thus appears problematic. It avoids taking a norm-based approach, which would involve the top-down imposition of norms that are considered beneficial for progress. Instead it has adopted a process-based approach, a more participatory approach to support a process whereby men and women can both have a say in the choice of applicable norms (Dereje 2019). This is evident above all in the ‘consent’ clause, establishing the right to choose a legal order that is best suited to one’s interests, and a preference that allows legal forum-shopping. However, ‘consent’ is not sufficiently problematised, merely tending to assume that women, particularly rural women, have adequate information about their options and the capacity to act as they wish. This has implications for the enforcement of women rights as stipulated in the Constitution. Above all, not enough effort has so far been made to ensure constitutional literacy to enable women to make informed and meaningful choices, not to mention the need to tackle the structural factors that reinforce gender inequality. A purely process-oriented approach would ideally have little influence over the norms that are ultimately selected, which may therefore not be consistent with the popularly accepted principles of gender justice.

Although women’s rights seem to have a primacy over cultural rights, in practice the latter appear to have been given precedence in light of the fact that ‘the nationality question’ is the core basis of the EPRDF’s political legitimacy and hence a national political priority. The Constitution recognises equality between men and women, but it also allows for disputes to be resolved through religious or customary law. Sharia law and traditional regional laws are not usually as strict on GBV as national laws. Thus, although VAW practices have been criminalised, a human rights approach was not used in doing so. For instance, while the campaign against FGM in Ethiopia is justified with reference to a medical model and its adverse effects on the well-being of women, global norms related to FGM have long been reframed in the language of human rights. Avoiding the ethnocentric accusations levelled against western feminist activism, the UN too initially framed the

campaign against FGM in the language of the medical effects of the practice on the well-being of women. However, the medical approach proved to be counter-productive, as it led to FGM being medicalised, as those still wishing to maintain the practice sought out trained medical personnel to perform it. Instead of pushing for the practice's eradication, therefore, it made FGM 'safer'. Gradually, however, the health discourse took a back seat, and by the mid-1990s there had been a transition from the medical to the human rights model in the global campaign against FGM (Boyle 2002: 51). The UN thus repackaged the message to read: 'FGC had negative health consequences, but, more importantly, it was a violation of women's rights' (Boyle 2002: 54-55). Recast as a violation of human rights, therefore, FGM became something that had to be eliminated immediately through, predominantly, legislation, advocacy campaigns raising awareness of the health-related dangers of the practice, and finding alternative livelihood strategies for the circumcisers. The eradication of FGM has now become a widely accepted international goal in itself.

However, Ethiopia has largely retained the medical model for political reasons. Pressing for a human-rights framework and the immediacy associated with it would undermine the very foundations of the political system, one that is built on the radical idea of cultural diversity. For instance, the modus operandi of the National Committee for Traditional Practices in Ethiopia (NCTPE) gives an important insight into how Ethiopia has continued to operate with the medical model in combating FGM.⁷ The NCTPE, now known by its Amharic abbreviation EGLDAM, tackles FGM as a health issue rather than a human rights issue: 'Because the practice stems from culture and tradition, simply telling people that it is "bad" or "a human rights abuse" would not be effective'. The global shift to treating FGM as a human rights issue came at a time when Ethiopia had adopted a Constitution whose spirit was geared towards the recognition of cultural rights and the right to self-determination, a power given to ethnic groups up to and including secession from the Ethiopian federation.⁸ After all, FGM was only criminalised ten years after the Constitution was introduced, after women's rights organisations had made their advocacy effective. Ethnic federalism can thus be read as a revival and strengthening of ethnic consciousness and traditional cultural practices, often ones that are harmful to women's advancement and hamper their emancipation. As noted by Vaughan and Tronvoll (2003: 21), 'the upsurge of ethnic consciousness in some parts of the country may have revived a number of traditional practices (often seen as ethnic boundary markers), which further disadvantage women'. This includes the practices of early marriage, abduction and female genital mutilation (Berhane-Selassie 1998). Decentralisation under such circumstances may actually strengthen paternalistic attitudes towards women.

⁷ Set up in 1987, the NCPTE is a chapter of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC). One of its objectives is to discourage and eradicate all forms of harmful traditional practices, including FGM/FGC.

⁸

[https://www.28toomany.org/static/media/uploads/Law%20Reports/ethiopia_law_report_\(july_2018\).pdf](https://www.28toomany.org/static/media/uploads/Law%20Reports/ethiopia_law_report_(july_2018).pdf), p.4

In a briefing entitled 'empowering nations, disempowering women', Tigist (2011) also noted how customary law is discriminatory and undermines the government's constitutional commitment to gender equality:

The inclusion of customary practices in the Constitution points to the democratic governance of the formal institutions. However, it overlooks the gap that exists between women's rights' standards that operate between the two institutions, formal (constitutional) and informal (customary), and serves to betray women who are subordinated under tradition and custom. The practical implications are that, despite making women's participation in customary practices conditional on their voluntary consent, the Constitution fails to recognise the oppressive patriarchal social context in which the majority of women find themselves, especially in rural parts of the country, which subjects them to a plethora of discrimination, violence and stigma for refusing to adhere to a customary practice that works against them.

Ethiopia's reservation to the Maputo Protocol is situated within this tension between a national priority and the commitment to global norms. In 2018, Ethiopia ratified the Protocol with several reservations. Two stood out: reservations about marital rape and polygamy. Responding to a question from the Committee on the Elimination of Discrimination against Women in its 2019 hearing on Ethiopia, the Ethiopian delegation sought to justify these reservations as follows:

The reservations to the Maputo Protocol related mainly to the criminalisation of marital rape, as Ethiopia considered that doing so would be a violation of its traditional norms and the sanctity of the family, and it was also hard to prove. Another reservation concerned bigamy or polygamy. As for gender harassment, sexism, and various forms of gender-based violence, the delegation recognised that the current laws indeed did not conform to the highest international standards.⁹

The 'traditional norms' which the Ethiopian delegation referred to as a justification for its reservation on the Maputo Protocol partly relates to bridewealth, which is considered a precondition for the successful completion of a marriage among most local communities in rural Ethiopia. A marriage is recognised after gifts are given, and bridewealth is paid by the groom's family to the bride's family, such as cattle among pastoral communities. The material transaction generates a very strong sense of 'wife ownership' in general, let alone sexual rights, whether consented to or not. In some *societies*, such as the Nuer in Gambella, the husband's sense of entitlement acquired with the payment of bridewealth extends to children as well. Children are not 'legitimate' if their *father* has not paid bridewealth – *hence the saying, 'whoever pays the bridewealth is my father'* (Dereje 2011).

The process of drafting and implementing the revised family law of 2001 provides further insights into the precedence of cultural over women's rights. A comprehensive and open public consultation was conducted during the process of revising Ethiopian family law in 1998-2000, which attracted the active participation

⁹ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24192&LangID=E>

of different sections of Ethiopian society. The core controversial issues raised in the various consultation forums were presented for final discussion at the concluding July 1999 conference held in Addis Ababa before the final draft was submitted. Such public participation in the legislative process was unprecedented. As Mandefirot notes (2016), one of the core issues discussed was the pros and cons of having a uniform family law. The Constitution is not specific about which competence a family law falls under. On the one hand, regions could claim it to be part of the civil law, which therefore falls under their jurisdiction. On the other hand, the federal government could claim it under its constitutional commitment to create a common political and economic community. As it transpired, the revised family law is implemented at two levels. – The federal family law is applicable only to the two city administrations of Addis Ababa and Dire Dawa, which are under the jurisdiction of the federal government. The remaining seven regional states were given the power to revise the family law with reference to the specific realities of each region, taking the federal family law as a point of reference only. Not only have the regions contested some of the provisions in the federal family law, such as the prohibitions on polygamy, child marriage and FGM, two regional states – Afar and Somali – still have not passed a revised family law because they are reluctant to impose norms of gender equality. These are precisely the regions where VAW, such as FGM and forced marriage, is most prevalent in the country. The Committee on the Elimination of Discrimination Against Women has reiterated its concern that not all regional states have adopted regional family laws in conformity with the Federal Family Code (2000), and that some regional states are continuing to apply their previous discriminatory family laws. The Committee has also criticised the constitutional power given to religious and traditional courts, which largely construe the relationship between men and women as fundamentally unequal.¹⁰

Apart from this reluctance or resistance regarding the imposition of global gender norms on the part of the federal government, contested norms in the two regions where the family law has not yet been passed have been enabled by a reversed power relation. In effect, parts of the country such as the Afar and Somali regions historically represent the country's lowland periphery, in contrast to the highland core, the centre of state formation in Ethiopia. Ethiopia's two-tier federal structure also tends to make these regions peripheral. The Ethiopian federation is divided into so-called developed regional states, coinciding with the four highland regions, and developing regional states (DRS), representing the four lowland regions. However, for reasons related to political legitimacy, the DRS also appear to be 'powerful', as they are considered to be the main constituency for the federal project that is seeking to redress historically determined ethnic and regional inequalities. This was particularly true of the EPRDF under the leadership of the late prime minister Meles Zenawi, who was more keen on cultivating political ties with the DRS than with the political leaderships of the developed regional states, who were regarded as potential threats to his rule. Aware of the mechanics of power within the EPRDF coalition, the political leaderships of the DRS often instrumentalise their appeal, including when contesting norms laid down elsewhere. This played itself

¹⁰ <https://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ETH-CO-7.pdf>

out in the sort of relationship that existed between the now defunct Ministry of Federal Affairs (MoFA) and the DRS. Although the MoFA had a broader mandate in respect of inter-governmental relations, its main remit was to coordinate support for the DRS. One of the performance indicators for the MoFA's leaders was how well they were getting along with the DRS political leadership. To date, the fact that neither the Afar nor the Somali regions has passed a revised family law should be viewed in light of the particular configuration of centre-periphery relations under EPRDF rule that grants certain forms of power to the latter, certainly when it comes to resistance to norms being imposed by the federal government. As border regions, they also have geopolitical significance, particularly the eastern periphery, given Ethiopia's volatile relations with Eritrea and Somalia, as well as Djibouti's crucial role in providing Ethiopia with access to the sea. The federal government's lack of rigor in delivering its constitutional commitment to eradicate VAW in the DRS is thus informed by the various balancing acts it needs to perform, from the precedence given to cultural rights that is inherent in ethnic federalism to the mechanics of power within the EPRDF coalition to geopolitical sensitivities. The following excerpt from an interview with a former senior official at the MoFA throws light on the complex web of politics and the reversed power relations that exist between the DRS and the federal government:

The political leaderships of the DRS have played the federal card very well. They literally blackmailed the Ministry of Federal Affairs, accusing it in front of Meles of invoking the chauvinism spectre. As far as Meles was concerned the number one enemy is the chauvinism of bigger nations, particularly among the Amhara, and narrow nationalism, as is the case among the Oromo. Meles needed minority nationalisms to contain both. That was why all the ministers of MoFA were lenient towards the DRS presidents when they even visibly failed such as in implementing the villagisation programme. The near physical confrontation between the then president of the Afar region and the state minister of MoFA in 2014 is exemplary of the institutional insecurity of MoFA, an institution otherwise tasked with governing the DRS. The President publicly insulted the state minister for no other reason than letting him wait for a meeting. As one of the main evaluation points was how good they make ties with the DRS, MoFA ministers would go extra miles in appeasing or not 'offending' the presidents of the DRS. For example, the Minister avoided meeting the Afar clan elders who came to complain about embezzlement of the compensation payment for the land appropriated for development projects or a delegation of highlanders who came from Gode [Somali region] to present a petition against their eviction from the land that they have cultivated since Haile Selassie's period. A more dramatic incident would be the shunning of the Somali Bantu, who literally camped at the compound of the Ministry seeking a national audience for their recognition demand, but they were conveniently ignored. It is the same with harmful traditional practices. The government has lacked the seriousness with which they seek to tackle them, particularly in the DRC. When it does, the DRC leadership often react with a formal compliance such as during the campaign against FGM in the Afar region.

They considered these as score cards to maintain their power despite their unpopularity among their own people.¹¹

CEDAW's Committee on the Elimination of Discrimination against Women also criticised Ethiopia's ethno-federal political structure and the lack of a uniform application of the country's laws and policies as a major challenge to the smooth implementation and effectiveness of CEDAW:

The Committee encourages the State party to ensure that regional governments adopt and duly implement the Family Code without delay and take all necessary measures, including awareness-raising measures, to sensitise the population about the revised Family Code. The Committee is concerned about the continuing persistence of entrenched traditional discriminatory practices, including the 80 per cent of girls and women who undergo female genital mutilation and inheritance of a widow with all her property, and strong stereotypical attitudes in respect of the roles and responsibilities of women and men in the family and society, which negatively affect women's enjoyment of their human rights.¹²

Entrenched authoritarianism and the closing of civic space for gender activism

If EPRDF's vanguardism, which framed the women's question in a top-down manner, and a core basis of political legitimacy that was centred on the precedence of cultural rights have compromised the federal government's political will to combat VAW effectively, the lack of an autonomous civic space for gender activism has further undermined efforts by women's organisations to create a more peaceful society for women and girls. Closely related to its ideological roots, EPRDF was very hostile to the CSO sector, which it considered more of a threat than a partner except when co-opted and directed by itself. The EPRDF immediately began to emulate its new political and economic policies, curbing all opposition freedoms and interests in civil society. The 'woman question' was not immune from such interference: 'It was obvious from the beginning of EPRDF rule that civil society had no meaningful place in its framework and would never be considered an equal partner as far as collaboration was concerned [...] The normal procedure from the EPRDF's perspective was a top-down process. 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. There is no dialogue, no discussion, and no questioning. Blind obedience is expected of civil society' (Biseswar 2008: 429).

Although this was the case from the outset, the CSO sector has suffered a lot since the contested election of 2005, the first ever democratic election, when the opposition was much more organised and posed an existential threat to EPRDF

¹¹ Interview with Aklilu Tetemke, former Director of Inter-Governmental relations at the Ministry of Federal Affairs, September 22, 2020, Addis Ababa.

¹² Report of the Committee on the Elimination of Discrimination against Women Thirtieth session (12-30 January 2004) Thirty-first session (6-23 July 2004) - <https://www.refworld.org/pdfid/417672b14.pdf>

rule. Conflict over the results of the election led to post-electoral violence in which protests were violently suppressed, around two hundred people were killed by the riot police, and thousands of opposition supporters and protestors were arrested (Lyons 2006). This appeared to mark a shift in the relationship between civil society and the state in Ethiopia, and the EPRDF has become increasingly repressive and intolerant of political opposition ever since. The run-up to the next election in May 2010 saw increasing intolerance of political opposition and the criminalisation of dissent. Facing an existential threat by a much more organised opposition, the EPRDF implicated CSOs in what it defined as an attempted so-called colour revolution aimed at unconstitutionally ousting a legitimate government. CSOs were labelled Trojan horses for the global 'neoliberal establishment', which is perceived as being inimical to countries wishing to chart a more organic and alternative path to socioeconomic development, as is the case for Ethiopia under the EPRDF.

This hostility peaked in 2009, when the government passed one of the most draconian laws controlling the CSO sector, the Charities and Societies Proclamation (hereafter CSP). The CSP places severe administrative restrictions on the work of human rights NGOs in Ethiopia. It requires organisations to register in one of three categories: Ethiopian Charities or Societies, Ethiopian-Resident Charities or Societies, or Foreign Charities. Only Ethiopian Charities and Societies may work on human rights issues in Ethiopia: international NGOs may not. More importantly, the CSP explicitly prohibits 'Ethiopian Charities or Societies', which may work on human rights, from receiving more than ten percent of their funding from foreign sources. Among the human rights work that is restricted by this law is gender activism. The CSP established a Charities and Societies Agency with broad discretionary powers over non-governmental organisations, including government surveillance and direct involvement in the running of organisations, and the power to suspend licenses and to confiscate or transfer the assets of any organisation. The Ethiopian government justifies the new legislation on the grounds that protecting citizens' rights is the role of the government, not NGOs (Mulat et al. 2009), and that the law prevents 'foreign money from dictating political terms in Ethiopia' (Fitzgerald, 2010). Critics argue that the new rules restrict CSOs that are perceived as being critical of the government (Mulat et al. 2009). The CSP has had a devastating impact on human-rights NGOs in Ethiopia. There is no potential in Ethiopia for them to raise significant domestic funding. As a result of the funding restrictions in the law, many CSOs have changed their mandate so that they no longer work on human rights, while those organisations that continue to work on human rights have significantly scaled back their operations. This includes the Ethiopian Women Lawyers Association, the most active women's organisation in the fight against VAW.

Indeed, women's rights organisations were very critical of the CSP, as it greatly undermined the gains made over the years in the promotion of women's rights, VAW included. The Center for the Rights of Ethiopian Women (CREW) has consistently called for the law to be amended in order to create a more conducive political environment for the protection and promotion of women's rights:

The stifling CSP and legal environment in Ethiopia has made activism on women's and human rights increasingly scanty. New developments are making CSO activism on women's rights more crucial than ever before in Ethiopia. Of crucial consideration in this regard are the plight of our sisters in the Middle East, and the shocking trend of gang rape of Ethiopian women and young girls, such as the recent tragedy of fifteen-year-old Hanna Lalango. There is no tangible activism and education on stopping future gang rape [...] Unless respecting the rights of women is promoted in Ethiopia, it will be very difficult to challenge the contemporary culture of violence and discrimination against women. It is necessary to have fully operational organisations that promote human rights and women's rights. (CREW 2016)

Women organisations have been much more active in advocating the rights of women than the government was before the CSP came into effect. This is certainly the case for VAW-related issues. In fact, it was the EWLA that launched the discourse over sexual harassment. Not only was sexual harassment not accepted as a crime in Ethiopia. Amharic, the country's official language, did not even have a way to express it. As Meaza Ashenafi recounted, 'We had to improvise. We [the EWLA] literally had to create the word: *'Wesibawi tinkosa,'* which is roughly translated as 'sexual harassment' (Brown 2019).

It is also around the issue of VAW that activists have been campaigning and lobbying for legal reform the most. An excellent example of this is the EWLA's concerted effort to lobby for reform of the 1957 Penal Code to improve its protection for women against violence. In doing so, and aware of the government's sensitivity regarding global human rights-speak, the EWLA skilfully mixed internal criticism invoking the government's commitment to women's rights in the Ethiopian constitution with the country's commitments to international human rights conventions, for example, as a signatory to CEDAW. In their lobbying for reform of the Penal Code, EWLA members focused on violence against women and what in Ethiopia are often called 'harmful traditional practices' (HTPs), which include FGM and marriages concluded through the abduction and often rape of a girl. When EWLA activists began lobbying for the criminalisation of FGM, they were initially dismissed as 'Westernised'. EWLA members produced draft versions of what they thought the new legislation should contain and worked on raising awareness around the world about women's rights issues (Burgess 2011: 170). The government regarded NGOs working on gender and being affiliated with western governments as opening a Pandora's box and paving the way for greater demands on broader human right issues, something that would not sit well with the country's authoritarian governance structure. The fact that Ethiopia has not signed the Optional Protocol to CEDAW needs to be situated within this broader context of entrenched authoritarianism. The EWLA's invoking of regional conventions and the best practices of neighbouring countries forced the government into catch-up mode in the competition for reputation and recognition in the global geostrategic market place. As the Horn of Africa lacks a regional hegemon, various governments have competed to win the attention of the west as the donors' darling, particularly Nairobi, Addis Ababa and Kampala. EWLA activists mentioned that it is the

reference to Kenya and its criminalisation of FGM which kept the EPRDF up at night.

As the core basis of the EPRDF's political legitimacy started shifting from ethnicity to developmentalism from 2006, CSOs were perceived as a potential threat subverting the government's 'Ethiopia rise narrative' by bringing to light unmet expectations and delays in delivery, though CSOs also play an important role in filling gaps in the provision of basic social services. In fact, the tension between the EWLA and the government began as early as 2001, when the EWLA leader appeared on national television to talk about a young woman who had been a victim of violence, being repeatedly attacked by a man she had refused to marry, yet receiving no support from the police. The EWLA member claimed that there was 'no justice in Ethiopia' for women. The organisation was immediately closed down by the government in response to this claim. However, the EWLA's international connections played a part in protecting the group. Global organisations such as Human Rights Watch (HRW) pressed the Ethiopian government to reinstate the EWLA (HRW 2001) and publicised the situation around the world. After an international outcry, including a petition sent to the Ethiopian prime minister, the EWLA was permitted to reopen six weeks later.

CONCLUSION

Having outlined the prevalence rates and policy landscape of VAW in the specific Ethiopian context, this working paper has convincingly argued for a political interpretation of the gap between policy and practice with regard to VAW, as well as women's right issues in general. Despite Ethiopia's national laws and policies and their notional alignment with global norms, VAW has continued to be a major women's right issue in Ethiopia. Not only does Ethiopia have one of the most progressive constitutions when it comes to women's rights, it has also signed and ratified many of the relevant international treaties and conventions, though it has registered reservations to some of them. Notwithstanding these normative commitments, however, women and girls still suffer from the vagaries of violence perpetrated in the family, as well as at the community and state levels. A recent example of a high-profile VAW case is a top official in the Tigray regional government who reportedly raped over fifty girls and married women in different villages. However, the region's administration did not take any measures against the suspect, which caused anger in the region's capital, leading to a protest rally being planned and organised, which ominously the regional government blocked.¹³

In this contribution, I have set out a political interpretation of the gap between policy and practice with reference to three explanatory variables: ideology, political

¹³ <https://www.branapress.com/2019/10/18/tplf-bans-anti-rape-protest-rally-in-mekele-city/>

legitimacy and entrenched authoritarianism. The ideological factor relates to the Marxist frame and the vanguardism associated with it, which approaches women's rights issues from the top down. Ideology has also played a role in the sequencing of rights issues by prioritising socioeconomic empowerment over violence against women, which is in effect viewed as derivative of the power asymmetry between men and women. In this scheme of things, it is hoped that VAW will ultimately cease to exist as society and the economy are transformed by giving women a greater space for their economic participation, as they advance up the educational ladder.

As an explanatory variable, political legitimacy is discussed with reference to the political order instituted by the EPRDF, alternatively known as ethnic federalism or multinational federalism. This political order is built around the primacy of ethnic identity and the precedence of the cultural rights of the 'Nations, Nationalities and Peoples' of Ethiopia. This is evident in the very institutional design of the Ethiopian federation, which uses ethnic groups as its building blocks. Not only is ethnic identity considered to be the primary focus of social identity, it also used as the most legitimate unit of political action. A corollary of the ethno-federal political order is legal pluralism, which gives recognition to traditional and religious courts in dispute settlement. This political order has brought in a new spin on what constitutes harmful and beneficial traditional practices, an issue that falls under the jurisdiction of cultural communities. On the other hand, the same constitution that provides so generously for cultural rights also recognises that women's rights are reinforced by the incorporation of international treaties and conventions into the law of the land, most of which treat local cultural practices such as FGM and forced marriage as 'harmful traditional practices'.

This creates a situation of conflicting rights. However, the spirit of the constitution primarily prioritises the idea of cultural diversity and its intrinsic worth. This is not just an ideological commitment but forms part of the core basis of the ruling EPRDF's political legitimacy. This political imperative has undermined the otherwise strong political will reflected in the various laws and policies with the declared objective of ensuring gender justice, such as the elimination of FGM and child marriage by 2025.

In addition to vanguardism, the sequencing of rights and the precedence given to cultural rights is the country's entrenched authoritarianism. True to a revolutionary movement, the EPRDF has never committed itself to political pluralism, despite the liberal opening up of the country in the early 1990s, most of which was intended as impression management to satisfy western donors, which were providing a significant amount of development aid. Civic space has since become more restricted, especially since the contested election of 2005, when the ruling EPRDF faced a formidable challenge from the opposition. CSOs were the first casualty of the closing of political space, expressed most firmly in the draconian law, the Civil Society Proclamation, which made it very difficult, if not impossible, for CSOs to work on rights, including gender activism by women's organisations.

Ethiopia under Prime Minister Abiy has been going through a profound process of political reform since April 2018, which has shaken the EPRDF's governance structure to its core. All the three factors I considered to explain the gap between policy and practice with regard to VAW, namely ideology, political legitimacy and authoritarianism, have begun to unravel. Abiy's EPRDF has gone through an ideological overhaul ultimately leading to its dissolution and replacement by a new party, the Prosperity Party (PP), at the end of 2019, which clearly distanced itself from the revolutionary democracy and vanguardism of the EPRDF. The Abiy administration is currently trying to fix the country's economic problems through neo-liberal policies that are diametrically opposed to and represent a clear departure from the developmental state model the EPRDF had sought to institute. The PP has also shifted the basis of its political legitimacy from ethnicity to national unity and prosperity, while the liberal opening and associated legislative reforms have created a new space for gender activism from below. More importantly, the CSP was repealed and has been replaced by a new progressive law which has widened the civic space, including for gender activism.

One aspect of political reform in Ethiopia under Prime Minister Abiy has in fact been a gender rebalancing in political representation, which has led to an unprecedented fifty percent of women ministers in the Cabinet, the appointment of the first woman head of state in the country's modern history, a woman chairperson of the National Election Board and the EWLA's former head as the country's Supreme Court president. This has given the impression of a 'feminist Ethiopia.'¹⁴ Justifying these measures, Abiy called the reforms a kind of thanksgiving for the contributions women have made to society: 'Our women ministers will disprove the old adage that women can't lead [...] This is to show respect to the women for all the contribution they have made to the country.'¹⁵

Despite these apparently fundamental changes in the country's gender landscape, there is still a long way to go before women rights are enshrined in the country's constitution and before the various laws and policies are enforced. If anything, high-profile VAW incidents have increased, including reported cases of rape by government officials.

Critics argue that tackling the historically entrenched and culturally embedded inequalities of gender goes beyond the will of any prime minister. As Zemdena remarks (2019), 'the remaking of Ethiopia can't be a one-man show'. Other critics have argued that dictators undertake high-profile gender reforms such as these to improve their country's image, hoping investors and lenders will look more favourably on a 'modernising autocrat.'¹⁶ Others suggest a different explanation in the sense of a particular breed of authoritarianism, a dominant party system in which these reforms can also bolster domestic political stability: 'unlike countries

¹⁴ <https://eu.boell.org/en/2019/11/14/feminist-ethiopia-whats-really-behind-countrys-recent-reforms>

¹⁵ <https://www.csmonitor.com/World/Africa/2019/0205/Autocrats-push-for-women-in-government-Window-dressing-or-real-change>

¹⁶ https://www.washingtonpost.com/opinions/the-myth-of-the-modernizing-dictator/2018/10/19/5f4bef0c-d30a-11e8-b2d2-f397227b43f0_story.html?utm_term=.0e85b3e0116e&itid=lk_inline_manual_5

governed by a military junta or a monarch, which rely on a small elite for political survival, countries governed by parties need broader support in society to survive. Certain kinds of autocracies more actively invest in gender reforms – because by doing so, they win a larger base of support that helps them stay in power [...] Supporting gender equality – or at least seeming to – can help the party win women’s support.’¹⁷ Barely two and half years since the Abiy administration came to power, it is still too early to say whether its gender reforms are simply part of a wider search for a new basis of political legitimacy or a genuine move to deliver on gender justice. While enhanced women’s political representation and repeal of the draconian CSP are steps in the right direction, the fact that there is no sign of a let up in VAW is a matter of concern, as the high-profile cases of gang rape indicate. Whether VAW and women’s rights more broadly become a national priority remains to be seen.

¹⁷ <https://www.washingtonpost.com/news/monkey-cage/wp/2018/11/23/sometimes-autocrats-strengthen-their-power-by-expanding-womens-rights-heres-how-that-works/>

REFERENCES

- Biseswar, I. 2008. A new discourse on 'gender' in Ethiopia, *African Identities*, 6:4, 405-429
- Boyle, Elisabeth. 2002. *Female Genital Cutting: Cultural Conflict in the Global Community*. The Johns Hopkins University Press
- Brown, L. 2019. From women's rights activist to Supreme Court chief: meet Meaza Ashenafi. <https://www.csmonitor.com/World/Africa/2019/0520/From-women-s-rights-activist-to-Supreme-Court-chief-meet-Meaza-Ashenafi>
- Burgess, G. 2011. The Uneven Geography of Participation at the Global Level: Ethiopian Women Activists at the Global Periphery, *Globalizations*, 8:2, 163-177
- Cochrane, L. and Betel Bekele Birhanu 2019. Pathways of Legal Advocacy for Change: Ethiopian Women Lawyers Association, *Forum for Development Studies*, 46:2, 347-365
- Christopher Clapham. 1988. *Transformation and Continuity in Revolutionary Ethiopia*. Cambridge: Cambridge University Press
- Convention on the Elimination of All Forms of Discrimination against Women
New York, 18 December 1979.
<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>
- CREW. The Charities and Societies Proclamation and its impact on human rights and women's rights activism in Ethiopia, February 2, 2015.
<https://ethiomediamedia.com/10parts/4137.html>
- Dagne, Kumlachev, Observations on the Draft CSO Law, Ethiopian Bar Association 2009
- Dereje Feyissa. 2011. *Playing a different game: the paradox of the identification strategies of the Anuak and the Nuer in Gambella, western Ethiopia*. Bergahn Publishers
- Dereje Feyissa. 2019. *Conflicting right? Women's right in the context of legal pluralism in Ethiopia*. In: Thomas Hüsken, Alexander Solyga, Dida Badi (eds.) *The Multiplicity of Orders and Practices: A Tribute to Georg Klute*. Rüdiger Köppe Verlag
- Desalegn, R., (2002) 'Civil Society and Memorization in Ethiopia: The Challenge of Democracy from Below', in Bahru Zewde and S. Passewang (eds.), Uppsala, Nordieta Afuka Institute and Addis Ababa, Forum for Social Studies
- EDHS. 2016 Demographic and Health Survey Key Findings.
<https://dhsprogram.com/pubs/pdf/SR241/SR241.pdf>
- EGLDAM. 2007. *Old Beyond Imaginings, Ethiopia, Harmful Traditional Practices* (2nd edition)

- Engle, M. 1988. 'Legal Pluralism.' *Law & Society Review* 22 (5): 869–96
- King, Ann. 2019. UN Declaration on the Elimination of Violence against Women. *The Encyclopedia of Women and Crime*. Edited by Frances P. Bernat and Kelly Frailing. John Wiley & Sons
- Mandefirot, Belay. 2016. Notes: Public Consultation toward Ethiopia's Family Law Reform and the Revised Code's Response. *Mizan Law Review*. Vol. 10 No. 1
- Milner, Judith. 2004. From 'disappearing' to 'demonized': the effects on men and women of professional interventions based on challenging men who are violent. *Critical Social Policy* 4, no. 1: 79–101
- Mulat, Y.B., Hopkins C., Noble. 2009. Sounding the Horn: Ethiopia's Civil Society Law Threatens Human Rights Defenders. Center for International Human Rights, Northwestern University School of Law
- Proclamation No.414/2004. The Criminal Code of the Federal Democratic Republic of Ethiopia. <https://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf>
- Rakeb, Mesele. Women's International Human Rights and Violence Against Women <http://preventgbvafrica.org/wp-content/uploads/2013/10/panosreflect7.pdf>, pp. 101-102
- Tamire, Muluget and Mitike Molla. Prevalence and belief in the continuation of female genital cutting among high school girls: a cross-sectional study in Hadiya zone, Southern Ethiopia. *BMC Public Health* 2013, 13:1120
- Tang, Kwong-Leung. 2000. The Leadership Role of International Law in Enforcing Women's Rights: The Optional Protocol to the Women's Convention. *Gender & Development* 8 (3): 65–73
- Terrence, L. 2006. Ethiopia in 2005: The Beginning of a Transition? https://csis-website-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/media/csis/pubs/anotes_0601.pdf
- Tesfa, Bihonegn (2015) Federalization with a Constitutional Guarantee to Secession Controversies, Paradoxes and Imponderables in Ethiopia, *Regional & Federal Studies*, 25:1.
- The National Committee on Traditional Practices in Ethiopia, 1998
- The Transitional Government of Ethiopia, Office of the Prime Minister. (September 1993). National Policy on Ethiopian Women. Addis Ababa.
- Tigist, Shewarega Hussen (2009) Empowering the nation, disempowering women: the case of *Kitcha* Customary Law in Ethiopia, *Agenda*, 23:82, 94-99
- Turton, D. (ed.), 2006. *Ethnic Federalism: the Ethiopian experience in comparative perspective*. Oxford: James Currey

- UN, 1993. Declaration on the Elimination of Violence against Women Proclaimed by General Assembly resolution 48/104 of 20 December 1993
https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.21_declaration%20elimination%20vaw.pdf Definition of VAW
- UN 2006. Intensification of efforts to eliminate all forms of violence against women https://www.un.org/womenwatch/daw/vaw/A_RES_61_143.pdf
- UNICEF 2013. UNICEF, 2013 UNICEF. 2013. Female genital Mutilation/Cutting. A statistical overview and exploration of the dynamics of change
- Vass, Jason, and Steven Gold. 1995. Effects of feedback on emotion in hyper masculine males. *Violence and Victims* 10, no. 3: 217–26
- Vaughan, Sara. 2011. Revolutionary democratic state-building: party, state and people in the EPRDF's Ethiopia. *Journal of Eastern African Studies*, 5:4, 619-640
- World Health Organization, Geneva Switzerland. 2005. <http://www.cih.uib.no/journals/EJHD/ejhd17-special-issue-2/ejhdv17-specialissue-2-2003-cover.htm> or <http://www.who.int/gender/violence/en/>
- Vaughan, S. and Kjetil Tronvoll. 2003. The culture of power in contemporary Ethiopian political life. *Sidastudies* no. 1
- Veale, A. (2003) *From child soldier to ex-fighter, female fighters, demobilization and reintegration in Ethiopia*, ISS Monograph 85, South Africa: Institute of Security Studies, ISS
- Weis, Toni. 2015. *Vanguard Capitalism: Party, State, and Market in the EPRDF's Ethiopia*. University of Oxford
- WHO 2005. WHO Multi-country study on women's' health and domestic violence against women.
- Yewubmar, Asfaw. 2011. *Finixua Mutam Tenesalech: The Unfinished History of Tigray Women* by Addis Ababa, Far East Trading PLC
- Zemedena, Abebe. 2019. A 'Feminist' Ethiopia? What's Really Behind the Country's Recent Reforms? <https://eu.boell.org/en/2019/11/14/feminist-ethiopia-whats-really-behind-countrys-recent-reforms>