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Domestic Violence and Gaps in Access to Justice at Hawassa City

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Domestic Violence and Gaps in Access to Justice at Hawassa City

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June, 2017.

DECLARATION

I, the undersigned, declare that this thesis is my original work, and has not been presented for a degree in this and any other University, and that all source of materials used for the thesis have been fully acknowledged.

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Abstract

This thesis examines domestic violence and gaps in accessing justice. To this end, it employs qualitative data obtained from semi-structured interviews and data gathered from Hawassa City Police Stations as well as legal reviews. This thesis principally scrutinize gaps of access to justice in domestic violence cases at Hawassa City going through both formal and informal administration of justice and taking legal protection, legal awareness and remedy as components of access to justice. The writer contends that the non-ratification of Optional Protocol to CEDAW and Maputo Protocol would have provide additional avenue for victims of domestic violence to access remedies. The Criminal Code is just implying something is being done rather than reflecting interest of the health and safety of individual women by regulating the wide swath of violations in addition to physical violence. There is both financial and expertise constraint, lack of training methodology to evaluate the attitudinal change of stakeholders and low level of civil society involvement in addressing legal awareness about the available remedies and avenues.

This thesis also finds out that the discretion of the police to initiate investigation, resource constraints in evidence gathering, the usual base of the public prosecutors evidence only on the statement of the victim and high withdrawals of cases to the informal administration of justice/mediation starting from the police to the trial, unavailability of victim support service are the common problems faced in the criminal justice system. Besides, lack of enough expertise in enforcing custody judgment of the court and absence of strong legal aid provisions up to representing the victim in civil suits are the focal issues in the civil justice system.

So much so that, the thesis proposes for the ratification of both Optional Protocol to CEDAW and Maputo Protocol, the enactment of comprehensive law in addressing physical, sexual, psychological and economic violations as a crime in addition to the provision of different civil remedies. Allocating adequate budget in addressing awareness creation, cooperation with civil society organizations in addressing support services as well as legal aid services for victims of domestic violence are also some of the way outs sought by the thesis.

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Acronyms

UDHR..... Universal Declaration of Human Rights

ICCPR..... International Covenant on Civil and Political Rights

ICESCR.....International Covenant on Economic Social and Cultural Rights

CAT.....Convention Against Torture and Inhuman and Degrading Treatment

ACHPR.....African Charter on Human and Peoples Right

FDRE.....Federal Democratic Republic of Ethiopia

SNNPRs..... Southern Nations Nationalities and Peoples Regional State

VAW..... Violence against Women

GBV..... Gender Based Violence

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Chapter One: Introduction

1.1. Background

There is no universally accepted definition of violence against women (here in after, VAW).¹ Internationally, the first instrument to define violence against women is the 1993 United Nations Declaration on the Elimination of Violence against Women, which 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.”²

Domestic violence is one of the forms of VAW.³ Although there is no commonly agreed up on definition of domestic violence, it includes violence perpetrated by intimate partners and other family members.⁴ This thesis focuses on the narrow definition of domestic violence defined as “a pattern of assaultive and coercive behaviors including physical, sexual and psychological attacks as well as economic coercion used by adults or adolescents against their current or former inmate.”⁵ Due to unequal power relationship between men and women, the usual victims of domestic violence are women.⁶

Worldwide almost one third of all women and 36.6% in Africa have experienced physical and /or sexual violence by their intimate partners. ⁷As many as 38% of all murders of women are committed by intimate partners.⁸

Coming to the prevalence of domestic violence in Ethiopia, the WHO multi-country study on women’s health and domestic violence against women discloses that nearly 49% of every partnered women experienced physical violence by partner at some point in their lives and 29%

¹Megersa Dugda Fite, “The Ethiopia’s Legal Framework on Domestic Violence against Women: a Critical Perspective”, *International Journal of Gender and Women’s Studies*, Vol. 2, No. 1, (2014), p.50.

²United Nation Declaration on Violence against Women, UN General Assembly Resolution, 48/104, 20 Dec. (1993), article 2, at: <http://www.un.org/documents/ga/res/48/a48r104.htm>, accessed on April 01, 2016.

³ Division for the Advancement of Women, *Handbook for Legislation on Violence against Women*, (United Nations publication, 2010), p.24.

⁴Ibid.

⁵UNICEF, *Behind Closed Doors: The Impact of Domestic Violence on Children*, (2006), P.3, at :<[www.unicef.org>media>files>Behined](http://www.unicef.org/media/files/Behined)>, accessed on April 27, 2016.

⁶ Ibid.

⁷WHO, *Violence Against Women, Intimate Partner and Sexual Violence against Women*, Fact Sheet No. 239, (2016), p.3, at: <www.who.int?mediacenter/fact>, accessed on April 25, 2016.

⁸Ibid.

during the past 12 months.⁹ A study conducted by USAID in 2009 also found that an estimated 50–60% of Ethiopian women experienced domestic violence in their life time.¹⁰ The 2011 survey by the Ministry of Women, Children, and Youth Affairs (MoWCYA) found 8,655 reported cases of wife beating, physical violence against women and girls, and abduction of girls.¹¹ Similarly the 2011 Demographic Health survey also indicated the existence of prevalent belief that wife beating is justified among men despite their economic status.¹²

Of course the Constitution of the Federal Democratic Republic of Ethiopia (here after, the FDRE Constitution), has direct significance to the right of women to be shielded from domestic violence. Ethiopia has also ratified international instruments such as UDHR, ICCPR, ICESCR, ACHPR and CEDAW which guarantee the protection of women from domestic violence and are an integral part of the law of the land. Even though they are not comprehensive, other more gender sensitive laws were issued and the previous discriminatory legislations were revised such as the Revised Family Codes (both at federal and regional levels) and the Federal Democratic Republic of Ethiopia Criminal Code (here in after the Criminal Code). In spite of the non-existence of definition of VAW in the revised Criminal Code of Ethiopia, the Code addresses violence against women by expanding the existing vague provision, by introducing new offences, by redefining the elements of these offences, by adding aggravating circumstances and by revising the penalties thereof.¹³ Article 564 of the Criminal Code is the only provision with clear reference to the crime of domestic violence.¹⁴

VAW, domestic violence being a component to it; have been repeatedly recognized as one of the most extreme and pervasive forms of discrimination, severely impeding the ability of women to enjoy their rights.¹⁵ Despite being a violation of different sets of human rights gender based cultural perception of family, economic dependence of victim over perpetrator and institutional

⁹ Ibid.

¹⁰ Ibid.

¹¹ Federal Republic of Ethiopia Ministry of Women Children and Youth Affairs (MoWCYA), Assessment of Conditions of Violence Against Women in Ethiopia: Final Report, (2013), p.31.

¹² Central Statistical Agency, IFC International, Ethiopia Demographic and Health Survey 2011, (2012), p.256.

¹³ Fikremarkos Merso, “Women & Girls and HIV/AIDS in Ethiopia: An Assessment of the Policy and Legal Framework Protecting the Rights of Women and Girls and Reducing Their Vulnerability to HIV/AIDS”, (2008), p.54, at: <<http://ethiopia.unfpa.org/drive/WomenandGirlsandHIV-AIDSinEthiopia.pdf>>, accessed on June 01, 2016.

¹⁴ The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004 article 564.

¹⁵ Domestic Violence Sexual Assault in the US: A Human Right Based Approach & Practical Guide, (2014), p.6, at :<web.law.columbia.edu/microsites/files> , accessed on April 30, 2016.

barriers hinder access to justice for victims.¹⁶ Regardless of the enactment of gender sensitive laws and ratifying international human right instruments that ensures the protection of women from domestic violence the problem is still pervasive in the country.¹⁷

Therefore, this paper evaluates gaps in access to justice by considering the legal protection given to avert domestic violence; awareness creation done by the concerned organs; the practical hurdles in accessing remedies rendered to the victims/survivors of domestic violence who reported their cases to police and the involvement of traditional mediation in addressing the issues of domestic violence.

The study is conducted in Hawassa city which is located at the SNNPR'S. The city administration is divided in to 8 sub-cities consists of Hayke Dare, Meneharia, Tabor, Misrak, Bahile Adarash, AdisKetema, Hawela-Tula and Mehal Sub-city. Based on the 2007 G.C Housing and Population Census the projected population of the city is 357,196 people, out of which 183,819 were males and 173,377 were females.¹⁸

1.2. Statement of the Problem

The problem of the prevalence of domestic violence and its degrading impact on the enjoyment of women's human right became certain fact. However, the big issue that needs discussion and focus is how to ameliorate the problem. One possible way of combating this problem is ensuring access to justice for victims. Access to justice is provided under Article 37 the FDRE Constitution.

The FDRE Constitution as well as different international and regional human right instruments to which Ethiopia is a party guarantees the protection of women from domestic violence. The Criminal Code under Article 564 also prohibits domestic violence. However, the definition of domestic violence and the parties included in the Code are very narrow for two reasons. First, the only protected persons in the provisions are either marriage partners or persons cohabiting in an irregular union setting aside violence that occurs in romantic relationship/ familiar relationship/, previous marriage or conjugal relationships.¹⁹ Second, the prohibited act only includes physical

¹⁶Ibid.

¹⁷ CEDAW, Committee on Convention on the Elimination of Discrimination against Women, Consideration of Reports Submitted by States Parties under article 18 of CEDAW Combined 6th& 7th Periodic Reports of State Parties, Ethiopia, July 2009, CEDAW/c/ETH/6-7, para 34.

¹⁸Hawassa City Administration, 2007 E.C Socio-Economic Profile", (8th Edition, Zak Print, 2016), pp.7-17.

¹⁹Megersa Dugada Fite, cited above at note1, p.56.

or mental harm leaving sexual and economic violence that also has tantamount on the enjoyment of human rights.²⁰ The Ethiopian laws also do not provide any specific kind of civil remedies against domestic violence such as obtaining protection order, residence order, shelter or medical benefits.²¹ The criminal justice response is dependent on the definition given for domestic violence.²² The problem is also exacerbated by the absence of a comprehensive law prohibiting violence against women, domestic violence particularly. In fact, there is a plan to draft a proclamation to amend the Criminal Code in the Second Growth and Transformation Plan of the country²³, but the plan did not indicate to any proposition of drafting a comprehensive law prohibiting violence against women.

The other component of access to justice is awareness and understanding of the existing law in order to claim right and seek protection from the part of the victim and to ensure protection from the protection provider. Lack of awareness of the existing legal protection is one of the reasons for under reporting of domestic violence in Ethiopia.²⁴

The focal component of access to justice is getting applicable civil or criminal remedies. The issue of effective remedy in addition to the existence of legal rights to claim these remedies requires the efficiency of judicial as well as law enforcement institutions. The Police play a fundamental role in ensuring access to justice, particularly since they are the point of the first contact in the criminal justice system.²⁵ In case of complaint by victims; it is common for police officers to encourage informal resolution between the parties instead of arresting perpetrators.²⁶ Their attitude and response to all involved can have a dramatic impact on ensuing

²⁰Ibid

²¹Id, p.55.

²²Swan & Snow, Defining and Measuring Domestic Violence and Its Impacts, (2002), P.14, at :<www.sagepub.com/files/ump-binaries>, accessed on April 27, 2016.

²³Elias N. Stebek, “Legal Sector Reform Pursuits in Ethiopia: Gaps in Grassroots Empowerment”, Mizan Law Review, Vol. 9, No.2, (2015), p.265.

²⁴Research Directorate, Immigration and Refugee Board of Canada, Responses for Information Requests, Ethiopia: Domestic Violence, including Legislation, State Protection and Services Available to Victims (2007-2011), (2014), p.1, at: <<https://www.justice.gov/sites/default/files/eoir/legacy/2014/08/04/ETH103921.E.pdf>>, accessed on April 23, 2016.

²⁵ UNDP, Access to Justice: Practice Note, (2004), p.15, at: <www.undp.org/aplaws/justice_PN_En> accessed on April 27, 2016.

²⁶Andrew R.Klein, US Department of Justice, Office of Justice Program & National Institute of Justice, Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors and Judges, (2009), p.5, at: <<https://www.ncjrs.gov/pdffiles1/nij/225722.pdf>>, accessed on April 30, 2016.

developments, including the prevention of future violent acts and the protection of victims otherwise believing that nothing and no one can assist them, may remain in an abusive violent setting.

In general, the paper aims to evaluate the existing law on domestic violence, the efforts done to enhance awareness of legally protected rights and challenges available in the process of getting criminal and civil remedies in the formal administration of justice. In addition, it also looks how informal administration of justice comes in between the formal legal system and evaluates its effectiveness in addressing the issue of domestic violence as human right violation and providing effective redress to the victims/survivors of domestic violence.

1.3. Research Objectives

The general objective of this study is to identify the problems that hinder an effective compliant procedure and remedy for victims of domestic violence and assure access to justice for victims.

The study has the following specific objectives:

- ❖ To assess whether the existing legislation is adequate to address the problem of domestic violence.
- ❖ To evaluate the effectiveness of the compliant procedure that victims of domestic violence go all the way round to get remedy.
- ❖ To assess the role of traditional mediation in addressing effective remedy for victims of domestic violence.

1.4. Research Questions

The research attempts to answer the following research questions:

- ❖ What type of legislation addresses the human rights violation caused by domestic violence?
- ❖ What are the significant and recurrent problems in accessing civil and criminal remedies?
- ❖ What should be the role of traditional mediation specifically in addressing the issue of domestic violence?

1.5. Significance of the study

Addressing the problem of domestic violence through access to justice is one mechanism of deterring domestic violence. Therefore, this study will be one component to identify the

problems facing enforcement of the law starting from revisiting the law, indicating the lacuna, compliant procedure, investigation and the involvement of traditional mediation in addressing the claims of victims of domestic violence.

1.6. Research Methodology and Methods

The study is essentially a socio-legal research where qualitative methodology has been employed.

Primary sources of data including, interview guided by semi-structured questions have been provided using purposive sampling technique with key persons in authority from Hawassa City Administration: Police Stations at Sub-city levels, Justice and Case Administration Offices at Sub-city levels, First Instance Court Division Benches, Women and Children's Affairs Department, Hawassa University Legal Aid Office and EWLA Hawassa Branch Office. In addition, individuals who administer traditional mediation ("shimglena") has been interviewed using snow ball sampling technique and victims of domestic violence have also been interviewed based on the willingness of victims to respond to interviews. The interviews are not meant for generalization, but for insights into the issues that primarily rely on legislation and document review and to indicate the practical gaps in accessing justice. The other primary source of data is police report on complaints of domestic violence from 2006-2008 E.C from eight of Sub-cities at Hawassa City indicating the number of complaints to the police, how many of them settled through mediation, cases are sent to the prosecution, cases reconciled at prosecution level and the number of cases decided by the court. Primary sources of information include UDHR, ICCPR, ICESCR, CEDAW, ACHPR, Maputo Protocol, FDRE Constitution, the Criminal Code, Federal Revised Family Code of Ethiopia, the 1960 Civil Code of Ethiopia, SNNPRS Constitution, SNNPRS Family Code and Proclamation to Execute Business Process Reengineering No.120/2000.

Likewise, the study also consulted secondary sources of information such as journals, articles, General Recommendations of human right bodies and empirical reports of governmental institutions in order to support the overall surrounding situation of how legal awareness is created, complaint procedures, the problem of not having comprehensive law on violence against women and the inadequacy of legal remedies provided to the victims of domestic violence.

1.7. Limitation of the Study

Owing to time and financial limitation the thesis has not taken a survey to show the prevalence of domestic violence in general rather it only focuses on domestic violence cases which are reported to the police stations of the eight sub-cities of Hawassa city. Initially, it was planned to review complaints of domestic violence from 2004-2008 E.C but the Police Stations in all sub-cities started to have detailed complaint records since 2006 E.C.

1.8. Structure of the Study

The thesis covers four main parts: the first chapter is all about introduction and it set a tone about the overall dimension of the thesis. The second chapters propose three focal points of discussion. The first one introduces domestic violence, its types, causes and consequences. The second part familiarizes access justice in general and deals with its components in a brief manner from the perspective of domestic violence.

Chapter three is devoted to address the gaps in access to justice in domestic violence cases. It examines whether or not the legal protections are enough to combat domestic violence by analyzing Ethiopian laws with CEDAW and its General Recommendations. It also evaluates whether different awareness raising trainings were given or not, for the community in general and to the law enforcement organs and judges who are the main actors in the criminal justice system in particular. Further the chapter also investigates the challenges of the formal justice system including both criminal and civil justice systems in rendering remedy. And finally, this section also addresses how traditional mediation works with the formal judicial system. The last chapter presents the conclusion of the findings and recommendations sought by the thesis.

1.9. Literature Review

Different literature discussed the issue of domestic violence in Ethiopia. Most of them focused on the inadequacy of the criminal law in addressing the issues of domestic violence.

In 2008, EWLA conducted a nationwide survey on the prevalence of domestic violence in Ethiopia after collecting data from four major cities in Ethiopia. According to the survey, 90%-100% of respondents who came in to contact with EWLA consider that domestic violence is a common phenomenon detected every day.²⁷ All physical, sexual, physiological and economic

²⁷AlemayehuAreda and Original W/Giorgis, "National Wide Survey on Domestic Violence", Annual Journal of Ethiopian Women Lawyers Association, Berchi, Issue 7, (2008), p.51.

forms are manifestations of domestic violence in Ethiopia,²⁸ The survey conducted by EWLA also implied the reluctance and laxity of law enforcing agencies in applying existing laws in relation to domestic violence.²⁹

In 2012, Mrs. Glory Nirmala K. by focusing on the broader definition of family violence against women identified the inadequate definitions of domestic violence given under the Criminal Code compared to international legal instruments and special laws of prominent countries, and emphasizes on the immediate need for the enactment of special law to prevent family violence in Ethiopia.³⁰ She also suggested the need for wide-ranging elements such as physical, psychological, sexual and economical to cite some in defining domestic violence in the Criminal Code.³¹

Megersa Dugda Fite in 2014 indicated the critical legislative gaps by comparing laws on domestic violence in Ethiopia with the Namibian Domestic Act as a practical example in which he recommended the enactment of separate domestic violence law in Ethiopia which comprises both civil and criminal remedies in order to avert the problem of domestic violence in Ethiopia.³² He also indicated the absence of sufficient criminal liabilities for perpetrators in terms of the definition given by the 1995 Revised Criminal Code of Ethiopia where not only it narrowed the type of relationship on which domestic violence may occur to marriage partners and person co-habited in an irregular union but also it referred to provisions concerning crimes against person and health (article 555-560) for determination of criminality and punishment.³³

The studies brought different issues such as the existence of legislative gap in addressing the crime of domestic violence and some concerns on the criminal justice system. However, they did not give the whole picture of the practical challenges of access to justice in addressing the issue of domestic violence both from the angles of formal and informal justice system. Therefore this paper goes through the gaps in legal frame work, gaps in awareness creation and hurdles in accessing remedy looking through criminal and civil justice system once complaint of domestic

²⁸ Ibid.

²⁹ Id, p.70.

³⁰ Glory Nirmala K., "Family Violence against Women: How does Ethiopian Law Compare with International Definitions?", *Haramaya Law Review*, vol.1, No.2, (2012), pp.64-71

³¹ Ibid, p.82.

³² MegersaDugadaFite, cited above at note1, pp.56-59.

³³ Ibid, pp.55-56.

violence has been filed as well as the role and issues of involvement of informal justice system in settling domestic violence cases.

Chapter Two: Preliminary Concepts on Domestic Violence and Access to Justice

2.1. Domestic Violence as a Human Rights Issue

Domestic violence, also known as domestic abuse, spousal abuse, battering, family violence, intimate partner violence (IPV), is defined as a pattern of abusive, assaultive and coercive behaviors by one partner against another in an intimate relationship such as marriage, dating, family or cohabitation.³⁴

Domestic violence is one of the most widespread human rights challenges of our time.³⁵ It remains largely hidden problem where few communities or families openly confront. Violence in the home is not limited by geography, ethnicity, or status; it is a global phenomenon.³⁶ Even though international human right law is principally gender neutral where major international human right instruments exclude discrimination based on sex, in reality it interacts with gender biased domestic laws and social structure.³⁷

Gender based violence (here in after, GBV) both reflects and reinforces inequities between men and women and damages the health, dignity, security, and autonomy of its victims. It is inextricably linked to gender inequality and perpetuates male power and control, in particular when it takes place within the home.

Nonetheless, considering domestic violence as a human right issue does not mean that it can be fought using mechanisms such as education, health, development and criminal justice. Rather it is a holistic approach where it strengths and accelerates initiatives to fight human right violations due to domestic violence.³⁸

³⁴PGIMS, Rohtak, "Review Research Paper, Domestic Violence: The Dark Truth of Our Society", Journal of Indian Academic Forensic Medicine, Vol. 35, No. 1 (Jan-March 2013), p. 71.

³⁵UNICEF & the Body Shop, "Stop Violence in the Home, Behind Closed Doors, The Impact of Domestic Violence on Children", (2006), p.3, at: <<http://documentslide.com/documents/behind-closed-doors-562ba87ac995d.html>>, accessed on August 17, 2016.

³⁶Ibid.

³⁷Dorothy Q., "Thomas & Michele E. Beasley, Domestic Violence as a Human Right Issue", Human Rights Quarterly, Vol.15, No.1, (1993), pp.38-39.

³⁸ UN, Ending violence against women from words to action: Study of the Secretary-Genera, (2006), p.13, at: <www.un.org>vaw>v.a.w-exeE-use.pdf>, accessed on June 05, 2016.

Distinguishing domestic violence as a violation of human rights has two tremendous values. First, it will clarify the binding obligations on states to prevent, eradicate and punish such violence and their accountability if they fail to comply with these obligations.³⁹ These obligations arise from the duty of States to take steps to respect, protect, promote and fulfill human rights. Thus, responsibility of a state to take all measure in cases of domestic violence has become from mere discretion to legal obligations. Second, the human rights framework has established norms, tools and mechanisms to hold states accountable either at international or national level.⁴⁰

2.2. Types of Domestic Violence

In general the consequence of any form of domestic violence is to gain and maintain control over the victim. The following are the types of domestic violence that the perpetrator may inflict on the victim.

2.2.1. Physical Abuse

It involves contact projected to cause feelings of intimidation, pain, injury, or other physical suffering or bodily harm.⁴¹ It embraces hitting, slapping, punching, choking, pushing, burning and other types of contact that result in physical injury to the victim.⁴²

2.2.2. Sexual Abuse and Marital Rape

It is any condition when force or threat is used to attain participation in unwanted sexual activity. Coercing a person to engage in sexual activity against their will, even if that person is a spouse or intimate partner with whom consensual sex has occurred before, is an act of aggression and violence.⁴³

2.2.3. Emotional Abuse

Also known as psychological abuse or mental abuse expressed through humiliating the victim or intentionally doing something to make the victim feel diminished, separating the victim from family and friends.⁴⁴ Verbal abuse is one mechanism of emotional abuse where the perpetrator

³⁹ Ibid.

⁴⁰ Id, pp.13-14.

⁴¹ Id, pp.43-45.

⁴² PGIMS, Rohtak, cited above at note 34, p.72.

⁴³ Ibid.

⁴⁴ UN, cited above at note 38, pp.43-45.

threatens or undermines the victim's self-esteem so that they believe they are the one who caused the abuse.⁴⁵

2.2.4. Economic Abuse

It is a form of abuse where the perpetrator has control over the economic resource.⁴⁶ It may be manifested through, "preventing a spouse from resource acquisition, limiting the amount of resources to use by the victim, or by exploiting economic resources of the victim."⁴⁷ The UN General Assembly resolution also recognized economic deprivation and isolation as domestic violence.⁴⁸

2.3. Causes and Consequences of Domestic Violence

2.3.1. Causes of Domestic Violence

The causes of violence against women have been explored from various viewpoints such as feminism, criminology, development, human rights, public health and sociology.⁴⁹ However, there is no single approach that seems to cover the specific reason behind the causes of domestic violence.⁵⁰ So far, feminist, psychological and social theories are the commonly raised theories that address causes of domestic violence.

2.3.1.1. Feminist Theory

According to this theory, patriarchal society and the unequal distribution of power which has historically beleaguered women are the result of domestic violence.⁵¹ This theory is all about the inappropriate use of power by men who assume they have the right to control women by inflicting emotional and physical violence.⁵²

2.3.1.2. Psychological

This theory gives emphasis on personality traits and mental characteristics of the offender. According to this theory there is high tendency of a person who had been abused in his child to

⁴⁵Ibid.

⁴⁶Brewster M. P. Brewster, "Power and Control Dynamics in Pre-stalking & Stalking Situation", *Journal of Family Violence*, Vol. 18, Issue.4, (2003), p.210.

⁴⁷Ibid.

⁴⁸Elimination of Domestic Violence against Women, GA/Res/58/147, (2004), at :<<http://www.undemocracy.com/A-RES-58-147.pdf>>, accessed on September 19, 2016.

⁴⁹ UN,cited above at note 38, p.27.

⁵⁰ Ibid.

⁵¹Id, p.30.

⁵² Jan Seeley and Catherine Plunkett, *Women and Domestic Violence: Standards for Counseling Practice*, (2002), p.6, at: <[file:///C:/Users/toshiba/Desktop/dv%203/womendomestic violence counselling standards.pdf](file:///C:/Users/toshiba/Desktop/dv%203/womendomestic%20violence%20counselling%20standards.pdf)>, accessed on September 03, 2016.

be more violent in his adult life. Some studies also suggest the “correlation has been found between juvenile delinquency and domestic violence in adulthood.”⁵³ However, this assertion has been refuted by studies which suggested that majority of wife abusers are not suffering from mental illness rather most appear to be reasonably ordinary men.⁵⁴

2.3.1.3. Social Stress

Even though stress usually does not result in violence, it may be through violence that some people deal their stress.⁵⁵ Furthermore, people may treat their stress by drinking alcohol or by using drugs which have high correlation with violence.⁵⁶ Stress is high in a person living with a family than a person living alone. Social stress coupled with financial problems in the family aggravates pressure which may lead to violence.⁵⁷

2.3.2. Consequences of Domestic Violence

The consequences of domestic violence in detail can be broadly categorized as the effect on the victim herself, on children and on the society and on nation’s growth and productivity in general.⁵⁸

2.3.2.1. On the victim

Victims of domestic violence may experience physical damages such as bruises, broken bones; head injuries, lacerations, internal bleeding, Stress, fear, and anxiety are psychological impacts which would also be worse for those who were pregnant at the moment of the abuse.⁵⁹ In addition to physical and psychological degradations, some abusive partners prevent women from achieving their economic independence by preventing them from working, advancing their jobs, attending school or taking training programs.⁶⁰

⁵³Ibid.

⁵⁴ UNIDOC, “Handbook on Effective Police Responses to Violence against Women”, Criminal Justice Handbook Series, (2010), p.19.

⁵⁵Jewkes, R. "Intimate partner violence: Causes and prevention". *The Lancet*, Vol. 359, Issue. 9315, (2002), p. 1425.

⁵⁶ Andrew R. Kevin, cited above at note 26, p.17.

⁵⁷Ibid.

⁵⁸PGIMS, Rohtak, cited above at note 34, p.72.

⁵⁹Berrios D. C., Grady D. "Domestic Violence Risk factors and outcomes", *The Western Journal of Medicine*, Vol.155, No.2, (1991), pp.133-135.

⁶⁰Jill Davies, *Policy Blueprint on Domestic Violence and Poverty, Building Comprehensive Solutions to Domestic Violence*, Publication #15 (2002), p.6, at: <www.vawnet.org/Assoc_Files_VAWnet/BCS15_BP.pdf>, accessed on September 08, 2016.

2.3.2.2. On Children

Domestic violence results in a culture of fear and intimidation which have an effect on every member of a family including children. Moreover, a study also indicates that in a home where there is domestic violence, child abuse is likely to happen.⁶¹ Children who witness violence can suffer a range of physical and/or emotional harms, even if they themselves have never been physically abused.⁶² There is also robust evidence which propose that children who are exposed to domestic violence are at high risk of different social and behavioral difficulties in adolescence and adulthood.⁶³

2.3.2.3. On the Society and on Nation's Growth and Productivity

Domestic violence as one category of violence against women results in social and economic cost. The economic cost of domestic violence depends on degree of state's investment in combating domestic violence.⁶⁴ The more state invest on prevention and investigation of domestic violence the state is bearing the cost that would be invested in other areas of development such as education, health, etc. The less state is investing on prevention and investigation of domestic violence, the direct cost is endured by victims and indirectly resulting reduced productivity, exacerbated social inequalities, lowered overall educational outcomes and broad pressures on public services.⁶⁵

2.4. Access to Justice

Though different scholars attempted to define access to justice, there is no universally agreed upon definition to it. However, going through the definitions given by scholars there are two main line of thinking namely narrow and broad.⁶⁶ The first line of argument deals with access to justice as only found in a formal legal system where justice can only flow from public decisions given in a state sponsored legal frame work. According to the proponents of this argument meditation (ADR) may resolve disputes but it cannot dispense justice since it is not 'about just

⁶¹YWCA, *Through their eyes, Domestic violence and its impact on children*, (2010), p.4, at: <http://www.centennialcounseling.com/xm_client/client_documents/ywca_childrens_dv_books.pdf>, accessed on September 08, 2016.

⁶²Ibid, p.5.

⁶³ Katherine R. Rossiter, "*Domestic violence reduction and prevention in British Colombia 2003-2010*, (2011), P.13, at: <www.jibc.ca>, accessed on September 08, 2016.

⁶⁴Ibid.

⁶⁵Ibid.

⁶⁶Legal Service Institute, *Improving Access to Justice: Scope of the Regulatory Objective Interim Strategic Discussion Paper*, (2012), pp.8-9, at: <<https://stephenmayson.files.wordpress.com/2013/08/mayson-marley-dunn-2012-access-to-justice.pdf>>, accessed on September 10, 2016.

settlement and substantive justice’ rather it is ‘just about settlement’.⁶⁷ Therefore according to this line of argument in order to evaluate access to justice, “it depends on due legal process and public evaluation of a dispute against the external standard of the law.”⁶⁸

The second line of argument focuses not only on the conventional and formal legal system but it should encompass alternative dispute resolution (ADR) and dispute prevention methods.⁶⁹ As per this line of proposition access to justice not only engages formal legal system but also includes alternative dispute resolution methods. They view ‘justice from below’ where the party to the dispute shapes the outcome of the case.⁷⁰ Hence according to them if the parties to the dispute agreed on the outcome of the case then, it is a just outcome and there should not be any other standard to evaluate it.⁷¹

This thesis adopts the second line of argument where access to justice embraces both the formal and informal justice system. Nonetheless, it also includes the idea behind the first proponents where the informal justice system has to be evaluated by the external standards of law which are the international human right norms in this case. Therefore, access to justice covers different stages of the process of getting civil or criminal remedy starting with the existence of rights enshrined in the laws; with awareness and understanding of these rights it provides fair, impartial and enforceable remedies.⁷² Therefore from this definition access to justice has three components. These are legal protection, legal awareness and remedy.

2.4.1. Components of Access to Justice

Access to justice has pivotal role in the establishment and maintenance of rule of law since it enables people’s voice to be heard and their rights exercised. Besides, access to justice promotes empowerment and secure access to equal human dignity.⁷³ Hence access to justice can be used as a means of alleviating the problems caused by domestic violence. As it is indicated above access

⁶⁷Id, pp. 9-10.

⁶⁸Id, p.10.

⁶⁹Ibid.

⁷⁰Id, p.12.

⁷¹ Ibid.

⁷² Ibid.

⁷³Access to Justice: Concept Note for Half Day General Discussion, Endorsed by the Committee on the Elimination of Discrimination against Women at its 53rd Session, p.8, at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/ConceptNoteAccessToJustice.pdf>, accessed on September 15, 2016.

to justice has three components which are going to be discussed below as a means of alleviating domestic violence.

2.4.1.1. Legal Protection of Rights

Legal Protection is the background of ensuring access to justice. It may be indicated through ratification of treaties and their implementation in the domestic laws, enactment of national legislation ensuring the protection of rights.⁷⁴ The existence of normative legal frame work denotes the manifestation of a legal umbrella which defines rights and duties and shapes the behavior of the society.⁷⁵

Different scholars pointed out that after 1970's; domestic violence has been considered as not just a private or civil matter but as a criminal assault in most countries.⁷⁶ Although it is just one aspect of the wider intervention, recognizing domestic violence as a crime improves victim safety substantively and secures community denunciation of violence symbolically.⁷⁷ At the early stage of criminalization of domestic violence it was up to the discretion of the law enforcement officers to respond to this crime.⁷⁸ However, mandatory arrest policies were introduced to increase police response and reduce batterer recidivism. Then temporary protection orders were provided, which prohibited a batterer from making further contact with the victim.⁷⁹ However both legal mechanisms that were introduced to tackle domestic violence were criticized.

2.4.1.1.1. Controversies on the Criminalization of Domestic Violence

There is no common agreement between legal scholars, researchers, lawyers, and activists about the desirability of using criminal law as a tool to address the problem of domestic violence. Historically, many feminists were skeptical about engaging with the state for a variety of reasons because they thought that legal system that previously refused to take victims seriously could hardly be trusted to suddenly advocate for them.⁸⁰ However, it is the criminal justice system that

⁷⁴UNDP, cited above at note 25, p.7.

⁷⁵Id. p.5.

⁷⁶Barbara Hudson, "Beyond White man's justice: race, gender and justice in late modernity", Theoretical Criminology, Vol.10 Issue.1, (2006), p.36.

⁷⁷Heather Douglas, "The Criminal Law Response to Domestic Violence: What's Going On?", Sydney Law Review, Vol.30, No.3, (2008), p.443.

⁷⁸Ibid.

⁷⁹Hannah Brenner, "Transcending the Criminal Law's 'One Size Fits All' Response to Domestic Violence", William & Mary Journal of Women and the Law, Vol.19, Issue 2, (2013), p.317.

⁸⁰Id, p.323.

applies judgment on behalf of society and speaks to the intolerable actions of a man who is violent towards his intimate partner.⁸¹ The dichotomous assessments of the criminal law often do not include two very relevant dimensions of domestic violence. First, many victims of domestic violence never even interact with the law since it is under-reported crime. And if domestic abuse does not rise to the level of physical violence, there may be no mechanism by which the law could intrude.⁸² As Leigh Goodmark explained, the daily reality of a victim may be so much more than physical violence but their reality is reflected in the narrow range of the legal system.⁸³ Second, even among those victims who do engage with the legal system, they rarely get all of their needs met by the criminal law response and are often left facing difficult barriers that impede their ability to leave the abuser or move on with their life.⁸⁴ Most legislation focused primarily on the criminal law and ultimately furthered a “one size fits all” approach to the problem.⁸⁵ Here the question whose goal the legal system serves is a crucial one. The legal system’s response is structured around societies’ goal in addressing domestic violence immediate deterrence and punishment of abusers and separation of abusers from their partners. While the goal of a woman subjected to abuse may be very different.⁸⁶ Therefore scholars like Hannah Brenner, advocates “for the conceptualization of a new, victim-centered framework one which builds on, offers improvements to and complements the existing criminal law.”⁸⁷

2.4.1.1.2. Critics on Protection Orders

Protection orders are civil legal interventions designed to reduce the risk of future threat or harm by a person who is determined to pose a threat to another.⁸⁸ They are a leading tool in preventing the maltreatment of women in abusive relationships, offering an effective and low cost solution to the hardship of domestic violence.⁸⁹ In most states violations of any of the provisions outlined in the victim protective order are considered criminal contempt.⁹⁰

⁸¹Ibid.

⁸²Id, p.327.

⁸³ Leigh Goodmark, “Law Is the Answer? Do We Know That for Sure?: Questioning the Efficacy of Legal Interventions for Battered Women”, Saint. Louis University. Public Law Review Vol.23, No.7, (2004), p.29.

⁸⁴ Hannah Brenner, cited above at note 83, p.327.

⁸⁵Id, pp.327-328.

⁸⁶ Leigh Goodmark, A Troubled Marriage: Domestic Violence and the Legal System, (New York University Press, 2012), p.5.

⁸⁷ Hannah Brenner, cited above at note 79, p.308.

⁸⁸ Olivia M.Fritche, The Role of Enticement in a Violation of a Protection Order, Washington and Lee Law Review, Vol71, Issue 2, 2014, p.1477.

⁸⁹ Ibid.

⁹⁰ Ibid.

In spite of having conceptual and practical benefits and widespread utilization by victims,⁹¹ protection orders offer only limited protection from abuse and their effectiveness has been subject to criticism. Such criticism includes: victims do not utilize them, batterers are often not served with the orders, they are frequently violated, courts sometimes provide for mutual orders of protection where both parties are ordered to stay away from one another, the orders are frequently not enforced by law enforcement, nor do victims have a right to have them enforced, and perpetrators are not punished for violations.⁹² It is not uncommon for these violations to go unnoticed or unpunished and victims therefore are left without remedies.⁹³

2.4.1.2. Awareness of Legal Rights

Legal awareness is a mechanism of fighting injustice. The poor and the disadvantaged cannot claim remedies unless and otherwise they do not know what their rights are under the law.⁹⁴ Access to justice assumes “the existence of the normative dimension that relates to the content and form of laws, and the adjudicative dimension to which the claims are made and from which decisions and judgments are sought.” But these two settings facilitate access to justice when there is adequate public awareness and legal advising and representation on both sides of the litigation.⁹⁵ Enforcement of rights has direct relationship with awareness of legal rights and knowledge of avenues for redress. Hence lack of awareness is a serious obstacle to accessing justice.⁹⁶

Moreover enforcement of rights of victims of domestic violence and any one for that drive is reliant on both an awareness of the existence of rights and information of avenues for redress.⁹⁷ Further implementation of laws is boosted by mandatory and systematic gender-sensitivity training of law enforcement officials, prosecutors and judges. In many countries these trainings are usually given by government and civil society organizations.⁹⁸ For instance in

⁹¹ Ibid.

⁹² Hannah Brenner, cited above at note 79, p.318.

⁹³ Ibid.

⁹⁴ UNDP, cited above at note 25, p.10.

⁹⁵ Elias N. Stebek, cited above at note, 23, p.281.

⁹⁶ A Framework for Strengthening Access to Justice in Indonesia, (2010), p.5, at: <www.undp.org/indonesia/docs/gover>, accessed on September 16, 2016.

⁹⁷ Ibid.

⁹⁸ UN, cited above at note 39, pp.105-107.

Brazil and Paraguay police trainees are required to take compulsory education on violence against women.⁹⁹

2.4.1.3. Remedies

It is not enough for a legal right to require remedy but the remedy will be significant if it is accessible. The inertia behind this proposition is intertwined with the recognition of access to justice as an integral part of rule of law in constitutional democracies.¹⁰⁰ The performance of the formal legal institutions in handling cases and rendering effective and applicable remedy ensures the public confidence on justice institutions.¹⁰¹ Effective remedies are dependent upon the legal protection given by legislations, the physical accessibility of justice institutions, legal representation which is traditionally considered as the heart of access to justice¹⁰² and the practical barriers found in the justice system.

The immense problem of access to justice is when appropriate remedies for violations are not provided by law. The other issue which is also one of the concerns of this thesis is, when the provided remedies are inappropriate or ineffective due to different practical challenges.¹⁰³ The justice chain extends from formal and informal justice systems within the state to international courts and tribunals, treaty bodies and regional mechanisms.¹⁰⁴

In order for victim of domestic violence receive civil remedy, there has to be legal representation free of charge sponsored by a state.¹⁰⁵ It is the due process right of a victim to be represented by a lawyer in order for her to receive meaningful opportunity to be heard and able to access courts.¹⁰⁶ In addition it is also in her substantive due process right of the victim to have free legal

⁹⁹ Ibid.

¹⁰⁰ Faisal Bhabha, "Institutionalizing Access-to-Justice: Judicial, Legislative and Grassroots Dimensions", *Queen's Law Journal*, Vol., No.33, (2007), p.140.

¹⁰¹ A Framework for Strengthening Access to Justice in Indonesia, cited above at note 96, p.7.

¹⁰² Julinda Beqiraj and Lawrence McNamara, *International Access to Justice: Barriers and Solutions* Bingham Centre for the Rule of Law Report, (2014), P.25, at: <www.ibanet.org/Document/Default.aspx?...7FCF610E>, accessed on October 01, 2016.

¹⁰³ Access to Justice, cited above at note 73, p.11.

¹⁰⁴ Ibid.

¹⁰⁵ Lisae C. Jordan, "Introduction: Special Issue on Domestic Violence", *Family Law Quarterly*, Vol. 39, No. 1, (2005), p.2.

¹⁰⁶ Lisa E. Martin, "Providing Equal Justice for the Domestic Violence Victim: Due Process and the Victim's Right to Counsel", *Gonzaga Law Review*, Vol. 34, No. 2, (1998/99), p.336.

representation since due to the violence the victim may lose her liberty and her life to the extreme.¹⁰⁷

Actors of the criminal justice system such as police, prosecutors and judges who are part of patriarchal society may lead negative gender stereotypes and discriminatory attitudes which in return results insensitivity towards violations of women's right.¹⁰⁸ Therefore beginnings from first reporting the occurrence of domestic violence up to the end of judicial proceedings victims are faced with impediments and delays access to justice. Hence instead of rendering redress the criminal justice process subject victims 'secondary victimization'.¹⁰⁹

Different studies have suggested the existence of high rate of criminal prosecution when police are authorized to arrest, charge and prosecute domestic violence compliances and when mandatory reporting by service providers is required.¹¹⁰ However, this has a danger of dual/retaliatory arrest when the perpetrator has been wrongful arrested.¹¹¹ If police are also mandated with this power, it will give privilege for the victim's safety over the perpetrators liberty.¹¹² But others proposed that police should treat domestic violence scenes as a crime scene and collect relevant evidence in order to continue with prosecution.¹¹³ The requirement of due diligence in investigating and punishing violations of human right caused by domestic violence can also be corroborated with CEDAW Committee General Recommendation No.19.¹¹⁴

Lack of reporting has become one of the hurdles in prosecution and taking judicial action. Even when victims try to seek for redress, they are often encouraged or forced by prosecutors, police or other family members to reconcile and withdraw their complaint.¹¹⁵ This will shift the direction of complaints of domestic violence from formal judicial setting to informal dispute settlement mechanism.

¹⁰⁷Id, p.338.

¹⁰⁸ USAID, "Equal Rights, Equal Justice, Toolkit for Addressing Gender-Based Violence through Rule of Law Projects", (2014), p.12, at: <<http://www.usaid.gov/files/documents>>, accessed on October 30, 2016.

¹⁰⁹Ibid.

¹¹⁰Heather Douglas, cited above at note 77, p.445

¹¹¹Victoria Frye & Merry Haviland, "Aren't I a Victim?": Notes on identity challenges relating to police action in a mandatory arrest jurisdiction, (2006), p.12, at: <www.genderbias.net/.../Aren't%20I%20a%20Victim.pdf>, accessed on October 08, 2016.

¹¹²Heather Douglas, cited above at note 77, p.456.

¹¹³Id, p.453.

¹¹⁴General Recommendation No. 19 on Violence against women General Recommendations adopted by the Committee on the Elimination of Discrimination against Women Eleventh Session (1992), para. 9.

¹¹⁵ Andrew R.Klein,cited above at note 26.

The informal justice system is more accessible to poor and disadvantaged women rather in terms of speedy, affordable and meaningful redress compared to the formal justice system particularly in circumstances in which the formal justice system is not functional or very weak.¹¹⁶ However, due to lack of requisite skills, knowledge and competence around women's rights and insufficient funding and human resources the verdict given in this system might be subjective and are often biased against women.¹¹⁷

¹¹⁶Ibid.

¹¹⁷Julinda Beqiraj and Lawrence McNamara, International Access to Justice: Barriers and Solutions Bingham Centre for the Rule of Law Report, October 2014, pp.22-23, at:<www.ibanet.org/Document/Default.aspx?...7FCF610E>, accessed on September 15, 2016.

Chapter Three: Domestic Violence and Gaps in Access to Justice at Hawassa City

3.1. Gaps in the Legal Frame Work

The existence of legal framework gives a ground for normative framework and ensures the obligation of state to protect the rights of victims of domestic violence. However, the availability of legal protection concerning domestic violence does not necessarily alleviate the problem caused by this crime because the effectiveness of legislation depends upon its actual implementation.¹¹⁸

Legal Protection as one component of access to justice can be manifested through ratification of international or regional human rights instruments.¹¹⁹ Ethiopia voted in favor of the adoption of UDHR in 1948¹²⁰, and ratified CEDAW in 1981, ICCPR and ICESCR in 1993 and CAT in 1994 and ACHPR in 1998.¹²¹ Although there is no international human right instrument that explicitly denounces domestic violence and offer protection for victims; these international and regional human rights instruments which Ethiopia ratified provides general rights for victims of domestic violence.

Ethiopia has taken different legislative reforms in order to insure the protection of women in the last decade. Among them the 1995 FDRE Constitution, the 2004 Criminal Code, and the 2005 Federal Family Code at the federal level and the SNNPR's Constitution and the SNNPR's Family Law pertinent to the place of the study are few of them.

3.1.1. Non-ratification of Optional Protocol to CEDAW and Protocol to African Charter on Human and Peoples Right/Maputo Protocol

3.1.1.1. Optional Protocol to CEDAW

In addition to other international and regional human rights instruments, CEDAW is the most prominent instrument in addressing the issue of domestic violence. The Optional Protocol

¹¹⁸ UN, cited above at note 38, p.97.

¹¹⁹ UNDP, cited above at note 25, p.7.

¹²⁰ Session of the UN General Assembly, 10 December 1948 Palais de Chaillot, Paris, at: <www.un-documents.net>, accessed on February 02, 2017.

¹²¹ Eva Brems, "Ethiopia Before the United Nations Treaty Monitoring Bodies", *Africa Focus*, Vol.20, No.1-2, (2007), P.52.

empowers CEDAW by enhancing the implementation of rights enshrined in the Convention through the process of the communication and inquiry procedure.¹²²

Of course Ethiopia is a party to the African Charter, where African Commission on Human and People's Right (here in after, the Commission) is a key regional human rights institution mandated to promote and protect human rights guaranteed under the African Charter. Hence, victims of domestic violence may submit individual communication to the Commission alleging that violation of rights protected by the African Charter after the scrutiny of admissibility.¹²³

However, focusing only on the Commission to ensure the protections of rights of the victim is not enough and it instigates the need to ratify Optional Protocol to CEDAW for the following reasons. First, unlike the CEDAW Committee,¹²⁴ the Commission has not developed a systematic procedure of follow-up to its recommendation and until authors of communication have approached Rapporteurs assigned to communications to take up their case.¹²⁵

Second, the Special Rapporteurs and working group of the Commission are serving on part-time and voluntary bases. This can lead to competing priorities within their work load and in some instances follow-up on communications may not be regarded as an integral part of his/her work even when the subject matter of the communication falls within the scope of his/her mandate.¹²⁶ However, the working groups or special rapporteurs of CEDAW have permanent tenure for four years from their day of election.¹²⁷

Third, Article 5 of the Optional Protocol empowers the Committee to adopt interim measures to prevent 'irreparable damage' to a victim.¹²⁸ Still such measures are not available in the procedures of the Commission. Fourth, the Committee has established a remarkable

¹²²Ceri Hayes, *A Lever for Change: Using the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, (2010), Pp.21-22, at: www.equalityhumanrights.com, accessed on, January 02, 2017.

¹²³ African (Banjul) Charter on Human and Peoples' Rights, (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986, article 56.

¹²⁴ Optional Protocol to the Convention on the Elimination of Discrimination against Women, Adopted by General Assembly resolution A/54/4 on 6 October 1999 and opened for signature on 10 December 1999, entry into force 22 December 2000, article 7(5).

¹²⁵ Sheila Keetharuth, *Implementing Decisions of the African Commission on Human and People's Right*, p.2, at <www.ishr.ch/news/shella-b-keetharut>, accessed on January 20, 2017.

¹²⁶Id, p.3.

¹²⁷ Rules and Procedures of the Committee on the Elimination of Discrimination against Women, Rule 12(a) & Rule 62, p.8 & p.23, at: <<http://www.ohchr.org/en/hrbodies/cedaw/pages/cedaindex>>, accessed on January 25, 2017.

¹²⁸Id, rule 63, p.23.

jurisprudence in addressing access to justice in relation to cases of domestic violence¹²⁹ which is not the case in the jurisprudence of the Commission.

Finally, committing to international human right treaty with weak enforcement mechanism incapable of punishing violations of rights and non-compliance may not be sufficient to produce positive change.¹³⁰ So, ratifying CEDAW without its enforcement mechanism looks like Ethiopia ratified CEDAW just to be a member and avoid scrutiny of the actual domestic practices. Hence, ratifying the Optional Protocol will facilitate the protection of human rights of women in general and victims of domestic violence in particular by providing additional avenue to international mechanism alongside national and regional human rights instrument reinforcing women's access to justice.¹³¹

3.1.1.3. Maputo Protocol

A more pertinent protection for victims of domestic violence in the African Human Right System is the Protocol to the African Charter on Human and Peoples' rights on the Rights of Women in Africa (Maputo Protocol).¹³² First and foremost the Protocol should not be viewed as correcting normative deficiencies in international human rights law dealing with women's right, rather as a response to the lack of implementation of these norms.¹³³ Henceforth the African Charter and the Protocol can be read as enlarging the scope of claims that may be submitted to the commission in order to improve the situation of women.¹³⁴

It has been 14 years since Ethiopia signed the Protocol yet it is not ratified.¹³⁵ Currently, the Second Ethiopian Human Right Action Plan as well promised a study that would facilitate the

¹²⁹Sahid Goekce V. Austria, Communication No.5/2005, Fatma Yildirim V. Austria, Communication No.6/2005.at: <<https://www.coe.int/equality/resources>>, accessed on January 25, 2017.

¹³⁰ Yvonne M. Dutton, "Commitment to International Human Rights Treaties: The Role of Enforcement Mechanisms", U. Pa. J. Int'l L, Vol.34, No.1, (2012), p.56.

¹³¹Committee on the Elimination of Discrimination against Women, General Recommendation no. 33, on Women's Access to Justice, Para 67, July 2015.

¹³²Andreea Vesa, "International and Regional Standards for Protecting Victims of Domestic Violence", *Journal of Gender, Social Policy & the Law*, Vol. 12, No.2, (2004), p.358.

¹³³Frans Viljoen, "An Introduction to the Protocol to the African Charter on Human and Peoples' Right of the Rights of Women in Africa", *Washington & Lee J.C.R & SOC.JUST*, Vol.11 (2009), P.17.

¹³⁴Id, P.40

¹³⁵*African Commission on Human and Peoples' Rights, Ratification Table: "Protocol to the African Charter on the Human and Peoples' Rights on the Rights of Women in Africa"*, at: <www.achpr.org/instruments/women-protocol/ratification/>

ratification of the Protocol, now it is almost the second half of 2009 E.C¹³⁶ and such study is not taking place.¹³⁷ This denotes that the country does not have the intention of ratifying the Protocol in the near future. While arguing for the ratification of this Protocol by Ethiopia, the substantive content of the rights given and the effect it has on states that ratified are the two main reasons that show the need to ratify this Protocol.

The Protocol is unique in the sense that it goes beyond existing global and regional human right instruments by giving protection against GBV¹³⁸, both in the public and private spheres including domestic abuse and marital rape and for which states must be held accountable.¹³⁹ The Protocol like the African Charter provides both civil and political rights as well as socio-economic rights and assures the indivisible and interdependent nature of human rights. It also goes beyond the scope of rights in the African Charter by including the right to food security and adequate housing which are good supplement for victims of domestic violence.¹⁴⁰ States are also under obligation to enact and enforce laws prohibiting domestic violence.¹⁴¹ The Protocol puts interest on the need that State makes legal aid available to women¹⁴² and envisions the vital role of education and awareness creation to break down stereotypical attitude towards the inferiority of women and the provision of budgetary resource to ensure the effective implementation of the rights.¹⁴³

Moreover, out of the 37 countries that signed and ratified the Protocol, many of them either changed or amended their criminal, family or civil laws concerning property and inheritance. Out of these countries Benin, Kenya, Rwanda, Guinea Bissau, Angola and Namibia are some examples of states which criminalize domestic violence and enacted comprehensive domestic

¹³⁶ Federal Democratic Republic of Ethiopia, The Second Ethiopian Human Right Action Plan, p.135, at: <<http://www.abbyssinialaw.com/human-right-documents?download>>, accessed on February 25, 2017.

¹³⁷ Phone interview with MrSiyoum, Director at Women's Participation Campaign Directorate, at FDRE Ministry of Women and Children Affairs, on March 01, 2017.

¹³⁸ The Protocol to the African Charter on Human and Peoples' rights on the Rights of Women in Africa, O.A.U.Doc.CAB/LEG/66.6 (1999), article 1(j).

¹³⁹ Id, Article 4(2(a))

¹⁴⁰ Id, Article 15 & 16.

¹⁴¹ Id, Article 4(2)

¹⁴² Id, Article 8(a) & (b).

¹⁴³ Id, Article 2(2) & 26(2).

violence law either specifically or generally as legislations on GBV.¹⁴⁴ This practice of these states would indicate the possibility of enactment of comprehensive domestic violence legislation in Ethiopia if the country had ratified the Protocol.

3.1.2. Lack of Comprehensive Law

A comprehensive definition of domestic violence includes the criminalization of physical, sexual, psychological and economic violence and encompassing issues of prevention, protection, survivor empowerment and support (health, economic, social, psychological), as well as adequate punishment of perpetrators and availability of remedies for survivors.¹⁴⁵ Lack of such comprehensive legislation in Ethiopia can be measured by looking through the 2004 Revised Criminal Code of Ethiopia and evaluating the multi-disciplinary measures that should have been included in the law.

3.1.2.1. The Symbolic Criminalization of Domestic Violence under the FDRE Criminal Code

Despite its criticism, criminalization of domestic violence sends loud and clear message about the intolerability of domestic violence.¹⁴⁶ Ethiopia ratified CEDAW which protects women specially but failed to specifically address GBV including domestic violence. Thus, the CEDAW Committee under its General Recommendation No.19 defined discrimination to include gender based violence which is directed against a woman because she is a woman or which affects woman disproportionally and deprive woman of equal enjoyment, exercise and knowledge of human right and fundamental freedoms. Undoubtedly the FDRE and SNNPR's Constitution pledges these fundamental freedoms including the right to equality in general and assures the equality of men and women in the enjoyment of human rights; abolish harmful customs and practices and laws that oppress or cause bodily or mental harm to women.¹⁴⁷

One of the manifestations of adhering to CEDAW and other international and regional human rights instruments is the criminalization of domestic violence as it is provided "Violence Against

¹⁴⁴ Justice Lucy Asuagbon, Status of Implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 6th Meeting of Commission on the Status of Women, 18 March, 2016, New York, pp.2-6, at: <www.achpr.org>, accessed on January 30, 2017.

¹⁴⁵ Division for the Advancement of Women, cited above at note 3, p.14.

¹⁴⁶ Ibid.

¹⁴⁷ Constitution of Federal Democratic Republic of Ethiopia, Proclamation No.1/1995, NegaritGazet.1st Year, No.1, August 1995, Addis Ababa & The Revised Constitution of the Southern Nations Nationalities and Peoples Regional State Proclamation No.35/2001, article 25, 34(1) & (2).

a Marriage Partner or a Person Cohabiting in an Irregular Union” under Article 564 of the 2004 the Criminal Code opposite to the recognition of chastisement in some way by the repealed Penal Law of Ethiopia.¹⁴⁸ Although it is only the above article that directly addresses domestic violence this crime can also be claimed using other provisions of the Code. However, what makes this crime different from other crimes that can be entertained using same articles is that there are often complex and continuing emotional, financial and legal ties between the parties to the crime as well as complex power dynamics.

Beginning from the behaviors it aims to regulate, the law currently leaves unregulated a wide swath of behaviors such as psychological/emotional/, economic and sexual violence that constitute domestic violence, which would be considered abusive unless that behavior is accompanied by some form of physical violence. According to General Recommendation No.19 of CEDAW Committee, it is the obligation of states to enact effective legal measures which includes penal sanctions that are necessary to provide effective and adequate protection of women against gender-based violence, including domestic violence.¹⁴⁹ In light of this, Article 564 of the Criminal Code, despite being subjected to other kinds of violence such as psychological, sexual or economical; the crime would be considered as domestic violence when the victim incurs physical violence. Hence, focusing only on physical violence results in a failure to capture the complexity of domestic violence and leaving countless women without remedy. Therefore the state by failing to enact legislation which criminalizes domestic violence that constitutes discrimination against women comprehensively did not adhere to its duty under Article 2(f) of CEDAW of taking appropriate measures.

Secondly, the manner in which Article 564 is articulated is gender neutral implying that domestic violence may happen to both genders. It is true that both genders may face such violence, but due to unequal power relationship between men and women, the usual victims of domestic violence are women.¹⁵⁰ This will lead us back to the definition of discrimination under Article 1 of CEDAW which states any distinction, exclusion or restriction which has the purpose or effect of denying women the exercise of human rights and freedoms is discrimination even where

¹⁴⁸ Penal Code of the Empire of Ethiopia, Proclamation No. 158 of 1957, Negarit Gazeta, article 548(2).

¹⁴⁹ General Recommendation No. 19, cited above at note 114, para, 24 (b) & 24(t).

¹⁵⁰ Futures without violence, The Facts on Domestic, Dating and Sexual Violence, Formerly Family Violence Prevention Fund, (2014), p.3, at: <www.futureswithoutviolence.org/resources-events/get-the-facts>, accessed on February 15, 2017, 2016.

discrimination was not intended which is called indirect discrimination.¹⁵¹ This would mean that an identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied of the exercise of a right because there was no recognition of the pre-existing gender based disadvantage. Hence the existing inequalities might exacerbate owing to a failure to recognize structural and historical patterns of discrimination and unequal power relationships between women and men.¹⁵² At this juncture the article adopted gender neutral approach which does not acknowledge that women's and men's experiences of violence differ and that violence against women is a manifestation of historically unequal power relations between men and women and discrimination against women.

Finally, the legislative history behind specific mentioning of domestic violence under Article 564 of the Criminal Code was to abolish the traditional and outdated view that a husband can discipline his wife.¹⁵³ The whole idea behind the legislative history of this article was to break the trend of considering domestic violence as a private matter and contemplate it as public issue.¹⁵⁴ It also indicates the justification behind referring the penalty to Articles 555-560 is because the issue can be covered in these penalties given by these articles and can be aggravated using Article 84 and 86 of the Code.¹⁵⁵ According to General Recommendation No.33 of CEDAW Committee, it is indicated that the criminal law has special place in protecting women's human right and assure their access to justice and it should not fail to provide redress for crimes that disproportionately affect women.¹⁵⁶ Thus, the criminalization of domestic violence should have been corroborated by its own penalties which would take in to consideration the special relationship between the perpetrator and the victim and would also clearly implicate the state denounce such behavior. However, the law is just implying something is being done rather than reflecting interest of the health and safety of individual women. Moreover, the CEDAW Committee in its concluding observation stated that referring the penalty to those articles

¹⁵¹General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, forty-seventh session, 2010, para 16.

¹⁵²Id, para 5.

¹⁵³ Ministry of Justice, The Revised Criminal Code Legislative History, p.268, at: ethcriminalawnetwork.com, accessed on February 14, 2017.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ General Recommendation 33, cited above at note 131, para 47(c) & 51(1).

particularly Article 557(1(b)) of the Code which allows provocation as an extenuating circumstance will exclude the applicability of domestic violence.¹⁵⁷

3.1.2.3. Absence of Multi-Disciplinary Approach of Legal Protection

The current single response of the criminalization of domestic violence does not resort to the needs of all victims or respond to all of a particular victim's needs.¹⁵⁸ Still, in order to address the problem of domestic violence there have to be alternative legal remedies available to the victims so that they can ensure their access to justice. Likewise the cumulative reading of Article 2(a) and (b) CEDAW requires the state to adopt and implement accessible laws that address the actions of those who discriminate against women. It has been already asserted domestic violence is an act which discriminates against women and curtails the enjoyment of their human rights. In Ethiopia, there is no other alternative legal protection for victims of domestic violence other than its criminalization and compensation through extra-contractual liability.¹⁵⁹

As Hannah Brenner provides, the next move should be to transcend the traditional approach and incorporate more victim centered laws and policies.¹⁶⁰ Regardless of whether forms of violence are addressed in separate legislation or in one piece of legislation, a comprehensive legal framework must be applicable to each form, including measures for the prevention of violence, protection and support of the complainant/ survivor, punishment of the perpetrator, and measures to ensure the thorough implementation and evaluation of the law.¹⁶¹ Thus, a state that includes a comprehensive menu of legislative options is likely to meet the needs of victims.¹⁶²

The jurisprudence of the CEDAW Committee suggests the possibility of addressing domestic violence through multi-disciplinary approach so as to provide comprehensive legal protections. For instance, in *Angela González Carreño vs. Spain*, the CEDAW Committee asserted for the mandatory availability of protection orders.¹⁶³ The Committee in its General Recommendation

¹⁵⁷ CEDAW, Concluding Observation on the Elimination of Discrimination against Women, 49th Session, July 29, 2011, CEDAW/c/eth/co/6-7, para 21(a).

¹⁵⁸ Leigh Goodmark, cited above at note 83.

¹⁵⁹ Civil Code of the Empire of Ethiopia, Proclamation No. 165 of 1960, *NegaritGazeta*, (BerhanennaSelam Printing Press 1960), article 2028.

¹⁶⁰ Hannah Brenner, cited above at note 79, pp.308-309.

¹⁶¹ Division for Advancement of Women, cited above at note 3, p.24.

¹⁶² Hannah Brenner, cited above at note 79, p.309.

¹⁶³ *Angela González Carreño v Spain*, CEDAW Communication No 47/2012, UN Doc CEDAW/C/58/D/47/2012 (2014), paragraph 9.9, at:<http://www.womenslinkworldwide.org/files/gjo_amicus_brief_Simone_Cusak_angelagonzalez_en.pdf>, accessed on January 23, 2017.

No.19 has also required: “appropriate protective and support services should be provided for victims”.¹⁶⁴

Some of such victim protection and support services are included in legislation of different countries from which Ethiopia can draw experience. For example, the Spanish Organic Act on Integrated Protection Measures against Gender Violence of 2004 and The Chilean Law on Intra-Family Violence (1994) require training for law enforcement, judicial officers as well as the general public.¹⁶⁵ Special housing right and creation of shelters for survivors is provided for instance by the Mauritius Act to Provide Protection to the Victims of Domestic Violence 1997, the United States’ Violence against Women and Department of Justice Reauthorization Act (2005) and the Austria’s Violence Protection Act (1997). Legislations like Honduras Domestic Violence Law of 2006, the Philippine Anti-Violence and the Spanish Organic Act on Integrated Protection Measures against Gender Violence (2004), encourage victims of domestic violence to participate in the workplace by allowing them paid leave from work support groups and perpetrators of violence to attend re-education group.¹⁶⁶

3.2. Gaps in Addressing Legal Awareness

Ethiopia as a ratifying state of CEDAW has to engage in awareness creation about the principles and provisions of the Convention to all government agencies, public officials, and in particular the legal profession and the judiciary¹⁶⁷ as well as to the general public.¹⁶⁸ Besides, creating awareness might be one of the appropriate measures to eliminate discrimination against women.¹⁶⁹ It is also a primary prevention strategy aimed at preventing violence from ever happening by changing attitudes, values and structure which sustain inequality and violence.¹⁷⁰

¹⁶⁴ General Recommendation No. 19, cited above at note 114, para 24(b).

¹⁶⁵ Rangita de Silva de Alwis and Jeni Klugman, *Freedom from Violence and the Law: A Global Perspective*, Working Paper, (2015), pp.18-21, at: <<https://wapp.hks.harvard.edu>>, accessed on January 23, 2017.

¹⁶⁶ Id, pp.19-20

¹⁶⁷ General Recommendation No. 28, cited above at note 151, Para 17 & 38(d) & General Recommendation No. 33, cited above at note 131, para 29(f).

¹⁶⁸ Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 (hereinafter CEDAW), article 5 & General Recommendation No. 33, cited above at note 131, para, 31.

¹⁶⁹ CEDAW, cited above at note 168, article 2(e)..

¹⁷⁰ Marianne Hester & Nicole West Maryland, *Tackling Domestic Violence: Effective Interventions and Approaches*, Awareness Campaigns Home Office Research Study 290, (2005), p.15, at: <www.eif.org.uk>, accessed on January 22, 2017.

3.2.1. Legal Awareness Raising at Hawassa City

Hawassa City Administration Women and Children's Affairs Department (here in after, the Department) as public institution, is the main stakeholder in addressing the issue of awareness creation to the general public and to all relevant actors in the law enforcement and judicial personals. The Department has sub-offices in all sub-cities. The office has either used advocacy campaigns on the criminalization of GBV in general and domestic violence in particular through the South Television Program and South FM 100.9 Radio Station or by giving trainings for the concerned stake holders.¹⁷¹ The following are some of the practical setbacks in addressing awareness at Hawassa city.

3.2.1.1. Resource Constraints

For this context, resource has been considered to be financial and man power (expertise). The Department has given three trainings from 2006-2008 E.C one each year on the issue of GBV to stake holders composed of police, public prosecutors and judges. The Department's plan was to give these awareness creation trainings to the stake holders in a round terms so that they can address all of them. However, due to budget constraint they selected two peoples from police stations, public prosecution office and the judiciary as trainers training so that they can train their respective staffs.¹⁷² Their intention of following this approach was one mechanism of addressing financial constraint, but those trained stake holders did not hold such kind of training for their remaining staffs respectively.¹⁷³ For instance none of the respondent police officers, public prosecutors and judges did not get a chance for such kinds of training within the last two years.¹⁷⁴

The other and the most important aspect of creating awareness on legal protection and the avenues to get redress is to the general public as a whole and to women particularly. The Department's sub-offices are located to address this issue easily and closely. Because of financial constraint, they tried to create awareness using others openings like political meetings and community gatherings.¹⁷⁵ Awareness creation tasks are supposed to be done by an expert holding law degree, seven years of work experience and salary of 3425 ETB. Due to the high

¹⁷¹ Interview with Ms. Genet Birru, Legal Support and Consultancy Service Expertise at Hawassa City Administration Women and Children Affairs Department, on January 10, 2017. 0916070745.

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ Ibid.

qualification requirement and low amount of salary, out of the eight sub-offices there are only two legal workers available.¹⁷⁶

3.2.1.2. Lack of Training Methodology

The main purpose of giving trainings for stakeholders is to change their attitudes concerning GBV in general and how they take care of victims of such violence in their respective aspect of service provision. Most of such kind of trainings have to be evaluated by using key informant interviews and pre and post questionnaires of the training in order to evaluate whether there is attitudinal change or not.¹⁷⁷ However, there is no training methodology implemented by the Department. This does not mean that all the trainings given by the Department was fruitless rather they would have been better if they were supported by such training methodology.

In order to achieve attitudinal change of law enforcement and the judiciary the trainings given by the Department should be inclusive of both genders.¹⁷⁸ Nevertheless, the respondents such as the police, public prosecutors and judges indicated that the usual participants who were sent to participate in these trainings were women.¹⁷⁹ There is a trend that if there is any training which is going to be given by the Department, then the first choice of participants to be sent are women and men are going to participate if women are not available.¹⁸⁰

3.2.1.3. Non-Involvement of Civil Society Organizations

Civil society organizations are vital in addressing the issues of violence at the community level, principally when government funded services are absent or inadequate.¹⁸¹ These organizations in addition to participating in advocacy campaigns and providing trainings for the community and the stakeholders, they fill gaps in service provision and victim support.¹⁸² The main civil society organization which is working at Hawassa city is EWL.A. Before the enactment of the Civil Society Proclamation No.621/2009 the association was vibrant in giving trainings on the issues

¹⁷⁶ Ibid

¹⁷⁷ Sarah Bott, Andrew Morrison and Mary Ellsberg, Preventing and Responding to Gender Based Violence in Middle and Low Income Countries: A Global Review and Analysis, World Bank Policy Research Working Paper 3818, 2005, P.21, at :<<https://www.researchgate.net/publication>>, accessed on January 24, 2017.

¹⁷⁸ UN, cited above at note 38, p. 125.

¹⁷⁹ Interview with, Commander YesufEshgetu from BahilAdarash Sub city Police Station, Mr. MulugetaGisila, from Misirak Sub-city Public Prosecutor's Office and BelgudaWaqato, from Hawassa City Administration First Instance Court Misirak Division Bench, on January 12, 2017.

¹⁸⁰ Ibid.

¹⁸¹ Julie Freccero, Lauren Harris, MalissaCarnay& Cole Tylor, Sexual Violence & Accountability Project Working Paper Serious, 2011, p.13, at :<<https://www.law.berkeley.edu/2015/04>>, accessed on February 30, 2017.

¹⁸² Ibid.

of domestic violence. The law limited such kinds of associations to only receive 10% of their budget from foreign source.¹⁸³ And it was difficult for the association to raise enough amount of money locally. The Hawassa branch coordinator explained that, any money that the association got is being spent in the main office's projects and branch offices are left with some petty cashes just to run the office.¹⁸⁴ Thus the office at Hawassa did not give any kind of training for anyone for the last three years.¹⁸⁵

3.3. Hurdles in Accessing Remedies

Even with the existing legislation, remedies might be ineffective due to different practical challenges which exist in formal and informal justice sector. This next part discusses the criminal, civil justice systems as well as traditional mediation in evaluating the practical challenges addressing domestic violence cases.

3.3.1. The Criminal Justice System

Based on the data collected from the police, Tabor and Hebella-Tulla sub-cities have higher number of domestic violence complaints compared to other sub-cities.¹⁸⁶ The criminal justice system begins to operate when the commission of an alleged crime has been complained to the police who are at the gate of the system, followed by investigation, initiation of prosecution by public prosecutors and finally punishment imposed by the court. The due diligence standard which is articulated under General Recommendation No.19 denotes the states obligation to investigate and punish acts of violence.¹⁸⁷ In investigating, prosecuting and giving judgment there are practical problems faced by law enforcement agencies, judiciary or the victim of domestic violence. Some of these practical challenges are addressed in the following manner.

3.3.1.1. Police Discretion to Institute Investigation

The duty to investigate requires States to provide victims of human rights violations with a prompt, impartial, thorough, and independent official investigation.¹⁸⁸ The duty arises from the State's obligation to protect all individuals under its jurisdiction from acts committed by private

¹⁸³ Charities and Societies Proclamation No.621/2009, article 2(3).

¹⁸⁴ Interview with Mr. Daniel W/Senbet, EWLTA, South Region Branch Office Coordinator, on, January 18, 2017.

¹⁸⁵ Ibid.

¹⁸⁶ Annex One, pp.1-2. Tabor with the total number of 1484 and Tulla with 1284 complaints of domestic violence within 2006-2008 E.C.

¹⁸⁷ General recommendation No.19, cited above at note 114, para 9 & General Recommendation No. 33 cited above at note 131, para 51(a)

¹⁸⁸ Human right Committee, general Comment 31, Nature on the General Legal Obligation on States Parties to the Covenant, U.N.Doc.CCPR/C/21/Rev.1/Add.13 (2004), para 15.

or public persons that may infringe on their enjoyment of human rights.¹⁸⁹ It places the burden to carry out investigations on the State, requiring them to perform investigations but does not require the State to produce a specific result.¹⁹⁰

Once the victim submitted her complaint to the police station, the police to whom she submitted her complaint will take her statement. Except for Mehal Sub-City Police Station, the remaining seven sub-cities require victims to photocopy the form that their statement is filled by the police. In sub-cities which are found at the margins of Hawassa like Tabor and Tulla; where photocopy services are not easily available to a certain degree might disturb the process of attaining remedy.¹⁹¹

Practically, the police officers usually do not want to engage in the investigation of complaints of domestic violence cases since it involves special relationship between the parties involved.¹⁹² All of the police respondents stated that the crime of domestic violence is set in motion upon complaint even when it involves crimes punishable up on accusations which may fall under Article 555 or 556(2) of the Code.¹⁹³ This practice is against the duty of the police to investigate even though accusation, complaint or information they may have received is open to doubt as per Article 23 of the Criminal Procedure Code.¹⁹⁴

Even when they receive accusation which entails serious physical injury to the woman and the police officers seriously involve in investigation of the commission of the crime, the community consider as they are meddling in the unity of the family. The police also live within the community and they do not want to be condemned as the breakers of the family.¹⁹⁵

An additional important factor which affects the initiation of investigation is police fatigue due to high rate of withdrawal of complaint. Victims usually do not continue with the same passion they first contact the police to submit complaint. Initially, they may want their case to be seriously considered by the police and want their husband/partner to be prosecuted. Later due to family or

¹⁸⁹Id, para 3.

¹⁹⁰Velasquez Rodríguez v. Honduras, Inter-Am. Ct. H.R. (ser. C) No. 4, ¶ 166 (July 29, 1988); at: <http://hrlibrary.umn.edu/iachr/b_11_12d.htm>, accessed on February 06, 2017.

¹⁹¹ Interview with Respondent Victim No.1 and Deputy SajinEyoelTsegaye, from Tabor Sub-city Police Station on January 24, 2017.

¹⁹²Interview with Deputy SajinEyerusalemGetu and Inspector GetachewKassa, from Menaharia and Mehal Sub-city Police Stations respectively, on January 28, 2017.

¹⁹³ Ibid.

¹⁹⁴ Criminal Procedure Code f Ethiopia, Proclamation No.1851 of 196, article 23.

¹⁹⁵ Interview with SajinRibetoRike, from Tulla Sub City Police Station, on January 20, 2017.

community's influence or economical dependency on the perpetrator, they change their attitude and even they may ask for the release of the perpetrator if he was arrested.¹⁹⁶ Others may complain to the police about their abuse not to proceed to investigation rather just for the police to give warning for their husband/partner. Therefore, the conventional procedure that the police does to avoid investigation by themselves is to ask the victim to bring her witness or medical evidence to corroborate her statement.¹⁹⁷ This discourages victims from coming back with their evidence since it may indicate that the police did not give attention to their complaint.¹⁹⁸ Hence, the systematic failures in investigation of cases brought by women will result in inadequate case management and evidence collection.¹⁹⁹

During summoning of the perpetrator the common procedure is to send him a summon and he will be arrested if the offense justifies arrest without summoning him or if he was summoned according to Article 25 of Criminal Procedure Code, but he fails to appear. However, Mehal and Menaharia Sub-cities in order to protect victims of domestic violence always sends a police officer to give summons and to bring the perpetrator for his statement.²⁰⁰

¹⁹⁶ Ibid.

¹⁹⁷ Interview with Main Sajin Mohammed Ali and SajinMesfinTaddesse, from Misirak and Hayik Dare Sub-city respectively, on January 13, 2017.

¹⁹⁸ Interview with victim respondent one and five.

¹⁹⁹ General Recommendation No. 33, cited above at note 131, para 25(a(vi))

²⁰⁰ Interview with Deputy SajinEyerusalemGetu and Inspector GetachewKassa, cited above at note 192.

Table 1. Summary of Data Collected from Hawassa City Police Stations

No.	Sub-Cities	DV Cases Complied to the Police Stations			DV Cases Reconciled at Police Stations			DV cases Send to the Public Prosecutors Office			DV Cases Reconciled at Public Prosecutors Office			DV Cases Brought to the Court			Cases which Receives Court Decisions		
		2006	2007	2008	2006	2007	2008	2006	2007	2008	2006	2007	2008	2006	2007	2008	2006	2007	2008
1.	Tabor	553	451	480	430	325	280	47	52	44	40	48	37	7	4	7	2	1	1
2.	Habella-Tulla	449	446	340	350	300	310	40	54	10	35	48	10	5	6	0	1	1	0
3.	Hayek Dar	40	35	21	24	23	20	12	6	0	10	5	0	2	1	0	0	0	0
4.	AdissKe tema	97	30	28	90	30	22	7	0	6	7	0	6	0	0	0	0	0	0
5.	BahilAd arash	155	130	122	75	73	82	30	35	27	28	32	22	2	3	5	1	1	0
6.	Mehal	175	151	82	79	54	52	25	17	17	18	17	16	7	0	1	1	0	0
7.	Menaharia	120	152	70	100	80	60	17	65	5	16	60	5	1	5	0	0	1	0
8.	Misirak	6	8	6	6	8	6	0	0	0	0	0	0	0	0	0	0	0	0

3.3.1.1.1. Good Practices

3.3.1.1.1.1. Special Women and Children Unit in the Police Stations

One of the main reasons behind the establishment of specialized police units is to provide a safe environment for women who report violence and to enhance the police response to violence against women through specialized officers.²⁰¹ The CEDAW Committee General Recommendation No. 33 also acknowledges the establishment of specialized gender units in the police.²⁰² They were intended to give specific attention in investigating crimes against women and children.

Each Police Station in all of the sub-cities currently established “Women and Children Unit” appointing women police officers. It would have been better if they were appointed after they received awareness creation training concerning on how to handle the very people they are appointed to assist.

²⁰¹ UN, cited above at note 38, P.111.

²⁰² General Recommendation No. 33, cited above at note 131, para 51(c)

3.3.1.1.2. Community Policing

It is aimed at achieving a more effective and efficient crime control, reduce fear of crime, improved police services and police legitimacy through a proactive reliance on community resources that seeks to change crime causing conditions.²⁰³ It is led by selected elders from each station who are presumed to have good ethics and respected by the community.²⁰⁴

Currently, there are 68 community policing stations in Hawassa City. In each sub-city Police Station there is an officer who would organize such community policing stations²⁰⁵ who are then accountable to one officer at Hawassa City Administration Police Commission.²⁰⁶ Although leaving the crime of domestic violence in the hands of community elders who believes domestic violence is a family matter rather than a crime is not beneficial, it has a good opportunity to fight this crime. If we see the phase of the crime from 2006-2008 E.C. at Hawassa City, as it can be observed from table 1, then it has been decreasing from 1595, 1403 to 1149 respectively.²⁰⁷ This has been attributed to the involvement of community policing in solving the problem.²⁰⁸ If proper training and campaigns has been done to change the attitude of the community on domestic violence as a human right violation then in the future crime of domestic violence will not be passed unnoticed and it is also good to engage the community in fighting the crime.

3.3.1.2. Challenges in Evidence Gathering, Production and Analysis

3.3.1.2.1. Evidence Gathering

At this point, if the victim incurs physical injury the first thing they are required to do is to get medical examination. They can only access medical services on Tuesday and Friday at Hawassa University Referral Hospital or Adare Hospital.²⁰⁹ Here the practical gap builds up since victims are required to pay 200 ETB.²¹⁰ Consequently, these obstacles may discourage victims of

²⁰³Hawassa City Administration Police Department, Community Policing Manual, (2000), p.1.

²⁰⁴Id, p.12.

²⁰⁵ Interview with Inspector Dejene, Coordinator of Community Policing Centers at Hawassa City Administration Police Department on January 30, 2017.

²⁰⁶Hawassa City Administration Police Department cited above at note 202, p.12.

²⁰⁷ Annex One, cited above at note 186, pp.1-8.

²⁰⁸ Ibid.

²⁰⁹ Interview with Respondent Victim No.1 and No. 3, on January 24, 2017.

²¹⁰ Ibid.

domestic violence particularly those who are from lower economical background from continuing their case.²¹¹

Taking extra evidence in addition to the statement of the victim and the accused like photograph has a potential to establish sustainable criminal case.²¹² Nevertheless, there is no photo camera in all of the eight sub-cities Police Stations. It is only available at Hawassa City Administration Police Commission so each sub-city has to ask the police commission for a camera and it is usually unavailable for those victims who happen to be at police station after the immediate occurrence of the injury.²¹³ So the police either use their mobile to take picture whose quality of image may be questionable or pay camera men to take pictures of injuries of the victim to submit it as evidence out of their pocket which they are not refunded back.²¹⁴

The next step of investigation and evidence gathering is taking witness statement after summoning them.²¹⁵ Like other crimes domestic violence may be committed during night time and in a private sphere. What makes this crime different is that, it is between people with special relationship and witnessed by their children, neighbors, relatives of either the victim or perpetrator who do not want to testify in general. Rather, these witnesses prefer to take the case to reconciliation fearing the influence of the perpetrator or they do not engage in the private matter of husband and wife.²¹⁶ To this end, there is a saying in the community “ባልና ሚስቱ ሊተዋወቁ የወረኛው ሰው ልቡ መውለቁ” translated as “Those who meddle in the issues of husband and wife will be tired since they know each other” which is the signal of the discouragement of the society to involve in cases of marriage. Children of the victim may witness the scene of the crime of domestic violence.²¹⁷ Though they may be considered as a witness if they can understand what they have seen, it is difficult to put them through the choice

²¹¹Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, adopted by the General Assembly under its resolution 65/228 (2010), paragraph 19(a), para 19(g), at: <https://www.unodc.org/14-08452_Ebook>, accessed on February 19, 2017.

²¹²Criminal Procedure Code, cited above at note 194, article 24. See also General Recommendation No 33, cited above at note 139, para 51(i).

²¹³ Interview with deputy inspector Yewebdare Deme and sajini Rabato Rike, from Addis Ketema Sub-city and Tulla Sub-city respectively, on January 20, 2017.

²¹⁴ Ibid.

²¹⁵ Criminal Procedure Code Of Ethiopia, cited above at note 194, Article 30(1)

²¹⁶ Interview with deputy inspector Yewebdare Deme and sajini Rabato Rike, cited above at note 213.

²¹⁷ Ibid.

of giving their testimony for their mother who was physically injured against their father on whom they usually are economically dependent.²¹⁸

3.3.1.2.2. Production of Evidence to the Court

After investigation and evidence gathering by police, the file will be sent to the prosecution office. The proceeding will be initiated according to article 84 and 124 of Criminal Procedure Code. The common type of evidences brought by the public prosecutor includes statement of the victim, witness and medical evidence.²¹⁹ As it is already stated above, the lists of witness may include relatives of the spouses/partners, neighbors or children of the spouses. The first two category of witness usually do not give full picture of the commission of the crime since there is a general consensus they should not interfere in family matter.²²⁰ Even when there is child witness, public prosecutors usually do not want to involve them in the production of evidence which may be good in the interest of the child not to put in a position of choosing between his/her parents.²²¹ However, if it is necessary they will be required to give their testimony to the court but the issue here is there is only one child friendly service at Hawassa City First Instance Court Menaharia Division where a child can give his/her testimony through CCTV camera.

3.3.1.2.3. Analysis of Evidence by the Court

After the prosecution and the accused's evidence are examined, the court will consider the testimonies of the witnesses and other submitted evidences. The prosecutor mostly focuses on victim's statement and even with the existence of medical evidence corroborative evidence is needed to convict the accused.²²² The corroboration rule requires the essential facts of the prosecution case to be corroborated by evidence from a second independent source that 'strengthens, confirms, or supports'.²²³ Corroborative evidences are in this case testimony of witness who was there when the victim was injured and practically who do not want to testify

²¹⁸ Ibid.

²¹⁹ Interview with Widinesh Anato, Simechegn Alemu and Genet Shapa, Public Prosecutor at Menahari, Mehal and HayikDare Sub-city Public Prosecutors office respectively, on January 16, 2017.

²²⁰ Ibid.

²²¹ Interview with WondimuWakeyo and HirephatoTsega, Mulugeta Gisila, Shimeles Zewede Public Prosecutor at Addis Ketema, Tabor Sub-city, Misirak Sub-city and Bahil Adarash Sub-city Public Prosecutors Office, on Januari12, 2017.

²²² Interview with BelgudaWqato, Ababayehu Ayele, judges at Hawassa City Administration First Instance Court Misirak and Tabor Division Bench, on January 19, 2017.

²²³ Michael C. Wutz, "Evidentiary Barriers to Conviction in Cases of Domestic Violence: A Comparative Analysis of Scottish and German Criminal Procedure", *Aberdeen Student Law Review*, (2010), p.84.

against parties to the case whom they know.²²⁴ Thus, the corroboration requirement can be a particular barrier to conviction for offences that typically happen in private.²²⁵ However, it also a guarantee the accused's right of presumption of innocence.

In order to solve the problem of evidence in domestic violence cases some countries particularly US enacted a law which makes propensity evidence admissible in domestic violence cases. This kind of evidence relates to 'a person's character, predilections, or incidents from past life'.²²⁶ Such kind of evidence was excluded in the trial due to its low probative value to the current charged offence. Applying this evidence in domestic violence cases is often so strong that it outweighs its potentially prejudicial effect.²²⁷ As per Article 138(1) of the Criminal Procedure Code propensity evidence are not allowed before conviction unless otherwise provided by the law. Allowing this evidence to be admissible will also go against the accused right to be presumed innocent.

From 4147 domestic violence cases reported to Police Stations at Hawassa City since 2006-2008 E.C., 68 of them went for trial and only 10 cases have been decided by the courts.²²⁸ This is due to the dependence of the prosecutors only on the statement of the victim and when they fail to appear for the trial public prosecutors rush to close the case.²²⁹ And finding other witness in addition to the victim requires commitment and time but this can be achieved best if there was special public prosecutors unit who would take cases involving women.²³⁰ Certainly there is such kind of unit at Hawassa High Court Public Prosecutors Office, but this unit does not take cases of domestic violence as their mandate.

3.3.1.3. Withdrawal of Cases from Police Station to the Court: Diversion

Victims may withdraw their cases due to high pressure from their community or family to reconcile,²³¹ economic dependence on the perpetrator,²³² lack of additional evidence so went to

²²⁴ Interview with TsegayeTeshome, HilinaBirhanu and Misganaw Selomon, Judges at Hawassa City Administration First Instance Court Bahil Adarash, Adiss Ketema and Menahari Division Benchs respectively, on January 23, 2017.

²²⁵ Michael C. Wutz, cited above at note 223.

²²⁶ Id, P.85.

²²⁷ Id, P.86.

²²⁸ Annex one, cited above at note 186, pp.1-8

²²⁹ Interview with BelgudaWqato, Ababayehu Ayele, cited above at note 222.

²³⁰ General Recommendation No. 33, cited above at note 131, para 51(c).

²³¹ Interview with Respondant Victim No 4, on February 12, 2017.

²³² Ibid.

pursue other civil remedies such as divorce and may go to the police just for warning their husband/partner not to prosecute.²³³

3.3.1.3.1. At the Police

After the victim submitted her complaint against the perpetrator to the police, then if possible the police will try to resolve the issue between the couples/partners amicably. If they reconciled then, the case will not be included in the police record and the case will be withdrawn even before it is filed.²³⁴ The other scenario where the victim may withdraw her case is after the case has been recorded in the police file and she is in the process of bringing her witness or already brought her witness to the police. Here if relatives of either the victim or perpetrator relatives or neighbors involve in the case and request the police to solve the case through mediation.²³⁵ Then those who took the case for mediation are required to submit written outcome of their mediation to the police.²³⁶ The problem is even if this written agreement is submitted to the police; it would not serve as record since it was not rendered by a court.

As the data from the eight sub-cities Police Stations indicated, out of 4147 domestic violence cases complained from 2006 E.C to 2008 E.C to the police; 2879 were allowed by the police to be withdrawn for reconciliation.²³⁷ However, letting the police to allow such amount of cases may send a message to other potential offenders and victims that this crime has not been taken seriously by the state. Police respondents said that most of the crimes complained by the victims are punishable upon complaint and even if it was not; they cannot force the victim to continue with the matter if she wants to withdraw.²³⁸ Nowhere in the Criminal Procedure Code police is allowed to let go cases filed for investigation. If the ‘no drop policy’ is adopted it may decrease the number of cases which are going to be withdrawn, but it will also discourage victims to complaint because it took the autonomy of them in addressing their interest. It may also discourage victims from contacting police. What should be focused here is the interest of the victim but without the existence of victim support services the trend of withdrawal will not decrease.

²³³ Interview with Respondent Victim No.2, on February 01, 2017.

²³⁴ Interview with deputy inspector Yewebdare Deme and sajin Rabato Rike, cited above at note 213.

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ Annex One, cited above at note 186, pp.1-8.

²³⁸ Interview with Deputy Sajin Eyerusalem Getu and Inspector Getachew Kassa, cited above at note 192.

3.3.1.3.2. Withdrawal in the Prosecution and Trial

Cases of domestic violence may also be withdrawn at the stage of prosecution before the trial and even at the trial. For instance, the collected data from 2006-2008 E.C. indicated out of 516 domestic violence cases sent to the prosecution 460 of them were withdrawn.²³⁹ According to article 122 of the Criminal Procedure Code, the public prosecutor can withdraw charges before judgment if it is approved by the court.²⁴⁰ However, the withdrawal of cases at prosecutorial stage usually happens before the case went to trial. The public prosecutors allow withdrawal of cases from prosecution citing the SNNPRs Directive to Determine Crime Investigation, Prosecution and Administration of Justice No... /2001 which was enacted but was never promulgated to implement the SNNPRs a Proclamation to Execute Business Process Reengineering No.120/2000.²⁴¹ The cumulative reading of Article 21 and 22(2) of this directive provides that the prosecutor can permit the withdrawal of cases from prosecution, if the crime is punishable not for more than three years, is not the crime of corruption, aggravated robbery, rape, abduction and aggravated homicide. Then the public prosecutor will accept the written agreement as to the reconciliation and check if the victim was compensated. If the accused failed to compensate the victim or fulfill what he promised in their agreement then the prosecutor will initiate the case to the trial.²⁴² Although the public prosecutors are basing their argument on a directive which was never promulgated this practice defy the obligation of the state to protect women. Even if the law is going towards this approach since the 2003 Criminal Policy adopts similar approach there has to be caution in allowing the pretrial diversion of domestic violence cases to informal justice system.²⁴³

Further, First Instance Courts in all five divisions also send cases for reconciliation or mediation if the accused pleads guilty as per Article 22(3) of the directive.²⁴⁴ The overall evaluation of reconciliation of cases either before or during trial is presuming that it will be good for the accused to reintegrate to his family or to the community if reconciled than convicted. The court before going to the details of the case may ask parties to the case the possibility of reconcile in

²³⁹ Annex one, cited above at note 186, pp.1-8.

²⁴⁰ Criminal Procedure Code, cited above at note 194, Article 122.

²⁴¹ SNNPR's Proclamation to Execute Business Process Reengineering No.120/2000.

²⁴² The draft SNNPRs Directive to Determine Crime Investigation, Prosecution and Administration of Justice No... /2001, article 22(2).

²⁴³ Federal Democratic Republic of Ethiopia, Criminal Justice Policy, (February 2011), pp.32-34, at: <www.abysiniallawreview.com>, accessed on February 24, 2017.

²⁴⁴ The draft SNNPRs Directive to Determine Crime Investigation, Prosecution and Administration of Justice, cited above at note 242, Article 22(3).

cases of private prosecution pursuant to article 150 of the Criminal Procedure Code.²⁴⁵ Nevertheless, practically before going to the adjudication of judgment whether it is crime punishable up on complaint or not the judge will ask the parties to the case if they prefer to reconcile.²⁴⁶ These 10 decided cases may include acquittal or conviction of the accused. In case of conviction even if the court finds perpetrator guilty of committing the crime the court recommend reconciliation and if they agree; enforcement of the penalty will be suspended on probation.²⁴⁷

According to judge respondents the idea of domestic violence cases being brought to Court is punishment enough, regardless of the outcome.²⁴⁸ Therefore, they prioritize the unity of the family over the individual right of the victim. Moreover allowing the withdrawal of domestic violence cases from the criminal justice system especially from the court should not be solely based on preserving family unity but on the interest of the victim and where other victim protection services are available to support those who want to precede their case.

3.3.1.4. Absence of Victim Support Services

Ethiopia as a country can ‘pursue by all appropriate means’ policy of eliminating discrimination. So, the country can devise any means of victim support service which can respond to the particular problem in the country.²⁴⁹ There may be a variety of support services such as one-stop centers which include a range of legal, medical and social services, in order to reduce the number of steps that a woman has to take to access justice;²⁵⁰ financial aid provided through specific funds to compensate victim, when perpetrator is unable to pay²⁵¹ and shelters.

Ethiopia established one-stop for victims of sexual violence in Addis Ababa in April 2012.²⁵² In its first National Human Rights Action Plan, it was scheduled to add more centers in each region and city administration,²⁵³ but the plan was not achieved yet since the same plan was also

²⁴⁵ Criminal Procedure Code, cited above at note 194, Article 150.

²⁴⁶ Interview with Respondent Victims No.1 & 3, cited above at note, 209.

²⁴⁷ Criminal Code, cited above at note 14, article 197.

²⁴⁸ Interview with TsegayeTeshome, HilinaBirhanu and MisganawSelomon, cited above at note 224.

²⁴⁹ General Recommendation No.28, cited above at note151, para 23.

²⁵⁰ General Recommendation No.33, cited above at note131, para 17(g).

²⁵¹ Id, para 19(d).

²⁵² Helina Beyene, *Final Report National Assessment: Gender Equality & the Knowledge Society*, (2015), p.36, at: <<https://owsd.net/sited/default/files>>, accessed on February 17, 2017.

²⁵³ The Federal Democratic Republic of Ethiopia, National Human Right Action Plan, 2013-2015, p.144, at: <<http://www.abysinnialaw.com/human-right-documents?download>>, accessed on February 25, 2017.

included in the second National Human Rights Action Plan.²⁵⁴ Both the plans indicated that the one-stop service for sexual violence but it has to be available for victims of GBV which would promote their access to justice.²⁵⁵

The UN General Assembly has called on States to establish, fund and coordinate a sustainable network of accessible facilities such as residential accommodation and other basic needs for women and their children who are victims of violence or who are at risk of becoming victims of violence.²⁵⁶ Conversely the Ethiopian government did not establish this victim support service. The only available shelter in the country, specifically in Addis Ababa is the former ‘Tsoatawi Tikate Tekelakay Mahiber (TTTM)’ and the current ‘Association for Women’s Sanctuary & Development (AWSAD)’. It is Ethiopian resident charity association established to advance women’s social and economic development and provide support for women and girls that faced physical and psychological harm.²⁵⁷ This support service is fundamental in assuring victim’s access to justice because those who are economically dependent on the perpetrator will have no other alternative but to withdraw their cases even if they have sustained serious physical injuries.²⁵⁸ Again, if there are such kinds of support then, the victim will have a temporary place to stay and will also receive physiological treatment and vocational trainings which would help their financial security when they left the shelter. Not only to the victim, it will also helpful for police officers who do not have any choice but letting the victim to stay in women detention centers if she has nowhere to go.²⁵⁹ It would have been best if shelters can be provided by the government if not the government has to work with civil societies like AWSAD to widen the area of protection.

3.3.2. Civil Justice System

Under the civil justice system, the available remedies for victims of domestic violence under the Ethiopian law are divorce and compensation through extra-contractual law. Victims may submit their complaint for divorce and then apply to either material or moral damages.

²⁵⁴ The Federal Democratic Republic of Ethiopia, Draft on the Second National Human Right Action Plan, cited above at note 136, p.134.

²⁵⁵ General Recommendation No. 33, cited above at note 131, para 17(f).

²⁵⁶ Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, cited above at note 211, para 19(a).

²⁵⁷ AWSAD, www.awib.org.et, accessed on March 01, 2017.

²⁵⁸ Interview with Respondent Victims No.5 & 6, on February 12, 2017.

²⁵⁹ Interview with SajinRibetoRike, cited above at note 195.

3.3.2.1. Divorce on account of Domestic Violence

The victim may apply for divorce as per article 90 of the SNNPR's Family Code. According to the respondent judges, plaintiffs (the victims) usually in their statement of claims for divorce; assert that the defendant physically, psychologically or economically abuses them. They also require compensation in their relief from the court since they blame the defendant abuse as a cause for the divorce as per article 94 the SNNPR's Family Code. Thus they are required to provide enough evidence which requires legal knowledge, to get compensation.

The other concern in dealing with the effects of divorce is child custody. Child custody is based on the principle of the best interest of the child.²⁶⁰ To this effect, the SNNPR's Supreme Court rendered a "Manual in Evaluating Child Custody" which assists social workers in determining child custody.²⁶¹ In cases where the social worker determines that there is an issue of domestic violence, the court even decide monitored visitation right to the perpetrator. But the number of social workers available and the work load is not proportional. They do not have time and resource to monitor such kinds of visitations.²⁶² Hence, lack of sufficient number of social workers may defy the very first reason why the court rendered such kinds of decisions.

3.3.2.2. Claim of Compensation

The injured party under the criminal court can lodge a suit against the accused and the case will be considered as it was lodged in the civil bench.²⁶³ If the victim is successful getting compensation in the criminal bench then, she cannot file a suit in the civil bench.²⁶⁴ However, if the accused was acquitted or her application for compensation in the criminal bench was dismissed, then she will apply for compensation in the civil bench.²⁶⁵ Nonetheless, for victims who did not apply to the criminal court in the first place or who withdrew her case at the stage investigation or prosecution the first avenue of filing for compensation for material or moral damage is civil bench. But then again, others emphasized that the remedy achieved by tort action is purely financial and may be of little value to victims whose abusers have limited financial

²⁶⁰Southern Nations Nationalities Regional State Family Law, Proclamation No.25/96, article 209 & SNNPR Constitution, cited above at note 202, Article 36(2).

²⁶¹ Interview with MitikuBacharo, Social Worker at Hawassa City Administration First Instance Court Menaharia Division Bench, on February 12, 2017.

²⁶²Ibid and Interview with Respondent Victim No 4, cited above at note 331.

²⁶³Criminal Procedure Code of Ethiopia, as cited above at note 194, Article 154(1).

²⁶⁴ Ibid.

²⁶⁵Id, article 155(3).

means.²⁶⁶ To this effect for instance, different states in US established tort actions designed to recognize and improve particular challenges faced by victims of domestic violence.²⁶⁷

3.3.2.3. Legal Aid Services

Application for divorce or compensation will be best served if there is adequate legal representation available for victims of domestic violence but none of the respondent victims got legal aid services and they do not even know where they should go to get this service.²⁶⁸

Legal aid services at Hawassa City are provided in three modalities. First, through the mandatory pro bono services stipulated by article 48 of SNNPR's Advocates Licensing and Registration Regulation No. 37/1996 that imposes pro bono obligations on licensed advocates.²⁶⁹ In order to get representation the victim has to apply for SNNPRs Justice Office as well as Hawassa City Administration which entails victim's awareness on the availability of such service; so that she will get representation. Indeed there is a unit in Hawassa City Administration Justice Office which is called 'Law Promulgation and Awareness Creation' as its name indicates with the task of letting the society the types of laws available, the avenues for redress and the available remedies. However, this Unit is led by public prosecutors as their secondary responsibility.

Second, by legal aid programs run by civil societies which have low level of involvement due to the limitation of financial sources of these associations after the promulgation of the Civil Society Proclamation. Before six or seven years for instance EWLA was giving legal aid service even including representation but at the moment the only service provided by this association is legal advice and most of the victim respondents and service providers such as police and public prosecutors even did not know the existence of it.²⁷⁰ There is no partnership between EWLA and Hawassa City Administration Justice Office²⁷¹ which would have increase the scope and quality of legal aid service provided to those who would benefit from this service.

Thirdly, legal aid clinics established by Hawassa University College of Law and Governance. Earlier they had offices in all divisions of first instance courts at Hawassa city and provide legal

²⁶⁶Edited by Jason Palmer, "Criminal Law: Domestic Violence", *the Georgetown Journal of Gender and the Law*, Vol.xi, No 97, (2010), p.149.

²⁶⁷Id, pp.152-153.

²⁶⁸Interview with six of respondent victims.

²⁶⁹ SNNPRs Advocates Licensing and Registration Regulation No. 37/1996, Article 49.

²⁷⁰Interview with Mr. Daniel W/Senbet, cited above at note 184.

²⁷¹ General Recommendation No. 33, cited above at note 131, para 37(d)

aid service up to representation but at this moment they only have one office at Hawassa City First Instance Menaharia Division Court which gives on and off service of legal advice due to budget constraints.²⁷² In addition, there was a legal aid service run by Addis Ababa University Law School which is currently closed.

3.3.3 Informal Justice System/Traditional Mediation

Providing accessible justice is a state obligation under international human right standards, but this does not require that all justice be provided through formal justice system.²⁷³ Thus informal justice system particularly mediation, since emphasis in this paper is on it; can ensure access to justice. Human right norms are binding on informal justice system through formal incorporation of judicial systems in to the state legal system as it has been done under Article 34(5) of the FDRE and SNNPRs Constitution. Going through the travaux preparatory of the FDRE Constitution issues left to be dealt by customary or religious laws are personal and family issues not criminal matters.²⁷⁴ Even though adjudicating criminal matters through the informal justice systems is not formally incorporated in to the state legal system, it is the obligation of the state to protect women, using all necessary measures as per Articles 2 and 5 of CEDAW.

At Hawassa City, mediation in cases of domestic violence is widely practiced. It is the first avenue of redress for victims of domestic violence even before coming in contact with the criminal or civil justice system or after they do. The figure from the collected data on complaints of domestic violence to the police indicates high number of cases withdrawn from the formal justice system to the informal one.²⁷⁵ This results a removal of cases from judicial scrutiny and presumes both parties have equal bargaining power.²⁷⁶

Going through the structure of mediation practiced by community elders at Hawassa City, it is male dominated and as a community living in Ethiopia with patriarchal values. The issue of domestic violence is left in hands of community elders who believe that ‘የባለ ጹላ ቁቤ ነው’

²⁷² Interview with Anbesie Fura, Coordinator of Hawassa University Legal Aid Center, on February 05, 2017.

²⁷³ UN Women, UNICEF & UNDP, Informal Justice Systems: Charting a Course for Human Rights-Based Engagement, (2009), p.11, at: <www.undp.org/dam/undp.library>, accessed on February 03, 2017.

²⁷⁴ Legislative History of FDRE Constitution, pp.84-85, at: <<http://www.abysinnialaw.com/human-right-documents?download>>, accessed on February 12, 2017.

²⁷⁵ Annex 1, cited above at note 186, pp.1-8.

²⁷⁶ Division for Advancement of Women, cited above at note 3, P.38.

translated as ‘husband’s stick is butter’²⁷⁷ which indicates the normalization of physical violence with in intimate relationship. This is against the constitutionally guaranteed right of a woman from protection against bodily harm and equality during marriage.²⁷⁸ Procedurally, the cases are not handled based on evidence or a fact rather mediation is to reconcile the couples at any cost even by deceiving.²⁷⁹ Lack of awareness of rights of women and lack of familiarity with CEDAW are other problems.²⁸⁰ Despite these problems, some victims contend that it helped them to save their relationship as well as saved them from the process of finding witness.²⁸¹ While others regret killing their time resorting to this system since they did not get any remedy except to return to the formal justice system.²⁸²

Realistically speaking mediation is a long rooted practice of handling disputes in the community and whether there is state recognition or not they are basically entertaining both civil and criminal matters. Here the issue is, should community elders be allowed to entertain domestic violence cases or not. The system is flexible; reduce cost and delays for women seeking justice. Still it may also lead to further violation of their right and impunity for perpetrators due to the fact that usually they operate with patriarchal values and impair women’s access to judicial review and remedies.²⁸³ In order to uphold the protection of women’s right General Recommendation No.33 of CEDAW Committee²⁸⁴ and an increasing number of countries like Spain are prohibiting mediation in cases of domestic violence.²⁸⁵ From the point of widening access to justice mediation should not be prohibited it has to be conducted with a proper supervision of the state.

²⁷⁷ Interview with Mr. Woldemikael Ambaye and Mr. Ayele Tesema, community elders at Tulla and Tabor Sub-cities respectively on February 14, 2017.

²⁷⁸ FDRE Constitution cited above at note 195 and SNNPRs Constitution, cited above at note 147, articles 16, 34(1), art 35(2)

²⁷⁹ Interview with Mr. Alemayehu Tikuneh, Mr. Shiferaw G/Mariam and Mr. Basha Eshete, community elders at Hayik Dar, Addis Ketema and Bahil Adarash Sub-cities respectively, on February 19, 2017.

²⁸⁰ Ibid.

²⁸¹ Interview with Respondent Victim No.4, cited above at note 331.

²⁸² Interview with Respondent Victim No. 1 & 3, cited above at note 209.

²⁸³ General Recommendation No.33, cited above at note 131, para 57

²⁸⁴ Id, para 58(c).

²⁸⁵ Division for Advancement of Women, cited above at note 3, P.38

Chapter Four: Conclusion and Recommendations

4.1. Conclusion

Domestic violence is one of the forms of violence against women. Although there is no commonly agreed up on definition of domestic violence is a pattern of assaultive and coercive behaviors including physical, sexual and psychological attacks as well as economic coercion used by adults or adolescents against their current or former intimate partners. And there is no country which is safe haven from domestic violence including Ethiopia where the problem is pervasive. Domestic violence both reflects and reinforces inequities between men and women and damages the health, dignity, security and autonomy of its victims.

Access to justice has a pivotal role in the establishment and maintaining rule of law since it enables people's voice to be heard and their rights exercised. Besides, access to justice promotes the empowerment and secure access to equal human dignity which can be used in alleviating the problems of domestic violence. Intending to evaluate the practical gaps of access to justice in domestic violence cases the paper considers both formal and informal administration of justice and takes legal protection, legal awareness and remedy as elements of access to justice in order to evaluate the areas that need priority to be addressed.

Evaluating the legal protection component of access to justice, the paper indicated the gaps in the legal framework starting from the non-ratification of Optional Protocol to CEDAW which gives additional avenue for victims of domestic violence to seek remedy and Maputo Protocol which have substantive rights which can be directly pertinent to domestic violence cases and levy clear obligation on what the state should do. In addition, symbolic criminalization of domestic violence under the article Criminal Code is manifested by the existence of swath of unregulated acts of domestic violence like psychological, sexual and economical violence; gender neutral design of the article which did not consider the special nature of the crime. Plus the need of multi-disciplinary approach of legal framework has been highlighted in order to comprehensively address the problems of domestic violence.

Furthermore as primary prevention of domestic violence, awareness creation to the general public, law enforcement organs and the judiciary is very necessary. However, lack of training methodology, shortage financial and expert resource, less involvement of civil society

associations in creating awareness are the practical problems faced in addressing legal awareness which is the second component of access to justice.

Coming to the third component of access to justice and evaluating hurdles in accessing remedies, the discretion of the police to initiate investigation, resource constraints in evidence gathering, the usual base of the public prosecutors evidence on the statement of the victim and the absence of special prosecutors unit dealing with women issues at the lower level of public prosecutor's office, high withdrawals of cases to the informal administration of justice/mediation starting from the police to the trial, unavailability of victim support service are the common problems faced in the criminal justice system. Besides lack of enough man power in enforcing custody judgment of the court and absence of strong legal aid provisions up to representing the victim in civil suits are the focal issues in the civil justice system.

4.2. Recommendations

Based on the discussions made under chapter four and the above conclusion the following are possible recommendations for future strategy:

- ✓ Ethiopia should ratify of the Optional Protocol to CEDAW and Maputo Protocol which provides an essential link in the chain of access to justice.
- ✓ Ethiopia is advised to enact a comprehensive domestic violence legislation which comprises criminal provisions with detailed definition of domestic violence and appropriate civil remedies including protection orders.
- ✓ Hawassa City Administration Women and Children Affairs Department should allocate financial and expert resource, device a mechanism of training methodology in order to facilitate training and capacity building for the general public, law enforcement organs and the judiciary
- ✓ Hawassa City Administration Justice Office is advised to cooperate with civil society organizations and Hawassa University in facilitating awareness creation and delivery of victim support services and provision of legal aid service.
- ✓ Hawassa City Administration Justice Office and Women and Children Affairs Department should establish special prosecuting unit on women at lower level of Public Prosecutors Office as well as support women and Children affairs unit of Police with allocation of resource and training the police officers in techniques of investigation and evidence gathering.
- ✓ Hawassa City Administration Police Department should implement the appropriate awareness creation and supervision of community policing to fight domestic violence.
- ✓ Hawassa City Administration Justice Office is advised to propose a law that regulates how domestic violence cases has to be diverted to mediation and a mechanism of checking whether they are in line with international human right standards or not in addressing the rights of women.
- ✓ SNNPR's Supreme Court is advised to strengthen man power of social workers who assist child custody decisions as well as its enforcement.
- ✓ Hawassa City Administration Justice Office is recommended to empower the capacity Law Promulgation and Awareness Unit since they would have great impact in addressing gaps in legal awareness.

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E. Interviews

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- ✓ Interview with Mr. Daniel W/Senbet, EWLA, South Region Branch Office Coordinator, on, Janury 18, 2017.
- ✓ Interview with AnbesieFura, Coordinator of Hawassa University Legal Aid Center, on February 05, 2017.
- ✓ Interview with Mitiku Bacharo, Social Worker at Hawassa City Administration First Instance Court Menaharia Division Bench, on February 12, 2017.
- ✓ Interview with Inspector Dejene, Coordinator of Community Policing Centers at Hawassa City Administration Police Department on January 30, 2017.
- ✓ Interview with Deputy Sajin Eyerusalem Getu from Menaharia Sub-city Police Station, on January 28, 2017.
- ✓ Inspector Getachew Kassa, from Mehal Sub-city Police Station, on January 28, 2017.
- ✓ Interview with Sajin Ribeto Rike, from Tulla Sub City Police Administration, on January 20, 2017.
- ✓ Interview with Main Sajin Mohammed Ali, from Misrak Sub-city Police Station on January 13, 2017.
- ✓ Interview with Sajin Mesfin Taddesse, Hayik Dare Sub-city Police Station, on January 13, 2017.
- ✓ Interview with and Deputy Sajin Eyoel Tsegaye, from Tabor Sub-city Police Station, on January 24, 2017.
- ✓ Interview with deputy inspector Yewebdare Deme from Addis Ketema Sub-city Police Station, on January 20, 2017.

- ✓ Interview with, Commander Yesuf Eshgetu from Bahil Adarash Sub city Police Station, on January 12, 2017.
- ✓ Interview with Widinesh Anato, Public Prosecutor at Menaharia Sub-city, on January 16, 2017.
- ✓ Interview with SimechegnAlemu, Public Prosecutor at Mehal Sub-city, on January 16, 2017.
- ✓ Interview with Genet Shapa, Public Prosecutor at Hayik Dare Sub-city, on January 16, 2017.
- ✓ Interview with Tamene Legesse, Public Prosecutor at Tulla Sub-city, on January 16, 2017.
- ✓ Interview with WondimuWakeyo, Public Prosecutor at Addis Ketema Sub-city, on January 12, 2017.
- ✓ Interview with Hirphato Tsega, Public Prosecutor at Tabor Sub-city, on January 12, 2017.
- ✓ Interview with Mulugeta Gisila, Public Prosecutor at Misirak Sub-city, on Jan 12, 2017.
- ✓ Interview with ShimelesZewede, Public Prosecutor at Bahil Adarash Sub-city, on January 12, 2017.
- ✓ Interview with Belguda Wqato, judge at Hawassa City Administration First Instance Court Misirak and Tabor Division Bench, on January 19, 2017
- ✓ Abebayehu Ayele, judges at Hawassa City Administration First Instance Court Tabor Division Bench, on January 19, 2017.
- ✓ Interview with Tsegaye Teshome, Judge at Hawassa First Instance Court Bahil Adarash Division Bench, on January 23, 2017.
- ✓ Interview with HilinaBirhanu, Judge at Hawassa First Instance Court Misirak Division Bench, on January 23, 2017
- ✓ Interview with Misiganaw Selemon, Judge at Hawassa First Instance Court Menaharia Division Bench, on January 23, 2017
- ✓ Intervie with six respondant victims from February 10-17, 2017.
- ✓ Interview with Mr. AlemayehuTikuneh, Mr.Shiferaw G/Mariam, Mr. Basha Eshete, Mr. Wolgemikael Ambaye and Mr. AyeleTesema community ealdersat Hayik Dar, Adddis Ketema, BahilAdarash, Tulla and Tabor Sub-cities respectively Sub-cities respectively, from February 14-19, 2017.

Annex One

የሀዋሳ ከተማ አስተዳደር የምስራቅ
ከ/ከተማ ፖሊስ ጽ/ቤት
Hawassa City Adm. Police Dept
Miskat Police Station

	ዓ.ም	በባልና ሚስት/እንደ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የቀረበ በቁጥር	በፖሊስ እርት ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰብስቦ ለዓቃቤ ህግ የቀረቡ ጉዳዮች በቁጥር	በዓቃቤ-ህግ በእርት ያለቁ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለዓ/ቤት የቀረቡ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	6	6	7			
2.	2007	8	8				
3.	2008	6	6				

ማጠቃለያ:- ለዝርዝር ክስዎችን የሚያረጋግጥ ህጋዊ
የተለያዩ ልዩነቶች መካከል መካከል
የሚገኝ ግጭት ጉዳዩ ለከተማ
የቀረቡትን ምሳሌዎች ለማሳሰብ ማስታወሻ!!



የሀዋሳ ከተማ አስተዳደር
ከ/ከተማ ፖሊስ ጽ/ቤት
ሞህረት ስም: ለ. ለ. ለ.
Mohammed Ali Boroda
የወጪው ተራፊክ ስም
የርዕሰ ጉዳዩ ስም
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Annex One

የሀገሪቱ ከተማ አስተዳደር
ፖሊስ መምሪያ
የከተማ ፖሊስ አስተዳደር
City Administration Police Dept
Hayk-dar Police Station
Hawassa

ተ.ቁ	ዓ.ም	በባልና ሚስት/እንደ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የቀረበ በቁጥር	በፖሊስ እርቅ ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰጠበት ለዓቃቤ ህግ የቀረቡ ጉዳዮች በቁጥር	በዓቃቤ-ህግ በእርቅ ያለቁ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለፍ/ቤት የቀረቡ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	40	29	12	10	2	-
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3.	2008	21	20	-	-	-	-





በህዋሳ ከተማ አስተዳደር
የአካባቢ ጥበቃና ጥበቃ
ዘርፍ ከተማ አስተዳደር

ተ.ቁ	ዓ.ም	በባልና ሚስት/አንድ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የቀረበ በቁጥር	በፖሊስ እርቅ ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰባስቦ ለዓቃቢ ህግ የቀረቡ ጉዳዮች በቁጥር	በዓቃቢ-ህግ በእርቅ ያለቀ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለፍ/ቤት የቀረቡ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	97	90	7	7	—	—
2.	2007	30	30	—	—	—	—
3.	2008	28	22	6	6	—	—



[Signature]
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 የአካባቢ ጥበቃና ጥበቃ
 የአካባቢ ጥበቃና ጥበቃ

ተ.ቁ	ዓ.ም	በባልና ሚስት/አንድ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የቀረበ በቁጥር	በፖሊስ እርዳታ ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰብስቦ ለዓቃቤ ህግ የቀረቡ ጉዳዮች በቁጥር	በዓቃቤ-ህግ በእርዳታ ያለቁ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለፍ/ቤት የቀረቡ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	120	100	17	16	1	—
2.	2007	152	80	65	60	5	1
3.	2008	70	60	5	5	—	—



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 የፖሊስ ማዕከል


 በሀዋሳ ከተማ አስተዳደር
 ከ/ከተማ ፖሊስ ጽ/ቤት
 Hawassa City Adm. Bahil
 Addis Ababa City Police Office

ተ.ቁ	ዓ.ም	በባልና ሚስት/አንድ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የቀረበ በቁጥር	በፖሊስ እርቅ ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰጠበት ለዓቃቤ ህግ የቀረቡ ጉዳዮች በቁጥር	በዓቃቤ-ህግ በእርቅ ያለቀ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለፍ/ቤት የቀረቡ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	155	75	30	28	2	1
2.	2007	130	73	35	32	3	1
3.	2008	122	82	27	22	5	-




 Commander Yegezu Eshetu
 Addis Ababa City Police Office


 በሀገሪቱ የፍትሕ ሚኒስቴር
 ሀገራዊ አስተዳደር ፖሊስ ማዕከል
 Hawassa City Hawela Tula Sub City
 Administration Police Office

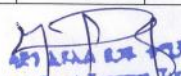
ተ.ቁ	ዓ.ም	በባልና ሚስት/አንድ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የተረበ በቁጥር	በፖሊስ እርቅ ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰብስቦ ለዓቃቤ ህግ የተረበ ጉዳዮች በቁጥር	በዓቃቤ-ህግ በእርቅ ያለቁ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለፍ/ቤት የተረበ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	449	850	40	35	5	1
2.	2007	446	300	54	48	6	1
3.	2008	340	310	10	10	—	—


 በሀገሪቱ የፍትሕ ሚኒስቴር
 ሀገራዊ አስተዳደር ፖሊስ ማዕከል
 Hawassa City Hawela Tula Sub City
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 የፍትሕ ሚኒስቴር
 ሀገራዊ አስተዳደር ፖሊስ ማዕከል
 Hawassa City Hawela Tula Sub City
 Administration Police Office


 በ.የዋሳ ከተማ አስተዳደር የፖሊስ
 ከፍላ ከተማ ፖሊስ አ/ቤ.
 Hawassa City Police Office

ተ.ቁ	ዓ.ም	በባልና ሚስት/አንድ ባልና ሚስት በሚኖሩ ጥንዶች መካከል በተፈጠረ ግጭት የደረሰ የቤት ውስጥ ጥቃት ለፖሊስ ማመልከቻ የቀረበ በቁጥር	በፖሊስ እርቅ ተፈጥሮ ጉዳዩ ያለቀ በቁጥር	ማስረጃ ተሰብስቦ ለዓቃቤ ህግ የቀረበ ጉዳዮች በቁጥር	በዓቃቤ-ህግ በእርቅ ያለቁ ጉዳዮች በቁጥር	ክስ ተመስርቶ ለፍ/ቤት የቀረበ ጉዳዮች በቁጥር	ውሳኔ የተሰጠባቸው ጉዳዮች በቁጥር
1.	2006	553	430	47	40	7	2
2.	2007	451	325	52	48	4	1
3.	2008	480	280	44	37	7	1




 Sergeant General Temesgen Demichele
 የፖሊስ ክፍል ተቀባይ
 አዲስ አበባ

Annex Two

Interview Questions

First of all I would like to thank you for taking your precious time to have this interview with me. My name is Bethlehem Metaferia and I am a second year L.L.M student at Addis Ababa University. I have been studying Human Rights for the past two years in the Post Graduate Program of the University and now I am conducting a thesis titled ‘‘Domestic Violence and Gaps in Access to Justice at Hawassa City.’’

Any information gathered from your answers to the following questions will be used for academic purposes and for the victim respondents the analysis of the data will be done anonymously.

Thank you for your support.

Consent

A. Police Officers

1. Are there specialized units of officers dedicated to crimes of domestic violence?
2. Did you get any special training on issues of domestic violence when you were selected to be the member of this unit?
3. Does your unit have special budget to attain the goal of your establishment? If there is any is it enough?
4. When was the last time you have received awareness raising training about domestic violence?
5. Did you take any courses concerning domestic violence while you were taking your police training? If there is explain?
6. Take me through the process you undertake when a women claims to be victim of domestic violence and filed her complaint to you?
7. What are the recurrent challenges you face during investigation?
8. Do officers follow a published protocol, or plan of action, for domestic violence response?
9. How do you make sure the victim is comfortable enough before taking statement?
10. Do investigators respond to reports of domestic violence in a timely fashion?
11. Is the victim kept informed about the progress of their case, and the likely timeframe of any criminal matter arising from it?

12. Do investigators have access to all resources and tools necessarily to thoroughly document and gather evidence from a domestic violence crime scene? When it is necessary for an officer to document injuries or evidence on or about a victim's person, what procedures are in place to ensure that this is a respectful, minimally traumatic and consensual process?
13. What are the usual types of evidence that needs to be gathered in domestic violence cases?
14. Is there any other evidence which would help to assist police in developing the case which doesn't depend on the victim's statement?
15. Do you use photograph to gather evidence?
16. Do you consider children as a witness in domestic violence cases? Why or why not?
17. Are there crisis support group who provide counseling service to victims of domestic violence or shelters who can provide support for a transitional period?
18. Are members of police held responsible for the quality of work related to domestic violence response?
19. Do officers engage in trainings or regular meetings with other domestic violence service providers and collaborate with other government or civil society partners in developing a strategy for domestic violence response
20. What do you think serves in delivering effective and applicable remedies for victims of domestic violence?

B. For public prosecutors

1. When was the last time you take any awareness training concerning domestic violence?
2. What is the common practical problem in initiating criminal charge in cases of domestic violence?
3. What are the common challenges faced during production of evidence to the court/
4. What comes after the case is withdrawn by the victim?
5. Are there any alternative solutions made to continue prosecution of cases after the victim withdraws her complaint?
6. What happens to cases which were neither charged nor reach the court room?
7. In their response to incidents of domestic violence, what do members of law enforcement do in order to ensure women feel respected and treated as equal to men throughout the reporting and follow up stages?

C. For Judges

1. What is the common challenge in analyzing evidence in giving judgment in criminal cases involving domestic violence?
2. What kinds of domestic violence cases are allowed to be diverted to the informal judicial system such as mediation?
3. What is your legal base/inertia in diverting domestic violence cases which are already in the trail of criminal bench?
4. Is there mechanism of checking the decision given by mediation?
5. What is the impact of domestic violence in civil proceedings about proceeding?

D. For women and children Affairs Office

1. Does law enforcement take part in community outreach programs that condemn forms of domestic violence?
2. What are the modalities you implement in order to address awareness creation concerning the legal protection and the avenues that one should go to receive the available remedies?
3. What is the main issue in addressing awareness creation programs for the general public and for law enforcement organs and the judiciary?
4. How do you evaluate whether there is attitudinal change among the trainees?

E. For Legal Aid Centers

Hawassa University: What is the coverage of legal aid that you are providing?

EWLA: What is the level of your involvement in creating awareness on the issue of GBV in general and domestic violence to the general public and to the concerned stakeholder?

What is the coverage of legal aid service you are providing?

F. For the Victims

1. What problem you faced while you applied your case to police?
2. What was the first response you faced in submitting your compliance to the police?
3. Did the police investigate your case seriously?
4. If you faced the same problem would you go to police to complain again?
5. Did you receive remedy by going through police sponsored reconciliation?
6. Did you receive remedy by going through public prosecutor sponsored reconciliation?
7. Did you receive remedy by going through shimagele sponsored reconciliation?
8. If they apply for divorce did you include compensation for damage you incurred?
9. Did you get legal aid while you when you take your case to the civil court?

G. To community Elders (shimageles)

1. Do have any opportunity of awareness training venues concerning the horrors of domestic violence and its negative consequences through radio, television, or any other means?
2. Is there any compensation given for the victims while you reconcile the issue between couples?
3. Do you think it is normal for a husband to hit his wife?
4. What is the common procedure in mediating dispute in cases of domestic violence?
5. How often you receive a request to mediate such cases?

Phone Interview question to Mr. Sisay, concerning the status of the study that was planned to be taken by the second National Human Right Action Plan to ratify Maputo Protocol.