

Addis Ababa University
School of Graduate Studies
Faculty of Law

**The Role of Law Enforcement Agencies in
Combating Gender-based Violence in
East Gojjam Zone**

By: - Azmera Kassahun

Advisor: - Dr.Emezat Mengesha(LLB,LLM, PHD)

**A Thesis Submitted in Partial Fulfillment for the Degree of Master of
Laws in Human Rights, Addis Ababa University Faculty of Law.**

December 2010

Addis Ababa Ethiopia

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December 30, 2010

Azmera Kassahun

List of Abbreviations

AIDS	Acute Immunity-Deficiency Syndrome
AU	African Union
CR	Criminal Record
CSA	Central Statistical Agency
CEDAW	Convention Elimination of All Forms of Discrimination Against Women
DEVAW	Declaration on the Elimination of Violence Against Women
FGM	Female Genital Mutilation
GBV	Gender-based Violence
HIV	Human Immunity Virus
HTPs	Harmful Traditional Practices
NCTP	National Committee on Traditional Practices
NGO	Non-governmental Organization
OAU	Organization of African Unity
SNNPR	Southern Nations Nationalities and Peoples Regional State
STI	Sexually Transmitted Infections
UN	United Nations
UNDP	United Nations Development Program
UNGA	United Nations General Assembly
WHO	World Health Organization

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Chapter One

Introduction

1.1 Background

Gender-based violence is a severe human rights violation that affects women and girls disproportionately. It goes against the right to life, the right to liberty, and security of person, the right to be free from torture, the right to health, etc. It is also one of the root-causes for the persistence of gender inequality between women and men. Even though GBV could affect both women and men, it is important not to obscure the reality that, women and girls constitute the vast majority of GBV victims, and the men the majority of the perpetrators.¹

Gender-based violence occurs in all societies and at all stages of a woman's life-cycle though the range differs. For instance, it can occur before a girl is even born, as with sex-selective abortion in northern India, and continue to menace women in old age, as with elder abuse in industrialized countries.² The 1994 United Nations Development Programme (UNDP) Human Development Report also reaffirmed this fact stating:

"In no society are women secure or treated equally to men. Personal insecurity shadows them from cradle to grave. In the household, they are the last to eat. At school, they are the last to be educated. At work, they are the last to be hired and the first to be fired.....and from childhood through adulthood, they are abused because of their gender."³

By recognizing gender-based violence as a human right issue and not merely a question of criminal justice or family law, various efforts have been made to address the many forms of violence against woman at the international level. The work of the committee on

¹Geraldine Terry and Joanna Hoare(ed), *Gender-Based Violence*, (UK, Oxfam GB, 2007), P. XV .

² Id.

³ UNDP, Human Development Report, (New York, Oxford University Press, UK, 1994) P.31.

Elimination of All Forms of Discrimination Against Women (CEDAW), the adoption of the Declaration on the Elimination of Violence by the UN General Assembly and the appointment of a Special Rapporteur on Violence Against Women by the UN Commission on Human Rights are the most notable ones.

Despite the omission of the term “Gender-based violence” in CEDAW, the Committee has consistently required states to provide information on the different measures adopted to address the various forms of violence against women and gave concluding comments on individual state reports.⁴ Moreover, in 1989, it adopted General Recommendation No.12 to address issues of gender-based violence which was later amended by General Recommendation No.19 in 1992. On the other hand, the Special Rapporteur responds to complaints by traveling to particular countries and investigate charges of abuse and writes reports to the Human Rights Commission. The UN also organized a series of global conferences such as the Mexico City (1975), the Copenhagen (1980), the Nairobi (1985) and Beijing (1995) Conferences that produced major policy documents that proscribe gender-based violence. However, in spite of all these efforts at the international level, the violence against women persists.

At the national level also, the criminal code criminalizes some form of violence like rape, domestic violence, abduction, trafficking etc. and provide for punishments. For instance, Chapter III of the code exclusively deals with harmful traditional practice. The provisions in this chapter (Article 561-570) prohibit endangering the lives of women and causing bodily injury to women as a result of the application of the harmful traditional practice. On the other hand, as provided under Article 587 abduction of women entails rigorous imprisonment from 3 years to 10 years. Moreover, rape (Article 620), domestic violence (Article 564) and trafficking (Article 597 and 635) are provided as criminal acts with punishments. Yet, it is very common to hear cases of violence against women in both urban and rural areas of the country.

⁴ Boogie S N Khutsoane, “Gender-based Violence and the Convention on the Elimination of All Forms of Violence Against Women,” in Center For Human Rights, *Gender Based Violence In Africa: Perspectives From The Continent*, (South Africa University of Pretoria, 2008), P.4.

If laws are not put into effect by law enforcement agencies, having very impressive legislations is meaningless. Thus, this research focuses on assessing the role of enforcement agencies particularly, the police, public prosecutors and judges in combating Gender-based Violence by taking four woredas namely Hulet eju enese, Goncha siso enese, Enebse sar meder and Mota keftma astedader of the EastGojjam Zone.

1.2 Statement of the Problem

The police, public prosecutors and judges are the main enforcement agencies regarding criminal law. The role of these law enforcement agencies becomes more critical when it comes to crimes that involve violence against women because of the particular features of such cases. It is in the nature the issue of violence against women to be hidden, to be silenced, and to be encircled by fear, shame, and violence.⁵

Therefore, the police and the public prosecutors need to be more sensitive in handling such cases so that the victims of the violations are encouraged to lodge complaints. Moreover, the judges beyond strictly applying the law should take in to consideration the special nature of crimes that fall under GBV in weighting evidence and hearing cases. However, it is quite common for police, prosecutors and judges to react in a hostile, belittling, or otherwise unhelpful manner to victims of gender-based violence since they share community attitudes about masculinity, sexuality, the status of women etc. This in turn bars victims of violence from claiming their rights since vulnerable individuals' willingness to adopt a right frame work depends in part on the way these institutions respond to their claim. If their claims are treated as unimportant, unreasonable, or insignificant, they are less likely to take a right approach to their problem.⁶ Thus, the role of law enforcement agencies has a great impact on the eradication on gender-based violence against women. This research assess whether law enforcement agencies in the four woredas of East Gojjam Zone are contributing their part in bringing GBV to an end. The main research questions that are dealt under the research are,

⁵ Francine Pickup, *Ending Violence Against Women; A Challenge for Development and Humanitarian Work*, (UK, Oxfam GB, 2001), P.Xi.

⁶ Sally Engle Merry, *Human Rights and Gender Violence; Translating International Law in to Local Justice*, (USA, the University of Chicago Press, 2006), P.215.

- Are the enforcement agencies particularly the police, public prosecutors and judges in the research areas enforcing the criminal law properly?
- How do they handle cases of GBV?
- What challenges are encountered in handling cases involving violence against women?

1.3 Objectives of the Study

1.3.1 General Objective

The main objective of the study is examining whether law enforcement agencies in the four woredas of East Gojjam Zone are playing their expected role in handling cases that fall under gender-based violence.

1.3.2 Specific Objectives

The specific objectives of the study are,

- To examine the concept of gender based violence and other related concepts
- To assess the existing international human rights framework on gender-based violence Against Women
- To inspect the national legal framework particularly the criminal code on gender-based violence
- To review how the police officers entertain complaints involving GBV
- To evaluate the practice of public prosecutors in framing charges involving GBV
- To examine how the judges are applying the laws on gender based violence
- To identify major challenges faced by law enforcement agencies in the woredas in entertaining cases of GBV

1.4 Research Methodologies

In undertaking the research, the following methods and techniques were used.

- Examination of the relevant literatures and laws
- Survey (Interviews with police officers, public Prosecutors and judges)

- Examination of relevant court cases
- On site observations in police stations, public prosecutor's offices and courts.

1.5 Significance of the study

The findings of this research are expected to contribute for the better enforcement of the criminal law on gender-based violence in the woredas covered under the study as well as in other localities. By identifying the major gaps seen between the law and the practice, it will help the concerned bodies to take measures in strengthening the law enforcement agencies to play their role in eradicating GBV. This in-turn would benefit women at large since it creates an environment where they can claim their rights and get remedies.

1.6 Scope and Limitations of the Study

The study mainly focuses on Eastern Gojjam Zone particularly on the four Woredas of the Zone namely on Hulet eju enese, Goncha siso enese, Enebse sar meder and Mota ketma astedader woredas. Even if an attempt was made to include other woredas of the Zone, it was not possible due to time and resource restraints. Thus, the findings of the study may not be representatives of the entire Zone. However, they may give some idea on how the criminal law is being enforced also in the other woredas not covered in the study because of demographic and geographical similarities.

The study deals with only the enforcement of the criminal law provisions on GBV. It does not consider the implementation of other national laws on GBV.

1.7 Organization of the study

The study is divided in to four sections. The first part is introduction comprising the background, statement of the problem, objectives of the study, research methodologies, significance of the study, scope and limitations of the study and organizations of the study.

In the second section, conceptual analysis of Gender-based violence will be presented. The meaning and nature of GBV, the various forms of GBV, causes and consequences of GBV are some of the issues that will be dealt with under this section.

The third section focuses on the international human right framework as well as the national legal framework on GBV particularly the criminal law.

The final section is all about the practice. How the police, public prosecutors and judges in the four woredas of East Gojjam zone are dealing with cases involving violence against women is evaluated. Moreover, the main gaps evidenced between the law and the practice were analyzed. And finally conclusion and recommendation is provided.

Chapter Two

Meaning and Nature of Gender-Based Violence

2.1 Definition of Gender-based Violence

Gender-based violence (GBV) is the general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society.¹ Men and women are accorded differential roles, responsibilities, and opportunities in a society. Although there are variations across cultures, the roles, attributes and conducts that a society assigns for men are more favourable than women. Masculinity is often associated with characteristics such as aggressiveness, competitiveness, dominance, strength, courage and control. Femininity is, on the other hand, associated with weakness, gentleness, tolerance, passivity and emotion.² Violence is rooted in these traditional beliefs, norms and values (gender arrangements) which put women in a subordinate status.

Violence acts as mechanism to create, manifest, defend or reinforce the unfair hierarchies. The victims are selected merely because of their gender, for being a woman or a girl. The expression 'gender-based violence' highlights such a strong link between being a woman and violence. This does not mean that man and boys cannot be the target of GBV or women do not commit gender-based violence against men, or against other women. But to affirm the fact that women and girls are usually the victims while men are often the perpetrators.³

Even though GBV is an international phenomenon that cuts across any racial, ethnic, class, economic, religious, and cultural divides, there is no internationally binding

¹ Shelah S.Bloom, *Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators*, (Carolina Carolina Population Center, 2008) P.14.

² What is Gender-Based Violence? available at www1.edu/humanarts/svaw/advocacy/.../what_is_GBV.pdf accessed on July 2010.

³ Geraldine Terry and Joanna Hoare(ed), *Gender-Based Violence*, (UK, Oxfam GB, 2007), P. XIV.

instrument which defines it. In many literatures, the definition usually given to gender-based violence is that of violence against women as provided in the Declaration on the Elimination of Violence Against Women (DEVAW) and the Beijing Declaration and Platform for Action. The declarations defines violence against women 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 deprivations of liberty, whether occurring in public or private life."⁴

However, such a definition seems to exclude violence perpetrated against men. Though it is women and girls that suffer the most as a result of violence, men and boys can also be victims of GBV. For example, homosexuality in many communities is considered a deviation from the expectations of how men should behave and men who have sex with men in these communities experience everything from discrimination in the health and legal sectors to physical attacks in the community because they are deviating from expectations around masculinity.⁵ The GBV encompasses such violence that can be perpetrated against male because of his gender and expectations of his role in a society or culture. The United Nations Population Fund (UNFPA) Gender Theme Group formulated a definition of GBV which recognizes these conceptual underpinnings when it defined gender-based violence in the following terms.

"Gender-based violence is violence involving men and women, in which the female is usually the victim and which is derived from unequal power relationships between men and women. Violence is directed specifically against a woman because she is a woman, or affects women disproportionately. It includes, but is not limited to, physical, sexual and psychological harm (including intimidation, suffering, coercion, and/or deprivation of liberty within the family or

⁴ Article 1 of United Nations Declaration on the Elimination of Violence Against Women, UN General Assembly, 13 December 1993 and Para 114 of the Beijing Declaration and Platform For Action, 15 September 1995.

⁵ Shelah S.Bloom, Supra note 1.

within the general community). It includes that violence which is perpetrated or condoned by the State.”⁶

As it could be understood from the definition, gender-based violence involves the use of force or coercion, physical or psychological, to maintain the gender hierarchies in society. The definition also recognizes the different settings under which violence could be directed against a person i.e. the family, community and the state.

There are groups of people who have difficulty with the term ‘gender-based violence’. For them, the use of this phrase implies that there are some types of violence that are not rooted in gendered power relations, whereas they argue that all violence is in fact gendered.⁷ Nonetheless, such assertion is inaccurate because there are acts of violence which has nothing to do with gender. Every violent act a woman could experience may not necessarily be gender-based. For the violence to fall under GBV, it should be rooted in prescribed behavior, norms and attitudes based upon gender.

As discussed above, GBV is not only about women or girls but also affects men and boys. Yet, in this thesis the focus is on GBV which is perpetrated against women. The definition that would be used is the one adopted by the Committee on the Elimination of All Forms of Discrimination Against Women which states,

“Gender-based violence against women is violence that is directed against a woman because she is a woman, or violence that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”⁸

⁶ United Nations Population Fund (UNFPA), *Reproductive Health Effects of Gender-based Violence: Policy and Programme Implication*, (New York, 1998), P.5.

⁷ Geraldine Terry and Joanna Hoare(ed) Supra note 3 at XV.

⁸ Committee on the Elimination of Discrimination Against Women, General Recommendation No.19, Para 7, 1992.

2.2 Forms of Gender-based violence

Gender-based violence takes diverse forms and occurs in various settings. Some forms of GBV, for instance, sexual violence and domestic violence, occur in all cultures and all countries, although they are more common in some societies than in others, whereas others such as dowry-related murders or female genital mutilation are specific to particular cultures.⁹

Furthermore, some forms of violence may grow in importance while others diminish as societies undergo demographic changes like migration, economic restructuring and social and cultural shifts.¹⁰ For example, the harmful traditional practice of binding of Chinese women's feet has long been abandoned while a new form of violence, property grabbing, seems to have risen up recently, or at least increased frequently in Southern and East Africa.¹¹ In light of the above, one can see that it is difficult to list out all forms of violence exhaustively.

DEVAW and the Beijing Platform for Action has categorized the various forms of violence into three depending upon the setting or place where they occur. These are Family Violence, Community Violence and State Violence. In the next section, the forms and types of violence will be discussed by adopting this categorization.

2.2.1 Family Violence

Family is believed to be a safe place where human beings give and receive love and affection. However, in reality, it is one of the institutions where girls and women experience the worst forms of Physical, sexual and psychological violence. For many, 'home' is where they face a regime of terror and violence at the hands of somebody close

⁹ Geraldine Terry and Joanna Hoare, *Supra* note 7.

¹⁰ United Nations, *In-depth Study on All Forms of Violence Against Women*, Report of the Secretary-General, A/61/122/Add.1, 6 July 2006, Para 105 available at <http://www.un.org/womenwatch/daw/vaw/violenceagainstwomestudydoc.pdf> accessed on July 2010.

¹¹ Geraldine Terry and Joanna Hoare, *Supra* note 7.

to them – somebody they should be able to trust.¹² Radhika Coomaraswamy, the previous UN Special Rapporteur on violence against women, states in her preliminary report,

“The institution of family is...an arena where historical, power relations are often played out. On the one hand, the family can be the source of positive nurturing and caring values where individuals bond through mutual self-respect and love. On the other hand, it can be a social institution where labour is exploited, where male sexual power is violently expressed, and where a certain type of socialization disempowers women.”¹³

Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power – husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives.¹⁴ The commonly identified forms of family violence include battery, marital rape, sexual violence, incest, dowry-related violence, female infanticide, sexual abuse of female children in the household, female genital mutilation/cutting and other traditional practices harmful to women, early marriage, forced marriage, non-spousal violence, violence perpetrated against domestic workers and other forms of exploitation and deprivation of freedom.

Among these, intimate partner violence which is instigated by a male partner or a husband is the most prevalent one. According to a recent multi-country study by the World Health Organization (WHO) which covered 15 sites and 10 countries (Bangladesh, Brazil, Ethiopia, Japan, Namibia, Peru, Samoa, the former Serbia and Montenegro, Thailand and the United Republic of Tanzania) and 24, 000 women, at least half of all women in Bangladesh, Ethiopia, Peru, Samoa, and the United Republic of Tanzania had

¹² Sushma Kapoor, *Domestic Violence Against Women and Girls*, Innocenti Digest No.6, (Florence, UNICEF, June 2000), P.1.

¹³ Radhika Coomaraswamy, *Preliminary Report submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences to the Human Rights Commission*, E/CN.4/1995/42, November 1995, Para 54.

¹⁴ Sushma Kapoor, *Supra* note 12 at 3.

experienced this kind of violence since the age of 15.¹⁵ Intimate partner violence is manifested through physical abuse, sexual abuse, psychological abuse and economic abuse.

Physical violence is the intentional use of physical force for causing injury, harm, disability or death of women.¹⁶ It includes slapping, punching, pushing, kicking, cutting, burning, choking, and threatening with a weapon to being murdered. According to the WHO multi-country study, the lifetime prevalence of physical violence by a current or former partners ranged from 13% (Japan) to 61% (Peru), with most sites falling between 23% and 49% and between 3% (Namibia) and 29% (Ethiopia) of women reported violence within the year before the interview.¹⁷

Sexual violence is related with abusive sexual contact, making a woman engage in a sexual act without her consent, and attempted or completed sex acts with a woman who is ill, disabled, under pressure or under the influence of alcohol or other drugs.¹⁸ It includes coerced sex through threats, intimidation or physical force, forcing unwanted sexual acts that are degrading and humiliating) etc. The range of reported lifetime prevalence of sexual violence by partners as per the WHO study was between 6% (city sites in Japan, and Serbia and Montenegro) and 59% (Ethiopia province), with most sites falling between 10% and 50%.¹⁹ Sexual violence is usually preceded or followed by physical violence. Hence, there is high possibility for women to experience both sexual violence and physical violence at the same time. For example, a study from León, Nicaragua found that nearly all women who reported sexual violence had also experienced physical violence.²⁰ Yet, the prevalence of sexual violence does not always correspond to that of physical violence. In Ethiopia province, Bangladesh province and Thailand city, women

¹⁵ Claudia Garcia-Moreno, *Multi-Country Study on Women's Health and Domestic Violence Against Women: Initial Results on Prevalence, Health, Outcomes, and Women's Responses*, (Geneva, World Health Organization (WHO), 2005), P.84.

¹⁶ Ethiopian Women Lawyers Association, 'Nationwide Survey on Domestic Violence', in *Berchi*, Annual Journal, (Addis Ababa, Issue 7, 2008), P. 14.

¹⁷ Claudia Garcia-Moreno, *Supra* note 15 at 28.

¹⁸ UN, *Supra* note 10 Para 113.

¹⁹ Claudia Garcia-Moreno, *Supra* note 17.

²⁰ Ellesberg, Mary et al, *Candies in Hell: Women's Experience of Violence in Nicaragua*, (Sweden, Umea University, 2000), P.11.

report more sexual violence than physical violence, whereas in all other sites, sexual violence is considerably less prevalent than physical violence.²¹

Psychological or emotional violence includes behaviour that is intended to intimidate and persecute women, and takes the form of insult, belittling, threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation, verbal aggression and constant humiliation.²² In the WHO study, between 20% and 75% of women had experienced one or more of the following emotionally abusive acts: being insulted or made to feel bad about oneself; being humiliated or belittled in front of others; being intimidated or scared on purpose (for example, by a partner yelling and smashing things); and being threatened with harm (either directly or in the form of a threat to hurt someone the respondent cared about).²³ Ethiopia and Peru have scored the highest rates, 75% and 68% respectively.

Economic violence involves acts that aim at disempowering women by denying them access to and control over basic resources needed for physical and Psychological well-being. For example, denial of funds, refusal to contribute financially, denial of food and basic needs, and controlling access to health care, employment, etc.²⁴

As it could be understood from the above discussion, intimate partner violence is widespread and common form of domestic violence. The prevalence rate is most likely to be higher than the above figures because of under reporting. Women are often reluctant to disclose experiences of physical or sexual violence due to shame or fear of reprisals.²⁵

²¹ Claudia Garcia-Moreno, *Supra* note 15 at 29.

²² Sushma Kapoor, *Supra* Note 12 at 2.

²³ Claudia Garcia-Moreno, *Supra* note 15 at 35.

²⁴ *Id.*

²⁵ Koss, M.P, 'Detecting the Scope of Rape: A Review of Prevalence Research Methods', *Journal of Interpersonal Violence* 8(2), 1993, as cited in Sarah Bott et al as cited in Sarah Bott et al, *Preventing and Responding to Gender-based Violence in Middle and Low Income Countries: A Multi-sectoral Literature Review and Analysis*, (2004), P.11.

2.2.2 Community Violence

These types of violence occur outside the household in the general community. Physical, sexual and psychological violence can be a daily feature of women's interactions in their neighborhoods, on public transport, in workplaces, schools, sports clubs, colleges and hospitals, and in religious and other social institutions.²⁶ Community violence includes trafficking in women, femicide(selective killing of women), forced prostitution, sexual harassment and intimidation in school or at work place, non-partner violence etc. Moreover, those types of family violence such as harmful traditional practices listed earlier could be considered as community violence if they are committed by individuals outside family members or relatives.

Trafficking in girls and women is one form of violence that affects all regions and most countries of the world directly or indirectly. 66% of those trafficked are women and 13% are girls.²⁷ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime defines Trafficking in persons as:

*"...the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs"*²⁸

The majority of the victims of human trafficking are women and many are trafficked for purposes of sexual exploitation due to high demand for sexual services of women and

²⁶ UN, Supra note 10 at 40.

²⁷ UNODC, Global Report on Trafficking in Persons, 2009, available at http://www.unodc.org/documents/Global_Report_on_TIP.pdf accessed on June 2010.

²⁸ General Assembly Resolution 55/25, Article 3(a).

girls.²⁹ Many trafficked women face rape and sexual abuse which takes place in a formal way as a result of working in the sex industry, or in an informal way as a result of their powerlessness and vulnerability to abuse by male employers in households or sweatshops.³⁰

Non-partner violence particularly sexual violence is another common form of violence women face within the general community though it may not be as prevalent as intimate partner violence. It is usually instigated by neighbors, acquaintances, colleagues or total strangers. According to the WHO multi-country study, the range of women who had suffered sexual violence by non-partners after the age of 15 varied from 3 % in Ethiopia and Bangladesh to between 10 and 12 % in Peru, Samoa and the United Republic of Tanzania.³¹

2.2.3 State Violence

It is a type of violence perpetrated by state actors or state agents, such as the police, members of the armed force, and other officials working in government offices. One of the manifestations of state violence is adoption of policies which constitute physical, sexual, and psychological violence to women. It includes policies on forced sterilization, virginity testing, forced pregnancy, forced abortion etc. For example, the Peruvian government imposed sterilization quotas from 1996 to 1998 that led many women to be sterilized without their informed consent and girls are forced to undergo a virginity test if they are victims-of sexual assault or if they want to do special training or certain jobs in countries such as Afghanistan, India and South Africa.³² Recently, virginity testing is seen as a way to curb women's sexual activity before marriage and, therefore, as a means of combating the HIV/AIDS epidemic – this is particularly common in Africa.³³

²⁹ UN, *Supra* note 10 at 43.

³⁰ Francine Pickup et al, “*Ending Violence Against Women, A Challenge for Development and Humanitarian Work*”, (UK, Oxfam GB, 2001), P.87.

³¹ Claudia Garcia-Moreno, *Supra* note 15 at 35.

³² Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), *Strengthening Women’s Right, Ending violence Against Women and Girls-Protecting Human Rights*, available at <http://www2.gtz.de/dokumente/bib/05-1048.pdf>, accessed on April 2010.

³³ *Id.*

Custodial abuse is another form of state violence. Incarcerated or imprisoned women in many countries face sexual and physical abuse and pervasive privacy violations by prison guards or police officers.³⁴ For example, according to the Human Rights Watch Report, more than 70 percent of Pakistanis women in police custody experience physical abuse, including sexual abuse, at the hands of their jailers.³⁵ Even in countries like USA where there is relatively better protection of women's rights, custodial abuses are common. The abuses include forced vaginal, anal, and oral sex, inappropriate sexual touching and fondling, beatings, excessive pat-downs and strip searches, and the use of vulgar, sexualized language etc.³⁶ The violence usually endures throughout the incarceration period because of underreporting in fear of further abuse or retaliation.

The most prevalent form of state violence is committed during armed conflicts, both international and non-international. Violence is used by both or all warring parties to humiliate, dominate, terrorize, punish and disperse the enemy.³⁷ The Democratic Republic of Congo, Rwanda, Kosovo, Somalia, Sudan, Afghanistan, Burundi, Chad, Colombia, Côte d'Ivoire, Liberia, Peru, Sierra Leone, Chechnya/Russian Federation, Darfur (Sudan), northern Uganda and the former Yugoslavia are some of the conflict areas where high rates of violence against women were reported. Rape is the common form of violence though abductions, maiming and mutilation, sexual slavery, involuntary disappearance, arbitrary detention, forced marriage, forced prostitution, have also been reported. It is estimated that between 250,000 and 500,000 women were raped during the 1994 genocide in Rwanda; between 20,000 and 50,000 women were raped in Bosnia during the conflict in the early 1990s, and around 200,000 women and girls were raped during the armed conflict in Bangladesh in 1971.³⁸ Rape has been deployed as a tactical weapon to terrorize civilian communities or to achieve "ethnic cleansing", a tool in

³⁴ Dorothy Q. Thomas and Robin S. Levi, 'Common Abuses Against Women', in Kelly D. Askin and Dorean M. Koenig, (ed), *Women and International Human Rights Law*, (Vol. 1, New York, Transnational Publishers, INC, 1999), P.154.

³⁵ Human Rights Watch, *Global Report on Women's Human Rights*, (USA, 1995), P.148.

³⁶ Dorothy Q. Thomas and Robin S. Levi, Supra note 34.

³⁷ Inter Press Service, *Reporting Gender Based Violence: A Handbook for Journalists*, (Johannesburg, 2009), P.41.

³⁸ NGO Working Group on Women, Peace and Security, Fact Sheet on Women and Armed Conflict, available at <http://www.iwgc.org/212.html> accessed on June 2010.

enforcing hostile occupations, and a means of conquering or seeking revenge against the enemy, and a means of payment for mercenary soldiers.³⁹

The Rape and other forms of sexual and physical abuse continue during flight and outside and inside displaced peoples' camps. Often women and children are forced to flee without male family members, resulting in increased vulnerability to gender-based violence as they are isolated and without traditional protections.⁴⁰ They are forced to assume traditional male roles like taking care of the family that puts them at risk of harm. In the recent Darfur conflict, millions of girls and women were raped when they went outside the camps to search for firewood and water.⁴¹ Since, they may have to go far away from the protected areas they will be targeted by the military personnel. In August 2006, the International Rescue Committee (IRC) reported 200 assaults in a five-week period from a single camp.⁴²

2.3 Causes of Gender-Based Violence

Many reasons have been forwarded to explain why gender-based violence against women occurs. Some explanations focus on the perpetrators such as a history of violence in the perpetrator's family of origin (including intimate partner violence and child abuse), male alcohol use male personality disorders etc. It is argued that boys and girls who watch their fathers abuse their mothers learn and are at risk of internalizing and perpetuating like behaviour.⁴³ Similarly, those who have been abused in their childhood will resort to violence during adulthood. However, these psychological explanations have been challenged. There is no direct proof that if one sees or experiences violence as a child, one will in turn abuse others. Girls are three to six times more likely to experience sexual

³⁹ Human Rights Watch, *Supra* note 34 at 1.

⁴⁰ Judy A. Benjamin and Lynn Murchison, *Gender-Based Violence: Care & Protection of Children in Emergencies*, (Save the Children Inc., 2004), P.5.

⁴¹ Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, (Geneva, 25 January 2005), P.91.

⁴² International Rescue Committee Media Alert, 'Increased Sexual Assaults signal Darfur's Downward Slide available at www.theirc.org/news/latest/increased-sexual-assaults.html accessed on June 2010

⁴³ The Common Wealth Secretariat, *Integrated Approaches to Eliminating Gender Based Violence*, (London, 2003), P.8.

abuse than boys, yet the vast majority of sexual abuse is perpetrated by male not female adults.⁴⁴

Experiences of external factors such as conflict, rapid economic or political change are seen by some as the causes of gender-based violence. It is true that existing rates of violence against women often increases during times of social instability, and that new patterns of abuse can be triggered.⁴⁵ During and after wars, for example, domestic violence may increase among refugees and internally displaced persons as a way for men to express their feelings of frustration and powerlessness.⁴⁶

Poverty is another factor that increases the vulnerability of women to violence. In many countries, women lack access to education, employment, or other economic resources such as land, credit, personal property which compels them to live in poverty. To ensure their own survival and that of their families they have to develop other income-generating strategies that make them vulnerable to violence.

Furthermore, Poverty narrows the choices of women to escape from violence. In the home, constraints on women's ability to make independent decisions and control resources, including their own labour, mean that they face severe obstacle to challenging violence from a husband or other family member.⁴⁷ They cannot afford to leave abusive relationships and live independently. Neither can they return back to their families due to socio-economic reasons that put them in the relationship in the first place. Accordingly, they endure in the violent environment.

Even though all the above factors associated with individual pathologies or psychological problems and external environmental factors play a great role in enhancing the vulnerability of girls and women, they are not considered to be direct causes of violence

⁴⁴ Francine Pickup et al, Supra note 30 at 18.

⁴⁵ Id at 19.

⁴⁶ The Common Wealth Secretariat, Supra note 43.

⁴⁷ Francine Pickup et al, Supra note 44.

but are instead thought to act as associated factors, trigger mechanisms, symptoms or manifestations.

The underlying cause of the problem is found to be the imbalance of power between women and men and the way in which gender roles are articulated at all levels of the society.⁴⁸ Thus, in the following section, the unequal power relation between men and women from which all forms of violence stems will be discussed.

2.3.1 Unequal Power Relations

Most gender orders around the world privilege men and disadvantage women.⁴⁹ The causes of violence against women are considered to be rooted in these inequalities and hierarchies. Violence against women and girls is used as a means of controlling and curbing women's autonomy and sexual behavior, and is perpetuated by gender norms that mediate expectations regarding the roles women and men are supposed to play in the family, community and society at large.⁵⁰ There are particularly two aspects of men's gender norms that make men violent towards women; Men's sense of "entitlement" to certain privileges over women and the second concerns some of the most common masculine norms, i.e. the widely accepted ways men are supposed to behave and the specific roles they are expected to fulfill.⁵¹

Men and boys assume that they have some entitlements they could claim from women since they are taught by the society to believe so. Accordingly, men have greater power and access over women in the public sphere, control over their economic activities, income and mobility; and an entitlement to sex, obedience and other services (e.g. childbearing, cooking, care taking and cleaning) from them within the home. To assert and maintain the 'entitlements' men resort to violence.

⁴⁸ Ceri Hayes, "Tackling Violence Against Women : A worldwide Approach", in Geraldine Terry and Joanna Hoare Supra note 3, P.1.

⁴⁹ Raewyn Connel, *Gender*, 2nd edition, Polity Press, UK, 2009, P.X.

⁵⁰ Shelah S.Bloom., Supra note 1 at 13.

⁵¹ GTZ, Supra note 32 at 17.

According to the 2002 WHO World Report on Violence and Health, the events that trigger violence in abusive relationships include disobeying or arguing with the man; questioning him about money or girlfriends; not having food ready on time; not caring adequately for the children or home; refusing to have sex; and suspecting a woman of infidelity.⁵² It seems that those women who tamper with the status quo have to live with the consequence, violence.

Related to the sense of entitlement or privilege women are assumed to owe to men is the gender roles that are expected from men and women in a society. Men are expected to be strong warriors, decisive leaders, attractive, wealthy, powerful, successful providers and protectors of the family while women whether they have children or not, are expected to take care of households, children and the sick, as well as fulfilling other supportive and care-giving roles in the workplace and at home.⁵³ In case where individual men feel that their 'masculinity' and power is threatened, they opt for violence. For example, in Liberia where 14 year long civil war took place, men resort to violence to regain their power they lost as a result of the war. Describing the situation, June Munala, states,

*"The changed gender roles and identities that the war brought about have left many men feeling powerless. Many of those forced to watch helplessly as their mothers, wives, sisters and daughters were raped and sexually abused admit to shame and inability to live up to the hegemonic model of masculinity. The easiest way for them to regain their power has been through exerting control over their women through sexual and physical violence."*⁵⁴

The victims themselves accept violence as appropriate in certain circumstances. In the WHO multi-country study report at about half of the interview sites 50% to 90% of women queried indicated that it was acceptable for a man to beat his wife if she disobeyed him, refused him sex, did not complete her housework, was unfaithful, or

⁵² World Health Organization, *World Report on Violence and Health*, (2002), P.15.

⁵³ GTZ, Supra note 32 at 18.

⁵⁴ June Munala, "Challenging Liberian Attitude Towards Violence Against women", in *Forced Migration Review*, Sexual Violence: Weapon of War, Impediment to Peace, Refugee' (Studies Center, Issue 27, January 2007), P.36.

asked him about his involvement with other women.⁵⁵ The cultural value attributed to women being 'a proper wife', or a 'good mother' , and 'loyal' to the family may lead women to decide that the repercussions of contradicting these gender ideologies are worse than those of staying with violent husbands.⁵⁶

Moreover, women or girls may be subjected to attack or threats from members of their own families or communities for not conforming to traditional roles. Honor killing is a good example. In several countries in the world including, but not limited to, Bangladesh, Egypt, Jordan, Lebanon, Pakistan, and Turkey, women are killed in order to uphold the "honor" of the family.⁵⁷ Reasons such as alleged adultery, premarital relationships (with or without sexual relations), rape, falling in love with a person of whom the family disapproves are good enough for a male member of the family to kill the woman concerned. In 1997, more than 300 women were victims of the so-called "honour" crimes in just one province of Pakistan.⁵⁸

The Declaration on the Elimination of Violence Against Women also recognizes the fact that violence against women is related with the unequal power relations between women and men. It provides that

*"violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."*⁵⁹

⁵⁵ Claudia Garcia-Moreno, Supra note 15 at 38.

⁵⁶ Francine Pickup et al, Supra note 30 at 26.

⁵⁷ Sushma Kapoor, Supra note 12 at 7.

⁵⁸ Id.

⁵⁹ Preamble of the Declaration on the Elimination of Violence Against Women, 1993.

2.4 Consequences of Gender-based Violence

Gender-based violence has devastating effects on the victims, their children (if they have any), their families and the society at large. It affects the physical and psychological health of the victim as well as her socio-economic condition.

2.4.1 Health Consequences of Gender-based Violence

Women and girls who experienced violence will face physical and psychological health problems which could lead to death. The physical health consequences include physical injuries ranging from bruises and fractures to chronic disabilities such as partial or total loss of hearing or vision, and burns may lead to disfigurement.⁶⁰ Physical injuries are the least outcomes of violence when compared to the reproductive health problems a woman faces if she encounters violence particularly sexual violence such as rape. All sex under duress place women at risk of gynecological disorders such as vaginal bleeding or infection, chronic pelvic pain and urinary tract infections, pelvic inflammatory disease, sexually transmitted infections (STIs) including HIV/AIDS, unwanted pregnancies and poor obstetric outcomes.⁶¹

In context of armed conflict the consequences are more severe. As a conflict strategy, women are often sexually assaulted using sticks, guns, branches of trees and bottles on top of violent rape and mass rape.⁶² As a result of the attacks, women will be subjected to Traumatic fistula. Traumatic fistula is an abnormal opening between the reproductive tract of a woman or girl and one or more body cavities or surfaces, caused by sexual violence, usually but not always in conflict and post conflict settings.⁶³ Women with fistula cannot control the constant flow of urine and/or feces. Medical personnel have observed cases of traumatic fistula in the conflict and post-conflict countries of Burundi, Chad, Democratic Republic of Congo, Sudan, Burundi, Rwanda and Sierra Leone.⁶⁴ The

⁶⁰ Sushma Kapoor, Supra note 12 at 9.

⁶¹ Heise, L et al 'A Global Overview of Gender-Based Violence' in *International Journal of Gynecology and Obstetrics*, (Vol. 78, Suppl, 1, 2002), P.3-14.

⁶² Arletty Pinel and Lydiah Kemunto Bosire, 'Traumatic Fistula: The Case for Reparations' in *Forced Migration Review*, Supra note 54 at 18.

⁶³ Id.

⁶⁴ Id.

other physical and reproductive health problems that occur due to violence in peace time also occur in war time ruthlessly.

Gender-based violence has also a detrimental effect on psychological wellbeing of the victim. Mental health outcomes of violence includes depression, fear, anxiety, low self-esteem, sexual dysfunction, eating problems, obsessive-compulsive disorder, post traumatic stress disorder etc.⁶⁵ The psychological complications may last even longer than the physical injuries. A study conducted by the Medical Foundation for the Care of Victims of Torture on the effects of rape on Women in the Sub-countries of Masulita and Wakiso in Uganda found that five years after the event, women were still suffering considerably.⁶⁶ According to the same study, a quarter of the women interviewed now had no relationship at all with a man, because of negative feelings towards men since the rape and for those who were in relationships, half of them had not told their husbands or boyfriends about the rape, and two thirds no longer enjoyed sexual relationships. Even though all forms of violence could have psychological implications, studies have shown that rape, childhood sexual abuse, and intimate partner violence are the most common causes of mental ill-health particularly post-traumatic stress disorder in women.⁶⁷ In worst cases, the mental disorders will result in suicide.

The effects of gender-based violence go far beyond physical and psychological health problems by bringing about the death of the victim. Femicide, suicide, AIDS related deaths and maternal mortality can be fatal consequences of gender-based violence against women.⁶⁸

2.4.2 The Socio-economic Impact of Violence on Women

Survivors of gender-based violence are not considered as victims and subsequently cared for by the society rather they are ostracized by their own families and communities. In

⁶⁵ World Health Organization(WHO), *Violence Against Women Information Pack: A Priority Health Issue*, (Geneva, WHO, , 1997). P.1

⁶⁶ Francine Pick Up et al, Supra note 30 at 99.

⁶⁷ United Nations, Supra note 9 at Para 164.

⁶⁸ Id at Para 158.

societies where unmarried women are not supposed to be sexually active, women who have been raped or sexually attacked may be seen as unclean, 'defiled', or deviant.⁶⁹ It is considered as if they brought it on themselves.

Gender-based violence has also a serious implication on the economic aspect of women's life. Violence – and the threat of violence – reduces women's and girl's opportunities for work, their mobility and their participation in education and training, community activities and wider social networks.⁷⁰ In areas where sexual abuse of female students by male teachers is prevalent, girls may stay away from school to escape unwanted attention or in some places, parents, who fear that their daughters will be sexually assaulted, may keep them at home until they are "safely married".⁷¹ In addition, those girls who have experienced violence at home or in other places perform badly at schools because of the physiological problems such as depression they endure as a result of the violence. Accordingly, they will face difficulty in finding jobs of high quality. For those who already have a job violence or fear of violence constrains them from advancing at work. Among women in a survey in Nagpur, India, for example, 13% had to forgo paid work because of abuse, missing an average of 7 workdays per incident, and 11% had been unable to perform household chores because of an incident of violence.⁷² Similarly, a study in Chicago, IL, United States, found that women with a history of partner violence were more likely to have experienced spells of unemployment, to have had a high turnover of jobs, and to have suffered more physical and mental health problems that could affect job performance.⁷³

The low performance and enrollment rate of women and girls at school and their incapacity to secure gainful employment pushes women to poverty. This in turn will have a negative implication on the economy of the country as a whole since women constitute half of the general population in many countries and without the full participation of this segment of the society any developmental endeavor is unthinkable.

⁶⁹ Francine Pick Up et al, Supra note 30 at 102.

⁷⁰ The Common Wealth Secretariat, Supra note 43.

⁷¹ World Health Organization, *Violence Against Women: Health Consequences*, (Geneva, WHO, 1997), P.4.

⁷² WHO, Supra note 52 at 102.

⁷³ Id.

Chapter Three

The International, Regional and National Legal Framework on Gender-based Violence

3.1 The International Human Rights Framework

Gender-based violence violates many of the fundamental human rights and freedoms of women outlined in international instruments. Among others, it is a violation of the right to life, the right to liberty and security of person, the right to equality before the law and to equal protection under the law, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, the right to health, the right to just and favourable conditions of work. Yet, in many parts of the world, it appears to be an everyday, normal problem rather than a violation of human rights.¹ At the international level also, until at least the early 1990s, most forms of violence directed specifically against women were met with silence not only by the states but also by much of the human rights community.² The failure of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to explicitly mention gender-based violence is an illustration of this fact.

The 1975 and 1980s global women's conferences, too, did not give much emphasis to the issue of gender-based violence although it was mentioned in the 1980 Copenhagen document and included in the Nairobi Forward Looking Strategies of 1985.³ The former called for programming to end violence and protect women and children from physical and mental abuse while the Forward-Looking Strategies from the 1985 Third World Conference of the United Nations Decade for Women (Nairobi) called for comprehensive national prevention and response efforts through legislation, policies, support to survivors and public awareness. Even though, these documents have put women's issue on the

¹ Sally Engle Merry, *Human Rights and Gender Violence; Translating International Law in to Local Justice*, (USA, the University of Chicago Press, 2006), P.2.

² Carnegie Council on Ethics and International Affairs, *Human Rights Dialogue: Violence Against Women*, (Series 2 Number 10, 2003), P.4.

³ Sally Engle Merry, *Supra* note 1 at 21.

international agenda to some extent, the understanding of gender based violence as a human rights violation was not yet developed.

Many forms of violence against women which were perpetrated in the domestic (private) sphere or intimate relationship were considered as falling outside the ambit of international human rights system and outside the government's human rights obligations. Beginning in 1990s, women's activists challenged such attitude arguing that a state's failure to protect women from violence is itself a human rights violation.⁴ Moreover, declaring that "women's rights are human rights" they sought to make clear that widespread gender-based discrimination and abuse of women is a devastating reality as urgently in need of redress as other human rights violation.⁵

During the early 1990s, efforts by the women's movement to gain recognition of violence against women as a human rights issue gained momentum.⁶ At the 1993 UN Conference on Human Rights in Vienna, a worldwide petition campaign gathered almost a half million signatures from 124 countries demanding that such violence be recognized as a violation of women's human rights.⁷ As the result of the extensive women's lobbying, the final document adopted at the conference, the Vienna Declaration and Programme of Action incorporated many issues which are relevant to the human rights of women. Their human rights were singled out for attention in a number of sections throughout the Declaration in addition to the section specifically addressing women's human rights.⁸ It was recognized that human rights of women and of the girl-child are an 'inalienable, integral and indivisible part of human rights'. It goes on to state that 'the human rights of women should form an integral part of the United Nations human rights activities, including the promotion of all human rights instruments relating to women'.⁹ This

⁴ Id at 22.

⁵ Charlotte Bunch and Niamh Reilly, *Demanding Accountability: The Global Campaign and Vienna Tribunal for Women's Human Rights*, (New York Center For Women's Global Leadership, 1994), P.4.

⁶ United Nations, *In-depth Study on All Forms of Violence Against Women*, Report of the Secretary-General, A/61/122/Add.1, 6 July 2006, Para 29 available at <http://www.un.org/womenwatch/daw/vaw/violenceagainstwomenstudydoc.pdf> accessed on July 2010.

⁷ Id.

⁸ Charlotte Bunch and Niamh Reilly, Supra note 5 at 105.

⁹ The Vienna Declaration and Program of Action, 1993, Para. 18.

declaration was a milestone for the women's human rights movements because governments around the world had for a long time refused to acknowledge that women, too, are entitled to enjoy their fundamental human rights.¹⁰

The elimination of gender-based violence against women was one of the central issues that were given priority in the Declaration. It was declared that,

*Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated.*¹¹

It also stressed the importance of working towards the elimination of violence against women in public and private life as well as “the elimination of all forms of sexual harassment, exploitation and trafficking in women”.¹² The elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism was another commitment made by the governments at the conference.

After the Vienna Declaration laid the ground work and as a result of the efforts of the women's and human rights movement's during the 1980s and 1990s, there have been important developments at the international level to employ the already existing international human right framework as well as to adopt new standards and procedures to eliminate violence against women. Of Particular importance in that regard has been the work of the Committee on the Elimination of All Forms of Discrimination Against Women, the adoption of the Declaration on the Elimination of Violence, the appointment

¹⁰ Human Rights Watch, *Global Report on Women's Human Rights*, (USA, 1995), P.xviii.

¹¹ Supra note 9.

¹² Id at Para 38.

a Special Rapporteur on Violence Against Women and the adoption of the Beijing Declaration and Platform for Action.¹³

3.1.1 The Committee on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) also known as Women's Convention does not expressly mention the term 'gender-based violence'. Yet, the Committee on the Elimination of All Forms of Discrimination Against women (herein after the 'Committee') has ensured the applicability of CEDAW to the issue of gender-based violence by using its mandate under the Convention. One of the mandates of the Committee is making suggestions and general recommendations based on the examination of reports and information received from the state parties.¹⁴ Accordingly, the Committee has adopted two general recommendations, namely General Recommendation 12 and General Recommendation 19 that address gender-based violence.

General Recommendation 12 was adopted in 1989 and provided a set of information about violence against women that states should include in their reports. These were information about:

- 1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at the work place etc.);*
- 2. Other measures adopted to eradicate this violence;*
- 3. The existence of support services for women who are the victims of aggression or abuses;*

¹³ Boogie S N Khutsoane, "Gender-based Violence and the Convention on the Elimination of All Forms of Violence Against Women," in Center For Human Rights, *Gender Based Violence In Africa: Perspectives From The Continent*, (South Africa, University of Pretoria, 2008), P.3.

¹⁴ The Convention on the Elimination of All Forms of Violence Against Women, 1989 Article 21.

4. Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

The significance of this General Recommendation is that state parties could no longer ignore their obligation to report on violence against women on the account that the matter was not addressed by any substantive provisions in CEDAW.¹⁵

In 1992 the Committee adopted General Recommendation 19 on violence against women. The Committee recognized the gender dimension of violence by using the expression 'gender-based violence' instead of 'violence against women'. This recommendation is more comprehensive and broader than the previous one. In addition to general comments, it comprises specific comments on various articles of the Convention which are considered relevant to the issue of gender-based violence.

The Committee defined gender-based violence as a form of discrimination as defined in Article 1 of the Convention. It states that

The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.¹⁶

One of the prominent features of the recommendation is the recognition of the cyclic relationship between customary or traditional attitudes and gender-based violence. It provides that traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks

¹⁵ Boogie S N Khutsoane, Supra note 13 at 6.

¹⁶ General Recommendation No.19, Violence Against Women, 11th Session, 1992, Para 6.

and female circumcision.¹⁷ It also notes that the consequences of various forms of gender-based violence put women in subordinate roles and contribute to the low level of political participation and to their lower level of education, skills and work opportunities.

Considering gender-based violence as a cross-cutting issue, the Committee has interpreted some articles of the Convention as having an element of gender-based violence. These include Articles 2, 3, 6 (on women trafficking and prostitution), 11 (on employment), 12 (on the right to health), Article 14 (on rural women) and Article 16 (on family life).

The concept of state responsibility has been broadened to include an obligation to ensure its elimination. The state is not responsible only for the violent acts committed by its officials but also for violations perpetrated by private actors in case where it fails “to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”¹⁸ Thus, the measures that have to be taken by a state are classified in to four categories: Preventive, punitive, protective, and remedial. Such measures would include not only legal sanctions, civil remedies, and avenues for compensation, but also preventive measures such as public information and educational programs, as well as protective measures including support services for victims of violence.¹⁹

In 2000, the Optional Protocol to CEDAW was adopted by the UN General Assembly and widened the mandate of the ^{Committee} by allowing it to consider petitions from individual women or groups of women who have exhausted all national legal channels.

The protocol also establishes an inquiry procedure that allows the Committee to initiate a confidential investigation by one or more of its members where it has received reliable information of grave or systematic violations by a State Party of rights established in the

¹⁷ Id at Para 11.

¹⁸ Id at Para 9.

¹⁹ Boogie S N Khutsoane, Supra note 13 at 9.

Convention.²⁰ These procedures further enhanced the relevance of CEDAW in the fight against GBV.

3.1.2 The Declaration on the Elimination of Violence Against Women

The Declaration was one of the upshots of the Vienna Conference, though the process of developing it precedes Vienna. The idea of the Declaration was initiated by an expert group of the UN Commission on the Status of Women in 1991 which sought to address the lack of any specific mention of violence against women in other UN treaties, including CEDAW.²¹ After it was thoroughly discussed over the next year, it was adopted by the UN General Assembly on 20 December 1993.

The Declaration defined violence against women broadly to include physical, sexual and psychological violence occurring in the family, in the general community as well as violence perpetrated or condoned by the state.²² The artificial distinction between the private and public sphere was made to collapse since the definition includes violence committed also in the domestic setting. Prior to the Declaration, the strict distinction between ‘public’ and ‘private’ affairs had long been used to prevent domestic violence from being recognized as a crime equal to other, more “public”, forms of violence such as rape, torture and murder.²³

In addition to acknowledging violence in the various settings, the Declaration specifies some forms of violence against women that could fall under family violence and community violence. For example, Family violence includes battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation while community violence encompasses rape, sexual

²⁰ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 2000, Article 8.

²¹ Charlotte Bunch and Niamh Reilly, *Supra* note 5 at 106.

²² Declaration on the Elimination of Violence Against Women, 1993, Article 2.

²³ Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), *Strengthening Women's Right, Ending violence Against Women and Girls-Protecting Human Rights*, available at <http://www2.gtz.de/dokumente/bib/05-1048.pdf>, accessed on April 2010.

abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

The other contribution of the Declaration is its identification of violence against women as a per se human rights violation. It affirms that “violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms.”²⁴ Besides, it attributes the cause of gender-based violence to historically unequal power relations between men and women arguing that it is socially constructed and historically justified rather than natural.²⁵

The Declaration also highlights the responsibilities of member states in ensuring the elimination of violence against women in their respective countries. The obligations of states include, ratifying or acceding to the CEDAW or withdrawing reservations to that Convention if they have not yet done so, refraining from engaging in violence against women, exercising due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons, developing penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence etc. The types of responsibilities of the states stipulated in the Declaration confirm that states are not only responsible for violence acts committed by state officials but also for violence perpetrated by private actors.

3.1.3 The Special Rapporteur on Violence Against Women

Appointment of a special rapporteur on violence against women was the other outcome of the Vienna World Conference and the Vienna Declaration. The Declaration called for a special rapporteur. Accordingly, Radhika Coomaraswamy, a lawyer from Sri Lanka, was appointed by the Commission on Human Rights (CHR) to be the special rapporteur in March 1994.²⁶ She was given the authority to seek and receive information on violence

²⁴ Declaration on the Elimination of Violence Against Women, 1993, Preamble.

²⁵ Sally Engle Merry, *Supra* note 1 at 22.

²⁶ Charlotte Bunch and Niamh Reilly, *Supra* note 5 at 108.

against women and respond effectively, to recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences, to work closely with other special rapporteurs, special representatives, working groups and independent experts and treaty bodies under the auspices of the Commission on Human Rights.²⁷

Since her appointment in 1994, Radhika Coomaraswamy has produced a series of highly influential reports that have defined the problem of violence against women and explored its forms and prevalence in many countries.²⁸ The reports were both general (annual) and special. The former ones focused on various themes relevant to violence against women while the special reports were exclusively concerned with the situation of violence against women in a specific country. For instance, annual reports have been produced on the following themes: violence against women in the family (1996); violence against women in the community (1997); violence perpetrated or condoned by the State (1998); trafficking in women, women's migration and violence against women (2000); violence against women perpetrated or condoned by the State during times of armed conflict (2001); cultural practices in the family that are violent towards women (2002) etc. The rapporteur has also undertaken visits to 15 countries and produced mission reports which assess the comprehensive status of violence against women in the particular country, identify gaps and the nature of risks relevant to the context, and make detailed recommendations.²⁹

After serving for nine years and contributing significantly to the understanding of violence against women as a gender-based violation of human rights Ms. Radhika Coomaraswamy was replaced by Ms. Yakin Ertürk of Turkey in August 2003.³⁰ The latter has also been actively involved in ensuring the elimination of violence against women at the international level.

²⁷ UN Commission on Human Rights, 50th Session, Resolution 1994/45, March 4 1994, Para 7.

²⁸ Sally Engle Merry, *Supra* note 1 at 61.

²⁹ The Common Wealth Secretariat, *Integrated Approaches to Eliminating Gender Based Violence*, (London, 2003), P.12.

³⁰ GTZ *supra* note 25.

3.1.4 The Beijing Declaration and Platform for Action

The Declaration was adopted at the Fourth World Conference on Women in Beijing in 1995. Gender-based violence is one of the main issues given due consideration throughout the Declaration. It was recognized that violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms.³¹ Moreover, violence against women is considered as an obstacle to the achievement of the objectives of equality, development and peace.³²

Gender-based violence was identified as one of the 12 critical areas of concern that require urgent action from governments, the international community and civil society to achieve the goals of equality, development and peace. The strategic objectives proposed for the issue of violence against women, as one area of concern, are

- Taking integrated measures to prevent and eliminate violence against women,
- Studying the causes and consequences of violence against women and the effectiveness of preventive measures and
- Eliminating trafficking in women and assisting victims of violence due to prostitution and trafficking.

Within the above strategic objectives, the Declaration provided for a detailed set of concrete actions that have to be taken by governmental and non-governmental actors.

3.2 African Regional Instruments

Even though there is lack of systematic and reliable data on the prevalence and forms of gender-based violence in Africa, there are some studies which show that GBV is rampant throughout the continent. For instance, in Zambia, Demographic Health Survey data indicated that 27 percent of ever-married women reported being beaten by their spouse/partner in the past year, 59 percent of Zambian women have ever experienced any violence by anyone since the age of 15 years, in Kenya, 43% of 15-49 year old women reported having experienced some form of gender-based violence in their lifetime, with 29% reporting an experience in the previous year, 16% of women reported having ever

³¹ Beijing Declaration and Platform for Action, Fourth World Conference on Women, Beijing, 15 September 1995, Para 113.

³² Id.

been sexually abused, and for 13%, this had happened in the last year and in rural Tanzania, 47% of ever-partnered women have ever experienced physical violence by an intimate partner, while 31% have ever experienced sexual violence.³³ Other forms of violence prevalent in Africa include femicide, child marriage, harmful traditional practice, such as female genital mutilation (FGM), human trafficking etc.³⁴ The high level of poverty, recurring wars, traditional gender norms that support male superiority and entitlement and the existence of other risk factors exacerbate the situation.

Even though the general human right instruments of the region such as the African Charter on Human and People's Rights included provisions on gender-equality and non-discrimination which are relevant to women's right, they fail to incorporate specific rights of particular concern to women in Africa, one of them being GBV. In order to fill this gap the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women and the Solemn Declaration on Gender-Equality in Africa have been adopted by the African Union (AU) Assembly. How this instrument dealt with the issue of GBV will be discussed in the next section briefly.

3.2.1 The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women

With the endorsement of the OAU, the drafting of the Protocol was undertaken by a working group convened by the special rapporteur on the rights of women in Africa, appointed in 1996, and two commissioners of the African Commission and included government experts.³⁵ After series of negotiations, the Protocol was adopted by the heads of states and government comprising the AU in Maputo, Mozambique on 11 July 2003 and entered into force on 25 November 2005.³⁶

³³ Population Council, *Sexual and Gender-based Violence in Africa: Literature Review*, (Nairobi, February 2008), P.7.

³⁴ Karen Stefiszyn, *The African Regional Response to Gender-based Violence* in Center For Human Rights, Supra note 13 at 18.

³⁵ Id.

³⁶ Christof Heyns and Magnus Killander, *Compendium of Key Human Rights Documents of the African Union*, (3rd edition, South Africa, Pretoria University Law Press,2007), P.47.

The Protocol addresses GBV in many of its provisions, in some cases providing even better protection than the Declaration on the Elimination of violence Against Women. For instance, unlike the Declaration, the Protocol includes economic violence or harm as a form of violence against women by defining the latter as

*All acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflict.*³⁷ (Emphasis added)

The responsibilities of state parties to eliminate gender-based violence have been detailed out in the protocol. Particularly, state parties are required to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, to achieve the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.³⁸ Taking in to account the fact that, gender relation that puts women in a subordinate position is the root cause of GBV, such an obligation has a great implication to eliminate gender-based violence.

3.2.2 The Solemn Declaration on Gender-Equality in Africa

Gender equality and gender-based violence have cause and effect relationship. While GBV is a barrier to gender equality, inequality between men and women causes GBV. Thus, any effort to ensure gender equality must address the issue that hampers most-violence against them. It seems with this understanding that the Solemn Declaration was adopted since it recognizes the negative impacts of violence against women on their status.

³⁷ Article 1(J) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005.

³⁸ Id. Article 2(2).

The Solemn Declaration was adopted by the AU Assembly of Heads of State and Government in Addis Ababa, Ethiopia in July 2004.³⁹ Within the declaration, state parties agreed to

*Initiate, launch and engage within two years sustained public campaigns against gender based violence as well as the problem of trafficking in women and girls; Reinforce legal mechanisms that will protect women at the national level and end impunity of crimes committed against women in a manner that will change and positively alter the attitude and behaviour of the African society.*⁴⁰

As per their commitment, some African countries including Ethiopia submitted their report in 2006 in which they have included legislative and policy measures they undertook to eliminate GBV within the two years.

3.3 The National Legal Framework

In Ethiopia, as in most countries, women and girls' life is characterized by oppression and marginalization. They are less valued than their male colleagues in every aspect of their lives. One writer rightly puts the situation in the following terms:

*From her birth, an Ethiopian female in most families is of lower status and commands little respect relative to her brothers and male counterparts. As soon as she is able, she starts caring for younger siblings, helps in food preparation, and spends long hours hauling water and fetching firewood. As she grows older, she is valued for the role she will play in establishing kinship bonds through marriage to another family, thereby strengthening the community status of her family. She is taught to be subservient, as a disobedient daughter is an embarrassment to her family.*⁴¹

³⁹ Christof Heyns and Magnus Killander, supra note 36 at 138.

⁴⁰ Solemn Declaration on Gender Equality in Africa, 2004, Para 4.

⁴¹ Jennifer Wilder, *Women's Empowerment in Ethiopia: New Solutions to Ancient Problems*, (Pathfinder International/Ethiopia, September 2007), P.5.

This is true for the majority of Ethiopian girls and women, though there may be some variations across localities.

Gender-based violence is one of the problems women in the country face in the private as well as the public sphere. Even though, there lacks a nation wide study, there are some surveys which show the forms and prevalence of GBV in some parts of the country. For instance, according to the recent multi-country study by the World Health Organization (WHO) that was undertaken in two rural districts by interviewing 3016 women between the age of 15 and 49 years, nearly one half (49%) of ever-partnered women experienced physical violence by a partner at some point in their lives, and 29% during the past 12 months while 59% of ever-partnered women experienced sexual violence at some point, and 44% during the past 12 months.⁴² When the two data from physical and sexual violence were combined it was found out that 71% of ever-partnered women experienced one or the other form of violence, or both, over their lifetime.⁴³ This shows how frequent domestic violence is in the country. Other prevalent forms of GBV identified by various studies include rape, early marriage, abduction, harmful traditional practices such as Female Genital Mutilation (FGM).

In addition to ratifying and adopting the different international and regional international documents discussed in the previous sections of this chapter, Ethiopia has adopted various domestic laws and policies that are relevant to the elimination of gender-based violence. These for example include the Constitution of the Federal Democratic Republic of Ethiopia, the Criminal Code, Family Code, National Women's Policy, National Action Plan for Gender Equality etc. As this thesis mainly focuses on the enforcement of the criminal law provisions on various forms of gender based violence, only the criminal code will be discussed here.

⁴² Claudia Garcia-Moreno, *Multi-Country Study on Women's Health and Domestic Violence Against Women: Initial Results on Prevalence, Health, Outcomes, and Women's Responses*, (Geneva, World Health Organization (WHO), Geneva, 2005), P.84.

⁴³ Id.

3.3.1 The Criminal Code

The code came into force in May 2005 by repealing the 1957 penal code. It has incorporated new and revised provisions that are relevant to women's rights in general and gender-based violence in particular.

Even though the code does not mention the term "gender-based violence" or "violence against women" in its provisions, it has criminalized some forms of GBV. These are rape, harmful traditional practices such as female genital mutilation (FGM), perinatal harmful traditional practices, early marriage and abduction, trafficking in women and children and physical violence within marriage or in an irregular union.

3.3.1.1 Rape

As a form of sexual violence, rape is outlawed in the domestic law of the vast majority of States in the world.⁴⁴ In Ethiopia also, rape is considered as a crime against moral and particularly against sexual liberty and chastity. According to Article 620(1) of the Criminal Code,

Whoever compels a woman to submit to sexual intercourse outside wedlock, whether by the use of violence or grave intimidation, or after having rendered her unconscious or incapable of resistance, is punishable with rigorous imprisonment from five years to fifteen years.

As it could be understood from the provision, for a sexual intercourse to constitute rape, some kind of force or compulsion should be involved and the act must be committed outside marriage. However, it is not clear what 'sexual intercourse' mean. Does it refer only to the penetration of the male's sexual organ in to the vagina or does it also envisage the intentional penetration of the penis or any other foreign object to anus, mouth or any other opening part of the female?

⁴⁴ Enikő Horváth et al, *Gender-based Violence Laws in Sub-Saharan Africa*, (New York, the Cyrus R. Vance Center for International Justice, 2007), P.18.

In other jurisdictions, the definition of sexual intercourse is provided which eliminates such controversy. Some countries like Liberia defined sexual intercourse narrowly to mean as 'penetration however slight, of the vaginal, anus or mouth, or any other opening of another person by the penis.'⁴⁵ Even though the Liberian Criminal Code is better in clearing the ambiguity than the Ethiopian Criminal Code, such a definition is insufficient because it fails to take into account the day to day reality of rape that do not involve a penetration by another person's genital organs, but by other foreign objects.⁴⁶

Countries such as Namibia and South Africa on the other hand, adopted a broader definition of 'sexual act or intercourse' that encompasses penetration of any bodily orifice not only by the genital organs of one person but also by any foreign object. For instance, in Namibia, under the Combating of Rape Act, the definition of a "sexual act" includes, amongst others, the insertion of

*(i) the penis into the vagina of another person, to even the slightest degree, (ii) the penis into the mouth or anus of another person, (iii) any other part of the body into the vagina or anus, (iv) any part of the body of an animal into the vagina or anus, and (v) any object into the vagina or anus.*⁴⁷

Unlike the above legal systems, the criminal law of Ethiopia leaves the meaning of sexual intercourse to the discretion of courts which may create inconsistencies and leave many rape victims without any redress.

Another issue that is usually raised in relation to the definition of rape under the code is its explicit exclusion of marital rape. It is only those sexual acts committed outside wedlock that would be considered as rape. The reason usually forwarded for the decriminalization of marital rape is that the woman has given her consent with her vow at the conclusion of her marriage. This was also one of the reasons why rape within

⁴⁵ Act to Amend the New Penal Code (2005) § 2 (Pen. C. § 14.70.3(a)), Liberia.

⁴⁶ Enikő Horváth et al, *Supra* note 46 at 22.

⁴⁷ Combating of Rape Act, No. 8 (2000) §§ 1-2(1), Namibia.

marriage was not included in the definition of rape under the criminal code, the others being the absence of documented data on the prevalence of the problem and the need to protect the family i.e. to minimize divorce cases.⁴⁸ However, all these reasons do not seem logical to make one of the serious types of violence against women lawful. Now a days many countries have begun to recognize rape as a crime regardless of the relationship of the parties involved. Marital rape may now be prosecuted in at least 104 States around the world.⁴⁹ Of these, 32 have made marital rape a specific criminal offence, while the remaining 74 do not exempt marital rape from general rape provisions.⁵⁰ Yet, countries like Ethiopia, Kenya, Nigeria, Democratic Republic of Congo, are still maintaining the position that marital rape is not a prosecutable offence.

When we come to the punishment, if the perpetrator is found guilty of raping a woman as defined in the criminal code, he will be sentenced to five to fifteen years of rigorous imprisonment. The maximum punishment would increase to twenty years when the rape is committed on a young woman between thirteen and eighteen years of age or, on an inmate of an alms-house or asylum or any establishment of health, education, correction, detention or internment which is under the direction, supervision or authority of the accused person, or on anyone who is under the supervision or control of or dependant upon him; or on a woman incapable of understanding the nature or consequences of the act, or of resisting the act, due to old age, physical or mental illness, depression or any other reason; or by a number of men acting in concert, or by subjecting the victim to act of cruelty or sadism (gang rape).⁵¹ Additional aggravating circumstances are envisaged under Article 628 of the code which punishes the perpetrator with rigorous imprisonment from five to twenty five years. These are situations in which the victim becomes pregnant, or when the perpetrator transmits to the victim a venereal disease with which he knows himself to be infected, or when the victim is driven to suicide by distress, anxiety, shame or despair.

⁴⁸ Kidist Abayneh, *Analysis of the 2005 Criminal Code of Ethiopia in Light of Protecting Women's Rights*, (Senior thesis, Faculty of Law, Addis Ababa University, 2006), P.21.

⁴⁹ United Nations, *Supra* note 6 at 89

⁵⁰ *Id.*

⁵¹ The Criminal Code of the Federal Democratic Republic of Ethiopia, 2004, Article 620(2).

The code also incorporates two separate provisions on statutory rape or rape against a minor depending upon the age of the victim. If the minor is between the ages of thirteen and eighteen years, the perpetrator will be punished with rigorous imprisonment from three years to fifteen years.⁵² The punishment would increase to rigorous imprisonment from thirteen years to twenty five years if the age of the victim is below thirteen years. As lack of consent is presumed, the prosecution only needs to prove the existence of sexual intercourse.

3.3.1.2 Harmful Traditional Practices

According to the baseline survey conducted by the National Committee on Traditional Practices (NCTP) in Ethiopia, there are four types of harmful traditional practices (HTPs) which are exclusively performed on women and girls.⁵³ These are female genital mutilation (FGM), early marriage, abduction, and perinatal harmful traditional practices. All these types of HTPs have been criminalized under the criminal code. As stated in the preamble of the code, the 1957 penal Code's failure 'to acknowledge the grave injuries and sufferings caused to women and children by reason of harmful traditional practices' was actually one of the reason to come up with the new criminal code.

HTPs have been given an entire chapter entitled "Crimes Committed Against Life, Person and Health Through Harmful Traditional Practices". The two forms of HTP i.e. early marriage and abduction are however dealt with in another section.

a. Female Genital Mutilation (FGM)

Female genital mutilation, which is also known as female genital cutting is a collective name given to several kinds of traditional practices that involve the cutting of the female genitalia.⁵⁴ The WHO has categorized FGM/in to four.⁵⁵ Type I also known as Clitoridectomy is the cutting out of the prepuce, which is the skin that covers the clitoris

⁵² The Criminal Code, Article 626.

⁵³ National Committee on Tradition Practices of Ethiopia(NCTPE), *Baseline Survey on Harmful Traditional Practices in Ethiopia*, (Ethiopia, September 1998), P.4.

⁵⁴ Bogaletch Alemu, *Literature Review on Female Genital Mutilation*, (Ethiopia, Population Media Center, May 2008), P.4.

⁵⁵ WHO Fact Sheet 241 available at <http://www.who.int/mediacentre/factsheets/fs241/en> accessed on July 2009.

with or without cutting out part of the entire clitoris. Type II (Excision) is the removal of the clitoris with partial or total cutting out of the labia minora. Type III (Infibulation) is the cutting out of part or all of the external genitalia and stitching or narrowing of the vaginal opening. This type of FGM is practiced by Somali, Afar, Oromo, and Harari ethnic groups in Ethiopia.⁵⁶ The last type of FGM, Type IV, includes any other procedures on the female genitalia such as pricking, piercing, or incision of the clitoris and/or labia etc.

Ethiopia is one of 28 African countries where the practice of FGM is highly prevalent.⁵⁷ According to the findings of the baseline survey conducted by NCTPE, 46 ethnic groups among 66 ethnic groups practice FGM most commonly in the Oromo, the Afar, and the Somali.⁵⁸

Female genital mutilation has very serious short and long-term implications on the victim depending upon the type and the extent of cutting. The immediate complications include severe pain, hemorrhage, shock, acute urine retention, fracture or dislocation while the long-term complications include recurrent urinary tract infection, pelvic infection, infertility, cyst, difficulty in menstruation, fistula, problem in child birth etc.⁵⁹

Article 565 of the criminal code provides that,

Whoever circumcises a woman of any age, is punishable with simple imprisonment for not less than three months, or fine not less than five hundred Birr.

It uses the term 'circumcise' rather than mutilation which is criticized for creating an analogy with male circumcision. It is argued that in case of girls and women, the phenomena is a manifestation of deep-rooted gender inequality that assigns them an

⁵⁶ Bogaletch Alemu, Supra note 56 at 7.

⁵⁷ Laura Nyirinkindi, "Female Genital Mutilation as a Manifestation of Gender-based Violence in Africa", in Center For Human Rights, Supra note 13 at 130.

⁵⁸ NCTPE, Supra note 55.

⁵⁹ Bogaletch Alemu, Supra note 56 at 12 and 13.

inferior position in society and has a major physical and social consequence while this is not the case for male circumcision.⁶⁰ Thus, the term female genital mutilation is preferred than the expression female circumcision.

Infibulation, one of the most common and severe forms of FGM, is separately dealt with under Article 566. It states that any person who ‘infibulates the genitalia of a woman, is punishable with rigorous imprisonment from three years to five years.’ If the victim suffers injury to body or health, the punishment will be aggravated to rigorous imprisonment from five years to ten years.⁶¹

b. Perinatal Harmful Traditional Practices

Perinatal harmful traditional practices constitute wide range of acts that are usually performed on women with a belief that it would help them her during labour and after labour. The practice have been done to bring a successful delivery and to promote the well being of the newly delivered women though it manipulate the birth canal and the fetus.⁶² The practice may result in serious bodily injury to the mother which even lead to death.

The prenatal harmful traditional practices criminalized under Article 561 and 562 of the criminal code are,

a) massaging the abdomen of a pregnant woman, or shaking a woman in a prolonged labour; or

b) soiling the umbilical cord of a newly-born child with dung or other similar substances, keeping a newly-born child out of the sun or feeding it butter, excising the uvula of a child or taking out milk teeth or preventing the child from being vaccinated; or

⁶⁰ Id at 4.

⁶¹ The Criminal Code, Article 566(2).

⁶² Women’s Affairs Office (WAO), in Collaboration with the National Committee on Traditional Practices (NCTP), Ethiopian Women Lawyers Association (EWLA) and UNICEF/Ethiopia, *Enabling Communities Abandon Harmful Traditional Practices*, (Ethiopia, April 2004), p.27.

c) through the exercise of other traditional practices known by the medical profession to be harmful,

In case where the above practices caused the death of the woman, the perpetrator will be punished with fine or simple imprisonment from three months to one year. If the pregnant woman did not die as the result of the practice but sustained bodily injury or mental impairment, the punishment will not exceed six months of simple imprisonment or fine.⁶³ Where the death or the bodily injury was caused by negligence, the provisions on negligence homicide (Art.543) and injuries caused by negligence (Art. 559) would be applicable respectively.

The punishment does not seem to take in to account the gravity of the problem. There is even a possibility for the perpetrator to go free with a warning taking into account his/her age, education, experience or social status.⁶⁴ Though punishment may not solve the whole of the problem, it plays a significant role to the elimination of such violence by its deterring effect. Thus, having more severe punishment should have been envisaged to prevent the perpetrators from practicing it.

c. Early Marriage

Due to various socio-economic factors, parents or relatives marry off their daughters before they attain the age of majority i.e. 18 in some parts of country. It was found that 19 per cent of girls got married by the age of 15 and in some regions such as Amhara, the proportion was as high as 50 per cent.⁶⁵ The reasons for early marriage include fear of loss of virginity, fear of abduction (in places where abduction exists), fear of stigma from the society, bridal money paid to the family of the girls etc.⁶⁶

Since minor girls have not achieved full maturity and capacity to act and lack ability to control their sexuality, when they marry and have children, their health can be adversely

⁶³ The Criminal Code of the Federal Democratic Republic of Ethiopia, 2004, Article 562.

⁶⁴ Id Article 563.

⁶⁵ Population Council, Briefing Sheet, *Child Marriage Briefing –Ethiopia*, July 2004, available at <http://www.popcouncil.org/pdfs/briefingsheets/Ethiopia.pdf> accessed on Oct 2009.

⁶⁶ Women's Affairs Office (WAO) et al , Supra note 54 at 18.

affected, their education impeded and economic autonomy restricted.⁶⁷ Early Marriage has serious negative consequences on the girl child. She may be exposed to fistula and other pregnancy as well as psychological complications since her body and mind is not ready for carrying a child and found a family.

In the criminal code, concluding marriage with a minor is prohibited under Article 648 of the code. The punishment depends upon the age of the victim. Where the age of the victim is thirteen years or above, it is punishable with rigorous imprisonment not exceeding three years and where the age of the victim is below thirteen years the maximum year of imprisonment will increase to seven years.⁶⁸ The power to determine the minimum marriageable age is given to the regional states since they are mandated to enact their own family codes as per the constitution. The minimum age is set to be 18 years in the Federal Family Code.⁶⁹ Yet, dispensation of not more than two years may be granted by the Ministry of Justice on the ground of serious causes, whatever that means.

Not only a person who concluded a marriage with a minor but also who intentionally or negligently solemnizes, permits or witnesses to such marriage could be criminally liable and will be punished with simple imprisonment not exceeding three years, or fine not exceeding five thousand Birr.⁷⁰ Thus, those individuals who subjugate a girl child to marriage like parents, guardians, and even civil state officials could be held liable. Yet, if the marriage is validated, no proceedings may be instituted against these people.⁷¹

d. Marriage by Abduction

Marriage by abduction is another form of HTPs in Ethiopia. An unmarried young girl is forcefully dragged or carried over the shoulder of the abductor and taken to a hideaway.⁷² The abduction may be accompanied by beating or even rape. The practice is most

⁶⁷ United Nations, *Supra* note 6 at 39.

⁶⁸ The Criminal Code Article 648 (a) and (b).

⁶⁹ The Revised Family Code, 2000, Article 7.

⁷⁰ The Criminal Code, Article 647.

⁷¹ *Id.* Article 649.

⁷² Central Statistical Agency (CSA) and ORC Macro, *The 2005 Ethiopia Demographic and Health Survey*, (Addis Ababa, 2006), P.256.

common in regional states of Oromia and Southern Nations, Nationalities and Peoples (SNNP).⁷³

Even though abduction is identified as one form of HTPs, it is found under different chapter as a crime against personal liberty in the Criminal Code. Article 587(1) of the code punishes a person who abducts a woman by violence with intent to marry her or commits such an act after having obtained her consent by intimidation, threat, trickery or deceit with rigorous imprisonment from three years to ten years. Where the woman is insane, feeble-minded or retarded or one not fully conscious, or one who is incapable or has been rendered incapable of defending herself or of offering resistance, the punishment will increase to rigorous imprisonment from five years to fifteen years.⁷⁴

Unlike the previous criminal code, the current code do not accept conclusion of marriage as a defense. The perpetrator or his accomplices will not escape criminal liability even if the abduction is concluded by a marriage with the abducted woman.⁷⁵ Moreover, the code envisages the possibility of rape during or after abduction and criminalizes it.

The proviso on abduction also provides for civil remedy in addition to the criminal sanction which differentiates from other forms of GBV discussed here. It is stated as “Nothing shall affect the right of the victim to claim compensation under civil law for the moral and material damage she may have sustained as a result of the abduction.”⁷⁶

3.3.1.3 Trafficking in Women

As the few studies conducted on the extent and character of trafficking in Ethiopia indicate external as well as in-country trafficking of women is prevalent and steadily increasing in the country.⁷⁷ Women are usually trafficked within the country for engaging as domestic workers, as weavers in the traditional weaving industry, and as prostitutes in

⁷³ Id at 257.

⁷⁴ The Criminal Code, Article 588.

⁷⁵ Id Article 587(3).

⁷⁶ Id Article 587(4).

⁷⁷ Mesfin Eshetu, *Women and Children Trafficking Within and From Ethiopia*, (Faculty of Law, Addis Ababa University, 2003), P.54.

major regional towns and the capital, Addis Ababa while external trafficking is mainly for the purpose of engaging victims as housemaids in Middle East countries.⁷⁸

The major factors identified for both internal and external trafficking include poverty, the prevalent discriminatory gender structure and limited access to social services such as education, employment etc.⁷⁹ The trafficked women will face various forms of sexual abuse and exploitation. They will be subjected to hours of work, sexual harassment and rape by their employers, confinement, denial of wages, verbal abuse, and beatings.⁸⁰

The Provisions dealing with trafficking in women in the criminal code are found in two different sections depending upon the purpose of trafficking. Articles 597-600 provide for trafficking of women for the purpose of forced labour as a crime against liberty while Articles 635-638 talk about trafficking of women for sexual exploitation as a crime against morals. In both cases, the issue of women and children or minors is dealt with jointly.

Regarding trafficking of women for the purpose of forced labour, Article 597(1) states

Whoever by violence, threat, deceit, fraud, kidnapping or by the giving of money or other advantage to the person having control over a woman or a child, recruits, receives, hides, transports, exports or imports a woman or a minor for the purpose of forced labour, is punishable with rigorous imprisonment from five years to twenty years, and fine not exceeding fifty thousand Birr.

As it could be understood from the above provision, the existence of an actual physical coercion is not required for the act to constitute trafficking. It takes in to account the fact that most traffickers use varying levels of fraud or deception, rather than outright force, to

⁷⁸ Yoseph Endeshaw, *Assessment of Trafficking in Women and Children In and From Ethiopia*, (Addis Ababa, International Organization For Migration (IOM), 2006), P.5 and 6.

⁷⁹ Id.

⁸⁰ Elaine Pearson, *Study on Trafficking in Women in East Africa*, (Germany, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)December 2003), P.20.

secure the initial cooperation of the trafficked person.⁸¹ However, the trafficking should be only for forced labour. It does not, for example, envisage the situation where women may be trafficked for the removal of organs.

The issue of individuals who send Ethiopian women for work abroad is dealt with in a separate provision i.e. Article 598. According to the provision, any person who sends an Ethiopian woman for work abroad without having obtained a license or by any other unlawful means is punishable with rigorous imprisonment from five years to ten years and fine not exceeding twenty-five thousand Birr. In case where, the victim suffers an injury to her human rights, or to her life, body or psychological make-up as the result of the trafficking, the sender shall be punishable with rigorous imprisonment from five years to twenty years, and fine not exceeding fifty thousand Birr.⁸² The Private Employment Agency Proclamation No.104/1998 has a similar provision.⁸³ Thus, one could apply either of these laws to prosecute private agencies that send Ethiopian woman abroad for work.

Concerning the trafficking of women for the purpose of prostitution, Article 635 punishes any person, for gain, or to gratify the passions of another, traffics in women, whether by seducing her, by enticing her or by procuring her or otherwise inducing her to engage in prostitution, even with her consent or keeps her in a brothel to let her out to prostitution with rigorous imprisonment not exceeding five years, and fine not exceeding ten thousand Birr.. Similar to trafficking for purpose of forced labour, the existence of consent on behalf of the victim does not exonerate the traffickers from criminal liability. If the aggravating circumstances listed under Article 636 are present, the punishment would increase to rigorous imprisonment from three years to ten years.

⁸¹ Economic and Social Commission for Asia and the Pacific, *Violence Against and Trafficking in Women as Symptoms of Discrimination: The Potential of CEDAW as an Antidote*, Discussion Paper Series No.17, (December 2005), P.1.

⁸² Id Article 598(2).

⁸³ The Private Employment Agency Proclamation No.104/1998, Article 18.

3.3.1.4 Domestic violence

Another form of domestic violence that is perpetrated against Ethiopian women and girls is domestic violence. As it is the case in many other countries, this type of violence is tolerated and accepted by the society and considered as a private matter. The fact that the woman themselves approve the abuse aggravates the problem. For example, according to the Ethiopia's demographic and health survey, a sizeable majority of women (81 percent) believe that a husband is justified in beating his wife for at least one of the following reasons; If she burns the food, if she argues with him, if she goes out without telling him, if she neglects the children, and if she refuses to have sexual relations with him.⁸⁴

The criminal code does not expressly mention the term 'domestic violence'. Yet, it has incorporated a provision on violence against a marriage partner or a person cohabiting in an irregular union. The article states,

*The relevant provision of this Code (Arts. 555 - 560) shall apply to a person who, by doing violence to a marriage partner or a person cohabiting in an irregular union, causes grave or common injury to his /her physical or mental health.*⁸⁵

Even though the code is improved from the previous penal code in recognizing violence at home as a crime, it has some flaws. Firstly, in stead of providing a detailed set of rules as to the nature and punishment of crime, it refers back to other provisions of the code that talk about physical injury on body and health. Secondly, it fails to take in to account other forms of domestic violence such as psychological and economic abuse. Thirdly, for a violence to fall under this provision, the victim should be the wife of the perpetrator or a live-in partner in an irregular union. It excludes violence perpetrated against former wives or partners, girlfriends (including those not living with their boyfriends), etc.

⁸⁴ Central Statistical Agency (CSA) and ORC Macro, Supra note 74 at 244.

⁸⁵ The Criminal Code, Article 564.

Chapter Four

The Role of Law Enforcement Agencies in Combating Gender Based Violence in East Gojjam Zone

4.1 General Overview

East Gojjam Zone is one of the ten Zones of the Amhara Regional state. It is bordered in the north by Debub Gondar, in the south by the Oromia Region, on the east by Debub Wollo and on the west by Mirab Gojjam.¹ It has an estimated area of 13809.08 square kilometers inhabited mainly by the Amhara ethnic group. According to the Finance and Economic Bureau of the Zone, the total population of the area is estimated to be 2,270, 517 of whom 1,124, 296 are men and 1,146, 221 are women. The majority (2,029,367) lives in the rural parts of the area while the rest 241, 150 are urban dwellers.

The Zone is constituted of eighteen woredas namely, Debre markos, Gozamen, Machakel, Debre elias, Agedad, Baso liben, Awabel, Dejen, Enemay, Shebel berenta, Debay telategen, Enarejena enawega, Bibugne Senan, goncha siso enese, Enebse sar meder, Mota ketma astedader and Hulet eju enese.² This study focuses on the last four woredas. The population size of each woreda is summarized in the following table.

Table 1: The total number of population of the four woredas

Woreda	Male	Female	Total
Hulet Eju Enese	136,586	133,485	270,071
Enebse sar meder	88,776	90,060	178,836
Goncha siso enese	77,495	78,516	156,011
Mota ketema astedader	33,755	36,984	70,739
Total	336,612	339,045	675,657

Source: Government's Communication Affairs Committee Office of Each Woreda

¹ East Gojjam Statistical Bulletin, (2007/08).

² Id.

Each woreda has its own police stations, public prosecutors office and court with the exception of Hulet Eju Enese and Mota woredas who share a public prosecutors office and a court. This is because the two woredas used to be under one woreda until recently and have not yet established their own separate public prosecutors office and court. Accordingly, the enforcement of the criminal law on gender-based violence in the four police stations, the three public prosecutors office and the three courts are analyzed under this chapter. The number of police officers, public prosecutors and judges in each woreda is presented in the following table.

Table 2: Statistics on the number of police officers, public prosecutors and judges in the four woredas

	Woreda								Total
	Hulet Eju Enese		Mota ketema astedader		Goncha siso enese		Enebse Sar meder		
	Male	Female	Male	Female	Male	Female	Male	Female	
Police Officers	62	11	27	10	58	6	56	6	236
Public Prosecutors	8	2	-	-	3	3	4	2	22
Judges*	9	4	-	-	8	-	6	1	28

Source: Justice Offices of the Worodas

4.2 The Police

4.2.1 The Number and Forms of GBV Crimes Reported to the Police

The police officers do not have a registry where they enter every complaint that comes before them. What they have is a Criminal Record (CR) in which they register cases

* The number of judges includes those working in civil benches

whose investigation is completed and sent to public prosecutors. Thus, the researcher has to depend on the CR to assess the number and forms of GBV crimes reported to the police. This means that there may be complaints that did not make it to the CR due to lack of evidence, reconciliation, withdrawal or other reasons. The last three years (from 2000 to the end of 2002 E.C) were taken for the analysis.

According to the CR of the four woreda police stations, the common forms of GBV that are reported to the police in the last three years are rape, early marriage, dispossession of land, abduction, physical injury, and murder. Dispossession of land refers to taking away of the women's land usually by her former husband. After the couples get divorced and the partition of property mainly land took place, the husband will continue to cultivate his wife's share. Since land is the main means of survival in all the woredas except the Mota ketema astedader where the residents are relatively urban dwellers, this form of violence is widespread.

Rape, physical injury and murder were reported in all of the woredas while early marriage was reported only in Goncha siso enese and Enebse sar meder police stations. A number of complaints of dispossession of land and very few cases of abduction were also reported in all the stations except in the Mota ketema asetedader. The number and form of GBV crimes reported in the woredas in the year 2000, 2001 and 2002 is summarized in the following table.

Table 3: Statistics of rape, early marriage and abduction cases reported to the police

Woreda	Type of Crime		
	Rape	Early Marriage	Abduction
Goncha siso ense	12	17	1
Enebse sar meder	10	2	1
Hulet eju enese	9	-	1
Mota ketema asetedader	2	-	-
Total	33	19	3

As it could be understood from the table, rape constitutes the majority of the reported cases while abduction is the least reported in all the woredas. Rape in the Hulet eju enese and Mota ketema asetedader woredas are usually perpetrated on female students that came from the rural parts of the woredas to attend their secondary level education. The students rent rooms which are commonly referred to as “dorms” individually or together with other students. These housing arrangements make them vulnerable to violence, one of them being rape.

The statistics for the dispossession of land is not included in the above table even though it is more prevalent than the above crimes. This is because of the lack of uniformity in registering the crime in the CR. In some cases, it is registered as “*Meret Mekemat*” which literally means taking away of the land while in other times it is recorded as assault or trespassing. Therefore, it is impossible to determine the exact number of cases on dispossession of land reported to the police in the last three years. However, the CR of the woredas except that of the Mota ketema asetedader shows that it is a prevalent form of GBV crimes.

As the police officers pointed out, there were domestic violence cases particularly murder and physical violence where the woman were killed or injured by their husbands or boy friends. However, since the identity of the perpetrator and its relation to the victim is not specified in the CR, it was difficult to assess their magnitude.

4.2.2 The Process of Investigation

The police are usually the first point of contact for victim’s who have experienced violence. Their response is likely to have a marked influence on women’s opinion of the assistance afforded by the state, and may affect their decision on whether or not to pursue a complaint.³ Thus, both the police stations and the police officers should be organized in a way that is comfortable and sympathetic to complainants of gender-based violence.

³ Francine Pickup et al, “*Ending Violence Against Women, A Challenge for Development and Humanitarian Work*”, Oxfam GB, UK, 2001, P.272.

In the four woredas the researcher has observed, both the set up of the police stations and the approach of the police officers towards complainants of GBV crimes particularly rape was not welcoming. There are no special rooms or tables reserved for complainants of GBV crimes. Instead, all the police officers sit in one large room side by side. When a complaint comes to the station, she has to tell her story in front of all the other police officers or other clients which could be very traumatic for her. Added to this is the bad treatment of the police officers. There is a tendency of looking such complaints with high level of suspicion. The researcher had the chance to observe when two complaints of rape were lodged to the two police stations of the woredas.

In one of the stations (Hulet Eju Enese Woreda), a woman walked in saying that she was raped by a certain man that she does not know. But, the police officers' response was intimidating. They were mocking the woman and insisting that she should tell the truth. One of the police officers was even saying that "... You would bring shame on yourself if you proceed with the case. So, think thoroughly before you do something you regret later." The woman insisted on her position and said that she was raped by this man she has never seen and she wants to proceed with the case. But, the officers continue to intimidate her and finally decided not to accept her complaint.

Similarly, while I was in Goncha siso Enese Woreda police station, a woman and her husband came and report to the police that the woman was raped by their neighbor while she was working on the field. The police's approach, here too, was not friendly. The officers were asking both the woman and her husband uncomfortable questions such as "in what position the rapist performed the sexual intercourse with you?" in the presence of other complainants and police officers. When the officer said to the woman "Why did not you shout if you are not willing to have sex with him?" she replied that it was because the rapist puts his hand on her mouth. The police officer's response was "how is it possible for the man to rape you while he is busy shutting your mouth?" He also said that "if you were really raped, you would not have been this assertive. The real victims would be embarrassed to talk about the incident." Even though the police end up accepting the

compliant, unlike the earlier station, the environment was hostile to both the woman and her witnesses.

When the police officers were asked by the researcher why their approach towards complainants of rape is intimidating, they mentioned two reasons. Firstly, many women came to police stations with false accusations out of vengeance.⁴ If a woman lodge a complaint against her husband for another crime or institute a civil suit against the latter and win, the woman and her husband will conspire to harm the man by accusing him of raping the wife. Unmarried or divorced woman also try to falsely accuse a man if they despise him. The fact that the crime of rape entails severe punishment is another pushing factor.

The second reason, for sham complaints, as the police stated, is lack of knowledge as to the nature of the crime.⁵ Since the Amharic version of rape is “*Asegedeod Medefer*” which means something that is done forcefully against one’s honor, the society considers every violent act committed against a woman by a man as a rape. For example, if a man forcefully grabs or hits a woman without having sexual intercourse with her, she would come to the police and report that she was raped (*Tedeferealehu*) to indicate that the act was inflicted on her and her family’s honor.

As the police stated, there could be false accusations of rape as it is the case for other type of crimes and the police should consider every complaint that came before it very suspiciously. However, the police’s approach towards complainants must not be too harsh to scare away the real victims. If the women realize that they would be treated ruthlessly as if they are ^{perpetrators} victims by the police, they may not see the point of reporting when the actual act of rape is inflicted against them. The police should understand the extreme courage it takes for rape victims to come to police stations in addition to the time and economic ~~and~~ cost they incur to be there. Furthermore, concerning those complainants upon which physical injury is inflicted but come to the station alleging that

⁴ An interview with inspector Kassahun Bitew and Ayenet Melese of Hulet Eju Enese Woreda Police Station, October 18, 2010.

⁵ An interview with Inspector Birara Senu and Fetie Fenta of the Goncha Siso Enese Woreda Police Station, October 20, 2010.

crime of rape has been committed against them, the police should investigate the cases rather than sending them back since causing physical injury to a person is also a crime. To bring an attitudinal change, the police officers should be given a proper training on how they should deal with complaints of GBV crimes.

The other problem the police face in investigating crime of rape is lack of evidence particularly when the act was committed on non-virgin women. Since the victims usually come to police stations after three or four days in some cases after a week, it is very difficult to get medical evidence that confirms the commission of the crime. Even in those cases where the victims report soon after the attack, what the medical evidence proves is the fact that the women had sexual intercourse with a man within 48 hours or there has been defloration or whether or not the victim has contracted sexually transmitted disease such as HIV. It does not help in identifying the perpetrator. This is especially problematic when the victim is a married woman as it is usually assumed that she had had sexual intercourse with her husband. Thus, the police's investigation focuses on examination of witnesses who have knowledge on the matter. Such is difficult since most crimes of rape are committed in private places such as "dorms" or on farm lands or in other remote places where girls or women go to fetch water, guard cattle or collect fire wood.

There are situations where the police closes the cases through mediation particularly cases of assault and dispossession of land. The complainants due to the pressure from the accused or their peers come back to the stations to withdraw their cases. The police in such cases do not proceed with the investigation even when the crime was of a serious nature which cannot be closed through mediation. Moreover, after the complainants report incidents of rape to the police, the parents of the victim and the perpetrator agree to settle their case through mediation and in some cases they agree to marry off the victim to the perpetrator and will force the victim to say that the act was consensual.

Mediation is not a proper way of settling criminal cases in general and gender-based crimes in particular. This is because it removes cases from judicial scrutiny, presumes that both parties have equal bargaining power, reflects an assumption that both parties are

equally at fault for violence, and reduces offender accountability.⁶ Accordingly, countries have adopted laws that prohibit mediation in cases of violence against women. In Ethiopia also, though there is no specific law on violence against women, the criminal code and the criminal procedure code seems to allow the closure of complaints only in cases where the crime is punishable upon complaint.⁷ However, the practice shows that GBV cases particularly domestic violence and sometimes rape cases are closed at the police stations.

4.3 The Public prosecutor

4.3.1 The number of GBV Cases Prosecuted by the Public Prosecutor

All the three Public Prosecutors' offices of the four woredas keep records which show the number of GBV cases submitted to them by the police and their outcome i.e. whether or not a proceeding was instituted. However, the offices have a separate column only for rape and abduction cases. Those files on other GBV crimes such as early marriage, dispossession of land, domestic violence are added with other types of crimes. There is no specific reason given why these GBV crimes are added with other crimes.

As a result of lack of data on early marriage, dispossession of land and domestic violence only the statistics on rape and abduction cases are presented in the following tables.

Table 4: Statistics of rape cases prosecuted by the public prosecutor

Woreda	cases send to the public prosecutor	Prosecuted by the public Prosecutor	Refusal to institute proceeding under 42(1)a)	Closure under 39(1)(a)
Hulet eju enese	11	9	1	

⁶ United Nations, Good Practices in Legislation on Violence Against Women, Report of the Expert group meeting, Vienna Austria, May 2008 available at [http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20\(final%2011.11.08\).pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20(final%2011.11.08).pdf) accessed on September 2010.

⁷ Article 220(3) of the Criminal procedure Code, 1961 and Article 112 of the Criminal Code, 2005.

Enebse sar meder	10	8	2	
Goncha siso enese	12	6	4	1

Out of the 33 rape cases reported to the three public prosecutor's office in the last three years, the public prosecutor has instituted a proceeding in the 23 cases. Regarding the rest ten cases, seven of them were closed since the public prosecutor was of the opinion that there is not sufficient evidence to justify conviction (42(1) (a)) and one of them was closed because of the death of the accused (39(1) (a)). The number of cases in which the public prosecutor did not file charges is significant particularly in Goncha siso enese woreda where the non-prosecuted cases are almost equal to the prosecuted cases. Even though, it is illogical and illegal to say that the public prosecutor has to prosecute every rape case that comes before it, the high number of non-prosecuted rape cases in the woreda indicates the reluctance of the public prosecutor to charge such cases. When the public prosecutors were asked about the matter, they responded that it was usually those rape cases against non-virgins that end up being not prosecuted. This is mainly because the sole evidence in such situations is witness testimony and the testimony appears to be insufficient to guarantee conviction. They also stated that in some situations, the circumstances do not show there was a forceful sexual intercourse. However, rather than rushing to close the case permanently, the public prosecutors could use their other discretionary power and refer back the cases to police for further investigation and secure the likelihood of conviction.

The criminal procedure code allows the victim of a rape or her representatives to apply to court for an order that the public prosecutor institute proceedings where the latter has refused to institute a proceeding.⁸ However, such an application has never been filed in any of the non-prosecuted cases. These may be due to lack of knowledge on the existence of such remedy or unwillingness of the complainants to proceed with their case.

As regards abduction, the statistics shows that abduction is a very rare crime in the woredas. A total of three cases were submitted to the three public prosecutor offices

⁸ Article 44(2) of the Criminal Procedure Code of the Empire of Ethiopia, 1961.

within the last three years out of which two were prosecuted and one was closed as per Article 42(1) (a) of the Criminal Procedure Code.

Table 5: Statistics of Abduction Cases Prosecuted by the Public Prosecutor

Woreda	Cases send to the public prosecutor	Prosecuted by the public Prosecutor	Refusal to institute proceeding under 42(1)a)
Hulet eju enese	1	1	
Enebse sar meder	1		1
Goncha siso enese	1	1	

According to the CR from the police stations, early marriage is a very prevalent crime in the woredas especially in Goncha siso enese and enebse sar meder woredas. Yet, there is no separate column for early marriage. It is included in the category of “other crimes” which comprises petty offences. If abduction which is a very uncommon crime has its own separate column, why is early marriage, a prevalent and a serious crime that entails a rigorous imprisonment, aggregated with other type of crimes? When this question was raised to the public prosecutors, they stated that they just use the form sent to them which does not have a separate section for early marriage cases. The public prosecutor’s office must amend the schedules or forms upon which the case from the police and their outcome is registered so as to include those cases on early marriage since such a crime is as significant as or even worse than the other GBV crimes.

4.3.2 The Process of Prosecution

In the 23 cases of rape, 2 cases of abduction and early marriage cases whose number is unknown, the public prosecutors have framed charges depending upon the police report since they were of the opinion that there was a sufficient evidence to secure conviction.

In rape charges, the public prosecutor usually specifies that the accused has forcefully performed a sexual intercourse with the complainant in a certain time and place and thereby have contravened Article 620(1) or 620(2)(a) of the criminal code. If the rape was committed on a virgin, the charge additionally states that the accused has forcefully taken away the virginity of the complainant. The Criminal Code does not make any reference to virginity of a woman. Neither does it recognize it as an aggravating circumstance to the crime of rape. Thus, the mentioning of the defloration of the victim does not serve any purpose in the prosecution of the accused. Moreover, Article 112 of the Criminal Procedure Code provides that the description in the charge "shall follow as closely as may be the words of the law creating the offence". Accordingly, the act of pointing out the dis-virginity of the victim in the charges sends the message that the loss of virginity is a requirement for a crime of rape under the law.

The public prosecutors are cognizant of the law that virginity is not a requirement in proving rape. As they stated, the reason why they usually mention the dis-virginity of the victim in rape charges of a virgin is to strengthen their cases. However, due to the reasons specified above such a practice does not serve any purpose for the prosecution other than preserving the misconception that attaches rape with virginity.

With the description of the offence and the criminal provision the accused is suspected of violating, the public prosecutor lists the name of the witnesses and documents that will be used as evidence in the charge. More often than not the document that is produced as evidence by the public prosecutor is medical evidence. The medical report usually affirms fresh defloration of the victim if she was a virgin, scratch on the body of the victim, sometimes the fact that the victim has contracted sexually transmitted diseases such as HIV. Where the victim is non-virgin or did not contract any sexually transmitted disease or where there was some penetration without defloration, the significance of the medical evidence is null. Yet, the public prosecutor attaches it in all the cases though it does not assist the prosecution in any way. For example, in *Public prosecutor Vs Bante*

Tiruneh, the accused was charged with attempting to rape a nine year old girl.⁹ The public prosecutor adduced a medical report which states,

“The parents of the complaint have brought the girl to our hospital alleging that she was raped. We have conducted a full examination and found that the girl’s virginity is still there. She is also HIV negative.” (See appendix VI)

Similarly, in *Public Prosecutor Vs Melese Kume and others* three individuals (two of them brothers) were charged for raping two girls in their “dorms”.¹⁰ The public prosecutor attached similar medical reports for both girls which basically provides that,

“The girl has come to our hospital saying that she was raped on the previous day. What we have found through the examination was that there was no any form of bleeding and no fresh defloration. The girl was not a virgin in the first place. We also undertook HIV test and proved that she was HIV Negative.” (See appendix VII)

These types of evidences, if at all, help the defendant rather than the prosecution. Furthermore, in cases where the accused was charged with raping an adult, the public prosecutor has produced medical evidence which shows that the age of the victim is above 18 years old. Such evidence is also helpful for the accused not the public prosecutor. It is only for cases of statutory rape or rape of a minor, that the public prosecutor needs to prove the age of the victim. The prosecutors should be selective in adducing medical evidences that warrant the conviction of the accused.

In support of the medical evidence, the testimony of witnesses is submitted. Sometimes, especially in cases of rape of non-virgins, the only evidence of the prosecution is witness testimony. The victims and those who have indirect knowledge about the matter, for example individuals who heard the victim shout are used as a witnesses. Since the crime

⁹ Public Prosecutor V. Bante Tiruneh, Hulet eju enese Public Prosecutor’s Office, Public Prosecutor’s case No.176/2000.

¹⁰ Public Prosecutor V. Melese Kume and others, Hulet eju enese Public Prosecutor’s Office, Public Prosecutor’s case No. 255/2001.

of rape is usually committed in private settings, it is difficult to get eye witnesses who have observed the act at first hand. It was only in the earlier case where two students were raped by two brothers in front of one another that the public prosecutor was able to get an eye witness.¹¹ The victims were made to testify as to the act of rape that was performed on themselves as well as on the other victim. In other cases, conviction based only on witnesses is hard to get as their testimony may conflict on certain issues.

In cases of early marriage, the prosecutor has to first pass through a civil proceeding before framing the criminal charge. This is in line with Article 649 of the criminal code that requires the annulment of the marriage before the institution of a criminal proceeding. (A sample of a civil suit instituted by a public prosecutor is enclosed as an appendix V). After securing the annulment, the prosecutor charges the parents of the girl who was forced in to the marriage and the person who concluded the marriage with the minor. There is a possibility for the parents of both the bride and the groom to be charged with the offence. This happens when there is an exchange marriage, a prevalent practice in the area. It means that parents who have a daughter will marry her off to the son of another parent while the latter in exchange will give their daughter to the son of the former. Even when there is no exchange marriage, the parents of the groom could be prosecuted communally with the parents of the minor for their participation in the marriage. Thus, the defendants in a single case of early marriage are usually as many as five or six.

The law provides for the punishment of not only parents who give up their minor daughter to marriage but also those who have concluded the marriage with her. The prosecution of the person who have concluded the marriage is however only possible if he is above nine years of age since the criminal code exempts infants who have not attained the age of nine from criminal responsibility.¹² For those who are above nine years of age, they are as criminally liable as an adult though there may be special procedures on sentencing and penalties. Yet, in both Hulet eju enese and Enesbse sar meder wordas where there were prosecutions of early marriage, only individuals who

¹¹ Id.

¹² Article 52 of the Criminal Code of the Federal Democratic Republic of Ethiopia, 2004.

are eighteen and above were charged with the crime. There was no justification given by public prosecutor's offices of both the woredas for such error of law. When we see it from the perspective of the victim, she will experience the same suffering if she was married to a 17 years old youngster or an older person. Accordingly, the public prosecutors should treat both cases alike and charge also the young man who has concluded the marriage with the minor if he is above nine years old.

One of the notable works of the public prosecutor's office particularly in Enebse sar meder woreda was their active involvement in preemptive measures on early marriage. The office has established a system where the would-be couples come to the office and get a permit before they conclude the marriage. As the researcher has also observed, when the couples themselves or the parents of a girl come to the office by referral of their Kebele, they will be sent to a health center with a letter that has the photo of the girl or sometimes the boy too. Based on the medical report, the office will issue the permit or deny it telling the parties to wait until she is 18. After they secure the permit, they will go back to their respective kebele officials and show the permit. Those without the permit shall not marry off their daughter and if they continue with their plan they will be prosecuted through the report of Kebele officials. According to Ato Birara Worku, a public prosecutor at the woreda, more than 95 percent of early marriages are prevented as the result of this procedure.¹³

Sometimes, when the parents are told that their daughter is too young to get married, they conceal this fact and marry her off secretly. In one case, the father of a child went to his Kebele and asked them to write him a referral to the woreda station.¹⁴ After he received the referral, he went to the woreda public prosecutor's office and requested the issuance of the permit. The office however, denied the permit since the medical report disclosed that she was minor. Nonetheless, the father married off his daughter with a ceremony alleging that he was celebrating something else. The case was then reported to the prosecutor who charged both the parents and the bridegroom.

¹³ Interview with Ato Birara Worku, a Public Prosecutor at Public Prosecutors Office of Enebse Sar meder Woreda, October 20, 2010.

¹⁴ Prosecutor's File No.347/2001, Public Prosecutors Office of Enebse Sar meder Woreda

The issuance of the permit used to be practiced also in Hulet eju enese woreda in earlier years but not anymore.¹⁵ One of the reasons stated for the discontinuance of the procedure was its burden on other adult couples who want to conclude a marriage. However, taking in to account the physical and mental repercussion early marriage causes to girls and its pervasiveness in the region, the tiresomeness of the procedure is not a sufficient ground to bring it to a halt.

As observed in the above table, only two cases of abduction were prosecuted one in Hulet eju enese and the other in Goncha siso enese woreda. In the first charge, four men were charged with an attempt of abduction of a woman while in the second charge one man was charged with ‘abduction of another’ as per 586 of the criminal code. In the second case, a man opened a fire and took a woman who used to be his wife while she was harvesting with her current husband and her father.¹⁶ After taking her to the forest he severely beat her by his gun and finally raped her. Since she was 2 months pregnant at the time, she had miscarriage as the result of the beating. As it could be understood from the facts of the case, the accused has committed rape and physical bodily injury to the victims in addition to the crime of abduction. Yet, the charge that was framed against the man was only “abduction of another”. Firstly, there was both material and notional concurrence of crimes pursuant to Article 60(a) and (b) of the criminal code as the accused has committed beatings, abduction and rape successively and his act resulted in crimes with various material consequences. Thus, he should have been charged with all the offences that he has committed on the victim rather than charging him only with abduction. Secondly, the man has abducted his ex-wife with the intention of remarrying her. This means that the case must fall under Article 587(1) which talks about abduction of a woman not Article 586, an article on abduction of another. If the public prosecutor charged the accused with Article 587(1) instead of Article 586, there would have been a more grave punishment since the former provides for a minimum of three years and a maximum of ten years imprisonment while the latter punishes an offender with a

¹⁵ Interview with Ato Solomon Meseret, a judge at Hulet eju enese Woreda Court, October 19, 2010.

¹⁶ Prosecutor V. Mola Kasaw,, Goncha siso enese Woreda Public Prosecutor’s Office, Case 104/2002.

maximum of seven years imprisonment. Hence, the reluctance of the public prosecutor in framing the charge has allowed the accused to go with a lesser punishment.

4.4 Adjudication of GBV Crimes in Court

4.4.1 The Number of GBV Cases Adjudicated by Courts

Whenever a charge is submitted to the courts, they register it and give it a number. And after the case is decided upon, it will be registered again. However, they usually register the cases by the name of the accused without specifying the type of the crime he/she is charged with. Besides, in the Hulet eju enese woreda court, both the civil and criminal cases have been recorded in one dossier until last month. Thus, the researcher has to depend on the records of the public prosecutors office to estimate the number of adjudicated cases by the three courts in the last three years.

According to the statistics, a total of 30 cases of rape were submitted to the three courts of the four woredas in the last three years. In the sixteen cases the accused were found guilty while in the six cases they were acquitted since the court found that the prosecutor did not make his/her case against the accused as per Article 141 of the criminal procedure code or the accused has rebutted the charge through his defense pursuant to 149(2) of the same.

Seven cases were temporary closed due to lack of the evidence and non-appearance of the accused. After they appear in the first hearing and released on bail, the accused have failed to re-appear in subsequent proceedings. Since the criminal procedure code does not allow default proceedings except in cases of offences punishable with rigorous imprisonment for not less than twelve years and an offence that falls under Articles 354-365 of the repealed penal code, the courts have temporarily closed rape cases on the ground of non-appearance of the accused particularly in Enebse sar meder and Goncha siso enese woreda courts. Even though such a ruling is in compliance with the law, the courts appeared to contribute to the non-appearance of the accused indirectly. This is because of the low amount of money the courts require for granting of bail. As provided

under Article 69(1) of the Criminal Procedure Code, courts are given discretion to decide upon the choice of the guarantors and the amount to be guaranteed. The matters that they should take in to account when they decide on the question of bail are also listed under the same article such as the seriousness of the charge, the likelihood of the accused's appearance etc. The court's especially the Enebse sar meder woreda court's decisions on bail does not seem to consider these matters in granting of bail in rape cases. They have released the accused on bail by small amount of money as low as one thousand birr with or without personal guarantee. The court's leniency in determining the bail in rape cases have resulted in the non-appearance of the accused. The bail bond was forfeited and the court ruled for the closure of the cases until the accused's presence was secured.

According to the statistics found from the Enebse sar meder, one case of rape was closed by reconciliation. Rape is a serious type of crime that cannot be closed by settlement. When the head of the public prosecutor was asked about the case, he said that it was a rape charge that was later changed to an assault case.¹⁷ However, this was not the only GBV case, as it will be discussed later, that was closed by settlement at the court level.

Table 6: Statistics on the number rape cases submitted to the court and their outcome

Woreda	Cases Submitted to the court	Conviction	Acquittal as per 141 and 149(2)	Temporary closure	Reconciliation
Hulet eju enese	12	6	3	2	-
Enebse sar meder	10	6	-	3	1
Goncha siso enese	8	4	3	1	-

¹⁷ Interview with Ato Yalelet Muni, Head of the Pubic Prosecutors office of Enebse sar meder Woreda, October 19, 2010.

Table 7: Statistics on the number of abduction cases submitted to the court and their outcome

Woreda	Cases submitted to the court	Conviction	Closed by mediation
Hulet eju enese	1	-	1
Goncha siso enese	3	2	1

4.4.2 The Process of Adjudication

At the first appearance of the court, after the charge is read out to the accused, he will be asked how he pleads as per 132(1) of the criminal procedure code. In almost all cases, the suspects pleaded innocent. For example, among 7 charges of early marriage, 2 charge of abduction and 11 charges of rape the researcher examined, only one person who was charged with rape admitted having sexual intercourse but argued the existence of consent on behalf of the woman. Thus, the public prosecutor has to produce both the medical evidence (if there is any) and his/her witnesses to the court.

In cases of rape, the public prosecutor presents the medical evidence and witness testimony to prove the existence of sexual intercourse, the presence of force or lack of consent, the identity of the perpetrator, the age of the victim (in case of statutory rape) and in some cases the fact that the victim has contracted sexually transmitted disease such as HIV due to the rape. Sometimes, the public prosecutor has to solely depend on the witness testimony as the medical evidence may not be helpful especially where the victim was not virgin.

If the charge is early marriage, the public prosecutor produces medical evidences as well as eye witnesses to prove the age of the victim, the fact that the parents had married their daughter to the accused and the accused had married her. In addition to these evidences, the public prosecutor has to submit the decision in which the marriage was annulled by another civil bench of the court.

In the very few cases of abduction brought to the court, the prosecutor's only evidence was eye witnesses.

After the court examined the material and witness testimonies, it will rule on whether or not the accused should defend as per 142 (1) of the criminal procedure code. In majority of the cases, the accused were ordered to defend except few cases of rape and early marriage where the court ordered acquittal holding that both the medical evidence and the witnesses did not prove that the accused have committed the crime beyond reasonable doubt.

In cases of early marriage, the acquittal orders of the courts were found to be in contravention of the law. According to the 648, the intention or knowledge of the man regarding the age of the minor is not required. What should be proved by the prosecution is only that the accused has concluded the marriage, the girl was below 18 and the marriage does not fall under the exceptional circumstances allowed in the respective family code. Yet, the courts have acquitted the accused alleging that both the medical evidence and the witness's testimony does not prove that the accused have the knowledge as to the fact that the girl is a minor. For instance, in one case where the accused was charged for marrying a 12 year old girl, the prosecutor has submitted to the court a medical report which shows that the girl is about 12 years old and the witnesses testified that the accused has married the girl.¹⁹ The court has acquitted the accused holding that

"...Even though, the medical evidence proves that the victim is 12-14 years old who did not attain the minimum age required for concluding marriage and the

¹⁹ Public Prosecutor V. Tesfe Belete and others, Goncha siso enese Woreda Court, Case No.150/11/2001

witness's have testified the conclusion of a marriage, both the medical report and whiteness's testimony do not prove that the accused has married the girl knowing that she was a minor. Thus, the court has acquitted the accused as per 141 of the criminal procedure code without the need to defend...."

Similar reasoning was given in Public Prosecutor Vs Esubalew Qume, in which the court acquitted the accused on the ground that he was not aware of the age of the victim.²⁰ However, in one case the court did not accept the plea of the accused that he did not know that she was a minor.²¹ It ordered the accused to defend by holding that though he does not know whether or not she was a minor, he has committed the crime by concluding the marriage with her. In the opinion of the researcher, the other courts should follow the same approach and presume the existence of the intention or knowledge rather than requiring the prosecution to prove it. Otherwise, any one who gets married with a minor could invoke similar defense and get away with it.

When the court order the accused to defend on the ground that the public prosecutors have established the case as charged, the accused have brought their defenses, usually witnesses. The most common defense raised by the accused in rape and abduction cases was their non-presence during and at the place of the commission of the crime while in one case where the man was accused of rape he argued that the victim is his girlfriend and she has consented to the act.²² In case of early marriage, parents claimed that the girl have attained the majority age, economic problem, they married off their other daughter not the one the public prosecutor is alleging to be married. The men, who are accused of concluding a marriage on the other hand, argued that they did not know she was a minor and they were forced in to it by their parents.

After the court hears all the defense witnesses, it gives the final judgment and sentencing. In almost all the cases, the court found the defendants guilty. The defense witnesses did

²⁰ Public Prosecutor V. Esubalew Qume and others, Goncha siso enese Woreda Court, Case No.150/10/2001.

²¹ Public Prosecutor V. Adamu Alemesha and others, Goncha siso enese Woreda Court, Case No.007/269/2001.

²² Public Prosecutor V. Embiale Asmare, Goncha siso enese Woreda Court, Case No.467/2002.

not rebut the evidences of the prosecutors since they are usually contradictory and in some cases even supplementary to the prosecutor's case.

Sentencing is the major area where the researcher has observed gap in the enforcement of the criminal law by courts. Thus, it is dealt with separately in the following section.

4.4.3 Sentencing

As stated in the preamble and Article 1 of the Criminal Code, one of the purposes of punishment is deterring wrong doers from committing other crimes and set a warning to prospective wrongdoers. However, such a purpose could be met only if the courts pass appropriate or deserving punishments on the specific crime. There has not been a guideline on how to determine the appropriate punishment for a certain crime until very recently when the Federal Supreme Court has adopted the regulation No.1/2002. The regulation provides for detailed rules that help courts pass correct and uniform sentencing. The regulation, however, is applicable only to crimes that are tried after May 09, 2002 (EC), which is a period not covered by the study except the one case that was decided by Hulet Eju ense woreda on July 07, 2002(EC). Thus, the sentencings are assessed in light of the Criminal Code provisions on punishment.

The evaluation of the practice of the courts in the four woredas shows the failure of the courts to pass appropriate punishments for gender-based crimes. The courts in nearly all cases on GBV crimes particularly rape, early marriage and abduction have passed very lenient punishments on the offenders.

In case of rape, the punishment as provided in Article 620 of the Code is rigorous imprisonment from five years to fifteen years with a possibility of rising to twenty-five years in cases where grounds of aggravation to the crime exist. The sentencing may be reduced only when the general extenuating circumstances under Article 82 and 83 are fulfilled. In addition, the penalty shall increase if the aggravating circumstances under Article 84 and 85 are found in the cases at hand. When we consider the sentencing of the courts in rape case, it ranged from one year to three years with the exception of two or

three cases in which the defendants were sentenced to more than ten years of imprisonment. They minimized punishments in cases where there was no proof of the existence of any extenuating circumstances and fail to aggravate the punishments even if aggravating circumstance have materialized in the crime.

It is very interesting to see the extent the court went to minimize the punishment. For example, in one case, where a man was found guilty of raping a girl, the court sentenced him to two years imprisonment. The things the court took in to consideration to minimize the sentencing were surprising. The fact that the defendant had a prior relationship with the victim, the victim used to go to the defendant's residence and she was raped in the his dorm and the inadequacy of the medical evidence in proving the identity were taken by the court as the reason for mitigating the sentencing. The most shocking thing in the sentencing was that in the presence of an open and repeated admission of the defendant as to the commission of the sexual intercourse, the court held that the medical evidence does not show that it is the defendant who committed the crime. It states

“ ...Even though the girl said that the defendant has forced her in to the sexual intercourse, what the medical evidence shows is only recent defloration with lack of any sperm. Thus, it is difficult to conclude that the defendant has raped her. Moreover, assuming that there may be a possibility for her to have sexual intercourse with somebody else.....the court has decided to sentence him to two years of rigorous imprisonment by using ordinary mitigation as provided under 179(c).” (See appendix III)

What the court erroneously overlooked is the fact that the above things should have been considered before passing the judgment on the guiltiness of the accused not during determination of sentencing. If it was not sure that the accused has committed the crime as per the provision of the code, then why did it found him guilty in the first place?

Even in the presence of grounds that aggravate the punishment the courts seemed reluctant to aggravate the punishment. In one of the cases mentioned earlier in relation to

the role of the prosecutor, where a woman was abducted as well as raped and had miscarriage as the result, the court sentenced the perpetrator only to three years and eight months of rigorous imprisonment.²³ Though it was the public prosecutor's mistake that the defendant was charged only with abduction when he could have also been charged with rape and consequently with committing concurrent crimes (special aggravating circumstance), the courts should have aggravated the punishment without going beyond the maximum limit of the penalty provided under Article 586 which is seven years by using grounds of aggravation stipulated under Article 84(1) particularly "cruelty". The court, even if it stated that the act of the defendant was cruel and reprehensible in the sentencing, it has failed to use it as a ground to increase his punishment. It was stated that

"...The aim of the criminal law is in general to ensure the peace and order of the society while the aim of the criminal code is prevention, warning, deterrence and being a lesson to others....The defendant took away the woman while she was with her husband and raped her in reprehensible manner. Though, the crime in which the defendant was found to be guilty is punishable with rigorous imprisonment not exceeding seven years, the court has sentenced him to three years and eight months rigorous imprisonment." (see appendix IV)

The sentencing of the court conflicts with the aim of the law specified by the same and the cruel nature of the crime committed. Firstly, the punishment passed by the court will not be sufficient enough to serve the purpose of the law. Secondly, if the court believed that the crime was brutal then what is the point of passing a lenient judgment?

The sentencing does not seem better even in situations where the public prosecutor charged the defendants with committing concurrent crimes usually rape and trespassing, a crime punishable with simple imprisonment not exceeding three years. The courts do not consider concurrence of crime as an aggravating ground though it is explicitly stated as a 'special aggravating circumstance' under Article 85 of the Criminal Code. For example in one case, three men, two of them brothers, have broken into the 'dorm' of three female

²³ Public Prosecutor V. Mola Kasaw,, Goncha Siso Enese Woreda Court Case No.000294.

students in the middle of a night.²⁴ One of the defendants took one of the girls out of the dorm and when he tried to rape her, she managed to escape. Then, he came back to the dorm where the two brothers were, and helped them rape the two girls in front of one another, by holding the girls' legs. The two men (the brothers) were charged with rape while the third man was charged with attempted rape and found guilty. Additionally, all three of them were charged with the crime of violation of privacy of domicile as stipulated in Article 604(1) (a) and again were found guilty. The court has sentenced the two brothers with six years of rigorous imprisonment and six months of simple imprisonment while the third defendant was sentenced to eleven years of rigorous imprisonment and six months of simple imprisonment. Here, in addition to the existence of concurrence of crime, there were general aggravating circumstances which were invoked by the public prosecutor specifically the fact that the criminals acted with cruelty and in pursuance of a criminal agreement (Article 84(1) (a) and (d)). Thus, the defendants should have been sentenced more rigorously than six and eleven years of imprisonment.

Among all the cases examined by the researcher, the highest punishment on a crime rape was passed by the Hulet eju enese woreda court in public prosecutor vs. Asemamw Tegabu.²⁵ In the case, a step father was charged of raping his 16 year old step daughter in the middle of the night by using an enormous force. The court has sentenced the defendant to fifteen years of rigorous imprisonment where the criminal provision he is found in contravention with provides for five to twenty years. The court has taken in to consideration, both aggravating (Article 84) and extenuating circumstances (Article 82) in passing the sentence. This is the first case with a highest punishment among cases adjudicated by the court ever.²⁶ The court did not apply the new Regulation on sentencing No.1/2002 though the case decided upon on July 07, 2002(EC), after the entry in to force of the regulation.

²⁴ Public Prosecutor V. Melese Kume and others, Hulet eju enese Woreda Court, Case No.255/2001

²⁵ Public Prosecutor V Asemamaw Tegabu, Hulet eju enese Woreda Court, Case No.00094

²⁶ Interview with Kaleab Desalegn, a Public Prosecutor at Hulet Eju Ense Public Prosecutors Office, October 18, 2010.

The leniency of the sentencing is also reflected in cases of early marriage. According to Article 647 and 648 of the criminal code, parties usually parents, who solemnize early marriage shall be punished with simple imprisonment not exceeding three years or fine not exceeding five thousand birr while the person who concluded the marriage with the minor shall be punished with rigorous imprisonment not exceeding three or seven years depending upon the age of the victim. Almost all defendants of early marriage were punished by three or four months of imprisonment or by fine as low as three hundred birr. The maximum sentencing among the cases of early marriage examined by the researcher was identified in the *public prosecutor Vs Adamu Alemesha and others* where parents as well as the man who married a 15 year old girl were prosecuted and found guilty.²⁷ The former were sentenced to eight months or alternatively with four hundred birr. The man however was sentenced with three ^{months} years of imprisonment similar to the other cases of early marriage.

One of the reasons given by the judges for the lenient sentences was the necessary position held by the offenders. They said that “since a man is the main breadwinner in the family, sentencing him to long years of imprisonment will have an adverse consequence on the family at all.”²⁸ The other is the simplicity of the mind, poverty and the traditional view of the defendants especially in crime of early marriage. Though these reasons could be logical and call for lesser punishments, it should not be too low to serve the purpose of the law. Familial responsibility or simplicity of mind should only be used to mitigate the sentencing to some extent not to pass soft sentencing that might be equated with acquittal.

²⁷ The Public Prosecutor V Adamu Alemsha, Goncha Siso Enese Woreda Court, Case No.1740/269.

²⁸ Interview with Ato Abebaw Mekonen, a Judge at Hulet eju enese Woreda Court , October 20, 2010.

Conclusion and Recommendation

I. Conclusion

In this thesis an attempt was made to evaluate the role of law enforcement agencies particularly the police, public prosecutors and courts in prosecuting cases of gender-based violence crimes by taking four woredas of east Gojjam zone.

Before going to the analysis of the practice, an overview was given in the first section of the thesis on the meaning and nature of GBV. GBV though a universal phenomenon which cuts across all racial, cultural, class, economic, religious divides, there is no internationally binding instrument which defines it. Since the focus of the thesis is mainly gender-based violence perpetrated against women, the definition given by the Committee on CEDAW which defined gender-based violence as a “violence that is directed against a woman because she is a woman, or violence that affects women disproportionately” was adopted.

Depending upon the place or setting where the violence takes place, GBV could be classified in to family, community and state violence. Family violence is a form of violence against a girl or a woman which is perpetrated in domestic settings usually by close relatives of the victim such as husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives. It includes marital rape, infanticide, battery, sexual violence, incest, early marriage, forced marriage etc. When the violence is committed outside the household by community members in their neighborhoods, on public transport, in workplaces, schools, colleges and hospitals, and in religious and other social institutions etc., the violence takes the form of community violence. Trafficking, femicide, forced prostitution, sexual harassment in schools and work places are some forms of community violence. State violence, on the other hand, is perpetrated by state actors or agents in their official capacity. State could commit violence against women by adopting policies or laws that causes harm to women’s’ physical, sexual, and psychological well-being such as forced sterilization policies. Custodial abuse by prison

guards and violence during armed conflicts by government armed groups are the other common manifestations of state violence. One has to understand however, that the classification among the above forms of violence is not clear-cut, as a certain violent act could fall under the two or three from of violence.

The root cause of GBV is identified to be the unequal gender relations between men and women. Many societies around the world are characterized by hierarchical arrangements in which women are found in a subordinate position relative to men in the domestic as well in the public sphere. When women are believed to be in contravention of such gender order or fail to comply with the gender roles set by the society they live in, violence will follow. Additional internal and external factors such as exposure to violence at childhood, alcohol, economic and social instability and poverty aggravate the problem.

A girl or a woman who has experienced GBV will be exposed to multitude of problems. Firstly, she faces physical and mental health complications which may even lead to death in some cases. The physical health consequences include physical injuries such as fractures, loss of hearing or vision, disfigurement and gynecological disorders etc. Mentally, she will suffer from depression, anxiety, eating problems, post traumatic stress and other mental disorder. GBV has also a significant impact on the socio-economic situation of the victim. Since women can not fully attend school or work due to violence or fear of violence, they are driven in to poverty. Moreover, victims of violence are marginalized and frozen out of the society's day to day undertakings rather than being empathized with.

Despite its pervasiveness and its adverse effect on women, gender-based violence has not been considered as a human rights violation at the international level until the 1990s. The Vienna Declaration that was adopted in the 1993 UN Conference on Human Rights in Vienna marked the beginning of a new era by recognizing human rights of woman and of the girl-child as an 'inalienable, integral and indivisible part of human rights'. The Declaration also called for the elimination of GBV and all forms of sexual exploitation.

Other attempts were also made in the 1990s and afterwards to use the already existing international human right framework and adopt new standards and procedures to eliminate violence against women. These mainly include the work of the Committee on CEDAW who have used its mandate under the Convention to address the issue of GBV though the latter do not specifically mention GBV, the adoption of the Declaration on the Elimination of Violence, the appointment a Special Rapporteur on Violence Against Women and the adoption of the Beijing Declaration and Platform for Action. Even though, all these instruments and procedures have played a significant role in bringing the issue of GBV to the international agenda, their enforcement and effectiveness is limited because of their non-binding nature.

At the regional level also there are instruments that deal with GBV very closely particularly the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women and the Solemn Declaration on Gender-Equality. The former provides for broad definition of violence against women and the detailed roles and responsibilities of state parties to eliminate GBV and the latter aims at ensuring gender equality, which is the key for the eradication of GBV.

In Ethiopia, various national legislation and policies are adopted which are relevant to the issue of GBV. These mainly include the Constitution of the Federal Democratic Republic of Ethiopia, the Criminal Code, Family Code, National Women's Policy, National Action Plan for Gender Equality, etc. The criminal code, the main focus of the thesis, has included some provisions on some forms of GBV namely; rape (Art.620), harmful traditional practices such as female genital mutilation (Art.565), perinatal harmful traditional practices (Art.562) early marriage (Art.647-649) and abduction(Art.587), trafficking in women and children (Art.597-600 and Art.635-638) and physical violence within marriage or in an irregular union(Art.564). Though the code is a step forward in criminalizing these forms of violence, it has some flaws in defining the crimes and prescribing punishments. For example, it excludes rape committed inside the wedlock and fails to define the nature of sexual intercourse that constitutes rape. Further, the

provision on domestic violence lacks comprehensiveness in defining the type of violent act and the relationships which are covered by the provision.

The enforcement of the above criminal provisions on GBV by law enforcement officials particularly the police, the public prosecutor and the courts in four woredas of East Gojjam Zone namely goncha siso enese, Enebse sar meder, Mota ketma astedader and Hulet eju enese was analyzed. The main findings of the study are summarized below.

- The police do not register every GBV complaint that comes before it. Only those cases that are investigated and sent to the public prosecutor are registered on the Criminal Record (CR).
- Based on the CR of the Police, common forms of violence against women reported to the police are rape, early marriage, dispossession of land, abduction, physical injury, and murder. Rape, physical injury and murder were reported in all of the woredas while early marriage was reported only in Goncha siso enese and Enebse sar meder police stations. Cases of dispossession of land were also brought in all the woredas except the Mota ketema asetedader. Dispossession of land is the most prevalent crime followed by rape whereas abduction is the least reported crime.
- The police's approach toward complainants of rape is very intimidating. There is a tendency of viewing them as wrongdoers rather than victim and considering their complaints with high level of suspicion. The police's reasoning for such an approach was existence of false accusations out of vengeance and the non-awareness of the complainants as to the nature of the crime. The police stations are not also set up in a manner which is comfortable to victims. The complainants are forced to speak of their attack in the presence of all the police officers and other clients.

- The police face difficulty in investigating cases of rape due to lack of evidence especially in cases where the victim is non-virgin. The medical evidence shows only the fact that the women had sexual intercourse with a man within 48 hours or there has been defloration or whether or not the victim has contracted sexually transmitted disease. Thus, if the victim comes to the police after few days have elapsed which is a common trend or if she is not a virgin or if she has not contracted any STD, the medical evidence is of no use. Therefore, the police's investigation depends upon the testimony of witnesses which is hard to find as rape is usually committed in private places such as "dorms" or on farm lands or in other remote places where girls or women go to fetch water, guard cattle or collect fire wood.
- The police sometimes close GBV cases in particular domestic violence and dispossession of land through mediation.
- The public prosecutor's offices have a separate column only for rape and abduction cases. Other GBV crimes such as early marriage, dispossession of land, domestic violence are added with other types of crimes. Therefore, it is difficult to determine the exact number of the latter forms of violence prosecuted by the public prosecutor.
- Out of the 33 rape cases and 3 cases abduction sent to the three public prosecutor's office in the last three years, the public prosecutor has instituted a proceeding in the 23 cases of rape and 2 cases of abduction. The rest were closed by the public prosecutor as per Article 42 (1) (a) of the criminal procedure code due to lack of evidence. The prosecution rate is high in Goncha siso enese compared to the others.
- In charges of crimes of rape of a virgin, public prosecutors state that that the accused has forcefully taken away the virginity of the complainant though the law does not talk about virginity in any of its articles.

- In the woredas where cases of early marriage were submitted to the public prosecutor, individuals who have concluded marriage with a minor are not charged unless they are 18 and above despite the fact that the criminal code exempts only infants under the age of nine from criminal responsibility.
- In Enebe sar meder woreda, the public prosecutor's office in collaboration with Kebele officials has established a system whereby every would-be couples get a permit before they conclude marriage. Those who do not secure the permit cannot get married and if they did their cases will be reported to the public prosecutors. This preemptive measure has played a significant role in reducing early marriage in the woreda. The Hulet eju enese woreda used to have the same procedure which is not functional anymore.
- The public prosecutors sometimes charge an accused with a single crime who has committed multiple forms of GBV crimes and overlook facts that may aggravate the sentencing of the accused.
- The courts do not have a proper registry where they keep GBV cases that came before them.
- The courts are very lenient in granting bail for individuals who are accused of rape. As the result of low amount of money they are asked for bail, they failed to reappear and accordingly the cases were closed.
- Many domestic violence cases and an abduction case were closed by mediation at the court level though the law prohibits the closure of such cases by settlement.
- In early marriage cases, the courts have acquitted the accuseds who have concluded a marriage with a minor on the ground of their lack of knowledge as to

the age of the victim even if the criminal code does not provide for such a requirement.

- The courts are very lenient in passing sentencing in all forms of GBV crimes tried by them. They do not take in to account aggravating circumstances; they presume the presence of extenuating circumstances even when they are not alleged by the defendant; they do not ask for proof when extenuating circumstances are raised by the defendant. The sentencing passed by the courts except in few cases amount to discharging the defendant. They are too low to serve the purpose of the law.

From the findings of the study, one can see that all forms of GBV crimes are considered less importantly than other crimes at the police, public prosecutors office and court level. This shows that the social and cultural norms entrenched within the society which attribute a subordinate position to women is also institutionalized and evidenced in the day to day functioning of these law enforcement agencies. Such may not be surprising because the personnel entrusted with enforcing the law are part and parcel of the society that wants to uphold the Patriarchic system and maintain the status quo. Accordingly, when cases of GBV are brought before police stations, public prosecutor's office or courts, they will not be given due emphasis. That mainly explains why all the three institutions do not have a proper record of many forms of GBV crimes; the police treat complainants of GBV in intimidating manner and try to close the cases through mediation; there is low conviction rate of GBV crimes or why the courts are lenient in passing sentencing.

The gender-biased attitude and discrimination of the society towards women further affects the enforceability of the law by barring the victims from accessing the justice system. Victims do not want to report to the police or withdraw their complaints afterwards in fear of marginalization from the society. In addition, unlike the other ordinary crimes, the society tolerates GBV crimes and is very reluctant to bring the cases to the attention of law enforcement agencies. This is the reason that parents of rape

victims sometimes settle their case through mediation and even marry off the victim with the perpetrator.

Therefore, it could be concluded that the role of the law enforcing institutions in eliminating GBV in a certain society depends mainly on the socio-economic position of women in that society. If the society continues to maintain the gender arrangements that devalue women in comparison with men, it will definitely be reflected in the enforcement of the law. That is also what is evidenced in the four woredas of East Gojjam Zone covered by the study.

II. Recommendation

To rectify the above shortcomings of the criminal justice system in dealing with GBV crimes and enhance the role of law enforcement agencies in the woredas the following recommendation measures are forwarded:

- The police should register every complaint of GBV crimes that is brought before it irrespective of the nature of the crime i.e. whether it is perpetrated by a husband or a stranger.
- The set up of the police stations should take in to account the particular features of GBV crimes and arranged accordingly. For example, separate rooms or separate desks should be assigned to complainants of GBV crimes particularly rape or domestic violence cases as these types of crimes have a private nature.
- The police need to be sympathetic to complainants of GBV crimes and change its intimidating approach. To bring the attitudinal change, the police officers should be given a proper training.
- The police should not make any distinction between rape of virgins and non-virgins and must give equal emphasis to the latter type of rape.

- The police must not close any form of GBV crimes through mediation or settlement. The investigation should proceed and the offenders must be brought to justice.
- The public prosecutor's offices should have a separate column not only for rape and abduction cases but also for other GBV crimes specifically early marriage, dispossession of land and domestic violence.
- The public prosecutors must avoid stating the fact of losing virginity in framing charges as such is not a requirement in the law and include facts in the charge that aggravate the liability of the accused.
- The public prosecutor must charge individuals who have concluded marriage with a minor if they are nine years old and above.
- The issuance of the permit for marriage which is being practiced in Enebse sar meder public prosecutor's office should be adopted in the other woredas since it is proved to be effective in preventing early marriage.
- In granting bails, the courts must consider the seriousness of the crime and demand weighty sureties that assure the reappearance of the accused for further hearings.
- The courts should not close any form of GBV cases through mediation or by approving out of court settlements.
- The courts must pass appropriate punishments that could serve the purpose of the law by taking in to account both aggravating and extenuating circumstances.

In general, having legislation without the institutional support to enforce it effectively is pointless. Therefore, to ensure the enforcement of the criminal law on GBV, measures

have to be taken by concerned government bodies and non-governmental entities to familiarize the police officers, public prosecutors and judges with the content of the law and make them understand the peculiar features of GBV cases. Gender-sensitization trainings must be given to these state actors so that they would be responsive to GBV claims. It is only when their attitude towards masculinity, sexuality or the status of women is improved that enforceability of the law could be enhanced.

Bibliography

Books

- Andrew Baker(ed), *Gender Equality and Sexual exploitation*, Oxfam, United Kingdom, 2006
- Center For Human Rights, *Gender Based Violence In Africa: Perspectives From The Continent*, University of Pretoria, South Africa, 2008
- Claudia Garcia-Moreno, *Multi-Country Study on Women's Health and Domestic Violence Against Women: Initial Results on Prevalence, Health, Outcomes, and Women's Responses*, World Health Organization (WHO), Geneva, 2005
- Ellesberg, Mary et al, *Candies in Hell: Women's Experience of Violence in Nicaragua*, Umea University, Sweden, 2000
- Francine Pickup, *Ending Violence Against Women; A Challenge for Development and Humanitarian Work*, Oxfam GB, UK, 2001
- Geraldine Terry and Joanna Hoare(ed), *Gender-Based Violence*, Oxfam GB, 2007.
- Human Rights Watch, *Global Report on Women's Human Rights*, USA, 1995.
- Inter Press Service, *Reporting Gender Based Violence: A Handbook for Journalists*, Johannesburg, 2009.
- Jane Pilcher and Imelda Whelehan, *Fifty Key Concepts in Gender Studies*, SAGE Publications, Britain 2004.
- Judith Squires, *The New Politics of Gender Equality*, Pal grave Macmillan, New York USA, 2007.
- Kelly D.Askin and Dorean M.Koenig,(ed), *Women and International Human Rights Law*, Volume 1, Transnational Publishers, INC, New York, 1999.
- Raewyn Connel, *Gender*, 2nd edition, Polity Press, UK, 2009.
- Sally Engle Merry, *Human Rights and Gender Violence; Translating International Law in to Local Justice*, The University of Chicago Press, USA, 2006.

- Valerie Bryson, “Perspectives on Gender Equality: Challenging the terms of Debate”, in Jude Browne(ed), “*The Future of Gender*”, Cambridge University Press, New York, USA, 2007.
- World Health Organization, *World Report on Violence and Health*, 2002.
- Yoseph Endeshaw, *Assessment of Trafficking in Women and Children In and From Ethiopia*, International Organization For Migration (IOM), Addis Ababa, 2006.

Articles and other materials

- Bogaletch Alemu, *Literature Review on Female Genital Mutilation*, Population Media Center, Ethiopia, May 2008.
- Carnegie Council on Ethics and International Affairs, *Human Rights Dialogue: Violence Against Women*, Series 2 Number 10, 2003.
- Central Statistical Agency (CSA) and ORC Macro, *The 2005 Ethiopia Demographic and Health Survey*, Addis Ababa, 2006.
- Charlotte Bunch and Niamh Reilly, *Demanding Accountability: The Global Campaign and Vienna Tribunal for Women’s Human Rights*, Center For Women’s Global Leadership, New York, 1994.
- Christof Heyns and Magnus Killander, *Compendium of Key Human Rights Documents of the African Union*, 3rd edition, Pretoria University Law Press, 2007.
- Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), *Strengthening Women’s Right, Ending violence Against Women and Girls-Protecting Human Rights*,
- Economic and Social Commission for Asia and the Pacific, *Violence Against and Trafficking in Women as Symptoms of Discrimination: The Potential of CEDAW as an Antidote*, Discussion Paper Series No.17, December 2005.
- Elaine Pearson, *Study on Trafficking in Women in East Africa*, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), December 2003.

- Enikő Horváth et al, *Gender-based Violence Laws in Sub-Saharan Africa*, The Cyrus R.Vance Center for International Justice, New York, 2007.
- Ethiopian Women Lawyers Association, 'Nationwide Survey on Domestic Violence', in *Berchi*, Annual Journal, Addis Ababa, Issue 7, 2008.
- Forced Migration Review, Sexual Violence: Weapon of War, Impediment to Peace, Refugee' Studies Center, Issue 27, January 2007.
- International Journal of Gynecology and Obstetrics, Vol. 78, Suppl, 1, 2002,
- Jennifer Wilder, Women's Empowerment in Ethiopia: New Solutions to Ancient Problems, Pathfinder International/Ethiopia, September 2007
- Judy A. Benjamin and Lynn Murchison, Gender-Based Violence: Care & Protection of Children in Emergencies, Save the Children Inc., 2004.
- Kidist Abayneh, Analysis of the 2005 Criminal Code of Ethiopia in Light of Protecting Women's Rights, Senior thesis, Faculty of Law, Addis Ababa University, 2006.
- Mesfin Eshetu, *Women and Children Trafficking Within and From Ethiopia*, Faculty of Law, Addis Ababa University, 2003.
- National Committee on Tradition Practices of Ethiopia (NCTPE), Baseline Survey on Harmful Traditional Practices in Ethiopia, September 1998.
- Population Council, Sexual and Gender-based Violence in Africa: Literature Review, Nairobi, February 2008.
- Radhika Coomaraswamy, Preliminary Report submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences to the Human Rights Commission, E/CN.4/1995/42, November 1995.
- Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Geneva, 25 January 2005.
- Sarah Bott et al as cited in Sarah Bott et al, *Preventing and Responding to Gender-based Violence in Middle and Low Income Countries: A Multi-sectoral Literature Review and Analysis*, 2004.
- Shelah S.Bloom, *Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators*, MEASURE Evaluation, Carolina Population Center, Carolina, 2008.

- Sushma Kapoor, *Domestic Violence Against Women and Girls*, Innocenti Digest No.6, UNICEF, Florence, June 2000.
- The Common Wealth Secretariat, *Integrated Approaches to Eliminating Gender Based Violence*, London, 2003.
- UNDP, Human Development Report, New York, Oxford University Press, UK, 1994.
- United Nations Population Fund (UNFPA), *Reproductive Health Effects of Gender-based Violence: Policy and Programme Implication*, New York, 1998.
- United Nations, *In-depth Study on All Forms of Violence Against Women*, Report of the Secretary-General, 2006.
- Women's Affairs Office (WAO), in Collaboration with the National Committee on Traditional Practices (NCTP), Ethiopian Women Lawyers Association (EWLA) and UNICEF/Ethiopia, *Enabling Communities Abandon Harmful Traditional Practices*.
- World Health Organization (WHO), *Violence Against Women Information Pack: A Priority Health Issue*, WHO, Geneva, 1997.
- World Health Organization, *Violence Against Women: Health Consequences*, Geneva, 1997.

Table of Laws

International Instruments

- The Convention on the Elimination of All Forms of Violence Against Women
- United Nations Declaration on the Elimination of Violence Against Women, UN General Assembly, 13 December 1993
- The Vienna Declaration and Program of Action, 1993,
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, Beijing, 15 September 1995
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 2000
- General Recommendation 12

- General Recommendation No.19, Violence Against Women, 11th Session, 1992.
- UN Commission on Human Rights, 50th Session, Resolution 1994/45, March 4 1994,
- General Assembly Resolution 55/25

African Instruments

- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005
- Solemn Declaration on Gender Equality in Africa, 2004,

National Laws

- The Criminal Code of the Federal Democratic Republic of Ethiopia, 2004.
- The Revised Family Code
- The Private Employment Agency Proclamation No.104/1998, Article 18
- The Criminal Procedure Code

Table of Cases

Public Prosecutor V. Adamu Alemesha and others, (Goncha siso Enese Woreda Court, 2002, Court file No.00017)

Public Prosecutor V. Ayete Tegafa and others, (Hulet eju enese Woreda Court, 2002, Court file No.00020)

Public Prosecutor V. Esubalew Kume and others, (Goncha siso enese Woreda Court, 2001, Public Prosecutor file No.10/2001).

Public Prosecutor V. Merete Necho, (Goncha siso enese Woreda Court, 2001, Public Prosecutor file No.293/2001).

Public Prosecutor V. Mebre Adugna and others, (Goncha siso enese Woreda Court, 2001

Public Prosecutors file No.11/2001).

Public Prosecutor V. Melese Kume and Others, (Hulet eju enese Woreda Court, 2002, Court file No.255/2001).

Public Prosecutor V. Mola Kasaw, (Goncha siso enese Woreda Court, 2002, Court File No.00294).

Public Prosecutor V. Yasab Ayechele and Nebiyu Fente, (Enebse sar meder Woreda Court, 2001, Court file No.04677).

Public Prosecutor V. Demese Arega and others (Goncha siso enese Woreda Court, 2001, Court File No. 00148).

Public Prosecutor V. Fente Balew and others (Enebse sar meder Woreda Court, 2001, Court file No.04859).

Public Prosecutor V. Asemamaw Tegabu, (Hulet eju enese Woreda Court, 2002, Court File No. 00094).

Public Prosecutor V. Emebiale Asemare, (Goncha siso enese Woreda Court, 2002, Court File No. 00426/2002).

Public Prosecutor V. Weleatw Getu, (Goncha siso enese Woreda Court, 2001, Public Prosecutor's file No. 83/2001).

Public Prosecutor V. Meseganaw Ayechelu and others, (Goncha siso enese Woreda Court, 2001, Public Prosecutor File No.1065/2001).

Public Prosecutor V. Denekew Damte, (Hulet eju enese Woreda Court, 2000, Public Prosecutors file No.23/2000).

Public prosecutor V. Wale Gezu, (Enebse sar meder Woreda Court, 2001, Public Prosecutors file No.282/2000).

Public Prosecuotor V. Yetay Demessie, (Hulet eju enese Woreda Court 2002, Court File No.07540).

Public Prosecutor V. Dese Zeleke and others, (Enbese Sar Meder Woreda Court, 2000, Public Prosecutor file No.149/2000).

Public Prosecuotr V. Bante Tiruneh, (Hulet eju enese Woreda Court, 2000, Court file No.01852).

Public Prosecutor V. Yesemaw Gezachew and Tilahun Neberet, (Hulet eju enese Woreda Court, 2003, Court file No.00284).

Web cites

<http://www.un.org/womenwatch/daw/vaw/violenceagainstwomestudydoc.pdf>

http://www.unodc.org/documents/Global_Report_on_TIP.pdf

<http://www2.gtz.de/dokumente/bib/05-1048.pdf>,

www1.edu/humanarts/svaw/advocacy/.../what_is_GBV.pdf

www.theirc.org/news/latest/increased-sexual-assaults.html

<http://www.iwtc.org/212.html>

<http://www.popcouncil.org/pdfs/briefingsheets/Ethiopia.pdf>

List of People Interviewed

Inspector Kassahun Bitew, Police officer, Hulet eju enese Woreda Police

Inspector Ayenet Melese, Police officer, Hulet eju enese Woreda Police

Inspector Abebech. Police officer, Mota ketema Woreda Police

Inspector Girma Yirga , Police Officer, Hulet eju enese Woreda Police

Inspector Ayechiluhm Damtie, Police officer, Hulet eju enese Woreda Police

Inspector Birara Senu , police officer, Goncha siso enese Woreda Police

Inspector Fetie Fenta, Police officer, Goncha siso enese Woreda Police

Ato Birara Worku, Public prosecutor, Enebse Sar meder Woreda Public Prosecutor's Office.

Ato Kaleab Desalegn, Public Prosecutor , Hulet eju enese Public Prosecutor's Office.

Ato Dessalegen Menegestu, Public Prosecutor, Hulet eju enese Public Prosecutor's Office.

Ato Eneyew, Public Prosecutor, Hulet eju enese Public Prosecutor's Office.

Ato Bitew Zelalem, Public Prosecutor, Enebse sar meder Public Prosecutor's office

Ato Yehenew Defere, Public Prosecutor, Goncha siso enese, Public Prosecutor's Office.

Ato Yalelet Muni, Head, Enebse sar meder Woreda Pubic Prosecutor's Office.

Ato Abebaw Abebe, Head, Enebse sar meder Woreda public prosecutor's Office

Ato Abebaw Mekonen, Judge, Hulet eju enese Woreda Court

Ato Solomon Meseret, Judge, Hulet eju enese Woreda Court

Annex I

I. Sample interview questions for the police

1. What kind of GBV crimes often come to your station?
2. Do you have a proper record where you register complaints of GBV?
3. What procedures do you follow when complaints of GBV Crimes are brought to you? Is it different from other ordinary crimes?
4. How do you investigate claims of GBV crimes?
5. Do you have a special room or table for complainants of GBV?
6. Do you close cases of GBV through mediation?
7. What problems do you usually face in investigating cases of GBV?
8. What do you think should be done to enhance the enforceability of the criminal law on GBV?

II. Sample interview questions for Public Prosecutors

1. Do you keep records of GBV files sent to you from the police? If not why?
2. What procedures do you follow when you receive cases of GBV from the police? Is it in any way different from that of other ordinary crimes?
3. Do you close cases of GBV through mediation?
4. In what situations do you withdraw cases of GBV after you already institute proceedings in courts?
5. What challenges do you face in prosecuting cases of GBV?
6. What do you think should be done to enhance the enforceability of the criminal law on GBV?

III. Sample interview questions for Judges

1. Does the court have a registry for every GBV crime brought before it?
2. Do you have any special procedure for cases of GBV crimes?
3. Do you allow for the closure of GBV cases due to reconciliation?

4. Does the court permit withdrawals of cases by individual complainants?
5. During sentencing in GBV crimes, what things do you think should be taken in to account to determine the appropriate punishment?
6. Should the court minimize the punishment even in cases where the defendant did not ask?
7. What challenges do you face in adjudicating cases of GBV?
8. What do you think should be done to enhance the enforceability of the criminal law on GBV?



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ከላሽ ዐቃቤ ሕግ

ተከላሽ 1. አይቴ ተጋፋ ይሁኔ እድሜ 18 አመት ስራ እርሻ አድራሻ ጉማዳር ቀበሌ

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3. ጌቴ ተፈራ ደሴ እድሜ 23 አመት ስራ እርሻ የት/ደረጃ 6ኛ ክፍል አድራሻ ጉማዳር ቀበሌ

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- ✓ 2. የሽቆስ አወቀ ቦጋሰ አድራሻ ጉማዳር ቀበሌ
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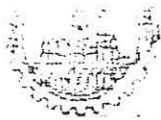
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በአማራ ብሔራዊ ክልላዊ መንግሥት
የፖሊስ አገልግሎት ቢሮ

የግብ

ቁጥር 10

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ቀን

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ግብርና ግብር ግብር ግብር ግብር

የወጣ ገቢዎችን ለማሳካት
የሚያስፈልገውን ገንዘብ
በግብርና ግብር ግብር ግብር
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በግብርና ግብር ግብር ግብር

ግብር

- በግብርና ግብር ግብር ግብር
- የወጣ ገቢዎችን ለማሳካት
- ደንበኞችን ለማሳካት
- በግብርና ግብር ግብር ግብር

ቁጥር ጥ/ባ/የተ 467/140/2002

ቀን 01/07/2002

ጠ/አ/ወ/ፍርድ ቤት
ግ/ወይን

የዐ/ህግ/ወ/መ/ቁ/ 140/2002

የፖ/ም/ወ/መ/ቁ/ 169/2002

የፍ/ቤት ወ/መ/ቁ/ -----

ከግሽ ----- ዓ/ህግ

ተከግሽ ----- እምቢያለ አስማረ ፣ ጾታ ወ ፣ እድሜ 20 ፣ አድራሻ 01 ቀበሌ ፣ የት/ደረጃ 10ኛ
ክፍል ፣ ስራ ስራ ፈላጊ

ወንጀል

የአ.ፌ.ዲ.ሪ. የወንጀል ህግ አንቀጽ 32/1/ሀ/ እና 620/1/ ላይ የተመለከተውን በመተላለፍ፡፡

የወንጀል ዝርዝር

ተከግሽ የኃይል ድርጊትን በመጠቀም የካቲት 30 ቀን 2002 ዓ.ም. ከምሽት 5:00 ሰዓት ሲሆን በግንደወይን ከተማ 01 ቀበሌ አርአያ ካፌ አጠገብ ካለ ዶርም ውስጥ የግል ተበዳይ በላይነሽ ጌትነትን ተከታትሎ በመግባት እስገድዶ በመድፈር ክብረንጽህናዋን የገለሰ በመሆኑ በፈጸመው ወንጀል ተከሷል፡፡

ማስረጃ

ሀ/ የሰው

1. የግል ተበዳይ በላይነሽ ጌትነት አድራሻ ዐገታበሌ

ለ/ የሰነድ

1. በቁጥር 764/ገ-2/98 በቀን 01/07/2002 ዓ.ም. ከግንደወይን ጤና ጣቢያ የተጻፈ ማስረጃ ቀርቧል፡፡
2. በወ/መ/ስ/ሀ/ቁ/ 35 መሰረት ተከግሽ የሰጠው የእምነት ቃል 3 ገጽ ተያይዞ ቀርቧል፡፡

ማግለጫ፡- ተከግሽ ጣቢያ ስለሚገኝ እንደደረሰ ተከፍቶ ይታይልን፡፡



[Handwritten Signature]
መዳኅም አሰፋ
የወ/ገ/ዓ/ህግ

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PG/00100/02-00426/2002

07/07/2002 01:00

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Main body of handwritten text, continuing the list or description.

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ሲንኤ ቀዳሴዎች ለግብርና ማህበረሰብ ገቢዎች ገቢዎች ገቢዎች

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ተጠቃሚው ለግብርና ማህበረሰብ ገቢዎች ገቢዎች ገቢዎች

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ቁጥር ጉሳ/ዳገ/503/104/2002

ቀን 09/04/2002

ሰጉ/ሲ/አ/ባ/ዳርድ ቤት

ግ/ወይን

የዐ/ህግ/ወ/መ/ቁ/ 104/2002

የፖ/ም/ወ/መ/ቁ/ 115/2002

የዳ/ቤት ወ/መ/ቁ/ -----

ከግሽ ----- ዓ/ህግ

ተከግሽ ----- ሞላ ካሳው ጉሽ ፣ ጾታ ወ ፣ እድሜ 21 ፣ ስራ እርሻ፣ አድራሻ 027 ቀበሌ

ወንጀል

በኢ.ፌ.ዲ.ሪ. ወንጀል ህግ አንቀጽ 586 ን በመተላለፍ።

የወንጀል ዝርዝር

ተከግሽ በጉ/ሲ/አ/ወ/ 027 ቀበሌ አሆሜዳ ከተባለ ቦታ ታህሣስ 6 ቀን 2002 ዓ.ም. በግምት ከምሽቱ 1:00 ሰዓት በሚሆንበት ጊዜ የግል ተበዳይ ውበቱ ምስጋናውን መሣሪያ ይዞ በጋይል በማስፈራራት የወሰዳት ስለሆነ በፈጸመው ሰውን መጥለፍ እጅ ከፍንጅ ወንጀል ተከሷል።

ማስረጃ

ሀ/ የሰው

- 1. የግል ተበዳይ ውበቱ ምስጋናው አድራሻ 029 ቀበሌ ✓
- 2. ቁስ ምስጋናው ጠና ✓
- 3. አቶ ተዋበ ደመላሽ ✓
- 4. ሽፈራሁ ሁሉን አካላት ✓

መልካም አሰፋ

ዓ/ህግ



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ገጽ 1
ገጽ 1 ሆነ ገጽ 2 ሆኖ የሰጠው ህግ ስለገጽ 1/1 ሆኖ የሰጠው
ገጽ 2 ሆኖ የሰጠው ህግ ስለገጽ 2/1 ሆኖ የሰጠው
ገጽ 3 ሆኖ የሰጠው ህግ ስለገጽ 3/1 ሆኖ የሰጠው
ገጽ 4 ሆኖ የሰጠው ህግ ስለገጽ 4/1 ሆኖ የሰጠው
ገጽ 5 ሆኖ የሰጠው ህግ ስለገጽ 5/1 ሆኖ የሰጠው
ገጽ 6 ሆኖ የሰጠው ህግ ስለገጽ 6/1 ሆኖ የሰጠው
ገጽ 7 ሆኖ የሰጠው ህግ ስለገጽ 7/1 ሆኖ የሰጠው
ገጽ 8 ሆኖ የሰጠው ህግ ስለገጽ 8/1 ሆኖ የሰጠው
ገጽ 9 ሆኖ የሰጠው ህግ ስለገጽ 9/1 ሆኖ የሰጠው
ገጽ 10 ሆኖ የሰጠው ህግ ስለገጽ 10/1 ሆኖ የሰጠው

ገጽ 11 ሆኖ የሰጠው ህግ ስለገጽ 11/1 ሆኖ የሰጠው
ገጽ 12 ሆኖ የሰጠው ህግ ስለገጽ 12/1 ሆኖ የሰጠው
ገጽ 13 ሆኖ የሰጠው ህግ ስለገጽ 13/1 ሆኖ የሰጠው
ገጽ 14 ሆኖ የሰጠው ህግ ስለገጽ 14/1 ሆኖ የሰጠው
ገጽ 15 ሆኖ የሰጠው ህግ ስለገጽ 15/1 ሆኖ የሰጠው
ገጽ 16 ሆኖ የሰጠው ህግ ስለገጽ 16/1 ሆኖ የሰጠው
ገጽ 17 ሆኖ የሰጠው ህግ ስለገጽ 17/1 ሆኖ የሰጠው
ገጽ 18 ሆኖ የሰጠው ህግ ስለገጽ 18/1 ሆኖ የሰጠው
ገጽ 19 ሆኖ የሰጠው ህግ ስለገጽ 19/1 ሆኖ የሰጠው
ገጽ 20 ሆኖ የሰጠው ህግ ስለገጽ 20/1 ሆኖ የሰጠው

ገጽ 21 ሆኖ የሰጠው ህግ ስለገጽ 21/1 ሆኖ የሰጠው
ገጽ 22 ሆኖ የሰጠው ህግ ስለገጽ 22/1 ሆኖ የሰጠው
ገጽ 23 ሆኖ የሰጠው ህግ ስለገጽ 23/1 ሆኖ የሰጠው
ገጽ 24 ሆኖ የሰጠው ህግ ስለገጽ 24/1 ሆኖ የሰጠው
ገጽ 25 ሆኖ የሰጠው ህግ ስለገጽ 25/1 ሆኖ የሰጠው

በአዲስ አበባ
 የሥነ ምግባርና
 የሥነ ምግባር ስራ
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በአዲስ አበባ የሥነ ምግባርና የሥነ ምግባር ስራ ቤት
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 የሥነ ምግባርና የሥነ ምግባር ስራ ቤት

ገቢዎች

- በሥነ ምግባርና የሥነ ምግባር ስራ ቤት
- የሥነ ምግባርና የሥነ ምግባር ስራ ቤት
- የሥነ ምግባርና የሥነ ምግባር ስራ ቤት
- የሥነ ምግባርና የሥነ ምግባር ስራ ቤት



#ጥር 1065/ጊ.ሠ/ገ
ቀን 24-2004

ሰነድ አገልግሎት አገልግሎት ወረዳ ፍ/ቤት

ምጣ

Handwritten signatures and notes:
ሰነድ አገልግሎት
ሰነድ አገልግሎት
ሰነድ አገልግሎት
ሰነድ አገልግሎት
ሰነድ አገልግሎት
ሰነድ አገልግሎት

የዐ/ሕ/የፍ/ብ/መ/ቁ
የፍ/ቤት መ/ቁ

አመልካች የ2 አገልግሎት ወረዳ ዐ/ሕግ

ተጠሪዎች 1ኛ አቶ ምስጋናው አይቸሉም

- 1.1 የሕፃን ሠላም
- 1.2 የሕፃን አበባ ወላጅ አባትና
- 1.3 የሕፃን የኔውድ አይቸሉም ወንድም

አድራሻው ቡሃ ገልጥም ቀበሌ ሲሆን

2ኛ አቶ ምንውያ ፀሐይ እና

3ኛ ወ/ሮ አየሁ ታደገ

- 2.1 የሕፃን ይታየሽ ምንውያ እና
- 2.2 የሕፃን ንብረቴ ምንውያ ወላጅ አባትና እና/ሲሆን

4ኛ አቶ ብርሐን አሰፋ አድራሻው ፍቅር ሰሃገር ቀበሌ

አቤቱታችን የፍ/ብ/ሰ/ሰ/ሕ/ቁ 18 መሠረት የቀረበ ነው።

ክሱ በምግብ ተቆይቶ ላይ ሲቀርብ የቻለው የፍ/ብ/ሥ/ሥ/ሕ/ቁ 34 መሠረት ነው።

ዐ/ሕግ ክሱን ለማቅረብ የቻለውም የፍ/ብ/ሥ/ሥ/ሕ/ቁ 42/ሐ/ መሠረትና በአብዛኛው

የቤ/ሕ/አዋጅ ቁ 79/1995 በአንቀጽ 42/1/ መሠረት በተሰጠው ስልጣን ነው።

የአቤቱታችን ዝርዝር በአጭሩ

1ኛ ተጠሪ አቶ ምስጋናው አይቸሉም የተባለው 1ኛ እድሜዎ ከ13-14 ዓመት የሆኑትን ሕፃን ሰላም ምስጋናውን ለ2ኛ ተጠሪ ልጅ ለሕፃን ንብረቴ ምንውያ እድሜው ከ15-17 ሰሆነው ጥር 1 ቀን 2000 ዓ.ም በመዳሩ 2ኛ እድሜዎ ከ15-16 ዓመት የሆኑትን የኔሆድ አይቸሉምን እድሜው 23 ዓመት ሰሆነው ለ4ኛ ተጠሪ በመዳሩ 4ኛው ተጠሪም እድሜዎ ለጋብቻ ያልደረሰባቸውን ልጅ በማግባቱ 3ኛ እድሜው ከ15-17 ዓመት የሆነውን አበባ ምስጋናውን ለ2ኛው ተጠሪ ልጅ እድሜዎ ከ14-15 ዓመት የሆኑትን ሕፃን ይታየሽ ምንውያ ጋር የአብዛኛው የቤ/ሕ/አዋጅ ቁጥር 79/1995 አንቀጽ 18 ላይ የተመለከተውን እድሜያቸው

18 ዓመትና በላይ ያልሞላቸውን ልጆች የዳሩ በመሆኑና የእነዚህ ሕፃናት ልጆች ጋብቻ የሕግ መሠረት የሌለው በመሆኑ ክቡር ፍ/ቤቱ ሕገ ወጡን ጋብቻ እንዲያፈርስልን ተጠሪዎች ምን አልባት ይህን ጋብቻ የሚያስተባብሉ ቢሆን የአለንን የሰውም ሆነ የጽሁፍ ማስረጃ የፍ/ብ/ሥ/ሥ/ሕግ ቁጥር 223 መሠት በልዩ ማመልከቻችን ደርገረን የአቀረብን ሲሆን አቤቱታችን ስለመሆኑም የፍ/ብ/ሥ/ሥ/ሕ/ቁጥር 92 እና 93 መሠረት በፊርማችን በማረጋገጥ እናመለክታለን።

አመልካች

የሁለት እጅ እንሴ ወረዳ ዐ/ሕግ



[Handwritten signature]
አዳነ ጌሴ ገለሰ
ዐ/ሕግ

Handwritten notes in the top left corner, possibly a date or reference number.

Main handwritten text block, starting with 'Stove 23' and containing several lines of cursive script.

Second handwritten text block, starting with 'Plato. Pindi: a/w/m. hener' and continuing with more cursive writing.

11-96 11:00 PM
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11-96 11:00 PM

Am. 9364 number with
135: Miller Account. 0076
1354

-9011-

1354: out: 10

1354: Miller 1354 1354

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~~1354~~

MOTTA HOSPITAL
MEDICAL CERTIFICATE

Appendix VI

የጤና ምርመራ ማረጋገጫ

የሰዎች ስም በገገዎንጎ ቀጋ ዕድሜ 0 ያታ ሴ ካ.ቁ. 54187/200

Name በገገዎንጎ ቀጋ Age 0 Sex ሴ Card No

የተመረመረበት ቀን 07/12/2000 2-90

Date of Examination 07/12/2000

የሕመሙ ዓይነት ጭንቀት

Diagnosis ጭንቀት

የተሰጠው ሕክምና ጠቅላላ ምርመራ ነገር የሌለው

Treatment Given ጠቅላላ ምርመራ ነገር የሌለው

የሕክምና አስተያየት አጠቃላይ ጤናማ ሲሆን ለጭንቀት ምክንያት የሚከሰቱትን ስርዓቶች ማከም ይኖርበታል።

Recommendation አጠቃላይ ጤናማ ሲሆን ለጭንቀት ምክንያት የሚከሰቱትን ስርዓቶች ማከም ይኖርበታል።



[Signature]
ቀ/ር ገ/ር ገ/ር
Medical Director
Doctor's Signature

St. George Printing Press

MOTTA HOSPITAL
MEDICAL CERTIFICATE

ቁጥር 4193/103/98
ቀን 24/7/2001

ዕድሜ 18 ዓተ ልጅ ስ.ቁ 17016/01
Age Sex Card No

ጊዜ ለመሰጠት ቀን 25/06/01 ዓ.ም

Examination ስርዓት ማድረግ

is ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ

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መመዘኛ ስርዓት ማድረግ

መመዘኛ ስርዓት ማድረግ



Doctor's Signature
St. George Printing Press

Declaration


I, Azmera Kasahun, declare that the work presented in this thesis is original. It has never been presented to any institutions. Where the work of other persons has been used appropriate citation and quotation are used. In this regard, I declare this work as originally mine.

Signature.....

Date..... Dec 31st 2010

Confirmation

I, Dr.Emezat Mengesha, declare that this study has been conducted under my supervision and further declare that I have approved its submission for the partial fulfillment of the Degree LLM at the Faculty of Law, Addis Ababa University.

Signature

Date..... Dec 31st /2010