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Human Rights in Ethiopia: An Assessment on the Law and Practice of Women's Rights

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Abstract: Historically, women had been subjected to serious marginalization in the male dominated patriarchal society. Discriminatory and stereotyped cultural practices accompanied by weak legal frameworks had a significant place in the women's suffer. The current regime of Ethiopia has been aggressively working in the revision and enactment of several laws and policies so as to ensure the protection of the rights of women. Nevertheless, the change brought has not been satisfactory. The deeply rooted stereotype perception and bad cultural practices remained to pose challenges in the protection and promotion of women's rights. Besides, lack of uniformity among family laws of the country continues to contribute for the domination of women. Moreover, lack of capacity of women's institutional machineries has also contributed to the prevailing problems. Thus, though the laws of the country are informed by the principle of gender equality women are still subject to serious violations of their rights. The study, therefore, calls for strong commitment of the government in the practical implementation of women's rights, to modify such bad culture to be friendly with women's rights and to build the capacity of women's institutional machineries.

Keywords: Men, Women, Women's Rights, Human Rights, Domination, Legal Frameworks

1. Introduction

Human rights are the most fundamental rights of human beings (Nowak, 2005). Human rights are innate rights for which all human beings are entitled by nature. In other words, they are the fundamental entitlements which every human being enjoys by the mere fact of being a human being (Renteln, 1988; UN, N.D). Hence, the only criterion to enjoy human rights is to be born as a human being. Human rights are emanated out of humanity and their ultimate purpose is to protect and promote human dignity. Their preservation is pivotal for the full realization of human dignity. It is for this reason that a number of movements had been took place since long time ago. In this connection, it is worth mentioning the American and French revolutions which happened in the late 18th century and the other subsequent movements (Nowak, 2005). People had experienced fierce struggles to create an enabling environment for the protection and promotion of human rights thereby to advance human dignity. Since then the issue of human rights has become the major theme of several discourses and movements across the world. Subsequently, several human rights conventions have

been made. Also, human rights are incorporated into the constitutions and other legal frameworks of state parties as the final duty bearers as regards the respect, protection, and fulfillment of human rights are states. Hence, in this modern era human rights are given with universal recognition and utmost significance. They are international norms.

2. Basic Features of Human Rights

Universal: human rights are universal (UN, N.D) in a sense that they should be respected by everyone, everywhere, at every time. Human rights have no geographical limitation; they should be fully realized across the world and all human beings should enjoy them.

Inalienable: human rights are in alienable (ibid) in a sense that they are neither renounced nor deprived. They are naturally given thus should not be deprived by anybody save under clearly defined legal circumstances (Nowak, 2005; UN, N.D). Hence, they are inseparable from human nature under normal circumstances.

Inherent: human rights are inherent to human nature (UN, N.D). Putting it differently, human rights emanated from

humanity. They are not given by the government or anybody else nor be given because of being member of a certain group or citizen of a certain country. Hence, they are purely originated from human nature/dignity. In other words, they are not something granted.

Equality: it has two dimensions. Firstly, all human rights are equally important; no primary and secondary human right. All are equal. Secondly, human rights are for all. They are equally enjoyed by all human beings regardless of any irrelevant ground such as nationality, ethnicity, color, sex, religion (ibid). They are fundamental rights which belong to everyone (Ife, 2008).

Given such worthy features, human rights are at the core of the prevailing international political discourses. And, a number of treaties made on human rights clearly show the due regard given to human rights. Nonetheless, the practical realization of human rights has been unable to touch the ground in a full manner. Most importantly, women are highly segregated in the enjoyment of human rights. The central objective of this paper is, therefore, to uncover the implementation of women's rights in Ethiopia. To this end, the paper first tries to outline the legal frameworks recognizing and protecting women's rights. Following this, it will examine the realization of women's rights and challenges thereto. Finally, it provides some recommendations and concluding remarks. To accomplish this study, a qualitative approach was employed. Besides, secondary sources like journal articles, legal documents and reports were utilized.

3. Human Rights in Ethiopia: Brief Overview

In this section the paper tries to briefly state the general recognition and implementation of human rights in Ethiopia. The researcher will not discuss human rights in Ethiopia in detail as it is not the central objective of the study. To begin with, in Ethiopia, the issue of human rights had no relevance in the easily times. This is because human beings had not enjoyed freedoms and entitlements by the reason of their humanity. It was the will of leaders of the time that matters (Tsegaye, 2009). Even after the introduction of modern constitution in the country in 1931 the issue of human rights was not given due attention. Besides, though 1955 revised constitution incorporated human rights better than the previous constitution they remained to have paper value as the regime continued to seriously abuse them.

Then, the military regime came to replace the monarchial system. During this era, Ethiopia ratified international human rights treaties like Convention on the Elimination of Racial Discrimination (CERD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Brems, 2007) besides its constitutional recognition of rights. However, the cruel act of the regime which curtailed the practical implementation of human rights is in the mind of everybody. In this regard, it is worth

mentioning the unforgettable effect of Red Terror campaign in massively violating human rights.

Under the current regime, the issue of human rights attained greatest recognition. The constitution as well as subsequently enacted laws of the country provided human rights with an utmost significance. At the top of that, Ethiopia has joined almost all major international human rights treaties having maintaining the previously ratified treaties. It is true that human rights are at the centre of the current Ethiopian laws, policies, and programs. However, the practical implementation of human rights is still subject to strong criticisms by different bodies (Endalcachew, 2014).

4. Women's Rights in Ethiopia: The Law and Practice

4.1. The Pre-1991 Period

In the early time, the issue of women's rights had not got attention. There had been no significant incorporation of relevant provisions into the legal frameworks of the time pertaining to the recognition and protection of women's rights. Legal frameworks of the time provided lesser punishments for the perpetrators of different forms of violence against women thereby promoting male supremacy (Yemane, 2004). The legal frameworks did not provide strict provisions which prevent any prejudicial acts against women; instead they amplify men's dominance. In this regard, the 1960 civil code of the empire of Ethiopia empowers husband as the head of the family (Art.635), allows management of the family under the guidance of the husband (Art.637) and authorizes the husband to guide the conduct of his wife (Art.644). These provisions clearly favoured men dominance over women. Besides, the 1957 penal code of the empire of Ethiopia had also legalized the prevalence of domestic violence (Megersa, 2014). The bottom line is there were no strong legal frameworks devoted to the protection of the rights of women; instead they paved the way for acts done against women through promoting male superiority.

Coming to the practice, women had suffered from enjoyment of human rights. It is true that women's enjoyment of human rights cannot be fully understood without comparing them with their men counterpart. Even though the general implementation of human rights in Ethiopia had serious limitations, men had enjoyed them better compared to women. Traditionally, women were subjected to prejudicial judgments as to their status, role and responsibility. They were considered as subordinate to their male counterpart (Dejene, 2009). Ethiopian society used to practice a patriarchal system where men dominated women. Women were dominated, oppressed and exploited by men. They were held back from taking part in the economic, political and social affairs of the country (ibid) thereby denying them from enjoyment of the fundamental rights and freedoms they deserve as a human person. Hence, they were downtrodden and curtailed from equally enjoying human rights as men. They had no also equal access to public life as men. Instead,

they were confined to household activities such as rearing children, cooking food, fetching water, among others. Besides, were not also engaged in professional and standardized activities which earn better income. Also, they were not entitled to access land, which had masculine behaviour (Tamrat, 2013). Due to these reasons, women had been exclusively dependent on men. For the aforementioned problems religion and culture had an irreplaceable role in terms of confining women to domestic sphere of life and subjecting them to different forms of violence and harmful traditional practices which clearly contravene with their human rights. Generally, lack of strong legal framework which duly recognizes and protects women's rights was accompanied by deeply rooted gender-based discriminatory practices in the suffering of women. Putting it differently, women were marginalized by gender-based discriminations backed by weak legal frameworks, which were not duly informed by gender parity.

4.2. The Post- 1991 Period

Changes and continuities are apparent concerning the status of women's rights under the current regime of Ethiopia. As regards the legal coverage given for the recognition and protection of women's rights, it is true that the current government come up with a number of laws, policies, programs and plans informed by the issue of gender equality. Laws and policies of the country have mainstreamed gender issue thereby to ensure the enforcement of women's human rights. The 1995 FDRE Constitution has provided a foundation for the recognition and protection of women's rights. Art. 35 of the same constitution guarantees women an equal right with men. At the top of that, the same article provides women positive discrimination so as to rectify the effect of the past injustice made on them. This shows the attention given for the equality of women with men and the effort to create a level ground for them to compete with their men counterpart. Furthermore, the same article stipulates that "women have the right to acquire, administer, control, use and transfer property". In addition, the importance of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which Ethiopia ratified under the Derg regime also persists to be duly recognized and pursued. This convention basically tries to abolish gender-based discriminations. Besides, Ethiopia has also ratified, *inter alia*, the 1966 two international conventions namely International Convention on Civil and Political Rights (ICCPR) and International Convention on Economic, Social, and Cultural Rights (ICESCR) which have substantive relevance to women's rights. As per art.9 of the constitution all international treaties ratified by Ethiopia are integral parts of the law of the land. Hence, the relevant provisions of all ratified treaties including CEDAW, ICCPR and ICESCR contribute for the realization of women's rights besides the effort made by the constitution and other laws.

To add more, the subsequent laws of the country are also made gender sensitive. The Ethiopian Revised Family Law (2000) made women's minimum marriageable age 18 years

old by abrogating the civil code provision which allows marriage at 15 (Art.7). Art.6 of the revised family law stated mutual consent of the spouses as one of the essential conditions for marriage conclusion. The law also confers women the right to share property produced after they engaged in irregular union provided that their relation has lasted for not less than three years (Art.102). Moreover, art.50 of the same provides for joint management of family. The rationale for enactment of the revised family law replacing family related provisions in the civil code of 1960 is to avoid gender-based discriminations in the latter law.

The 2004 criminal code of Ethiopia also criminalizes some traditional practices which have been the major bottlenecks in the exercise of women's human rights. Accordingly, the law criminalizes harmful traditional practices including early marriage (Art. 648), abduction (Arts. 586, 587), female genital mutilation (Art. 565), and infibulation of the female genitalia (Art.566). It also criminalizes rape (Arts.620-628) and violence within marriage or irregular union (Art.564). Besides, women's trafficking is also criminalized under the criminal law of Ethiopia (See arts. 597, 598). Thus, the normative prescriptions of the criminal law of Ethiopia have a paramount importance in the effort to protect women from various harms and acts which hinder the exercise of their human rights.

Furthermore, the labour proclamation no 377/2003 also provided women with a special attention. This proclamation is aware of the fact that women are marginalized historically and hence genuine equality will not be maintained only by the principle of non-discrimination on the basis of sex rather women should also be given with a special treatment, affirmative action. Pursuant to this premise, Art. 87 (1) of the proclamation states that "women shall not be discriminated against as regards employment and payment, on the basis of their sex". Article 87(3), (4), (5) & 88 of the same also provide special provisions for females under particular circumstances such as pregnancy and maternity. Likewise, same protection is also accorded to women in the federal civil servants law.

It should be noted that the aforesaid laws are not the only laws which have coverage to gender issue. The rest laws of the country have, in one way or another, a relevance to the attainment of gender equality and thereby realization of women's human rights. Above all, almost all policies of the country have incorporated the value of gender equality. Empowerment of women and girls is at the core of the current government's social and economic policies (Permanent Commission, 2013). The pronouncement of National Policy on Women in 1993 with the aim of promoting social, economic, and political rights of women has significant contribution in this regard through making gender related structure in the government which informs government policies with gender issue (Ogato, 2013). Hence, it is a well established fact that Ethiopian laws and policies are informed by the worth of gender equality and protection of women's rights.

Coming to the practice on the ground, the overall effort of

ensuring gender equality and empowerment of women has brought certain achievements. Through mainstreaming gender within national development plans as well as sector specific plans certain level of progress has been achieved in terms of engaging women in the social, political and economic affairs of the country (Permanent Commission, 2013). Putting it differently, change has been brought in the current government as regards the protection and promotion of women's rights.

However, the fact remains that the practical achievement of gender equality and full realization of the rights of women has not been as the law prescribed and as women should naturally deserve by the mere fact of being a human person. In other words, the changes being brought are not adequate. Women are not equally enjoying as men of their rights in the political, economic, and social affair of the country (Ogato, 2013). They have still limited access to and control of productive resources, employment, information, decision-making, and training (ibid). The prevailing challenges they face show the fact that they still occupy the low status in the society. Women still suffer from violation of human rights though the government strives to maintain gender equality and to achieve the implementation of women's rights. They are encountering violence in their private as well as public life (Yemane, 2004; Megersa, 2014). It is common to see women are dominated, oppressed and exploited by their men counterpart. The rights of women have not been properly safeguarded as human rights of all human beings. This is due to the mere fact of being a woman, which should not be the case in any means. Gender-based discriminatory practices are still apparent in the rural area of the country. Gender-based violence that resulted in physical, sexual, and psychological harm has not been adequately addressed by the laws discussed above.

The deeply rooted social norms have remained to challenge the attainment of women's protection (The Federal Democratic Republic of Ethiopia, N.D). The historical legacy of gender-based inequalities and discriminations still poses serious challenges to the overall realization of women's rights/gender equality. Social stereotypes that confine women to certain types of roles and positions in private and public life continue to hinder gender equality. Generally, patriarchal system and stereotyped perception of the society perpetuated gender-based discrimination and violence against women which have adverse impact on the realization of women's rights.

Lack of uniformity among family laws in Ethiopia also contributed for sustainability of gender-based discriminatory practices. Not all regional states made their laws in conformity with the federal family law and international instruments as regards rights related with marriage including marriageable age (UN, 2011). Due to this fact, regional states of Ethiopia follow their own family laws thereby perpetuating male dominating discriminatory practices. This shows the gap in the Ethiopian legal frameworks pertaining to the protection of women's rights.

Moreover, those established women's rights-oriented

institutions such as the Women's Affairs Office and the Women's Affairs Departments have suffered from lack of capacity notably human resource (Ogato, 2013). The cumulative effect of those challenges discussed above, though not the only, perpetuates violation of women's rights.

5. Recommendations

Women's rights are human rights. Hence, all the respect and protection given for human rights should also be given for women's rights. Women's rights deserve equal protection and promotion as other human rights. After all, Ethiopian women constitute almost half of the total population (49.9 %). This shows that unless women are empowered and fully enjoyed their rights, achievement of the development of the country at the expected level is unlikely. This means, women should be given with equal opportunity and access in order to fully utilize the talent, creativity, and intelligence of all human beings in the overall development process. Hence, the focus should not be only on the enactment and revision of laws and policies but also on the real application of those laws and policies so as to enforce women's rights and remove obstacles thereto. Culture perpetuates women's suffering. However, culture is changeable hence there is a need to work hard so as to make it friendly with women's human rights. There is a need to work strongly to change bad societal attitudes and practices. Furthermore, harmonizing regional states' family laws with the federal family law and relevant international instruments is too vital. Moreover, strong punishment to those who perpetrate any act which contravenes women's rights should be in place.

6. Concluding Remarks

Traditionally, women were oppressed by discriminatory cultural practices backed by weak legal frameworks. Though the current government of Ethiopia is aggressively working on the rights of women, especially, through formulating gender sensitive laws and policies prejudicial treatments remain to affect their life. The deeply rooted culture and stereotyped perception of the society still persist to pose serious impact on the realization of women's rights making normative principles of the country a mere paper tiger. This is accompanied by lack of uniformity among family laws of the country and the weak capacity of women's institutional machineries. Thus, a lot effort is yet needed from the government so as to protect the rights of women.

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