



LEGAL RESPONSE TO DOMESTIC VIOLENCE IN ETHIOPIA: A COMPARATIVE ANALYSIS



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Submitted to
Central European University
Department of Legal Studies

In partial fulfilment of the requirements for LLM on Human Rights

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Budapest, Hungary
2009

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EXECUTIVE SUMMARY

Domestic violence threatens the lives and livelihood of the majority of Ethiopian women. This work presents the legal response to domestic violence in Ethiopia in a comparative analysis with South Africa. For this reason, Legal documents at the international, regional and domestic level and practical situations are studied. The study employs review of literatures, legal documents and interviews with some stakeholders.

The study found out that the state legal intervention on domestic violence issues is gravely lacking in Ethiopia. The study points out major factors as insufficient legal coverage in the criminal and civil laws of the country; lack of policy framework on provision of services for victims; lack of judicial activism to employ international and regional instruments to fill the legal gap at the domestic level and the trivialization of domestic violence as a ‘private matter’ by both the community and law enforcement agencies. Additionally, the problem is attributed to the patriarchal culture in the society which condones domestic violence against women; the suppression of activist organizations by the government and lack of political will to assume state accountability for failure to protect the rights of women.

Conversely, South Africa offers a good model for Ethiopia as it provides a holistic legal redress for victims of domestic violence in the form of criminal remedies and a separate Act on civil remedies ; policy framework on provision of services; and accountability mechanisms for law enforcement agencies. Consequently, Ethiopia is in need of a comprehensive legal as well as institutional reform to cope with domestic violence.

ACKNOWLEDGMENT

I'm deeply grateful to my advisor Professor Csilla Kollonay-Lehoczky for her invaluable advice in planning and undertaking the present study. In addition, I would like to thank the Central European University for providing me the scholarship to study in the Human Rights Department. I also appreciate the Ethiopian Women Lawyers Association and *Tsotawi Tikat Tekelakay Mahiber* for their valuable input for this study. Last but not least, I would like to say thank you to my classmates at CEU for making my stay lively.

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LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and People's Right
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DEVAW	Declaration on the Elimination of Violence Against Women
EWLA	Ethiopian Women Lawyers Association
FDRE	Federal Democratic Republic of Ethiopia
FHC	Federal High Court of Ethiopia
FSC	Federal Supreme Court of Ethiopia
UDHR	Universal Declaration of Human Rights

1.0 INTRODUCTION

Domestic violence is a worldwide problem that is increasingly drawing the attention of citizens, states, and the international community.¹ This is especially for Ethiopia where a traditional patriarchal societal structure is intertwined with poverty and one of the highest levels of illiteracy. Domestic violence is an everyday reality for women in Ethiopia.

The researcher grew up in a community where domestic violence against women was an everyday occurrence. Domestic violence is intertwined with the very fabric of Ethiopian society and it was impossible to pass a day without such an incident in the neighborhood. The writer remembers an emotional tale from her grandmother who was married at the age of 14 and was beaten many nights by her husband, so that neighbors were able to hear her cries. Then, it was the custom for husbands to beat their wives often, to prove their ‘manliness’ so that the woman’s cry would reach the neighbors. Despite her wishes that the violence ends with her daughters had been living for more than two decades with emotional and severely physical violence from her husband, without any legal redress. This experience resonates with the majority of Ethiopian women where the privacy of their homes is not safe for them.

The objective of this research is to identify the situation of domestic violence within the corresponding legal response in Ethiopia. With this regard, the research is limited to investigating the issue of domestic violence against women in intimate relationships. For this reason, the

¹ Nancy Cantalupo, Lisa Vollendorf, Martin Kay Pak & Sue Shin, Domestic Violence in Ghana: The Open Secret. The Georgetown Journal of Gender and the Law, 7 Geo. J. Gender & L. 531, 2006, p.1

research made use of comparative analysis with the South African legal regime, which has been a front-runner in the African continent, having a well-developed legal response to domestic violence. Moreover, apart from disparities in the legal response to domestic violence, the two countries have similarities in prevalence of domestic violence, patriarchal culture and a strong communal system in addition to the rampant societal violence.

With the prevalence of domestic violence in Ethiopia, this research will contribute to the development of domestic laws and structures to tackle the issue. This in turn will urge the realization of Ethiopia's commitment to the international human rights standards with regard to domestic violence. This research employed mainly document review, Court cases and manuscripts, as well as interviews with women victims of domestic violence, civil society and members of the law enforcement agencies of Ethiopia. This research is limited to domestic violence against women, by men, in Ethiopia and did not consider the issue of same-sex relationships or domestic violence cases against other family members.

This research has been divided into five chapters. The first one discusses the theoretical framework on domestic violence against women. It will assess definitions, and theories of causes for domestic violence, as well as state intervention strategies. The second chapter situates domestic violence in the context of Ethiopia and South Africa. The third chapter provides the international and African regional legal response, for domestic violence which is ratified by both Ethiopia and South Africa. The fourth chapter investigates the domestic legal response to domestic violence in Ethiopia with lessons learned from South Africa. It will analyze the Ethiopian Constitution, domestic remedies for domestic violence and the responses of law

enforcement agencies in the two countries. The last chapter discusses the coping mechanisms of women victims in Ethiopia, and the way forward. This is followed by conclusions and recommendations.

2.0 CHAPTER ONE: THEORETICAL FRAMEWORK

This Chapter situates the legal response of the domestic violence against women in Ethiopia in a general set of theories and state intervention strategies at work. For this reason, it will first point out the unique nature of violence against women versus general violence. Violence against Women is, in essence, violence predominantly inflicted by men. As such, violence against Women is defined by the UN (1993) 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 in private life."²

Violence against women goes beyond beatings; it includes among others forced marriages, dowry-related violence, marital rape, sexual harassment, intimidation at work and in educational institutions, forced pregnancy, forced abortion, forced sterilization, trafficking and forced prostitution.³ Thus, gender based Violence has a significant cost to a country's economy and is an obstacle to achieve gender equality. Violence against Women in this regard is a form of Gender Based Violence that targets women.

² Article 1, UN Declaration on the Elimination of Violence Against Women General Assembly Resolution 48/104 of 20 December, 1993

³ Mary K., "Taking on Violence Against Women in Africa : International Norms, Local Activism Start to Alter Laws, Attitudes", *African Renewal*, 21:2, (July 2007), p.4

2.1 Definition of Domestic Violence

The manner of defining concepts, phenomenon or acts is uniquely important when it comes to law and legal responses as such. Hence, with regard to domestic violence, the way it is defined in the law is instrumental and descriptive of the legal ideology behind the definition and the corresponding legal response it would be offered. The way domestic violence has been defined dictates the mechanisms for state intervention.

Levinson defined violence as an action of one or more individuals that is meant to cause physical pain to one or more individuals or nonhuman animals, or to destroy material property.⁴ On the other hand, Hearn defined violence at both interpersonal and structural level. On the interpersonal level, he defined violence as comprising the following elements; that which is or involves the use of force, physical or otherwise, by a violator or violators; that which is intended to cause harm; that which is experienced, by the violated, as damaging and/or violation and the recognition of certain acts, activities or events as 'violent' by a third party, for example, a legal authority.⁵ Hence, the definition of violence is dynamic and diverse and what act it consists is also progressive and depends on the situation. What is violent behavior on one place may not be named as such in another place or time.

Whereas, he explained structural violence as the structural pattern of individual and interpersonal violence; the violent acts of social institutions such as the state; the violent effects of inequalities;

⁴ David Levinson, *Family Violence in Cross-Cultural Perspective*, (Sage Publications ,1989) P.39

⁵ Jeff Hearn, *The Violences of Men: How Men Talk About and How Agencies Respond to Men's Violence to Women*, Sage Publications Ltd. Bonhill Street, London, 1998,pp. 16

violent effects of warfare and inter-national, inter-community conflict; social structural relations of institutions when and where those social relations have historically been violent or have underwritten violence, for example, the social relations of fatherhood or capitalism.⁶

Domestic violence has been distinguished from other forms of violence against women such as harassment, rape outside of intimate relationships, and other forms of violence against women specific to socio-cultural settings as female genital mutilation.⁷ To this effect, current scholarship presents four micro-level characteristics (accessibility to the victim, violation of trust, power imbalance, and control and dependence) along with two macro-level patterns (cyclicity and psychological harms) as the rationales for separating domestic violence from other violent crimes.⁸

Domestic Violence has been defined in a myriad ways emphasizing different aspects of it in terms of gender, survivors, perpetrators and scope. Domestic violence has been defined in a broader or narrower fashion. In broad terms, it refers to those aspects of violence occur between family members irrespective of the family arrangement. Additionally, domestic violence has also been interpreted broadly to include, wife abuse, child abuse and elderly abuse or other violent relationships depending on it occurs in the family setting.

⁶ Hearn (n.5)

⁷ Orly Richardson, "Bringing Down the Bedroom Walls: Emphasizing Substance over Form in Personalized Abuse", *Wm. & Mary J. of Women & L.* 14:495, (January 2008), Pp.1

⁸ Richardson (n.7)

On the other hand, domestic violence can also be defined broadly taking into account the intimacy of the persons involved depending on the relationship between the perpetrator and the victim/survivor. On this regard it may include people who have been divorced, martial spouses, dating relationships, sexual relationships.

In its narrow definition, Domestic Violence is taken as the violence occurring between partners. As such, Margi McCue defined Domestic Violence as "the emotional, physical, psychological, or sexual abuse perpetrated against a person by that person's spouse, former spouse, partner or former partner or by the other parent of a minor child."⁹ Hence, Domestic violence is seen as violence between intimates living together or who have previously cohabited' while for others it is a problem of women in marital relationships being assaulted ,which definition is said to be wife abuse or wife battering instead of domestic violence.¹⁰ Of course, there have been ample evidences that domestic violence occurs in great percentage on women by men even though men, children and persons involved in same sex relationships are also victims of domestic violence.¹¹ However, women and girls are the main targets and victims of domestic violence in great proportions by men and or male family members.¹² As Dobash & Dobash explained;

"It is well known that violence in the home is commonplace, that women are its usual victims and men its usual perpetrators. It is also known that the family is filled with many

⁹Margi Laird McCue, *Domestic Violence: A Reference Hand Book*, (2nd Ed., ABC-CLIO publishers, 1995), P. 2-3

¹⁰ Eve S. Buzawa & Carl G. Buzawa, *Domestic Violence : the Criminal Justice Response*, (3rd Ed., Sage publications, 2002) P. 13

¹¹ Deborah L. Rhode, "Sex and Violence", in *Justice and Gender : Sex Discrimination and the Law*. (Harvard University Press, 1991), p.237

¹² Rhode (n.11)

different forms of violence and aggression, including physical, sexual and emotional, and that violence is perpetrated by young and old alike.”¹³

The fact that women and girls are the primary victims of such violence makes the gender neutral definition of domestic violence covers up the real nature and consequence of domestic violence. That is why a lot of efforts have been directed towards domestic violence against women at the international, regional and national levels. As such, the World Health Organization framed domestic violence as “the range of sexually, psychologically and physically coercive acts used against adult and adolescent women by current or former male intimate partners”.¹⁴ This definition is more plausible for the reason that though both men and children could be victims of domestic violence, studies reflect that domestic assaults by men are much more frequent and severe than assaults by women and much less likely to occur in self-defense.¹⁵

Other additional terms used by scholars and academicians as an alternative to domestic violence include “Spousal Abuse”, “Domestic Assault”, “Battering”, “Partner Abuse”, “Marital dispute/strife”, “Wife Beating” and “Intimate Partner Abuse”.¹⁶ There are also synonyms given by scholars to ‘Domestic violence’ in current discourse. As such, Fineman sought for replacing the word “domestic” with “private” for the later encompasses the plight of woman beyond the home. Hence, she argued “... ‘Domestic’ refers to idealized family unit functioning in a protected

¹³ Emerson Dobash and Russell P. Dobash, *Women, Violence and Social Change*. (Routledge Publisher, 1992), P.35

¹⁴ WHO , *Violence against Women : A Priority Health Issue* , 1997 (Geneva : World Health Organization)

¹⁵ Rhode (n.11)

¹⁶ McCue (n.9), p. 2

and secluded manner appropriately shielded from public view while ‘private’ encompasses that but also references activity beyond the home.”¹⁷

Whereas for Marcus, the issue of domestic violence need reframing in the International Human Rights framework as ‘Terrorism’ since the word Domestic Violence is burdened with undesirable cultural implications and limitations.¹⁸ Her key argument for such shift is the fact that the phrase ‘Domestic Terrorism’ has the greatest potential for accurately identifying the psychological , sociological , and political situation of women who are targets of ‘naturalized’ violence against them in the one place where they are most likely to be situated - their home.¹⁹

2.2 Nature and Extent of the Problem

The plight of women as a result of Domestic violence by men has been in the shadows for so long under the belief that the home is the private place for the family members and the state had no right to interfere. However, as Edwards put it,

¹⁷ Martha A. Fineman, “Law and the Domestic- Intimates and Families.” in *Public Nature of Private Violence? The Discovery of Domestic Abuse*, (Eds.) Martha A. Fineman & Roxanne M., (Routledge publishers, 1994). Pp I-XVII, P. XVII

¹⁸ Isabel Marcus, Reframing “Domestic Violence”; Terrorism in the Home, in *Public Nature of Private Violence? The Discovery of Domestic Abuse* (Eds.) Martha Albertson Fineman & Roxanne Mykitiuk (Routledge publishers, 1994),Pp. 11-35, p.p.19

¹⁹ Marcus (n.18)

*'The safest place for men is the home; the home is by contrast, the least safe place for women'*²⁰

Gelles, on the other hand, asserted that domestic violence against women exists in societies around the world with special reference to the United States, Canada, Australia, China, Israel and Scandinavian countries.²¹ For instance, Levinson in his work 'Family Violence in Cross-Cultural Perspective' has studied a sample of 120 societies representative of the 60 major geographical /cultural regions of the world and concluded wife beating occurs in more societies around the world than any other type of family violence.²²

Domestic Violence includes physical and sexual assaults, coercion, threats, intimidation, verbal attacks, blame, isolation, economic control, the abuse of authority, use of loved ones, and the minimization and denial of violence by the perpetrator.²³ Many times all occur in the same relationship; however, sometimes only one kind of abuse may be occurring.²⁴ However, the most familiar form of abuse men inflict on their female partners is physical violence.²⁵

Major physical assaults include : slaps and punches to the face and head, kicking and stomping, and punching all over the body ; choking to the point of consciousness loss, pushing and

²⁰ Susan Edwards, *Policing 'Domestic Violence': Women, the Law and the State*, (Sage Publications, 1989), p.

²¹ Richard J. Gelles, *Intimate Violence in Families*, (3rd ed. ,Sage Publications, 1997) p 22-27

²² David Levinson, *Family Violence in Cross-Cultural Perspective*, (Sage Publications ,1989) p. 30-34

²³ Orly Richardson, "Bringing Down the Bedroom Walls: Emphasizing Substance over Form in Personalized Abuse", *Wm. & Mary J. of Women & L.* 14:495, (January 2008), Pp.1

²⁴ Richardson (n.23)

²⁵ Audrey Mullender, *Rethinking Domestic Violence: The Social Work and Probation Response*, (Routledge publishers, 1996) p.19

throwing across the room, down the stairs or against objects; severe shaking, arms twisted or broken; burns from irons, cigarettes, and scalding liquids; injuries from thrown objects; forced shaving of pubic hair; forced violent sexual acts; stabbing and mutilation with various objects, including knives and hatchets; and gunshot wounds.²⁶

Sexual and physical violence frequently become combined in dominating behavior which includes marital rape.²⁷ Marital rape on women involves forced sexual intercourse or unwanted sexual practices by their men partners. According to Levinson, the first reason for physical assault on intimate partners in many cross-cultural societies is as punishment for adultery or because the husband suspects that his wife has been unfaithful which has been described by him as ‘sexual jealousy beating’, while the second reason has been a husband may beat his wife if he has a ‘good reason’ such as the wife’s failure to fulfill her ‘duties’ and thirdly for any reason or no reason.²⁸

Interlocking behaviors of control and domination can be physical, sexual, and emotional and economic.²⁹ Known men unlike strangers, can exert economic control so that a woman has no access to money, or she may not be allowed to work outside the home.³⁰ Food restrictions and adequate control over money has been involved in economic violence. An additional form of domestic violence in the home could be manifested in psychological violence which incorporates

²⁶ Lenore E. Walker, *The Battered Woman*, (Harper Collins Publishers, 1979, p. 79

²⁷ Mullender (n.25) p. 21

²⁸ Levinson (n.22) .P.34

²⁹ Jalna Hammer, *Women and Violence: Commonalities and Diversities*, in *Violence and Gender Relations: Theories and Interventions*, (Eds.) Brid Featherstone, Jeff Hearn & Christine Toft, (Sage publications Ltd, 1966), P. 7-22, p. 1

³⁰ Hammer (n.29)

verbal abuse; isolation and harassment. Verbal abuse may include degrading alone or in front of children, or friends and family; death threats; the threats to take another wife or to divorce.

Domestic violence against women can begin with marriage or cohabitation, with pregnancy, with the birth of children, and may include violence against children.³¹ Additionally, women's vulnerability to domestic violence and risk of being treated violently increases with pregnancy and children.³²

2.3 Causes and Maintenance of Domestic Violence

The question on what causes domestic violence and factors that perpetuate it have been an area of rigorous scholarly writings and debates. Theoretical explanations as to the causes and maintenance factors of domestic violence are very diverse and interdisciplinary. These have, to some extent, been attributed to the complex nature of domestic violence and its diverse manifestations in the context of time, place and communities. From the ample set of theories on domestic violence, feminist perspectives is a new perspective of gender power relations while there have been other theories developed in one discipline or in interdisciplinary fields such as sociology, ecology, psychology, and anthropology .

³¹ Hammer (n.29), p. 12

³² Hammer (n.29), P.13

2.3.1 Feminist Perspectives on Domestic Violence

Research on the post-war period recognized ‘the battered woman syndrome’ the cycle of abuse, and the field of domestic violence. Feminist work has both built on these analyses and provided a critique of them; particularly those attributed the cause of men’s violence to women through ‘Learned Helplessness’ and other victim blaming approaches.³³ Walker introduced the cycle of violence theory of domestic violence in which she identified three phases of the cycle as , the honeymoon , tension building and acting out phases, and through time these three phases become tighter and tighter.³⁴

Thus, the incidence of domestic violence is not random neither constant; it follows the three phases which makes the abused women to hope for improvement in the future. Moreover, Walker has pointed out that proper legal interventions were not a reality as a result of the myths surrounding domestic violence against women. Hence, among the myths are battered woman syndrome affects a small section of the population; women who liked it and deserved it were beaten; battered women have negative personality/crazy.³⁵ Her theory of cycle of violence has been instrumental to shift the blame from victims to perpetrators.

³³ Jeff Hearn, *The Violences of Men: How Men Talk About and How Agencies Respond to Men’s Violence to Women*, Sage Publications Ltd. Bonhill Street, London, 1998, pp. 16

³⁴ Walker (n.26), P.73

³⁵ Walker (n.26), P.20

Feminists laid emphasis on gender, power and structural dimensions of violence.³⁶ They see domestic violence as a unique phenomenon separate from other forms of violence in the society. Its uniqueness results from its nature since it is more closely aligned with other forms of violence against women (such as rape and sexual assault) than with child abuse and non-marital forms of elder abuse.³⁷ The central thesis of this theory is that economic, social and historical processes operate directly or indirectly to support Androarchal (male dominated) social order and family structure.³⁸

Feminist perspectives have been instrumental to demonstrate the existence of direct correlation between Androarchy and violence against women. As Rebecca Adams pointed out that Androarchial/ Patriarchal societies and those countries which experience high level of sex discrimination continue to experience much higher incidences of domestic violence and the violence in these societies is often more severe and remains part of the social fabric.³⁹

However, others such as Deborah M. Weissman argued that domestic violence is more complex than explanation of Androarchy and emphasized the need to reexamine the dominant theoretical model concerning domestic violence and the practical strategies that it inspired. However, this does not refute the argument that there is more cause to domestic violence than Androarchy and sex discrimination which is explained in terms of economic and political context in the society.

³⁶ Michele Harway & James M. O'Neil, What Causes Men to Be Violent Against Women? The unanswered and Controversial Question , in *What Causes Men's Violence Against Women* (Eds.) Michele Harway & James M. O'Neil (Sage Publications Inc,1999) Pp. 5-12, p.

³⁷ Richard J. Gelles, *Intimate Violence in Families* , (3rd ed. ,Sage Publications, 1997) p. 131

³⁸ Gelles (n.37), P.132

³⁹ Rebecca Adams, Violence against Women and International Law: The Fundamental Right to State Protection from Domestic Violence, New York International Law Review, 20 NY Intl. L. Rev. 57, 2007

2.3.2 Ecological Theory

The Ecological model of family violence has been explained with various scholars in the field in a slightly different ways; and some of them tried to integrate this model with the feminist theory model. The ecological perspective, like social learning theory, links domestic violence to the broader social order.⁴⁰ The ecological perspective, as Gelles pointed out, tried to integrate three levels of theoretical analysis: the individual, social-psychological, and sociocultural into a single theoretical model.⁴¹ Whereas, Carlson added one more level, which is the family in her four-part ecological model of human development.⁴²

Accordingly, the Individual level comprises attitudes, values and beliefs learned in one's family and personal resources, skills and subjective perceptions.⁴³ Family level on the other hand is mainly concerned with family role structure and interactional dynamics such as family division of labor, conflict over children, sex, money, house keeping, social activities and couple dynamics.⁴⁴ The Social-Structural level addresses major institutions in the society, in that if there are few institutions and agencies in the community to support troubled families, then the risk of abuse is further raised.⁴⁵ Moreover, at this level law enforcement agencies are also among the institutions whose response will determine the risk of domestic violence against women. At the Socio-cultural level of analysis focuses on societal norms, cultural values, and belief systems that affect

⁴⁰ David Levinson, *Family Violence in Cross-Cultural Perspective*, (Sage Publications, 1989) P.18

⁴¹ Gelles (n.37), p. 129

⁴² Bonnie E Carlson, "Causes and Maintenance of Domestic Violence: An ecological Analysis", *Social Science Review*, 58:4 (Dec. 1984) Pp.569-587, p. p. 569

⁴³ Carlson (n.42), p. 574

⁴⁴ Carlson (n.42), p. 576

⁴⁵ Gelles (n.37), p.130

virtually everyone in the society such as sexism, sex –role stereotypes, general acceptance of violence, and norms about family in general.⁴⁶

On the other hand, Malley – Morrison and Hines situate the Ecological model for family violence into two distinct theories as Factor theories and Process theories where the former are those typically associated with Sociology and Social Psychology often focuses on characteristics of contexts or individuals within contexts that may lead to, or is associated with, acts of family aggression but are not the direct and immediate causes of those acts such as social learning theory, social exchange, and emotional reactivity and punishment motives.⁴⁷ On the other hand the Process theories, typically associated with behavioral or developmental psychology, often focus on the dynamics or mechanisms that operate within an immediate interactional context and directly produce aggression like factors such as Patriarchy, environmental stressors, social isolation, interfamilial stress, dependency relations, behavioral genetics and drug or Alcohol abuse are included.⁴⁸

2.3.3 Other Interdisciplinary Theories of Domestic Violence

✓ Exchange Theory

This theory suggests that people use violence whenever the cost is minimal compared to the benefit they would get from performing it. In many societies the costs are often low because

⁴⁶ Carlson (n.43) p.578

⁴⁷ Kathleen M-M & Denise A. Hines, Family Violence in a Cultural Perspective: Defining, Understanding, And Combating Abuse, (Sage Publications, 2004) p. 15

⁴⁸ Kathleen M-M & Denise A. Hines, Family Violence in a Cultural Perspective: Defining, Understanding, And Combating Abuse, (Sage Publications, 2004) p. p. 15

adequate social controls are not available to inhibit or prevent violence between family members – laws prohibiting wife beating, if they exist are not enforced; shelters for abused women are underfunded; neighbors and relatives refuse to intervene in marital disputes; and so forth.⁴⁹ This theory is instrumental in showing a legal response can make a difference especially in the criminal justice response – if it is applied properly may serve in minimizing such incidents since in such cases the costs of being a perpetrator in domestic violence cases will be high.

✓ Resource Theory

According to Levinson, the Resource Theory rests on the notion that decision-making power in the family relationships depends to a large extent on the value of the resources (material or organizational such as kin ties, political alliances) each person brings to the relationship.⁵⁰ Similarly Goode explained that all social systems including the family rest to some degree on force or the threat of force and the more resources — social, personal, and economic — a person can command, the more force he or she can muster.⁵¹

However, both theorists differ on how they have entertained the consequences of the explanation in that for Levinson, the changing situation in which creates resource inconsistency for the man (with the growing power of the women) is the cause for violence. In contrast, for Goode it is the fact that one person (the man) has more resources than the women is which gave him controlling power and make him prone to violence.

⁴⁹ Levinson (n.40), P.16

⁵⁰ Levinson (n.40), P.15

⁵¹ Goode W. J. , “Force and Violence in the Family”, *Journal of Marriage and the Family*, 33:4, (1971) Pp.624-636, p.630

✓ Culture of Violence Theory

The theory suggests that some subcultural groups develop norms and values that emphasize the use of physical violence.⁵² The implication is that domestic violence specifically in its physical form might be more common or appropriate more even, more desirable by certain groups than others.⁵³ This theory is vital in the study of the culture of violence in Africa and its relations with domestic violence against women. Hence, countries like Ethiopia and South Africa have a high rate of domestic violence and at the same time have been immersed in conflict and use of force is the primary mechanism to solve disagreements.

✓ Social Learning Theory

The Social Learning theory is a product of social psychology which rejects the notion that aggression is an inner drive, and argues it is both learned and takes place in a social context.⁵⁴ The theory explains that people learn their roles and may develop violent behavior from their family specifically parents. It also explains the intergenerational transmission of violence. This view is not at odds with Gelles's comment that a history of abuse and violence does increase the risk that an individual will be violent as and adult though not all violence victims grow up to be violent themselves.⁵⁵

⁵² Levinson (n.40), P.16

⁵³ Levinson (n.40), P.16

⁵⁴ Levinson (n.40), P.17

⁵⁵ Richard J. Gelles, *Intimate Violence in Families*, (3rd ed. ,Sage Publications, 1997) p.p. 129

✓ Psychiatric / Personality Theory

The psychiatric model focuses on the abuser's personality characteristics such as mental illness, personality defects, psychopathology, sociopathology, alcohol and drug misuse, or other intra-individual abnormalities to family violence.⁵⁶ As Dutton explains such personality is developed early in life and abusive men have deep-seated feelings of powerlessness that caused by shaming, emotionally rejecting , or absent fathers and are left in the arms of a mother who is only intermittently available but who the boy perceives as all powerful.⁵⁷ However, this theory by itself is not adequate to explain why a great percentage of men are abusers in a domestic violence case and doesn't explain the societal or structural factors and cultural situations where being violence for men in their homes is acceptable. To this effect critics such as Straus argue that less than 10% of instances of domestic violence is attributable solely to personality traits, mental illness or psychopathology.⁵⁸

✓ Biological Theory

Biological approaches have usually been founded on one or more of the following: instinct; territoriality and physical size; chromosomal difference; hormonal difference; human interventions on the biochemistry of the body.⁵⁹ The explanations mainly include the links between animal and human behaviors, whereas the chromosomal patterns and hormonal

⁵⁶ Gelles (n.55), p.127

⁵⁷ Donald G. Dutton & Golant, S.K, *The batterer: A Psychological Profile*, (Basic Books, 1995) , p. 76

⁵⁸ Straus, M.A., "A Sociological Perspective on the Causes of Family Violence", in M.R. Green (Ed.), *Violence and the Family*, (West View Press, 1980) Pp. 7-31, P.

⁵⁹ Jeff Hearn, *The Violences of Men: How Men Talk About and How Agencies Respond to Men's Violence to Women*, Sage Publications Ltd. Bonhill Street, London, 1998,pp. 18

explanations depict differences between women and men, which could make men more prone to violence. This theory also situates the explanation for domestic violence in social antecedents as Gelles described Structural Stress (eg. Low income, unemployment) as well as Cultural norms concerning force and violence in the home cause domestic violence against women.⁶⁰

✓ Sociobiology Theory

Sociobiology theory / Evolutionary perspective suggests that violence toward human or nonhuman primate offspring is the result of the reproductive success, potential of children and parental investment.⁶¹ For instance, Caretakers in a more complex societies often use physical punishment as a means of rearing a children to be obedient, complaint and responsible. This pattern has been explained in evolutionary terms with emphasis on the fact that compliance and obedience are more desirable personality traits in societies in which people live in a hierarchically organized social structure, in which there is a continuous need to share accumulated wealth among the population, and in which much activity takes place in formal or relatively formal social encounters outside the home.⁶²

Hence the central assumption is that natural selection is the process of differential reproduction and reproductive success.⁶³ Hence, in the application of this theory to domestic violence against women suggests that the cause of men's aggression on women is to control female sexuality to

⁶⁰Gelles (n.55), p. 28

⁶¹ Gelles (n.55),p.130

⁶² Levinson (n.40), P.19

⁶³ Mary D. & Wilson M. , "Discriminative Parental Solicitude: A Biosocial Perspective" , *Journal of Marriage and the Family*,42, (1980) pp. 277-288, p. 281

males' reproductive advantage so that the women may mate with them and avoid other males.⁶⁴ It is true that there have been differences in the nature, extent and the response to domestic violence from society to society. Hence, in the African society, despite regional and country differences, there has been a general existence of violence at inter-community level as well as between countries.

All in all, many theories of causes and maintenance of domestic violence focus on the individual rather than the social or structural issues. Though most of the theories focus on individual rather than the social, the widespread incidence of domestic violence against women meant it could not reasonably be seen simply as a problem of individuals or of 'personal interaction'.⁶⁵ That is why the feminist perspective is instrumental to challenge the societal norm in state intervention.

2.4 Theories of State Intervention on Domestic Violence

Debate about the effects of state intervention can be intense and heated, with some maintaining that intervention is most likely to be intrusive, repressive and controlling and others that it can be enabling, empowering and protective.⁶⁶ Each and every legal response or state intervention at home or in the public arena involves interference on people's actions and lives. With regard to domestic violence, the major issue of debate has been with the private/public dichotomy in which

⁶⁴ Barbara S., "Male Aggression against Women: An Evolutionary Perspective", *Journal of Human Nature*, 3 (1992) 1-44, p.p. 33

⁶⁵ Emerson Dobash and Russell P. Dobash, *Women, Violence and Social Change*. (Routledge Publisher, 1992), P.131

⁶⁶ Dobash & Dobash (n.65), P. 105

the state has been justifying its silence to interfere on issues of violence against women occurring in the privacy of one's home.

State intervention theories had been seized between trying to strike a balance on the state's duty to protect on the one hand and respect to the right to privacy on the other. Liberalism theory of the state has been criticized in creating the public/private dichotomy where the family was idealized and the policy of non-interference in family affairs has been a hindrance to tackle domestic violence. Whereas, Marxist theory depicts the state as the oppressor but it does not entertain the issue of dominance of women by men instead emphasized issue of class oppression and struggle. Hence, both theories contributed for maintenance of the status quo, the former by the so-called 'non-interference policy' and the later by denying the existence of such dominance and violence.

As a result of the non-interference policy or the state of denial by many countries, domestic violence has not been recognized in many states as a problem which mandated legal interference until quite recently. Even if it is even recognized as a problem, all too often it is distinguished from other forms of punishable violence in a society; this distinction confines it to the category of "discipline" or response to "provocation"; it is minimized, or denied, or viewed as individual and aberrant rather than a culturally justified and endorsed systemic practice designed to silence and

to coerce a clearly identifiable population.⁶⁷ Hence, all these cultural and structural factors come into play on the theories of state intervention with regard to domestic violence.

The central objective of contemporary feminists has been to shift the blame from the victims to aggressors, and to the cultural forces that encourage them.⁶⁸ Consequently, feminist scholarship has been a strong force behind changing legal frameworks which have authenticated the oppression of women at home or in a relationship with men. As Deborah L. Rohde and other feminist scholars has asserted, domestic violence has been an area where the force of law meddled little with the law of force.⁶⁹ This has been evidenced by the fact that most domestic violence legislations are of a recent phenomenon in many countries. In particular, this has been a fact in the continent of Africa where only few countries (such as South Africa and Ghana) which managed to legislate on this area though the implementation issue has been a disappointment.

The traditional outlook that views family as private and without the reach of the state regulation has been viewed as perpetuating domestic violence. The focus on the necessity of privacy for family formation and functioning arises from concern with abuse associated with state intervention and regulation of intimacy. On the other hand, those who are attuned to potential

⁶⁷ Isabel Marcus, Reframing "Domestic Violence"; Terrorism in the Home, in *Public Nature of Private Violence? The Discovery of Domestic Abuse* (Eds.) Martha Albertson Fineman & Roxanne Mykitiuk (Routledge publishers, 1994), Pp. 11-35, p. 17

⁶⁸ Deborah L. Rohde, "Sex and Violence", in *Justice and Gender: Sex Discrimination and the Law*. (Harvard University Press, 1991), 230-273, p.231

⁶⁹ Rhode (n.68), p.237

abuses within the family remind us that hidden beneath the cloak of privacy are power imbalances, perhaps even incentives for the strong to prey upon or exploit the weak.⁷⁰

This notion of what is understood as “public” or “private” is not a fixed phenomenon. According to Elisabeth M. Schneider, meanings of “private” and “public” are based on social and cultural assumptions of what is valued and important, and these assumptions are deeply gender-based.⁷¹ The notion of marital privacy has been a source of oppression of battered women and has helped to maintain women’s subordination within the family.⁷²

Many states in the past have chosen not to interfere in cases of domestic violence using the justification that is a private matter. However, according to McKinnon, such silence is by itself is an interference that the state has chosen to enforce the statuesque that is the oppression of and brutality against women in their own homes.

Many feminist writers have taken a position which is critical of the way in which the state has intervened in issues affecting women’s familial and economic life but do not reject the notion of any form of state involvement in such affairs.⁷³ Elizabeth Wilson is highly critical of how the state had related to the family in ways that support traditional, patriarchal forms, but does not

⁷⁰ Martha A. Fineman, “Law and the Domestic- Intimates and Families.” in *Public Nature of Private Violence? The Discovery of Domestic Abuse*, (Eds.) Martha A. Fineman & Roxanne M., (Routledge publishers, 1994). Pp I-XVII, P. XVII

⁷¹ Elisabeth M. Schneider, The Violence of Privacy, in *Public Nature of Private Violence? The Discovery of Domestic Abuse* (Eds.) Martha Albertson Fineman & Roxanne Mykitiuk (Routledge publishers, 1994) Pp. 36-58, p. 37

⁷² Schneider (n.71), p. 38

⁷³ Dobash & Dobash (n.65), P. 109

reject the notion of any form of relationship between the private and the public, between women and the state.⁷⁴

McIntosh is similarly critical of how the state has contributed to women's oppression through support of the traditional family and along with Michele Barrett, examines how the traditional style of family⁷⁵ is supported to the point of exclusion or diminishing in speculation about more positive arrangements. Still others view the possible consequences of state intervention even more positively, although still not uncritically or without reservation, seeing the potential for 'enabling' a wider base of the population to achieve autonomy and reach their full potential.⁷⁶

In connection with the above, the important issue is what type of state intervention is appropriate to alleviate this complex and deep-rooted societal problem. These deeply entrenched attitudes toward women that perpetuate domestic violence enforce their subordination both within their relationship and within society.⁷⁷ In many countries, these same attitudes translate into either a lack of law dealing specifically with domestic violence, or a lack of state enforcement of existing laws thereby, gender discrimination is institutionalized.⁷⁸

With this regard, solutions have been proposed ranging from societal transformation to the responses of the criminal and civil justice systems internationally and at the state level. Indeed,

⁷⁴ Dobash & Dobash (n.65), P. 109

⁷⁵ Mary McIntosh, *The State and the Oppression of Women*, in *Feminism and Materialism*, (Ed.) Wolpe A.M. (Routledge Publishers, 1978) Pp. 254-289, p. p 254

⁷⁶ Pierson Christopher, *A New Political Economy of the Welfare State* (Cambridge : Polity Press, 1991), p. 68

⁷⁷ Rebecca Adams, "Violence against Women and International Law: The Fundamental Right to State Protection from Domestic Violence", *NY Intl. L. Rev.* 20: 57, (Winter 2007), p.69

⁷⁸ Adams (n.77), p.70

MacKinnon have argued that in order to pursue gender equality and eradicate violence against women, attention must be paid to the myriad ways that private discrimination and private forms of violence reflect the daily realities of many women, who experience such discrimination and violence regularly, and systematically.⁷⁹

A legal response whether in the form of criminal or civil remedies coupled with other socio-economic and societal measures is vital to fight domestic violence. In connection with this, Weismann is wary of taking the benefits of the criminal justice response to domestic violence as a principal response without integrating it to the bigger issue of societal transformation.⁸⁰ Consequently, Weismann proposes to expand the scope of the domestic violence discourse beyond the parameters of criminal justice to include the political economy of the everyday experience of households.⁸¹

Indeed, the legal intervention on domestic violence cases should also be coupled with services and treatments to tackle the economic, socio- cultural and psychological dynamics. However, even as it is, it is worth considering incorporating domestic violence against women in the criminal justice system. Accordingly, Dobash & Dobash pointed out, research findings appear to provide additional support for the efficacy of criminal justice intervention.⁸² Moreover, they indicate that arrest is more effective in reducing violence than other options and that criminal

⁷⁹Catharine A. MacKinnon, 1989, “*Toward a Feminist Theory of the State*”, P.69

⁸⁰ Deborah M. Weismann, “The Personal is Political and Economic: Rethinking Domestic Violence”, *B. Y. U. L. Rev.* 387 (2007), p.388

⁸¹ Weismann (n.80),p.389

⁸² Dobash & Dobash (n.65), p.200

justice intervention is welcomed by most victims.⁸³ To this end, Sepper summarized the role of law in doing away with discrimination against women;

*“The law, of course, is not a cure-all, while it can work real, substantial change; it is not inevitable that it does so; nonetheless, history shows that law can change patterns of conduct and practice.”*⁸⁴

On the above account, countries have followed on having a criminal justice response and civil remedies against domestic violence. Hence with regard to the criminal justice response- imprisonment and fine are the usual responses while in the civil remedy are more extensive including protective orders, damages, and arrest. In addition to domestic remedies, feminists suggest using the international and regional human rights instruments and law enforcement systems to fill the gaps created at the domestic level.⁸⁵

In sum, domestic violence against women is controversial enough in its definition as well as the distinction between its causes and maintenance factors. This has also made the approach of the legal response by states to depend on the ideological issue behind those responses. Moreover, the degree of the legal responses depends on a whole lot of issues in the context of the specific country/community, psycho-social services and economic measures.

⁸³ Dobash & Dobash (n.65), p.200

⁸⁴ Schneider (n.71), p.628

⁸⁵ MacKinnon (n.79), p. 25

3.0 CHAPTER TWO: DOMESTIC VIOLENCE IN CONTEXT; ETHIOPIA AND SOUTH AFRICA

Women in Africa, like their counterparts the world over, suffer domestic violence irrespective of class, age, religion or social status.⁸⁶ Though the reality of domestic violence against women is a global phenomenon, it has different faces when it is situated in specific historical, socio-economic, cultural and ideological settings. In this regard, the African continent provides an interesting set of realities with its unique historical and ideological settings. Domestic violence in Africa is situated in a particular context. This is evidenced on the fact that it has its own unique evolution and turn of events with regard to familial structure, the emphasis on collective way of living, the influence of community leaders and also the reality of slavery and colonization which disrupted the societal structure in many African countries.

Many African countries do not have specific laws prohibiting domestic violence and punishing perpetrators of domestic violence.⁸⁷ Furthermore, the widespread poverty and the political, cultural, and religious marginalization of women in Africa make the African woman more vulnerable to domestic violence.⁸⁸

⁸⁶ Susanne Hamm, Violence Against Women Takes Center Stage at the Women's World Forum Against Violence, *Human Rights Tribune*, Vol. 7, No. 4 (Dec. 2000)

⁸⁷ Hamm (n.86)

⁸⁸ United Nations, Economic Commission for Africa, *Synthesis Report, Sub-Regional Meeting on the Decade Review of the Implementation of Beijing Platform of Action: West Africa*, P 13,

Violence breeds violence and in order to understand the phenomenon of violence, it is paramount to look at the culture of conflict resolution in a society. In this regard, Colin Leys⁸⁹ sees the African continent as prone to a culture of violence for different reasons related to the continent's unique cultural, geographical, demographic and historical context. In his view, the African governments and the whole system is using physical force for "illegitimate aims". This can be evidenced in the elongated civil wars and use of force in the South, Central and Eastern regions of Africa as a means to achieving power.

Thus, the culture of violence coupled with the deeply entrenched patriarchal tradition and values left the women in the continent in the worst form of victimization. For instance, Female genital Cutting, which has been a common cultural practice in many parts of Africa, causes "bleeding and infection, urinary incontinence, difficulties with childbirth and even death".⁹⁰ The WHO estimates that 130 million girls have undergone the procedure globally and 2 million are at risk each year, despite international agreements banning the practice.⁹¹

Moreover, the economic difficulties and poverty with the associated ethnic and tribal conflicts is the context in which we will situate the issue of domestic violence in Africa. On the positive side, there are initiatives at the regional level such as the African Charter on peoples Human Rights and the Protocol on the Rights of Women in Africa which has called for state accountability to

⁸⁹ Colin L., "Violence in Africa", *Transition*, Vol. 21, (1965) Pp. 17-20, p.20

⁹⁰ Mary KImani., "Taking on Violence Against Women in Africa : International Norms, Local Activism Start to Alter Laws, Attitudes", *African Renewal*, 21:2, (July 2007), p.4

⁹¹ KImani (n.90)

realize the rights of women in Africa. Side by side, several regional and national women's right movement initiatives are taking place.

3.1 Types, Magnitude and Prevalence of Domestic Violence

3.1.1 Ethiopia

The Ethiopian population is diverse, consequently Ethiopian women experience a number of variations of gender roles.⁹² However, domestic violence against women is a common phenomenon within this diverse country. A nation wide study⁹³ which employed a representative sample from eleven major ethnic groups in Ethiopia found out that domestic violence against women (specifically wife beating) is highly prevalent and is an acceptable norm in the country. Despite being a criminal offence, marital abduction followed by forced sex has legitimized rape in Ethiopia for many generations.

A 2004 United Nations report estimated that 30 per cent of Ethiopian girls between the ages of 15 and 19 years of age were married, divorced or widowed.⁹⁴ Bride abduction is also a common form of cultural practice to marry a girl child. As a result, young girls suffer from rape, maternal mortality, health problems and aggravated violence as a consequence of a child marriage.

⁹² Tsehai BerhaneSellasie, "Ethiopian Rural Women and the State" in *African Feminism: the politics of survival in sub-Saharan Africa* (ed) Mikell Gwendolyn (University of Pennsylvania Press, 1998), P 282 -286, p.184

⁹³ Habtamu W., "Gender and Cross-Cultural Dynamics: the Case of Eleven Ethnic Groups", (CERTIWED Publishers, 2004), p 4

⁹⁴ CEDAW Committee Recommendation. (2002), "Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Ethiopia, Combined Fourth and Fifth Periodic Reports of States Parties", CEDAW/C/ETH/4-5, CEDAW, New York, NY.

Despite a handful of researches on Domestic Violence Against women in Ethiopia, available studies show alarming rate of domestic violence incidents as well as other forms of violence against women. A study carried out in the year 1997 revealed that 50 to 60 percent of the Ethiopian women experience domestic violence specifically physical violence at least once in their lifetime by their partners.⁹⁵ Nevertheless, this study has focused on physical violence and has not taken into account other forms of domestic violence against women.

On the other hand, a study conducted by the World Health Organization on 2005 on all forms of domestic violence revealed that 71 % of Ethiopian women experience domestic violence in different forms.⁹⁶ According to the same report, about 35% of all ever partnered women experienced at least one severe form of physical violence ,(being hit with a fist or something else, kicking, dragged beaten up, choked, burnt on purpose threatened with a weapon or had a weapon used against them).⁹⁷ Of women who had ever experienced physical violence by a partner, 19% had been injured at least once. Among the main injuries were abrasions or bruises (in 39% of women who had been injured) sprains and dislocations (22%), injuries to eyes and ears (10%), fractures (18%) and broken teeth (6%).

⁹⁵ Department of Community Health, Faculty of Medicine, Addis Ababa University P.O. Box 2077, Addis Ababa, Ethiopia, *Ethiop. J. Health Dev V. 132, p.1*

⁹⁶ World Health Organization, “Multi-country Study on Women’s Health and Domestic Violence against Women”, 2005.

⁹⁷ WHO (n.96)

Another study⁹⁸ conducted in south central Ethiopia on reproductive health issues as well asserted high level of domestic violence affecting the social, psychological and physical well-being of women in that part of Ethiopia . The report is a major finding from field research in *Meskan* and *Mareko* district in South Central Ethiopia which involved 3000 women from urban and rural areas. Hence, 59% of the women suffered sexual violence and 49% of the women have faced physical violence by a partner at some point in their lives. 12 months prior to the survey, 44% women reported sexual violence and 29% suffered partner violence.⁹⁹

Domestic violence occurs in both rural and urban settings in Ethiopia. A study conducted in the capital city (Addis Ababa)¹⁰⁰ revealed that the majority of the women interviewed experienced battering by their husbands at least once. With regards to other forms of domestic violence, one study revealed that many women are also victims of economic abuse. In many rural communities, the main cash commodities such as cash crop or the main cereal crop and the cattle are the properties of the man while the garden vegetables will be left to the wife, crippling her of the means to get her own income.¹⁰¹ Similarly, in cities, if the wife or the female partner might provide for her family, it is the husband who has the authority to control the finances of the family.¹⁰²

⁹⁸ Yegomawork Gossaye. 2003. "Women's Health and Life Events Study in Rural Ethiopia (Butajira)." *Ethiopian Journal of Health Development*, 17:2 Special Issue.

⁹⁹ Gossaye (n.98)

¹⁰⁰ Solomon Girma, "*Domestic Violence against Women in Some Selected Woredas of Addis Ababa*" (Senior Essay , Addis Ababa University, 1999

¹⁰¹ Genet Ashebir, "The Cycle of Domestic Violence in Addis Ababa: Does Education Matter?" Paper presented in the conference "*Family Conversations: Let's Tell the Secrets*" Conference Proceedings, Edited by Elaine Rocha. (June 2007, Addis Ababa).

¹⁰² Ashebir (n.101)

3.1.2 South Africa

In South Africa, violence has become normative and, to a large extent, accepted rather than challenged.¹⁰³ Powerful qualitative studies as well as population-based quantitative studies have revealed a cultural acceptance of violence.¹⁰⁴ Domestic Violence in South Africa takes place within the context of a highly violent society. During the apartheid era, police-sanctioned violence was the order of the day and communities were forced to retaliate in defense of their lives.¹⁰⁵

South Africa is a country which has one of the most progressive laws in Africa with regard to gender equality and violence against women legislations side by side with the most permeated culture of violence in the society. Though the country shares all the other attributes such as the patriarchal culture and customary practices as many countries in Africa, the Apartheid Ideology which blended racism and sexism together, and the liberation struggles which followed it have marked a unique feature of a culture of violence in the society.¹⁰⁶

Penelope Andrews¹⁰⁷ has identified three components of the cultures of masculinity in the scholarship of South Africa with regard to the culture of violence. The first component has been the system of Apartheid and the militarization system in it. The second feature was the masculine

¹⁰³ Anne Outwater, Naeema Abrahams & Jacquelyn C. Campbell, "Women in South Africa: Intentional Violence and HIV/AIDS: Intersections and Prevention", *Journal of Black Studies* 35:4 (March 2005), pp. 135-154, p.140

¹⁰⁴ Ibid, p. 141

¹⁰⁵ Shereen U., Nicola C., Lebo M. & Aadielah Maker, "The Value of Advocacy in Promoting Social Change: Implementing the New Domestic Violence Act in South Africa", *Reproductive Health Matters*, Vol. 8, No. 16, (June 2009), Pp. 55-65, p.55

¹⁰⁶ Outwater, Abrahams & Campbell, (n. 103) p. 137

¹⁰⁷ Penelope A., "Learning to Love After Learning to Harm: Post-Conflict Reconstruction, Gender Equality and Cultural Values", *Mich. St. J. Int'l L.* 15:41 (2007), P..47

culture of the opposition which has been used as a strategy by the liberation movement against the Apartheid government which had no transparency or accountability despite the popular rhetoric.¹⁰⁸ The third is the system of Androarchy rooted in some indigenous and religious institutions, and in indigenous and religious practices that subordinate and disadvantage women in a host of areas, including the custody of children, access to property, and rights to inheritance.¹⁰⁹ Similarly, Morell identified the South Africa as a place for a “strongly patriarchal societal organizations”.¹¹⁰

Women in South Africa are not free, most women live in poverty and many cannot read or write; millions do not have proper housing, and no access to water, sanitation, education or health services.¹¹¹ The South African media report that a woman is killed by her husband or boyfriend every six days, one in every six women is regularly assaulted by her partner, and that at least one in four women is forced to flee at some time because of a life threatening situation in her home.¹¹²

Research reveals that South African women are most likely to face assault in their homes; the range of abuse includes physical, verbal, emotional and economic harms and deprivations.¹¹³ In a

¹⁰⁸ Andrews (n.107), p.47

¹⁰⁹ Andrews (n.107), P.49

¹¹⁰ Robert M. “Of boys and men: Masculinity and gender in southern Africa”, *Journal of Southern African Studies*, 24:4 (1998), Pp.605-629

¹¹¹ Paula C. Johnson, “Danger in the Diaspora: Law, Culture and Violence against Women of African Descent in the United States and South Africa”, spring 1998. *J. Gender Race & Just.* 471 (Spring 1998) p.485

¹¹² Johnson (n.111), p.498

¹¹³ Johnson (n.111), p.499

study of three South Africa Provinces, Jewkes found that one in four South African women have experienced physical violence by an intimate partner.¹¹⁴

Alexandra Township found that women sustained injuries from male-generated violence ranging "from fists to weapons such as knives, bricks . . . bottles, hammer... screwdrivers."¹¹⁵ In addition, South African women often develop illnesses and conditions that are symptomatic of abuse, including "headaches, backaches, fatigue, abdominal and pelvic pain, recurrent vaginal infections, sleep and eating disorders, sexual dysfunctions and . . . depression".¹¹⁶

One study surveying 1,306 women in three South African provinces found that 27% of women in the Eastern Cape, 28% of women in Mpumalanga and 19% of women in the Northern Province had been physically abused in their lifetimes by a current or ex-partner.¹¹⁷ The same study investigated the prevalence of emotional and financial abuse experienced by women in the year prior to the study and found that 51% of women in the Eastern Cape, 50% in Mpumalanga and 40% in Northern Province were subjected to these types of abuse.¹¹⁸

Another study, undertaken with a sample of 168 women drawn from 15 rural communities in the Southern Cape, estimated that on average 80% of rural women are victims of domestic violence.

¹¹⁴ R., Penn-Kekana, L., Levin, J., Ratsaka, M., & Schrieber, M. (2000). "Prevalence of Emotional, Physical and Sexual Abuse of Women in Three South African Provinces." *South African Medical Journal*, 91(5), 421-428

¹¹⁵ Johnson (n.111),p.499

¹¹⁶ Johnson (n.111),p.499

¹¹⁷ Abrahams, N., Jewkes, R. and Laubsher, R. (1999). "*I do not believe in democracy in the home" Men's relationships with and abuse of women.*" Tygerberg: CERSA (Women's Health) Medical Research Council., p.25

¹¹⁸ Jewkes & Laubsher (n.117)

In the rural areas, where black women have the least education and work under the worst conditions, access to redress against perpetrators of violence is even more limited.¹¹⁹ A prevalence study among working men in Cape Town found that 42% of them reported the use of physical violence and nearly 16% reported use of sexual violence against an intimate partner with whom they had a relationship in the past 10 years.¹²⁰ In the townships, inaction by the police has led to a dangerous reliance on young "comrades" to mete out vigilante justice against alleged perpetrators of violence, including violence against women, undermining the rule of law.¹²¹ National figures for intimate femicide (men killing of their intimate female partners) suggest that this most lethal form of domestic violence is prevalent in South Africa.¹²² In 1999, 8.8 per 100 000 of the female population aged 14 years and older died at the hands of their partners – the highest rate ever reported in research anywhere in the world.¹²³

3.2 Perceptions and Attitudes towards Domestic Violence

Perceptions of intimate partner violence by victims, perpetrators and the society will impact on policies and programmes designed to eliminate such violence.¹²⁴ The issue of domestic violence is surrounded with myth and the so-called cultural or norm justification which makes it challenging to bring realistic change in a reasonable time. This attitude is shared by both victims

¹¹⁹ Human Rights Watch, *"The State Response to Domestic Violence"*, (Comment T45 on South Africa : November 1995)

¹²⁰ Abrahams N, "Men's use of violence against intimate partners: A study of working men in Cape Town." (Doctoral thesis, University of Cape Town, 2002).

¹²¹ Human Rights Watch (n.119)

¹²² Lisa Vetten, *"Addressing domestic violence in South Africa: Reflections on Strategy and Practice"* Centre for the Study of Violence and Reconciliation, South Africa. Expert Group Meeting, UN Division for the Advancement of Women in collaboration with: UN Office on Drugs and Crime (17 to May 2005), Vienna , Austria, p. 1

¹²³ Shannaz M. , Naeemah A. , Loma J , Lisa V. , Lize V. Rachel J, " A National Study of Female Homicide in South Africa", MRC Policy brief No. 5,(June 2004), P. 23

¹²⁴ Amobi L. Ilika, "Women's Perception of Partner Violence in a Rural Igbo Community", *African Journal of Reproductive Health* ,9:3 (Dec., 2005), pp. 77-88 , p.3

and perpetrators of domestic violence. As Walker pointed out, all of the myths have perpetuated the mistaken notion that the victim precipitated her own assault.¹²⁵ All in all, researches show that large percentage of women in Ethiopia considers domestic violence to be acceptable, at least in some instances.¹²⁶

In the nationwide survey on domestic violence in Ethiopia¹²⁷, 50% of the total interviewees have said Domestic violence in its physical violence form is acceptable while 69 % have said that women are ashamed of talking about the incidents for the reason that they will be ridiculed by the society that they haven't done enough to avoid it.

In many societies in Ethiopia, the husband or the male partner is considered to be the head of the family and has the authority to control events and decisions concerning the family including his wife or female partner and has discretion to inflict physical or any violence in the name of “chastisement” or “discipline”. To this effect, the fact that even if most of women face multiple abuses by their intimate partners, wife beating was considered as an abuse only if it is severe and leaves visible injury.

The attitude of victims of violence in particular is very crucial to the success of violence elimination programmes.¹²⁸ In South Africa, where the victim perceives partner violence as culturally acceptable, and a normal marriage experience built on male supremacy, she is most

¹²⁵ Lenore E. Walker, *The Battered Woman*, (Harper Collins Publishers, 1979, p. 18

¹²⁶ Original W/Giorgis & Alemayehu Arede, “Nation Wide Survey on Domestic Violence”, *Berchi Journal of Ethiopian Women Lawyers Association*, Issue 7, (2008), Pp. 8-81, p.48

¹²⁷ W/Giorgis & Arede (n.126), p.77

¹²⁸ Ilika (n.124), p.3

unlikely to report to appropriate health or law authorities, or respond appropriately to exiting the marriage.¹²⁹ With regard to attitudes of the victims and perpetrators, many believe that there are some actions or attitude of the woman that may justify wife /partner beating.

Some of the justifications have been illustrated in the Ethiopian Demographic and Health Survey in 2005 in which 14, 070 women and 6,033 men interviewed.¹³⁰ Hence, refusing sex by the woman was listed as one justification for wife beating. Additional justifications given by the respondents for physical violence on the wife or woman partner were; if she burns the food, if she argues with her husband, if she goes out of the house without telling her husband, or if she neglects the children. So from the respondents, 81% of the women and slightly more than half of the men believed that a husband is justified in beating his wife for at least one of the specified reasons while 64% of the women believe that a husband is justified if the wife goes out without telling him or if she neglects the children.

Likewise, in a Study conducted by WHO¹³¹, 80 % of Ethiopian women believes unfaithfulness is a justification for wife beating while 78% believe that a husband is justified to beat his wife if she disobeys him. A considerable 62 % also reported not completing the house work is a justifiable reason for wife beating. Though the majority of women in Ethiopia are victims of domestic violence irrespective of their educational background; this survey find out that acceptance of wife beating by women and men declines as the level of education increases.

¹²⁹ Ilika (n.124), p.3

¹³⁰ Central Statistical Agency [Ethiopia] and ORC Macro. 2006. Ethiopia Demographic and Health Survey 2005. Addis Ababa, Ethiopia and Calverton, Maryland, USA: Central Statistical Agency and ORC Macro

¹³¹ World Health Organization, “Multi-country Study on Women’s Health and Domestic Violence against Women”, 2005, Retrieved January 2009, http://www.who.int/gender/violence/who_multicountry_study/Introduction

3.3 Factors Perpetuating Domestic Violence

Religious and historical precedents in Ethiopia have given way to violence against women in the domestic sphere. As such, most societies in Ethiopia have condoned the use of force by a man against a woman under his control. Most of the Ethiopian women are exposed to harmful traditional practices such as bride abduction; female genital mutilation and painful marriage initiation ceremonies for women and girls.

In the view of the writer, marital rape as an issue has not been recognized by the Ethiopian community. In this regard, from experience in participating in community discussions on the 2005 Criminal Law of Ethiopia, many feel it is the duty of the wife to obey her husband's need for sexual intercourse at any conditions. Similarly, in South Africa, Assault was described as occurring primarily when women attempted to refuse sexual inter-course.¹³² Forced intercourse, which they said they experienced with their partners, could never be termed rape because "it is with your boyfriend and there is something between you."¹³³

Various societies in Ethiopia do have sayings to encourage men to be violent to women especially in the privacy of their homes. For instance Amharic (the official language) folklore provides the following 'wisdoms' which perpetuate domestic violence against women.

¹³² Anne Outwater, Naeema Abrahams & Jacquelyn C. Campbell, "Women in South Africa: Intentional Violence and HIV/AIDS: Intersections and Prevention", *Journal of Black Studies* 35:4 (March 2005), pp. 135-154, p. 46

¹³³ Outwater (n.132)

ምንም ሴት ብታውቅ በወንድ ያልቅ

(Whatever knowledge a woman has, the man knows better)

ለሴትና ለበቅሎ አይዘነጉም ፣ ሺ በመምከር አንድ በመወርወር

(Women and mules are the same in that both may use a blow rather than a thousand advices)

ሴትና አህያ ዱላ ይወዳል

(Women and donkeys love beatings)

ሴትና አህያ የማትችለው የለም

(Women/girls and donkeys are capable of shouldering any responsibility irrespective of age – a proverb which has been used to justify child marriage in Ethiopia)

ወደሽ ከተገፋሽ ቢረግጡሽ አይክፋሽ

(If you (for a female) were willing to be pushed around the first time; you shouldn't complain if you get kicked to the ground later – a proverb which has been used to blame victims of cycle of domestic violence)

Such gendered attitudes are coupled with traditional harmful practices which intensify rate of domestic violence of women in Ethiopia. In consonance with the World Health Organization (WHO) report in August 1996¹³⁴, the prevalence rate of Female Genital Mutilation in Ethiopia is

¹³⁴ World Health Organization, “Female genital Mutilation; Prevalence and Distribution, a Report by the World Health Organization”, August 1996.

85%, one of the highest in Africa. Moreover, a practice of payment of dowry to their families upon marriage inhibits the women not to leave a violent home and to be considered as part of the property of their husbands. Hence, in addition to the inadequate legal enforcement at hand, all these factors militate against the Ethiopian women to get redress for violence perpetuated against them.

Likewise, in South Africa, women lack other economic resources to access justice for domestic violence against them. Thus, they may sometimes resort to commercial prostitution or to informal sexual relationships with several 'boyfriends' in exchange for financial support.¹³⁵ One survey indicates that many people believe that these women should not be able to use legal strategies to escape from domestic violence.¹³⁶ These beliefs were higher in African communities and equally prevalent amongst women and men.¹³⁷ It is therefore likely that women experiencing violence in such relationships will themselves not feel entitled to use legal strategies to escape violence.¹³⁸

Such realities limit the legal responses towards domestic violence against women in the context of Ethiopia and South Africa. However, there are also other influences which determine the way forward on the fight against domestic violence in these countries – the global and regional climate. Hence, efforts at the international and regional level comprising human rights

¹³⁵ Janet M. Wojcicki “An acceptance of violence against sex workers and women who exchange sex for money: Survey results from Gauteng province and implications for HIV prevention”, *Aids Bulletin* (April 2001), p. 8

¹³⁶ Wojcicki (n.135)

¹³⁷ Wojcicki (n.135), p. 9-11

¹³⁸ Ericka C. & Elsje B, “*Customary Law and Domestic Violence in Rural South African Communities*” Research Report written for the Centre for the Study of Violence and Reconciliation in South Africa (October 2004) P. 19

instruments and enforcement bodies would also have a mark on the legal intervention at the domestic level.

4.0 CHAPTER THREE: THE INTERNATIONAL AND REGIONAL LEGAL RESPONSE TO DOMESTIC VIOLENCE

The international legal system with all its controversies and skepticisms around its application or fruitfulness provides framework as to state accountability on preventing, protecting and fulfilling the fight against domestic violence on women. Such a regime incorporates the International and Regional Institutions, landmark Conferences, Declarations, Conventions, Recommendations as well as decision of Tribunals.

The study of the international and regional human rights instruments relevant to domestic violence is significant to the understanding of the extent of their impact on domestic enforcement as well as their application in the international plane. Certainly, domestic enforcement is recognized as one of the most effective means of enforcing international legal obligations in the absence of which international legal institutions and states utilize various forms of coercion, pressure and acculturation (adapting global cultural models).¹³⁹

Therefore, despite the skepticism around the enforcement of international human rights instruments at the international level, it might serve a purpose whenever the domestic system has failed those rights. To this effect, Rebecca Adams favored the global/international human rights system to deal with the problem of domestic violence since many legal systems rarely intervene

¹³⁹ Angela M. Banks, "CEDAW, Compliance, and Custom: Human Rights Enforcement in Sub-Saharan Africa", *Fordham Int'l Law Journal*. 32:781, (February 2009), p.2

and continue to view it as a private concern.¹⁴⁰ Her other argument in justifying this view rested on the fact that domestic violence crosses religious, social, cultural boundaries which pointed towards a universal solution despite regional differences on the degree and the nature of the epidemic. This view is not at odds with Mackinnon's comment that women are seeking for international remedies to claim their human right since the law is failing them at the national level.¹⁴¹

Human rights cases are unique with regard to remedial justice since state accountability or responsibility for breach arises from a human rights treaty or a customary international law. Hence, as Shelton pointed out, they impose a duty on state parties to respect and ensure the rights recognized, a formulation that imposes a due diligence obligation to respond to violations committed by private persons as well as abstain from state-authored violations.¹⁴² Situating the issue of domestic violence in various interrelated human rights such as the right to life, the security and bodily integrity, freedom of movement, freedom from torture, cruel and inhumane treatment is essential to instill the extent of the harm done on the victims and to push for a stronger legal redress.

Hence, under the current trend, African countries such as South Africa, Ghana, Zimbabwe and quite recently Uganda have been addressing domestic violence cases in their criminal justice system hand in hand with civil remedies. With regard to the criminal justice system, in those

¹⁴⁰ Rebecca A., "Violence against Women and International Law: The Fundamental Right to State Protection from Domestic Violence", *NY Intl. L. Rev.* 20: 57, (Winter 2007), p.60

¹⁴¹ Catharine A. MacKinnon, "Disputing Male Sovereignty: On United States v. Morrison", *Harvard Law Review*, (November 2000) p. 25

¹⁴² Dinah Shelton, *Remedies in International Human Rights Law*, (2nd Ed, Oxford University Press, 1999), p.38

countries, domestic violence against women has been recognized as a crime to some extent. However, the extent to which domestic violence against women has been recognized as a violation of basic human rights such as the right to dignity and security is questionable. Such recognition would have a far more reaching effect in the struggle towards ending domestic violence incidents and in maximizing the state accountability to protect and prevent such incidents.

4.1 International Human Rights Instruments on Domestic Violence

The Universal Declaration on Human Rights (UDHR, 1945), the International Covenant on Civil and Political Rights, (ICCPR, 1996), the International Covenant on Economic, Cultural and Social Rights (ICESCR, 1966), the Trafficking Convention (1949), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), and the Convention on the Rights of the Child (CRC, 1989) have been ratified by Ethiopia. All these instruments in one way or another deal with the protection of human rights of women as well as the right to be free of impediments in the exercise of such rights. Specifically, the Declaration on the Elimination of All Violence Against Women (DEVAW, 1993), is a landmark instrument with regard to Domestic Violence. The DEVAW defines violence against women as;

“Any act of gender-based violence that results in, physical, sexual or psychological harm done towards women, including threats of such act, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”¹⁴³

Hence, the Declaration makes it clear that the public/private dichotomy is no longer working and women should be protected from violence in public as well as in the privacy of their homes or within their private relationships. Though, the Declaration has no binding force as the other Conventions, it is paramount to influencing the national legal systems with regard to enacting and enforcing domestic violence laws. Foremost, such a definition is significant in that it mandates state intervention as well as accountability on cases of violence occurring in private life or the domestic sphere which have been considered as a ‘taboo’ for meaningful legal intervention.

Equally important has been DEVAW’s elaboration of the various aspects of violence to include physical, sexual and psychological harm. Furthermore, it mentioned violence which occurs in the family on women such as marital rape and physical violence and as well as harmful traditional practices harmful to women like female genital mutilation. And most importantly, the DEVAW has recognized violence against women could be condoned and or committed by the state¹⁴⁴.

On the other hand, the CEDAW Convention has a binding force and deals with a variety of women’s human rights issues. Though, the CEDAW did not explicitly mentioned violence against women; the CEDAW Committee General Recommendation established that the definition

¹⁴³ Art. 2, Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, U.N. GAOR, 48th Sess., art. 1, Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993)

¹⁴⁴ Art. 2(C), DEVAW (n.143)

of discrimination under Article 1 of the CEDAW incorporated gender-based violence.¹⁴⁵ This recommendation has a significant contribution to extend the case of domestic violence from specific illegal act to a violation of several interrelated human rights. Accordingly, Paragraph 7 of the Recommendation reads;

“Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include: The right to life; The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; The right to equal protection according to humanitarian norms in time of international or internal armed conflict; The right to liberty and security of person; The right to equal protection under the law; The right to equality in the family; The right to the highest standard attainable of physical and mental health; The right to just and favorable conditions of work.”

The implementation mechanisms of the CEDAW (State Complaint and Reporting procedures) have been criticized for ineffectiveness; the Optional Protocol¹⁴⁶ to the CEDAW which is under a signing process during the writing of this thesis provided an individual complaint mechanism though Ethiopia has not signed it yet. Apart from the instruments, an international conference, the Beijing Platform for Action in 1995 which called for governments to take immediate action to combat violence against women and in particular domestic violence had a great impact in

¹⁴⁵ CEDAW Committee General Recommendation on Article 19 of the CEDAW, General Recommendation No. 19 (11th session, 1992)

¹⁴⁶ Optional Protocol to the Convention on the Elimination of Discrimination Against Women, Oct. 6, 1999, 2131 U.N.T.S. 83

pressuring countries to move for legal reforms.¹⁴⁷ Ethiopia's experience on state reporting has been limited since there were 6 reports so far in which the three of them were blended together in a single report in the year 1993, and other two overdue reports were submitted in the year 2000.¹⁴⁸ Among the Recommendations of the CEDAW Committee on the consideration of the report on 2004 were: the need for the Ethiopian government to enact appropriate laws with regard to violence; to establish birth and marriage registration to fight child marriage and also on the role of human rights education to women to inform their rights.¹⁴⁹

Furthermore, International Judicial Bodies have also been instrumental in recognizing sexual violence in general and rape in particular as a crime against humanity.¹⁵⁰ In fact, these bodies have also been instrumental in some cases in pioneering for legal definitions of violence against women. For instance, the International Criminal Tribunal for Rwanda (the ICTR) in its 1998 decision, *Prosecutor v. Akayesu*, convicted the accused of genocide and Crimes Against Humanity for acts of sexual violence.¹⁵¹

The ICTR in the above mentioned case defined rape as "*a physical invasion of, sexual nature, committed on a person under circumstances which are coercive.*"¹⁵² Here, it is important to make a note that the Criminal Law of rape in Ethiopia employs 'lack of consent or force' instead

¹⁴⁷ *Beijing Platform for Action, Fourth World Conference on Women*, U.N. Doc. A/CONF.177/20, Ch. 1 (1995)

¹⁴⁸ Tigist Assefa, "State Reporting as a Mechanism of Enforcing Human Rights : the Ethiopian Case under the six UN core Human Rights Conventions", *Berchi Journal of Ethiopian Women Lawyers Association*, Issue 6, (2007), Pp. 53-79, p. 55

¹⁴⁹ Para. 36, 37, & 52, CEDAW Committee Summary Record of the 646 Meeting .2004. Consideration of Reports Submitted by State Parties under Article 18 of the CEDAW; Combined Fourth and Fifth Periodic Report of Ethiopia, CEDAW/C/ETH/4-5.

¹⁵⁰ Art. 7, The Rome Statute of the International Criminal Court & Art. 5 of the Statute of the International Criminal Court for Yugoslavia as amended 29 Sept. 2008

¹⁵¹ *Prosecutor v. Akayesu Case*, ICTR-96-4-t, International Criminal Tribunal for Rwanda, Sept. 2, 1998

¹⁵² *Prosecutor V Akayesu* (n.151)

of coercion which could have incorporated so much more cases of rape. In addition, the Tribunal asserted that sexual violence may be committed without physical contact/invasion such as forced nudity;

*"Any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact."*¹⁵³

4.2 African Regional Instruments on Domestic Violence

The African Charter on the Human and People's Rights (the African Charter) specifically mentions the issues of women in a single sub article 18(3) in relation with gender-based discrimination.. For this reason, African countries came up with a Protocol on the Rights of Women in Africa in 2004 which consists of extensive articles on the rights of women. Ethiopia has signed and ratified the Charter while it has only signed the Protocol. South Africa, on the other hand, has also acceded to the African Charter in 1996 after it became a democracy in 1994.

The Protocol's provisions that directly relates to harmful cultural practices are relevant since most of the domestic violence especially the physical violence are condoned by the culture in many African societies. To this effect, partner violence has been entertained under the section on harmful traditional practices in the Ethiopian Criminal Code signifying its cultural root.

¹⁵³ Prosecutor V Akayesu (n.151)

At present, the one organ which is entrusted with handling complaints and giving recommendations on issues arising from the African Charter as well as the Protocol is the African Human Rights Commission (the Commission). The African Charter created the Commission with the mandate to “promote human and Peoples’ rights and ensure their protection in Africa”.¹⁵⁴ Consequently, the Commission does receive individual as well as inter-state complaints. However, there are very rigorous conditions by the Commission which restricts individuals from seeking legal remedies. Accordingly, some of the restrictions on individual communications are that they shall only be heard if they : get majority vote in the Commission; indicate their authors ; are not written in disparaging or insulting language directed against the state; are submitted with in ‘reasonable time’; are not based solely on media reports.¹⁵⁵

Further, scholars agree that the Commission has proved manifestly incapable of protecting the basic human rights of Africans.¹⁵⁶ Reasons for the Commission’s ineffectiveness have been: lack of enforcement power; lack of effective access to Commission by individuals; invisibility as a result of its confidentiality requirements; and lack of independence and resources.¹⁵⁷ Currently, there are initiatives to establish a Court of Justice in the continent whose decisions would have legally binding force.

¹⁵⁴ Art. 30 , The African Charter of Human and People’s Rights,1986

¹⁵⁵ Art. 56, ACHPR (n.154)

¹⁵⁶ Christopher Heyns, South Africa and a Human Rights Court for Africa 3 (1994), pp. 40

¹⁵⁷ Nsongurua J. Udombana, “Toward the African Court of Human and Peoples’ Rights: Better Late Than Never”, *Yale Human Rights and Development Law Journal*, Vol 3:5,(2000), Pp. 45-111, p.67

4.3 Challenges to Applying International Standards on Domestic Violence in the Ethiopian Context

The applicability of international human rights instruments in the Ethiopian legal system has so far been limited to the recognition given to it in the Constitution. The South African legal system is fairly advanced in this aspect. The Constitutional Court has affirmed employed international legal instruments as well as precedents from other jurisdictions in many of its cases. Thus, since 1994, the South Africa Constitution included justifiable rights and established the Constitutional Court as the final decision making organ in the judiciary.

The status of international instruments ratified by Ethiopia is that it will be the law of the Land according to Article 9(4) of the Constitution. However, there have been challenges as to the direct applicability of such instruments in Court proceedings. The first challenge concerns the argument that they should be published in the *Negarit Gazette* (the official gazette used to proclaim legislations) to mandate their direct application in the domestic courts. Secondly, the Ethiopian Courts are not vested with interpreting constitutional provisions rather it is one of the two houses of parliament (the House of Federation) which is entrusted with this mandate.¹⁵⁸

For the above mentioned reasons and lack of activist role on the part of the judiciary in Ethiopia, it had been unthinkable to claim rights from such instruments in court litigation. For this reason, the Ethiopian Parliament decided the Child Rights Convention to be published in the *Negarit Gazette* to make it directly applicable in Ethiopian Courts. Thus, it is essential to duplicate such

¹⁵⁸ Art. 5 , FDRE Constitution, Ethiopia, 1994

move by the parliament to international and regional instruments on violence against women. Another recent move that was pioneered by the Supreme Court of Ethiopia is the use of precedents in order to establish basic principles of interpretation of the different laws in the country. This will have a significant impact if the Supreme Court entertains the direct application of international instruments ratified by Ethiopia. For instance, the scope and extent of domestic violence definition for the purposes of legal intervention is more inclusive in the international instruments such as the DEVAW.

South Africa presents best practices on using the international instruments directly in court cases as well as in using comparative case laws from other jurisdictions. Section 35(1) of the South African Constitution has asserts that the Court of Law shall promote those values of an open and democratic society and have regard to Public International Law in interpreting the provisions of the rights chapter.¹⁵⁹ The South African Constitutional Court has been incorporating international human rights instruments as well as the African Charter in its case laws. For instance, the African Charter have been discussed in cases such as *S v Makwanyane*¹⁶⁰ on capital punishment, on *S v Williams*¹⁶¹ on Juvenile whipping, as well as in *Ferreira v Levin*¹⁶² on the issue of right to freedom and security. Hence, this practice of the South African Constitutional Court would be a model for judicial activism to promote the Ethiopian state' duty to protect its citizens from domestic violence.

¹⁵⁹ Section 35(1); "In interpreting the provisions of this Chapter a Court of Law shall promote the values which underlie an open and democratic society based on freedom and equality and shall, where applicable, have regard to Public International law applicable to the protection of the right entrenched in this chapter, and may have regard to comparable foreign case law"

¹⁶⁰ *S v Makwanyane* (1995) 3 SA 391 (CC)

¹⁶¹ *S v Williams* (1995) 3 SA 632 (CC)

¹⁶² *Ferreira v Levin* NO (1996) 1 SA 984 (CC)

5.0 CHAPTER FOUR: THE LEGAL FRAMEWORK ON DOMESTIC VIOLENCE IN ETHIOPIA

Ethiopia has been a federal state since 1991 with 11 regional states, each having a State Constitution which should be in line with the Federal Constitution. Additionally, the enactment of laws and handling of cases have been divided between the federal government and the states. Accordingly, the enactment of the criminal law falls under the federal government whereas the family law has been enacted by both the federal as well as regional state legislatures.

Most of Ethiopia's previous laws since the 1930's were claimed upon traditional roles of women as wives and mothers, and they reinforced the stereotypical domestic hose- bondage of Ethiopian women.¹⁶³ Legal prescription of women's roles was formalized in the 1956 Constitution and its bylaws, placed women's affairs squarely in the context of family law, further conceptualizing women solely within the domestic domain.¹⁶⁴

The Ethiopian legal system is based on the continental legal system which relies in enacted laws rather than court precedents. However, recently, the Supreme Court of Ethiopia has started to develop its own precedents on the interpretation of domestic laws. Anyhow, whether the Supreme Court will take the role of activism and apply the international agreements ratified by Ethiopia on domestic violence issues will be seen. To the contrary, the South African System has

¹⁶³ Tsehai BerhaneSellasie, Ethiopian Rural Women and the State in *African Feminism: the politics of survival in sub-Saharan Africa* (ed) Mikell Gwendolyn (University of Pennsylvania Press, 1998), P 282 -286, p.185

¹⁶⁴ BerhaneSellasie (n.163), p.186

been based on the common law system which gives the judiciary more discretion to develop principles.

Despite the closeness in time between Ethiopia and South Africa in the making of their constitutions (1994) and the prevalent domestic violence; the contents and the implementation of Constitutional rights of women as well as the role of the judiciary have stark differences. Accordingly, the South African Constitution have been well acclaimed with the incorporation of justiceable Socio-economic rights which have been instrumental to achieving substantive equality in a country which has been hit by violence, poverty and as well as a wide gap between the poor and the rich. In contrast, the Ethiopian Constitution of 1994 has stated Socio-economic rights as policy goals and not as rights which could be litigated in courts. More importantly, the Constitutional Court of South Africa has been playing an active role in pushing towards greater state accountability to protect women from domestic violence. On the other hand, the judiciary in Ethiopia does not have the power to interpret the Constitution and also has been playing a passive role in recognizing the State's duty to protect women from violence.

5.1 Constitutional and Policy Response

The 1994 Ethiopian Constitution established the equality of women and men as a foundational constitutional norm. It enunciates substantive equality of women and men in the form of equal rights as well as affirmative Action measures¹⁶⁵ for women for past and present discriminations. To this effect, Article 35 (4) enunciated the obligation and accountability of the Ethiopian state to

¹⁶⁵ Art. 35(1), The Constitution of the Federal Democratic Republic of Ethiopia, 1994

protect women from violence though there have been insignificant amount of cases where women sued the government for failure to protect.

“The state shall enforce the right of women to eliminate the influences of harmful customs. Laws, Customs and practices that oppress or cause bodily or mental harm to women are prohibited”

Moreover, the Constitution have ascertained the fundamental rights related with domestic violence like the Security of the Person(Art.16), Prohibition against Inhuman Treatment (Art. 18), and Equality before the Law (Art. 25). Moreover, the equal rights of women and men in marriage as well as the family and that they mandate the protection of the state and the society is stipulated.¹⁶⁶

South Africa, on the other hand has a unique and well developed Constitution with a strong constitutional court which has contributed remarkable case precedents on the domestic violence issues dealing with state accountability and intervention mechanisms. Thus, the 1994 South African Interim Constitution in its Section 8 stipulated equal protection for laws and non-discrimination on the basis of sex.¹⁶⁷ South Africa is one of only a few countries in the world to entrench rights such as access to food, water, housing, healthcare and social security.¹⁶⁸ A very remarkable way in which the South African Constitution has incorporated the social and economic rights as justiceable rights – which is unique move in its own towards government

¹⁶⁶ Art. 34, FDRE (n.165)

¹⁶⁷ South African Interim Constitution, 1994

¹⁶⁸ Section 27, South African Constitution, 1996

accountability in areas that were considered by many legal systems as non-justiceable. South Africa went further to assume a duty to prevent violence by private actors where the Constitution States go further and assume a duty to prevent violence by private actors. For example, the Constitution guarantees the right "to be free from all forms of violence from either public or private sources."¹⁶⁹ This stipulation was elaborated in the legal opinion in *State V Baloyi* case of the Constitutional Court, Section 12 (7) (c) of the Constitution, which reads "Everyone has the right to freedom and security of the person, which includes the right—to be free from all forms of violence from either public or private sources; meant as obliging the state directly to protect the right of everyone to be free from private or domestic violence."¹⁷⁰

Moreover, as Vodjik asserted the presence of women activists in South Africa played a fundamental role in ensuring a constitutional and political commitment to gender equality.¹⁷¹ Hence, the idea of state legal intervention has coincided with the assertion of state accountability in cases of failure to protect domestic violence victims which would be unthinkable at this point in Ethiopia.

As far as the South African constitutional law is concerned, its Constitutional Court plays an important part in making sure that Constitutional articles are interpreted and implemented according to the fundamental norms and rights in it. The South African Constitutional Court have been conferred with the power to interpret the Constitution while in Ethiopia such power is

¹⁶⁹ Section 12(1)(c), South African Constitution, 1996

¹⁷⁰ *S v Baloyi and Others* (CCT29/99) [1999] ZACC 19; 2000 (1) BCLR 86 ; 2000 (2) SA 425 (CC) (3 December 1999), *Para. 11*

¹⁷¹ Valorie K. V, "Conceptualizing Intimate Violence and Gender Equality: A comparative Approach in Women, Children, and Victims of Massive Crimes: Legal Developments in Africa", *Fordham Int'l L.J.* 487 (January 2008) : p. 10 of 30

vested on one house of parliament which is primarily a political organ than a legal one.¹⁷² This has created a barrier for the judiciary to play an active role in the interpretation of equality norms under the Constitution into concrete cases. The South African Constitutional Court on the other hand, has been instrumental in dealing with the interpretation of the Constitutional articles as well as incorporating international instruments into its precedents.

With regard to institutional arrangements, the Ministry of Women and Children's Affairs is the main government organ in Ethiopia to give support to victims of violence against women. The Ministry was established according to the National Women's Policy of 1993 which did not mention the issue of domestic violence specifically but dealt with issues of discriminatory practices. Nevertheless, besides few non-governmental organizations, the Ministry is the only governmental structure all over the nation receiving complaints from women on domestic violence cases. However, despite the Ministry's strategic position which is attributed to the presence of its offices all over the country, it has been suffering from lack of resources and expertise as well as absence of enough mandates from the government about dealing with such issues.

Besides the Constitution and policies, there have been legal reforms in Ethiopia in relation to domestic violence, specifically the family law and the criminal law in 2003 and 2005 respectively. Legal reforms with regard to domestic violence play an important part in the context of Ethiopia since the previous laws related to family and violence against women were enacted in

¹⁷² Art. 62(1), FDRE (n.165) reads; the House of Federation has the power to interpret the Constitution.

the 1960s where the awareness on domestic violence in the national context was almost next to nothing. Nevertheless, the effectiveness of the legal reforms depend on their conjunction with other measures as legal literacy, reforms in the law enforcement bodies as well as other socio-economic and psycho-social support.

Whereas, Legislation in South Africa dealing specifically with domestic violence dates back to 1993 in the Prevention of Family Violence Act (133 of 1993).¹⁷³ Then again, South Africa has passed a law in 1998 the Domestic Violence Act (DVA)¹⁷⁴ and a policy framework and strategy supporting shelters for victims of domestic violence in South Africa in 2003.¹⁷⁵

5.2 The Criminal Justice Response

The criminal justice response to domestic violence in Ethiopia has been a legacy of neglect if not denial of the existence of the epidemic altogether. Such response has been a result of the historical and cultural context in which violence against women in the domestic sphere have been considered as the prerogative of the man to discipline his intimate partner. The previous Family Code of Ethiopia which have been revised in 2003, used to state the husband as the head of the family with significant decision-making powers.¹⁷⁶ Moreover, in direct relation to legalizing the

¹⁷³ Shereen U., Nicola C., Lebo M. & Aadielah Maker, “The Value of Advocacy in Promoting Social Change: Implementing the New Domestic Violence Act in South Africa”, *Reproductive Health Matters*, Vol. 8, No. 16, (June 2009), Pp. 55-65, p.55

¹⁷⁴ Domestic Violence Act of South Africa (DVA) No. 118 of 1998

¹⁷⁵ Policy framework and strategy for shelters for victims of domestic violence in South Africa, Department of Social development, 2003

¹⁷⁶ Art. 635, Civil code of the Empire of Ethiopia Proclamation No. 165 of 1960, Berhanena Selam Printing Press, 1960, Addis Ababa Ethiopia

incidence of domestic violence the Family Code used to authorize the husband to provide protection and to control the wife's conduct.

*“He may watch over her relations and guide her in her conduct, provided this is in the interest of the household, without being arbitrary and without vexations or other abuses”*¹⁷⁷

Even if the above quote stated ‘without abuse’ – chastisement was not considered as illegal where the corresponding Criminal Code had recognized chastisement as a normal order of events in the family (on chastisement of children) in addition to allowing torture as penalty for some criminal offences. Currently, activism by victim advocacy groups has led to a better understanding of the scope and effect of domestic violence on victims and families, and has brought about the few changes in the criminal justice response to domestic violence.¹⁷⁸ The Revised Criminal Law of Ethiopia of 2005 abolished physical punishment and improved the sentencing for rape and other sexual assault cases even though it fell short of criminalizing domestic violence in a comprehensive manner.

With regard to domestic violence, South Africa has a well established criminal law. Criminal charges that can be laid against an abuser may include common assault, assault with the intention

¹⁷⁷ Art. 644(2), Civil code of Ethiopia (n.176)

¹⁷⁸ Original W/Giorgis & Alemayehu Areda, “Nation Wide Survey on Domestic Violence”, *Berchi Journal of Ethiopian Women Lawyers Association*, Issue 7, (2008), Pp. 8-81, p. 16

of doing grievous bodily harm, indecent assault, rape, incest, attempted murder, malicious damage to property, pointing a firearm, *crimen iniura*, and even the abuse of animals.¹⁷⁹

The Ethiopian criminal Code has not recognized marital rape as a criminal offence despite the national uproar among women's rights activists and organizations. The reasons attributed to such omission were the resistance from the law making bodies as a result of cultural considerations and partly as a result of denial of the problem. To this effect, every move towards a better protection of women from violence has been received with such skepticism and resistance in relating it with being 'westernized'.

Secondly, the Criminal Law has not put comprehensive definition of domestic violence against women and seems it has inserted it as a passing remark to avoid further uproar from activists which had been concerned with its prevalence of the problem in the country. Domestic Violence is somehow mentioned in the 2005 Criminal law under the section harmful traditional practices, and carried a title "violence against a marriage partners or a person cohabiting in an irregular union", art 564 of the Criminal Code of Ethiopia stated:

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

¹⁷⁹ Lillian Artz, "Policing the Domestic Violence Act: Teething Troubles or System Failure" *Agenda Feminist Media*, 47,(June 2009), Pp. 4-13, p.5

Primarily, the fact that the Article have been inserted under ‘Harmful Traditional Practices’ and not under the violence section minimized the response of the criminal justice in that harmful practices entail very light sentences and the response relied more on educating the public rather than punishment. Hence, the writer is not arguing that domestic violence against women specifically physical violence has not been part of the culture, but it argues that it is primarily a violation of many interrelated human rights violations and should be treated accordingly.

Here, it should be clear that educating the public is an important aspect of legal reform. Nonetheless, light sentences in such grave crimes will risk increasing prevalence as a result of low risk for perpetrators. As elaborated in the Exchange Theory of Domestic violence¹⁸⁰, people use violence whenever the cost is minimal compared with the benefit of control over the victim. Hence, elevated consequences for committing domestic violence may have had an inhibition effect on perpetrators and more encouraging to victims to come to law enforcement agencies.

Secondly, the Article did not have a comprehensive definition of domestic violence in that it mentioned only marriage partner or a person in irregular union excluding other intimate relationships. Further, it has not taken into consideration the different aspects of domestic violence such as the economic one, concentrating only on physical and mental health consequences. What is worse, the Code referred to the general assault articles for purposes of punishment which does not seem to appreciate the unique nature of domestic violence; that it is intertwined with the gender power relations in the society. Such definition is not considered as

¹⁸⁰ See Exchange Theory, Chap.1, p. 16

effective since it has not incorporated power relationship and is not ready to capture the unique nature of domestic violence – looking at the whole context instead of looking for one ‘big impact’ or a scar on the body of the woman. All in all, the Criminal Law of Ethiopia failed to come up with comprehensive definition and protection against domestic violence.

Moreover, discouragingly, the Revised Criminal Law of Ethiopia failed short of outlawing marital rape maintaining the institution of marriage as a defense for rape. Despite high prevalence of marital rape in Ethiopia, police officers tend to think that the issue of marital rape is a domestic matter because of absence of specific provision in the Criminal Code.¹⁸¹ Hence, the only option women victims of marital rape have in the Criminal Code has been in the event the incident resulted in sexual transmitted diseases including HIV/Aids under Article 568 of the Criminal Code.¹⁸²

5.3 Civil Remedies

The Federal Family Code of Ethiopia has been revised in 2003 which have been based on formal equality despite the obvious discrimination women suffer in the patriarchal society. In a research conducted on the implementation status of the revised federal family code, some initial indicators suggest that its enactment has not had the intended effect of addressing discriminatory practices

¹⁸¹ NGOs Complementary Report on the Second Combined Report of the Country on the Implementation of the CEDAW (2003)37.

¹⁸² Art. 568 of the Criminal Code of Ethiopia, 2005

on women and improving their status.¹⁸³ Moreover, the law has not been accessible to the majority of women in the country which makes it unusable.¹⁸⁴ Besides, the Ethiopian law is bereft of civil remedies against domestic violence. Hence, there has been no domestic violence Act as well as specific civil remedies such as protective orders or ordering the abuser out of the common residence. Nor are there any policies or guidelines as to the manner of police intervention and accountability in domestic violence cases.

The South African Domestic Violence Act of 1998, on the other hand, included a comprehensive definition of domestic violence, covering physical, verbal, emotional, economic, sexual and psychological abuse, damage to property, entry into the victim's residence without his/her consent, intimidation, stalking or any other abusive behavior, including threatened abuse.¹⁸⁵ The definition of a domestic relationship also includes people who are or were married to each other (whether they live together or not); same-sex partners (whether they live together or not); any person who is or was in an engagement, dating or customary relationship, including an actual or perceived romantic relationship; intimate or sexual relationships of any duration; parents of a child; and people who share or recently shared the same residence.¹⁸⁶

Further, another important feature of the Act is on accountability issues of the law enforcement agencies. Accordingly, in an attempt to address the issue of implementation, the legislation

¹⁸³ Wondwossen Demise, “*Implementation Problems of the Revised Family Code of Ethiopia*”, (Ethiopian Women Lawyers Association, 2006), Unpublished. p. 4

¹⁸⁴ Demise (n.181)

¹⁸⁵ Shereen Usdin., Nicola C., Lebo M. & Aadielah Maker, “The Value of Advocacy in Promoting Social Change: Implementing the New Domestic Violence Act in South Africa”, *Reproductive Health Matters*, Vol. 8, No. 16, (June 2009), Pp. 55-65, p.57

¹⁸⁶ Artz (n.179), p.4

requires both the National Commissioner of the South African Police Service (SAPS) and the National Director of Prosecutions to issue national instructions and policy directives in terms of which its members (police, prosecutors, court clerks and magistrates) must comply in the execution of their functions.¹⁸⁷

5.4 The Treatment of Domestic Violence cases

The issue of the public/ private dichotomy has been a major set back in dealing with the police treatment of domestic violence victims and prosecution cases. Despite the recognition of some aspects of domestic violence against women as a crime in Ethiopia, the Police and prosecutors at large are very reluctant to pursue such cases.

Most of the victims of domestic violence in Ethiopia do not have access to justice or law enforcement agencies for a whole set of factors. Lack of appropriate institutions, and lack of awareness by the law enforcement agencies coupled with the cultural taboo of bringing a family affair into the open public, makes it difficult for women to access justice. According to a study carried out in 1997¹⁸⁸, most women victims of domestic violence gave the following reasons for not reporting violence incidents: fear of further abuse; assumption that it is a common incident to all women; financial dependency on the husband; preserving the family secret; and feeling of embarrassment.

¹⁸⁷ Artz (n.179), p.4

¹⁸⁸ Rakeb Messele, “*Violence Against Women and the Role of the Law Enforcing Institutions*”, (Ethiopian Women Lawyers Association, 1997), Unpublished

There have not been major prosecutions of domestic violence in Ethiopia unless the incidence has been publicized in a big way and/or caused gross physical damage or death to the woman. Often, victims are told to go back to their home and make amends with their partners and avoid such incidents in the future through steering away from the ‘the risk behavior’. It tends to be the case that the law enforcement agencies have been reluctant to prosecute domestic violence cases under the pretext that it is a ‘private/husband-wife issue’ which should not reach the court. Further, until recently, law enforcement agencies and policy makers viewed domestic violence as a relatively minor social problem.¹⁸⁹

Though, access to justice for women who suffer domestic violence in Ethiopia is very minimal, studies suggest that a large percentage of women seek legal aid from NGOs who work on issues related with domestic violence. As an example, from the statistics taken from the Ethiopian Women Lawyer’s Association legal aid program¹⁹⁰, out of the whole women who seek legal aid in from January to June 2007, about 80% the cases heard are directly or indirectly connected to domestic violence. All in All, the situation of domestic violence in Ethiopia is a very complex phenomenon which is fueled with the patriarchal system prevailing in the country with its multifaceted manifestations on the everyday life of women.

¹⁸⁹ Original W/Giorgis & Alemayehu Areda, “Nation Wide Survey on Domestic Violence”, *Berchi Journal of Ethiopian Women Lawyers Association*, Issue 7, (2008), Pp. 8-81, p.64

¹⁹⁰ Annual Report of the Ethiopian Women Lawyers’ Association, June 2007, unpublished.

5.4.1. Reporting and Investigation of Domestic Violence Cases

Dutton , in his book ‘the Domestic Assault of Women: Psychological and Criminal Justice Perspectives’, pointed out that the single greatest impediment to a more effective criminal justice response to domestic violence against women in many countries is the victim’s failure to report the event to the police.¹⁹¹ Evidently, the process of underreporting starts with substantial “screening” by victims who fail to file reports.¹⁹²

However, in the Ethiopian case, the reluctance of the law enforcement agencies to prosecute and punish domestic violence cases has also put a great challenge to the already inadequate coverage of the law. Further, the criminal justice response in Ethiopia suffered from a highly disabling customary practices as well as inadequate resources with regard to the law enforcement agencies. Domestic violence have been seen as culturally acceptable and despite recourse through the police and the court system, strong societal norms and lack of access to relevant infrastructure prevent many women from seeking legal redress.¹⁹³ As Dobash and Dobash acknowledged, women victims of domestic violence may not choose to report for a variety of reasons;

“The problem of women’s reluctance to report men’s violence is often exacerbated by social media and legal institutions whose actions reveal a powerful legacy of policies and

¹⁹¹ Donald G. Dutton , *The Domestic Assault of Women: Psychological and Criminal Justice Perspectives*, (University of British Columbia, UBC Press,1995), p.218

¹⁹² Eve S. Buzawa & Carl G. Buzawa, *Domestic Violence : the Criminal Justice Response*, (3rd Ed., Sage publications, 2002) P. 71

¹⁹³ World Bank (1999), “*Gender and Law: Eastern Africa Speaks*”, Africa Region Findings, No. 126, World Bank, Washington, DC.

*practices that explicitly or implicitly accept or ignore male violence and/or blame the victim and make her responsible for its solution and elimination”*¹⁹⁴

To this effect, a nationwide survey conducted in 2008 in Ethiopia revealed that 66% of the women did not report incidences of domestic violence to the police.¹⁹⁵ The reason that they gave for not going to law enforcement agencies is - to keep their family secrets; fear of more danger or reprisal from partner; considering that it is against the norms in the society, and their expectation that the response will not be satisfactory.¹⁹⁶ Here, it should also be clear that most women consider domestic violence as an aggravated battery and do not take into consideration economic violence or verbal abuse, minor physical injuries or forced sex. Moreover, this failure to report on the part of abused women has been a pretext to blame the victim for the failure of the justice system in providing effective protection. Similarly, in South Africa, domestic violence against women in South Africa remains one of the most seriously underreported offenses.¹⁹⁷

Even those who were courageous to report such abusive incidents to the police in Ethiopia claimed that the police and the law enforcement have not been friendly to them because of the deep entrenched belief and norm that such issue is private family affairs and should be dealt accordingly. Hence, according to the same study, 42 % of the women which reported the incident

¹⁹⁴ Emerson Dobash and Russell P. Dobash, “*Women, Violence and Social Change.*” (Routledge Publisher, 1992), P..3

¹⁹⁵ W/Giorgis & Areda (n.189), p.64

¹⁹⁶ W/Giorgis & Areda (n.189), p. 78

¹⁹⁷ Paula C. Johnson, “Danger in the Diaspora: Law, Culture and Violence against Women of African Descent in the United States and South Africa”, Spring 1998. *J. Gender Race & Just.* 471 (Spring 1998) p.498

to the police confirmed that the police did not want to interfere in their family affairs while for 14.3% of the women the police advised them to file a complaint.¹⁹⁸

In addition, as Dutton explained, there has been also a case of immediate post assault trauma of victims that might make them depressed, upset, confused, and uncertain about the efficacy of criminal justice action.¹⁹⁹ Most importantly, the cycle of violence established by Walker²⁰⁰ has also been another testimony why women domestic violence victims would be challenged to break the cycle. With regards to this, the writer would also like to share her experience in order to shed some light on the problems of the societal and legal norms for domestic violence victims to secure legal protection.²⁰¹

“The case was referred to the Organization by one of the friends of the abused woman. The first time we met, she was down and confused and was skeptical about ability to go out of such violence and about getting any help from any body. She told me that her husband physically and verbally abused her for many years. He used to insult her, mock her about her body size and used to beat her whenever he thought she came late from work. She endured it for many years for the sake of her two children. So in our first meeting, we discussed her options and she thought getting a divorce may risk an additional violence, and preferred to go to the police to file criminal charges. However,

¹⁹⁸ Rakeb Messele, “Violence Against Women and the Role of the Law Enforcing Institutions”, (Ethiopian Women Lawyers Association, 1997), Unpublished

¹⁹⁹ Donald G. Dutton , “The Domestic Assault of Women: Psychological and Criminal Justice Perspectives”, (University of British Columbia, UBC Press, 1995), p.2

²⁰⁰ Lenore E. Walker, The Battered Woman, (Harper Collins Publishers, 1979, p. 17

²⁰¹ The writer used to work as intern for the Ethiopian Women Lawyer’s Association Legal Aid Office in the year 2005, while encountering the mentioned case, a permission secured from the owner of the story.

the police received the complaint and never took a measure. Finally, relatives tried to make amends between them and she dropped her complaints fearing she will be ridiculed by the community for incriminating her own husband. In the following two years, she frequently started the process of filing charges and also filed for a divorce once following a grave physical injury then used to drop the charges whenever the elders try to make amends between them. The police was so reluctant to entertain her case complaining that she will drop her charges again and there is no use to interfere in a family case. Then while we were giving up hope that she may never get out of the abusive relationship, she sent us a letter which stated she got the divorce and the abuse has stopped though the criminal charges she filed against her abusive husband were not accepted by the police. She said the final decision she made to see through the divorce process came after she suffered a major fracture in her head as a result of the beatings.”

The above story is a remainder of the reluctance of the police in Ethiopia to file criminal charges on a repeated domestic violence cases by women and also the role the community plays in perpetuating repeated abuses in the pretext of making amends. The police officers were often reluctant to intervene by making an arrest, and often chose instead to simply counsel the couple and/or ask one of the parties to leave the residence for a period of time.²⁰² In fact, in police investigations, a study revealed that theft cases have been taken more seriously than domestic violence cases.²⁰³ From the handful of cases reported to the police in 2008 in Ethiopia, a study

²⁰² Original W/Giorgis & Alemayehu Areda, “Nation Wide Survey on Domestic Violence”, *Berchi Journal of Ethiopian Women Lawyers Association*, Issue 7, (2008), Pp. 8-81, p.16

²⁰³ W/Giorgis & Areda, (n.202), p. 70

revealed that abduction which is followed by rape and wife beating has been the major complaints received by the police.

<i>Abduction followed by rape for the purpose of forced marriage</i>	<i>39%</i>
<i>Wife beating & bodily injury</i>	<i>25%</i>
<i>Intimidation , insult and disrespect</i>	<i>7%</i>
<i>Forced labor and exploitation</i>	<i>11%</i>
<i>Child Marriage</i>	<i>9%</i>
<i>Female Genital Mutilation</i>	<i>6%</i>
<i>Denial of food & forced displacement from home</i>	<i>3%</i>

*Table. 1 – Forms of Domestic Violence Against Women Reported to the Police in the Ethiopian 9 regional states in 2008*²⁰⁴

The other set back in police handling of domestic violence cases has been the almost non-existent consultation with psychologists and social workers. This had had a discouraging effect for women who were courageous enough to report domestic violence incidents and lack the support they have been entitled.

²⁰⁴ W/Giorgis & Areda (n.202), p. 69

5.4.2. The Responses of Prosecutors and Courts

From the reported and investigated cases of domestic violence, only a handful of them get a day in court in Ethiopia. For this reason, from the 70% high rate of violence in Ethiopia, there were only 149 cases of Domestic violence pending in the Ethiopian Courts in 9 Regional States out of 12 in one year.²⁰⁵ As the World Bank report indicated, the Ethiopian government prosecutes offenders of domestic violence on a limited scale.²⁰⁶ With an interview with a legal aid officer²⁰⁷ in one of women's rights organization revealed that, prosecutors were not inclined to file charges of domestic violence for a variety of reasons. Firstly, the prosecutors trivialize such cases and try to make amends between the parties instead of going to court. Even a court in one instance has sent the couples home saying they should make amends despite the criminal sanctions against domestic violence. Secondly, the prosecutors give a reason that the women victims often make amends with their partners and fail to appear as a witness in court.

The majority of the Ethiopian courts were reluctant to impose any significant sanctions on those convicted of domestic violence, largely because it was viewed as a misdemeanor offense.²⁰⁸ Thus, few cases have been prosecuted in particular as a result of a grave injury coupled with a wide publicity by activist organizations. The following case is one of such cases.

²⁰⁵ W/Giorgis & Areda, (n.202) ,p.60

²⁰⁶ World Bank (1999), "Gender and Law: Eastern Africa Speaks", Africa Region Findings, No. 126, World Bank, Washington, DC.

²⁰⁷ Interview with Mahlet Wondimu, A legal Aid Officer in Tikat Tekelakay Mahiber in Ethiopia, Nov. 2, 2009

²⁰⁸ W/Giorgis & Areda, (n.202), p.16

*“Birkie, a woman who had been physically abused by her husband, and who ahs been married to for three years chose to divorce him and went to a women’s right organization. The organization took up her case for representation in one of the regional states regarding both the bodily injury and the property division she was seeking as per her pleading. Despite the untimely medical help she received she lost the use of her hands as a result of the physical injury. The ex-husband was criminally charged and was sentenced to 7 years imprisonment in addition to a civil suit in which he was to pay 29,000 Ethiopian birr for physical and moral damage.”*²⁰⁹

In another case, a perpetrator has been sentenced to 15 years imprisonment after he chops off his wife’s (Amina Kasim’s) ear with a knife and the other ear using his teeth.²¹⁰ The victim at the time was a nursing mother who gave birth to her 7th child two weeks earlier. The victim has been abducted and raped by the same man 14 years before the incident through the practice of bride abduction. She had been physically assaulted often by her husband because she requested to farm the land to feed their 7 children whom her husband used to rent to other farmers. Once, she had had a miscarriage while she was nine months pregnant as a result of the beatings. The prosecution has been successful as a result of the intervention by an activist organization (EWLA) in 2003.

Many perpetrators of domestic violence also attack loved ones in order to get back at their partners. In one case, the husband stabbed his wife’s (Yeshi Wondeaferaw’s) daughter from a

²⁰⁹ Selected Cases, by the Ethiopian Women Lawyers’ Association, V. 3, 2008, p.4

²¹⁰ Selected Cases, by the Ethiopian Women Lawyers’ Association , V. 1, 2003, pp 5-6

prior marriage in her eye after he had an argument with his wife.²¹¹ The daughter lost her one eye sight and the perpetrator was found and arrested after 8 months only to be released on bail after police questioning. While Mss. *Yeshi* was processing a divorce application, the district decided that the perpetrator has a right to live in the same residence or otherwise they have to split the house into two. She asked for help from the activist organization (EWLA) on which a media attention has served to reverse the decision on their common residence. In this regard, the DVA Act of South Africa provides for victims to apply for a protection order to stop the abuse and to stop the abuser from entering the mutual home, the victim's residence, or the victim's place of employment which is lacking in Ethiopia.²¹² Anyhow, the judgment has not been passed on the perpetrator for almost four years until EWLA gave a press conference about the situation. Finally, the perpetrator was sentenced to five years imprisonment in February 2005.²¹³

The reluctance of the Courts to prosecute domestic violence cases coupled with the negligence on the part of state institutions to pressurize the law enforcement agencies, have cost the majority of women in Ethiopia their right for freedom and a life free of violence. A communication²¹⁴ recently filed by an Ethiopian woman in the African Human Rights Commission illustrates this tragedy;

“The woman by the name of Woinshet Zebene Negash in 2001 was abducted and raped at the age of 13 by Aberew Jemma Neguisse in the South eastern Region of Ethiopia. Bride abduction has been one of the traditional ways of forming marriage in Ethiopia. After two

²¹¹ Selected Cases, by the Ethiopian Women Lawyers' Association, V. 2, 2005, pp 9-10

²¹² Section 4, Domestic Violence Act of South Africa (DVA) No. 118 of 1998

²¹³ Selected Cases (n.209), p 9-10

²¹⁴ Selected Cases (n.208), p 16-17

days, she escaped and the perpetrator was arrested. However, he got out on bail and abducted her again and held her for more than a month. She managed to escape but he managed to force her sign a marriage contract at the time. This was since the then Criminal Code of Ethiopia permits the perpetrators to escape punishment if they agree to marry the victim.

Then the authorities pursued the case against the perpetrator and his accomplice and were sentenced in 2003 for 10 years imprisonment. On appeal, however, both of them were released on the ground that she had consented for sex despite her age and without notice to her or to her counsel. The Ethiopian Women Lawyers Association (EWLA), which had been Woinshet's legal counsel appealed on December 2004 to the Regional Supreme Court which is the final organ²¹⁵ to decide the case. However, the Supreme Court dismissed the appeal reasoning there were no sufficient grounds to reconsider the case. Then with the enactment of the new Criminal Code in 2005 which removed marital exemptions in the case of abduction, EWLA in collaboration with Equality Now, foreign based human rights NGO have submitted a Communication to the African Human and People's Rights Commission.”²¹⁶

The case is currently under review in the African Commission and there is a chance that the case will serve to pressure the Ethiopian State towards a more efficient state accountability in providing protection for victims of violence. On the one hand this case shows that such move is important in forcing a state to comply with its laws and on the other hand it depicts the harsh

²¹⁵ Art. 80(2), The Constitution of the Federal Democratic Republic of Ethiopia, 1994; reads “State Supreme Courts shall have the Highest and final judicial power over state matters.”

²¹⁶ Ethiopia: Proposed New Law Threatens to Shut Down Non-Governmental Organizations, women's Actions 22.5, Equality Now Organization Official Website.

reality that encounter women in Ethiopia to get justice in the case of grave human rights violations. The above mentioned case is also paramount to understand how the law enforcement works in violence against women cases. In Ethiopia, for such a case to get entertained in court, it should get a lot of media attention and it requires a lot of effort from women's rights organization. Otherwise, the prosecutors as well as the courts are reluctant to pursue such cases.

In sum, besides the revision of domestic violence legislation in Ethiopia to some extent, the fact remains that legal redress is unthinkable to the majority of women. In addition to the inadequate coverage of the Criminal law and lack of Civil remedies altogether against domestic violence coupled with the reluctance of the law enforcement agencies to enforce the existing laws left Ethiopian women victims without a legal redress.

6.0 CHAPTER FIVE: COPING WITH DOMESTIC VIOLENCE IN ETHIOPIA

Law reform can be ineffectual if the agents responsible for its implementation have a limited understanding of the problem of violence in the home.²¹⁷ Thus, in addition to the crucial law reform to respond to the situation of domestic violence in Ethiopia, such effort should be coupled with creating public awareness; building the capacity of law enforcement agencies; and also with providing related support systems for victims. Most importantly, legal as well as social interventions should take into consideration the role of gender power relations in the society. As Artz asserted, interventions designed to eradicate violence in the home must be derived from an understanding of the power relations that give rise to such abuse.²¹⁸

6.1. *Indigenous Systems of Coping in Ethiopia*

The overall legal system response, no matter how well implemented, can only deal with a small portion of domestic violence cases.²¹⁹ In Ethiopia, the culture of silent acceptance of domestic violence has contributed to the ineffectiveness of the legal system to combat it. Hence, it is paramount to look for community mechanisms to challenge the existing system and come up with

²¹⁷ Lillian Artz, "Policing the Domestic Violence Act: Teething Troubles or System Failure" *Agenda Feminist Media*, 47,(June 2009), Pp. 4-13, p.12

²¹⁸ Artz (n.217)

²¹⁹ Emerson Dobash and Russell P. Dobash, *Women, Violence and Social Change*. (Routledge Publisher, 1992), P.4

a proper response to domestic violence. An example of indigenous practice against domestic violence is ‘*Sinqee*’²²⁰ which is practiced among a small population in the Oromiya regional state.

*“as per the tradition of the area, when a girl gets married her mother among other things give her a stick/ Sinqee that she takes to her residence and keep it with care. Then, whenever her husband attack her physically, she will pick her Sinqee; get out of her house and sit under a big tree, showing everybody that she is holding the stick her mother gave her on the day of her marriage. This act is followed by all women living in the neighborhood come out in support of her. All of them will carry their sticks and sit with her. They refuse to go back to their homes until such time the perpetrator come out and apologizes to his wife”*²²¹

Therefore indigenous systems of public shaming and support need to be built upon to cope with the prevalent domestic violence incidents against women in Ethiopia.

6.2. The Role of Civil Societies in Combating Domestic Violence in Ethiopia

The majority of human rights work in Ethiopia largely depends on civil society involvement. Civil societies have been major players behind the legal reforms on the rights of women in

²²⁰ The word ‘Siniqee’ literally indicates to a thin stick women hold during cultural ceremonies in the Oromiya Region of Ethiopia.

²²¹ Original W/Giorgis & Alemayehu Areda, “Nation Wide Survey on Domestic Violence”, *Berchi Journal of Ethiopian Women Lawyers Association*, Issue 7, (2008), Pp. 8-81, p. 78

Ethiopia in the past decades. The prominent ones have gone through a lot of criticism and backlashes from the government and conservative community members, but have been able to mobilize activists and the general public into a considerable public awareness in Ethiopia.

These handfuls of activist organizations in Ethiopia have been instrumental in pushing for law reforms and the proper implementation of laws with regard to domestic violence against women. The efforts of different organizations and women's rights activists resulted in few positive developments. These include the one shelter for victims of violence against women in general, a hotline service by one of the NGOs and occasional trainings on laws of violence against women for the judiciary and police officers.

For these few organizations, the road has not been as convenient as it should be as a result of the resistance among the society as well as the government bodies. One of the prominent organizations at the forefront of this struggle has been the Ethiopian Women Lawyers' Association (EWLA). EWLA has been working on free legal aid for women victims as well as on public education and research and advocacy. It has played an important role among other organizations in the codification of the Federal Family Code in 2003 as well as in the recognition of domestic violence as a crime in the new Criminal Code in 2005 thereby pushing forward for equal rights of women and men in the institutions of marriage. Despite such efforts, many of the important aspects of domestic violence law have not been included in the law as a result of resistance on the part of the law making bodies that refused an extensive definition of domestic violence in the criminal law of the country as well as for any consideration of the civil remedies that have been in place in other countries.

As a result of the new Legislation for Charities and Societies of Ethiopia passed into law in February of 2009, these handful of NGOs that have been working in advocacy of women's rights will not be able to continue unless they quit getting more than 10 % of their funding from outside sources.²²² Sadly enough, as a result of the country's struggle with poverty, it would be unlikely to secure such funding from local sources in order to continue advocacy work. It is unimaginable to think of improvement of women's rights without such civil society groups which mobilized women human rights activists and other professionals to pressure the law making body and pressure the government to reconsider measures taken on the ground.

6.3. *Provision of Services for Victims of Domestic Violence*

The psycho- social, economic, or legal aid service for victims of domestic violence in Ethiopia is almost non-existent. Moreover, there have been lack of counseling and refuge provision services for victims. There has not been any government law or policy with regard to providing shelters to victims of domestic violence unlike South Africa which has adopted a policy on provision of such shelters. As Dobash & Dobash observed, Refuge provides women with a place to recover from injury, overcome isolation and begin the process of regaining confidence and greater control over their own lives.²²³

²²² Charities and Societies Proclamation of Ethiopia, No. 621/2009, No.25, 13th February, 2009

²²³ Dobash & Dobash (n.219), p.98

Shelters or refuge are vital in Ethiopia since many women stay in a violent relationships because of fear of poverty and a place to stay for themselves and their children. Sadly enough, there has not been a policy or legislation on the part of the government to provide shelters or any other support services whether to victims of domestic violence or other forms of violence against women. South Africa, on the other hand, has a Policy Framework for providing shelters for victims of domestic violence and has begun to provide services for victims of other forms of violence against women.²²⁴ Accordingly, South Africa has established sexual violence centers to provide comprehensive care to victims of sexual assault or rape with immediate medical, psychological, and social needs.²²⁵

Unfortunately, there has been a single shelter for victims of all kinds of violence against women. This Shelter in Ethiopia has been run by an organization called ‘*Tsotawi Tikat Tekalakay Mahiber*’ and is situated in the capital city. However, the Shelter’s capacity is to take 50 women at a time, a drop in the sea taking into consideration millions of Ethiopian women in need of such services. The writer has been present in one of the meetings where government agencies and NGOs were discussing on the provision of shelters for domestic violence victims. In the meeting, the representative of the government commented that government will be overwhelmed if it has a policy to provide shelters since it means that it has to provide shelters to each and every woman in the country. This shows the stark reality that violence against women in the country has gone out of control for a long time.

²²⁴ Policy Framework and Strategy for Shelters for Victims of Domestic Violence in South Africa in 2003 (Department of Social Development)

²²⁵ Shereen Usdin., Nicola C., Lebo M. & Aadielah Maker, “The Value of Advocacy in Promoting Social Change: Implementing the New Domestic Violence Act in South Africa”, *Reproductive Health Matters*, Vol. 8, No. 16, (June 2009), Pp. 55-65, p. 59

Interviews²²⁶ with the legal aid officer for the safe house revealed that the shelter provides victims with food, medical services, and legal aid and skill development services such as embroidery. Moreover, the Shelter has been providing the women with trainings on reproductive health, HIV/AIDS and Literacy. This experience could be paramount for future efforts to set up shelters for victims of domestic violence in Ethiopia. The Shelter received clients upon referral from the police, Women and children Affairs Ministry as well as women and children rights organizations. However, with its limited capacity, the request for shelters has been overwhelming.

Ethiopian women who have been admitted to the shelter are those who have suffered extreme cases of violence. A story of an 18 year old victim of domestic violence who is currently seeking refuge in the shelter explains this tragedy;

“Beletu Tamiru lived in the Southern region of Ethiopia. She has never been to school when her father gave her for marriage at the age of 15 to an older man. She lived with the person for 3 years without her will. Her husband’s relatives used to nag her that she couldn’t deliver a baby. Her husband was not able to make sexual intercourse of which he threatened to kill her if she reveals the secret. Then she went to a priest and got an advice to divorce him which angered her husband. The same day at mid night, her husband and his friend took her to a cattle fence stretched her leg and tied her to the poles of the fence. They inserted a scarf on her mouth and put a hand axe in a flame and then start cutting

²²⁶ Interview with Mahelet Aragaw, Legal Aid Officer in ‘Tsotawi Tikat Tekalakay Mahiber’ Organization, Nov. 2, 2009

and burning her vagina. The next day, her neighbors took her to a hospital and with the help of activist organizations, she joined the safe house. She is still getting treatment for the infection and wound she suffered while the criminal charge on her husband is still pending.”²²⁷

With regard to legal aid services to women, currently there have been three non-governmental organizations which are engaged in such service of which two of them are solely provide Legal services to women. The organization which single handedly confront the state of Ethiopia on the rights of women for the last two decades has been the Ethiopian Women Lawyers Association (EWLA). The Organization has been instrumental in confronting the law enforcement agencies, public education and the recent law reforms in the country. The Organization has met a lot of resistance from the government and other groups since its inception on which it was closed one time as a result of the comment EWLA gave to the media on the law enforcement failure with regard to implementing laws against violence on women.

Currently, the Organization is on the verge of closing down as a result of the new Civil Society Bill in Ethiopia which prevents from working on women’s right advocacy civil societies that obtain more than 10 % of their funding.²²⁸ This has been a direct blow to the work of such organizations since they cannot get proper funding from local sources. From an interview with the employees of EWLA, it has been apparent that the Organization is going to lay off 95 % of its

²²⁷ Interview with Nebiyu Mehari, Program Coordinator in ‘Tsotawi Tikat Tekalakay Mahiber’ Organization, Nov. 2, 2009

²²⁸ Charities and Societies Proclamation of Ethiopia, No. 621/2009, No.25, 13th February, 2009

employees as a result of lack of funding from local sources. Hence, EWLA's and similar civil societies future in Ethiopia is under the verge of collapse. This move from the government has begun to cost the lives and rights of women who would be benefited from legal aid services and advocacy of such organizations.

6.4. Towards a Stronger State Accountability

In the modern theory of state formation, power is that of the people and people delegate their power to the three branches of government through the contract- the Constitution. Hence, the state is accountable to provide protection and remedies in case of violation of rights to its citizens. Therefore, the Ethiopian government has to accept the utmost accountability and responsibility when it comes to the violation of human rights of women in the domestic arena. It must be noted that the protection of rights of women is not a privilege but a right. Thus, the Ethiopian government should be able to take the forefront in the fight to eradicate domestic violence against women. There is a need to set up accountability mechanisms to secure appropriate justice to victims of domestic violence. Besides legal reforms and accountability procedures, there is a need to employ Public Interest Lawyering to bring about judicial accountability of government agencies in cases of failure to protect.

There has been a notion that the society and not the state is accountable for the incident of domestic violence and that there have been hesitance on the part of the government to intervene in such issues. That is why there is a need to create awareness in the government agencies on the

issue of state accountability and also to move on to using court cases by suing governmental agencies in cases of failure to protect women from domestic violence. Hence, the Ministry of Women and Children's Affairs in Ethiopia may organize such efforts to build awareness on such issues in collaboration with other government agencies. With regard to the legal reform, the recently established women's caucus will be instrumental in pushing towards a better protection of the law I domestic violence against women in working with the civil society.

With this regard, the South African Constitutional Court may serve as a model into bringing state accountability to the forefront to protect against domestic violence. Hence the *State v Baloyi* case have been a land mark case of the South African Constitutional Court with regard to the State's duty to provide effective remedies to victims of domestic violence. To this effect, the Court stated;

“Indeed, the state is under a series of constitutional mandates which include the obligation to deal with domestic violence: to protect both the rights of everyone to enjoy freedom and security of the person and to bodily and psychological integrity, and the right to have their dignity respected and protected.” ²²⁹

Hence the Ethiopian state is not only responsible top prosecuting cases of domestic violence but also to prevent the incidence of domestic violence. And in such cases the role of non government actors and especially the human rights NGOs will be paramount in taking cases of public interest Lawyering.

²²⁹ S v Baloyi and Others (CCT29/99) [1999] ZACC 19; 2000 (1) BCLR 86 ; 2000 (2) SA 425 (CC) (3 December 1999)

7.0 CONCLUSION

It seems that Ethiopia is draining with high prevalence of domestic violence against women rather than coping with it. The rate of domestic violence against women is incomparable with the actions being taken to tackle it. The cultural values which denigrate women coupled with the harmful traditional practices and patriarchal system have militated against the victims of domestic violence in Ethiopia. That is why any legal response to domestic violence should be able also to utilize indigenous best practices such as *Sinqee* and to involve the community at large in its process.

The law in action has not been sufficient in any grounds and is not comprehensive enough to incorporate the different forms of domestic violence. And the law as well as the practice should shift from blaming victims to focusing on perpetrators and state accountability on failure to protect. Hence, South Africa provides a good example with regard to enacting a separate domestic violence act coupled with specific guidelines for police actions, monitoring mechanisms and as well provision of shelters for victims.

Hence, proper legal reform is pressing with regard to criminal and civil remedies against domestic violence for women in Ethiopia. Thus, it is paramount to redefine the ideologies behind the making of the law in which there should not be the public/private dichotomy and the rethinking of the main ideologies behind such laws in the country. There is a need to redefine the purpose and the goal of such laws and also to create awareness on the human rights of women.

Accordingly, the Criminal Law of Ethiopia should be reformed in a way that it incorporates comprehensive definition of domestic violence taking into account the gender power relations and realities at hand. Moreover, civil remedies such as restraining orders, damages should be incorporated in a separate domestic violence act so that victims will have appropriate legal redress.

Hand in hand with the legal reform, there is a need to build the capacity of the law enforcement agencies in the country in order to implement the laws at hand on domestic violence. Moreover, there should be guidelines for the police work in treating domestic violence cases as a result of their private nature and societal condemnation against reporting and prosecuting such cases. Further, there need to be accountability mechanism for the law enforcement agencies in that the victims can get a legal redress against the inactivity and reluctance of such agencies. Thus, the South African system where the police force including the national Commissioner is forced to report progress on the implementation of the law could be a model for law enforcement agencies in Ethiopia.

On the other hand, legal and institutional reforms should be coupled with appropriate services for victims of domestic violence like providing shelters and counseling services. Moreover, promoting women's rights in other areas especially on the economic and educational front is paramount for women to have an effective legal redress.

Hence, the international and regional human rights instruments should be used to complement the domestic legal system on issues of domestic violence and related rights. With this regard, activists and rights organizations can play a catalyst role to bring accountability of the Ethiopian state in cases of failure to protect its citizens from domestic violence. With this regard, in addition to sensitization and networking, it is important to make pressure on government accountability through building case laws and use of Public Interest Lawyering to raise awareness and to challenge the current system of handling domestic violence complaints. With this regard, Ethiopia may learn from South African human rights activists and rights' organizations that have been playing a vital role in the recognition of the problem of domestic violence, legal reform and pushing for state accountability to protect its citizens

In sum, proper legal response to domestic violence in Ethiopia calls for a concerted effort by the government, the community, non governmental organizations, and individual activists for its effectiveness.

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