

ETHIOPIA¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at March 2022)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage <i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and the</i></p>	<p>Issues related to equality in marriage and family life are addressed in the FDRE Constitution, the Revised Family Code and regional family laws govern marriage and family relations in Ethiopia.</p> <p>Federal Democratic Republic of Ethiopia (FDRE) Constitution² The preamble of the FDRE Constitution states that the fulfilment of its objective requires the full respect of individual and people's fundamental freedoms and rights to live together on the basis of equality and without any sexual, religious or cultural discrimination.</p> <p>Furthermore, the Constitution provides the following Articles:³</p>	<p>The landmark case of Kedija Bashir et al.⁹ establishes that sharia courts can assume jurisdiction only based on the consent of the parties pursuant to Article 34(5) of the Constitution. In this case, the clear and repetitive objection to the jurisdiction of Sharia courts by the defendant was ignored by judges at three levels of Sharia courts, giving rise to</p>	<p>Ethiopia acceded to the ICCPR and ICESCR in 1993, without reservations. Ethiopia signed the CEDAW in 1980 and ratified it in 1981, with a reservation to Article 29(1). Ethiopia acceded to the CRC in 1991, without reservations.</p> <p>Ethiopia has ratified the following regional human rights treaties:</p>	<p>The Sharia courts do not have a compulsory jurisdiction over parties on matters falling within their authority unless both parties demonstrate their express and unequivocal consent to the exercise of jurisdiction by the courts. However, there is no clear guideline as to when and how the consent of the parties must be</p>	<p>The Sharia courts establishment proclamation states that the courts apply Islamic law. However, there are no uniform guiding substantive laws due to different sects and thoughts within the religion. Therefore, substantive application of law varies depending on the judge's background of thought, and this causes inconsistency of decisions.²¹ There is no clear guideline for the school of thought that is applied in the courts. However, it is mainly Shafie because it is the most widespread²² and a bit of Hanafi depending on the case.²³ It is the</p>

¹ This country table was prepared by Ms. Gofran Abdulrahman Al-Absi (gofran.in.addis@gmail.com) as a collaboration under the Campaign for Justice in Muslim Family Laws

² The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

³ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

⁹ Kedija et al Case.

²¹ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²² Islamic Law. Teaching Material. Developed By: Abdulmalik Abubaker (LL.B, MA) Sponsored by the Justice and Legal System Research Institute

²³ Conversation with Sharia court personnel of doctorate level.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>family codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g.</i></p>	<p>Article 9(1) states the supremacy of the constitution - Any Law, customary practice, or a decision of an organ of state or a public official which contravenes this constitution shall be of no effect.</p> <p>Under Article 9(4) all international agreements ratified by Ethiopia are an integral part of the Law of the land.</p> <p>Chapter 3 (Articles 13-44) covers Fundamental Rights and Freedoms. Under Article 13(1) respecting and enforcing these provisions is the responsibility and duty of all Federal and State organs at all levels. Article 13(2) states that the fundamental rights and freedoms shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights</p>	<p>a constitutional dispute. She then submitted her application for cassation division of the Federal Supreme Court. Cassation Division File No. 12400/1999 was also decided against her, saying that there was no fundamental error of law in the decisions made by all the Sharia Courts that could lead to the review of the case. The Ethiopian Women Lawyers Association, acting on behalf of Kedija, brought the case to the House of</p>	<ul style="list-style-type: none"> • African Charter on Human and Peoples' Rights • African Charter on the Rights and Welfare of the Child and • The Maputo protocol, with reservations ¹¹ <p>The government of Ethiopia reported the following to the CEDAW Committee:¹²</p> <ul style="list-style-type: none"> ▪ The Constitution and relevant subsidiary legislations of Ethiopia prohibit all forms of discriminations. ▪ The National Women Development and 	<p>expressed.¹⁴ Nevertheless, one can draw the rules from the Civil Procedure Code as the sharia courts proclamation provides that the rules of procedure governing the proceedings before the sharia courts are those of the Civil Code.¹⁵</p> <p>The main procedural steps include confirmation of the presence of both parties, securing the consent of the defendants, reading the statement of</p>	<p>opinion of some researchers that Shafie Islamic jurisprudence is said to be a relatively less conservative school of thought over family and divorce matters than others.²⁴ The president of the Sharia court also said that they don't want to have one school of thought in the proclamation since it is more convenient to entertain the Muslim parties within the school of thought the parties follow and therefore it will be fit for all Muslims.²⁵</p> <p>There are no codified Muslim Laws in Ethiopia, but there was an attempt by 36 Ulamas consisting of 'Salafis and Sufis' to discuss codify laws. This attempt was unsuccessful since they failed to agree. Some</p>

¹¹ <https://chilot.me/2021/06/10/protocol-to-the-african-charter-on-human-and-peoples-rights-on-the-rights-of-women-in-africa-ratification-proclamation-no-1082-2017/>

¹² CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8> (Eighth periodic report submitted by Ethiopia under article 18 of the Convention, due in 2015* [Date received: 21 November 2017])

¹⁴ Legal Pluralism Vs Human Rights Issues: Sharia Courts and Human Rights Concerns in the Light of the Federal Constitution of Ethiopia, Mohammed Abdo, PhD Candidate, Human Rights Center, Faculty of Law, Ghent University, Belgium. Address: Human Rights Center, Universiteitstraat 6, Gent 9000, Ghent, Belgium.

¹⁵ Civil Procedure code of Ethiopia.

²⁴ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

²⁵ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p>	<p>and International instruments adopted by Ethiopia.</p> <p>Article 25 of the constitution guarantees equal protection of the law without any discrimination.</p> <p>Article 34 of the Constitution provides Marital, Personal and Family Rights: (1) Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce. (3) The family is the natural and fundamental unit of society and is entitled to protection by society and the State.</p> <p>Article 34(4): In accordance with provisions to be specified by law, a law giving recognition to marriage concluded under systems of religious or customary laws may be enacted.</p>	<p>Federation, the final arbiter of constitutional cases. The House of Federation decided that the decision was unconstitutional by saying only regular courts have compulsory jurisdiction and that the jurisdiction of sharia courts is based on consent of jurisdiction, making reference to Article 34(4) of the Constitution. It also rejected the reasoning of the Sharia courts that the requirement of consent under the Sharia Courts Proclamation does not apply to the case</p>	<p>Change Strategy seeks to contribute to the constitutional commitment to create a democratic society where there is gender equality in economic, social and political spheres. The Strategy employs the participation and empowerment of women as a means to the realization of gender equality.</p> <ul style="list-style-type: none"> The country has taken steps towards harmonizing its laws, particularly those relating to family and personal matters, in accordance with the Convention. 	<p>claims followed by the statements for the defence, hearing the witnesses, securing the production of evidence if deemed necessary, and finally delivering judgment.</p> <p>A breach of, or non-compliance with, civil procedure does not necessarily affect the outcome of the proceedings, and a decision may be rendered invalid only if the procedural irregularity committed is a substantial one.¹⁶</p>	<p>groups even claimed that having a proclamation and codified laws is a 'bid' on its own.²⁶</p> <p>Consent of all parties is a fundamental requirement for the courts of Sharia to exercise jurisdiction. However, confirming the consent is not always clear. For instance, a credible research report found that judges in Sharia courts could simply ignore the requirement of consent.²⁷ The FDRE Constitution is not specific regarding the form of declaring consent by one of the disputing parties. Also, no provision or system is established that could ensure the free whim and caprice of women while they give their consent. For instance, the Sharia Court Proclamation has stated that Sharia courts can have jurisdiction on a dispute so far the parties gave their consent</p>

¹⁶Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

²⁶ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

²⁷ Alemu Aneme, Girmachew 2018: The Coupling of State and Sharia Justice Systems in a Secular State: The Case of Ethiopia, SFB-Governance Working Paper Series, No. 75, Collaborative Research Center (SFB) 700, Berlin. ISSN 1864-1024 (Internet)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 34(5): This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute. Particulars shall be determined by law.</p> <p>Article 35 provides the Rights of Women (1) Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right with men(2) Women have equal rights with men in marriage as prescribed by this Constitution.</p> <p>Federal Courts of Sharia Consolidation Proclamation No.188/1999⁴</p> <p>The "Federal Courts of Sharia Consolidation Proclamation No.188/1999" was enacted in accordance with Article 34(4) of the FDRE. Therefore, there is Common Jurisdiction of the Federal Sharia Courts with the civil courts based on the parties choice.</p>	<p>as the case was filed before the Proclamation was enacted and appeared in the official law reporter in the country. The case shows that if a sharia court proceeds to see and decide on a case without securing the express consent of the parties, the decision can be reviewed on procedural grounds of failure to comply with consent requirements by both the Federal Supreme Court and the House of Federation. Finally the Petition to the Council of Constitutional Inquiry</p>	<ul style="list-style-type: none"> The Ministry of Women and Children Affairs is engaged with the regional states administrations at the ministerial level and is undertaking concrete awareness raising activities over the need to have the family laws enacted. In addition, the Human Rights Commission works with the concerned regional authorities to expedite the process of harmonization.¹³ 	<p>Most of the cases falling within the jurisdiction of the Sharia courts relate to private matters that often dictate a closed hearing. Despite this, the Sharia courts hold open hearings whenever the parties do not object.</p> <p>The proclamation establishing the Sharia courts is silent on the rules of evidence to be used by the courts. For example, there is a difference between religious and state laws regarding witnesses, such as the number of</p>	<p>expressly.²⁸ For that purpose, the Sharia Court Proclamation has annexed a form for the declaration of consent. Also, the form in which both parties demonstrate their express and unequivocal consent to the exercise of jurisdiction by the courts. This right or requirement of giving consent by itself does not ensure a woman's consent because it does not impose informing the parties that they have the option to take their case before regular courts and secondly, almost all women in rural areas are illiterate and cannot read and understand the essence of the confirmation note.²⁹ Normally, a party who files a case as a plaintiff can be presumed to have shown his/her consent to the jurisdiction of the court. However, there can be a problem in establishing the consent of the party against</p>

⁴ Proc No. 188-1999 Federal Courts of Sharia Consolidation.

¹³ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

²⁸ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 NW. J. HUM. RTS. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²⁹ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021).

<https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 4(1) of Proclamation No. 188/1999 stipulates that Federal Courts of Sharia have common jurisdiction over the following matters:</p> <ul style="list-style-type: none"> any question regarding marriage, divorce, maintenance, guardianship of minors and family relationships; provided that the marriage to which the question relates was concluded or the parties have consented to be adjudicated in accordance with Islamic law; any question regarding Wakf, gift/Hiba/, succession of wills, provided that the endower or donor is a Muslim, or the deceased was a Muslim at the time of his death; any question regarding payment of costs incurred in any suit relating to the aforementioned matters. 	<p>(CCI) ended the case on October 2, 2003. The CCI found that the decision of the First Instance Sharia Court had violated Article 34(5) of the Constitution and recommended the nullification of the decision on the basis of Article 9(1) and that Proclamation No. 188/99 require consent of the parties to adjudicate cases on the basis of religious law. The CCI reasoned that even if the application of</p>		<p>witnesses in Islamic law in some cases is different for men and women.¹⁷ For instance, Islamic law favours testimony from male witnesses and followers of Islam, which is not the case in state procedural rules.¹⁸</p> <p>The procedure of securing evidence is regulated by the normative rules of Sharia law since qadis seem to assume that, as matters within their jurisdiction are</p>	<p>whom a claim is made since There is a tacit consent and a sharia court proceeds to hear a case, ex parte, if the defendant who has been duly served with the summons fails to appear at the first hearing of a suit.³⁰</p> <p>There is also social pressure placed on women not to utilize other systems of justice since refusal to have their case adjudicated by a religious proceeding is seen as disrespect and an act contrary to the faith.³¹ This results in fear of negative perception and reaction from the Muslim community.³²</p> <p>The capacity of the Sharia justice system cannot be duly</p>

¹⁷ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

¹⁸ Alemu Aneme, Girmachew 2018: The Coupling of State and Sharia Justice Systems in a Secular State: The Case of Ethiopia, SFB-Governance Working Paper Series, No. 75, Collaborative Research Center (SFB) 700, Berlin. ISSN 1864-1024 (Internet)

³⁰ Proc No. 188-1999 Federal Courts of Sharia Consolidation.

³¹ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021).

<https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

³² Mohammed Abdo Legal Pluralism, Sharia Courts, and Constitutional Issues in Ethiopia, available at <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/8683/Mohammed%20Abdo.pdf?sequence=1>; Daniel E.

Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021).

<https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Sub-Article (2) of the same reiterates the principle of parties' consent as the basis for the adjudicatory jurisdiction of Sharia courts. Sharia courts can assume jurisdiction "only where... the parties have expressly consented to be adjudicated under Islamic law." Tacit consent has also been provided for in addition to express consent. Pursuant to Article 5(2) of Proclamation No. 188/1999, failure to appear before the Sharia court amounts to consent to the court's jurisdiction on condition that the defaulting party has been duly served with summons. Thus, the suit will be heard <i>ex parte</i>. Article 5(3) of the same provides that in the absence of clear consent of the parties for the case to be adjudicated by the court of Sharia before which the case is brought, such court shall transfer the case to the regular federal court having jurisdiction. Moreover, once a choice of forum has been made by the plaintiff and the defendant has consented to the jurisdiction of such a forum, under no</p>	<p>Proclamation 188/99 was overlooked, the Federal Constitution had entered into force when the initial plaintiffs in this case filed their petition to the First Instance Sharia Court. The CCI further pointed out that the mere fact that Article 34(5) of the Federal Constitution refers to enabling law does not alter the fundamental essence of the principle that affirms, in its own right, that no one shall be judged on the basis of religious or customary law without his/her consent.¹⁰</p>		<p>governed by religious norms, the relevant Sharia rules of evidence ought equally to apply to evidence issues.¹⁹ Nevertheless, attempts by the Sharia courts to expand their jurisdiction to matters beyond those delineated by legislation has been kept in check by the state's judicial and quasi-judicial organs.²⁰</p>	<p>assessed and improved in relation to the capacity of the judges and the jurisprudence, institutional capacity, and autonomy from state courts. Judges in Sharia courts lack capacity in their knowledge of both Islamic law and state law. Apart from a common course in Islamic law at public universities, there is no institution dedicated to the education and training of Kadis in Islamic law as well as in constitutional principles. The problem of capacity affects the quality of justice rendered by the courts and derails the development of the Sharia justice system as a viable and dynamic justice system. The absence of training may also push Kadis to resort to and apply customary rules rather than Islamic law. Moreover, no reporting and publication of</p>

¹⁰ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

¹⁹ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

²⁰ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>circumstance can either party have their case transferred to a regular court.⁵⁶</p> <p>Article 6 of the Sharia proclamation⁷ states that (1) Federal Courts of Sharia shall adjudicate cases under their jurisdiction in accordance with Islamic Law. (2) In conducting proceedings properly, the courts shall apply the civil procedure laws in force.</p> <p>Revised Family Code of 2000⁸</p> <p>The following Articles are provided: Article 319 (“Inapplicable Laws of the Revised Family Law”) provides that (2) Any laws, regulations, directives, decisions or practices inconsistent with this Code shall not be applicable on matters provided in this Code.</p>				<p>Sharia court decisions and judgments exists.³³</p> <p>The roles of spouses, generally, are that the husband provides maintenance for the family while the wife takes care of the internal affairs of the family.³⁴ Men and women have socially defined roles, which have traditionally given women less access and control over resources and less participation in decision-making as compared to men. This may be due to the previous family law of Ethiopia which were gender discriminatory. For instance, article 635 stipulated that the husband is the head of the family. Article 646 stated that the</p>

⁵ Proclamation No. 188/1999, Article 5(4)

⁶ Note that this proc No.188-1999 Federal Courts of Sharia Consolidation is for the two administrative cities of Addis Ababa and Dire Dawa. The rest of the regions have the power to have their own proclamation as per the constitution, which they all do except for Gambella, where there is no Sharia court yet.

⁷ Proc No. 188-1999 Federal Courts of Sharia Consolidation.

⁸ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

³³ Alemu Aneme, Girmachew 2018: The Coupling of State and Sharia Justice Systems in a Secular State: The Case of Ethiopia, SFB-Governance Working Paper Series, No. 75, Collaborative Research Center (SFB) 700, Berlin. ISSN 1864-1024 (Internet)

³⁴ Woldu, T.H. (2017). Human rights of women and the phenomenon of marital rape in Ethiopia: a critical analysis.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article I Various Forms of Marriage (1) Marriage may be concluded before an officer of civil status. (2) Notwithstanding the provisions of Sub-Article (1) of this Article, marriage may be concluded in accordance with the religion or custom of the future spouses.</p> <p>Article 3 provides that religious marriage shall take place when a man and a woman have performed such acts or rites as deemed to constitute a valid marriage by their religion or the religion of one of them.</p> <p>Consequently, the Revised Family Code guarantees in Article 40 that the various forms of marriage are equivalent, with no distinction made as to whether the marriage has been concluded before an officer of civil status or according to the forms prescribed by religion or custom (Article 40(2)).</p>				<p>wife would work as a servant if the husband could not hire one.³⁵</p> <p>Therefore since husbands are generally the breadwinners, wives and children in marital conflict would suffer from starvation and various ailments because of lack of income during the delays caused by the adjournments.³⁶ However, they may both work or go into business jointly or separately, keeping in mind the disparity between rural and urban areas since the state's economic structure deepens gender stratification and exploitation of cheap female labour leaving women to be financially dependent on their husbands.³⁷ For the year 2016, 25.4 percent of households in Ethiopia were female headed.³⁸</p>

³⁵ Gizaw, Tassew S.. "Judicial Implementation of the Revised Family Code in Addis Ababa" (2007). Doctor of Philosophy (PhD), dissertation, , Old Dominion University, DOI: 10.25777/m941-eg76 https://digitalcommons.odu.edu/publicservice_etds/28

³⁶ Gizaw, Tassew S.. "Judicial Implementation of the Revised Family Code in Addis Ababa" (2007). Doctor of Philosophy (PhD), dissertation, , Old Dominion University, DOI: 10.25777/m941-eg76 https://digitalcommons.odu.edu/publicservice_etds/28

³⁷ Woldu, T.H. (2017). Human rights of women and the phenomenon of marital rape in Ethiopia: a critical analysis.

³⁸ Female headed households (% of households with a female head) - Ethiopia | Data. (2021). Retrieved 20 October 2021, from <https://data.worldbank.org/indicator/SP.HOU.FEMA.ZS?end=2016&locations=ET&start=2000&view=chart>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Section 2 outlines the Personal Effects of Marriage. Article 49 (“Respect, Support and Assistance”) provides (1) The spouses owe each other respect, support and assistance. (2) The contract of marriage shall not derogate such rule.</p> <p>In Articles 50 (“Joint Management of the Family”), the General Rule is (1) The spouses shall have equal rights in the management of the family and (2) The spouses shall, in all cases, co-operate, to protect the security and interest of the family to bring up and ensure the good behaviour and education of their children in order to make them responsible citizens.</p> <p>The exception is provided in Article 51 (“Inability of One of the Spouses”) - (1) Where one of the spouses is under disability, absent, abandons his family or is away or, for any other reason, is not in a position to give his consent, the other spouse shall alone carry out the duties mentioned in Article 50. Article 51(2) provides that “The spouses shall not agree to the contrary in the contract of marriage”.</p>				

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	Article 72 provides that spouses shall contribute to the household expenses in proportion to their respective means.				
<p>Minimum and equal age of marriage <i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Is</i></p>	<p>Constitution³⁹ Article 34 of the Constitution states: (1) Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family.</p> <p>Revised Family Code⁴⁰ In the Revised Family Code, one of the essential conditions for marriage is under Article 7, which provides that: (1) Neither a man nor a woman who has not attained the full age of eighteen years shall conclude marriage.</p> <p>The exception is provided in the same Article sub (2): Notwithstanding the provisions of Sub-Article (1) of this Article,</p>		<p>Ethiopia entered a reservation on Article 6(b) of the Maputo Protocol where it stands by the law that allows dispensation from the minimum age of marriage, that is 18 years.⁴³</p> <p>The government of Ethiopia explained to the CEDAW Committee:⁴⁴</p> <ul style="list-style-type: none"> ▪ The Ministry established a “National Alliance to End Child Marriage and FGM” consisting 		<p>The CEDAW Committee⁴⁶ noted the implementation of the Proclamation on the registration of vital events is expected to bolster State party efforts to eliminate child marriage. However, article 7 of the Revised Family Code still contains an exception to the minimum age of marriage of 18 years of age; this has not been harmonized at the federal level and Afar and Somali regions have not yet enacted family laws in conformity with the Revised Family Code.⁴⁷</p> <p>Therefore, the absolute minimum age is 16 if, on the application of the future spouses or the parents</p>

³⁹ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

⁴⁰ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

⁴³ Proclamation No. 1082/2018 - Proclamation to Ratify the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, available at <https://chilot.me/wp-content/uploads/2018/10/Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf>

⁴⁴ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁴⁶ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia: Committee on the Elimination of Discrimination against Women, available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁴⁷ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia: Committee on the Elimination of Discrimination against Women, available at <https://undocs.org/en/CEDAW/C/ETH/8>; UNICEF Ethiopia - Girls’ Club Rescues Girls from Child Marriage in Rural Ethiopia, available at <https://unicefethiopia.org/tag/endchildmarriage/>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<i>there a minimum age verification process before the marriage is concluded?</i>	<p>the Minister of Justice may, on the application of the future spouses, or the parents or guardian of one of them for serious cause, grant dispensation of not more than two years.</p> <p>The Revised Family Code⁴¹ also provides the effects of violation of the essential condition of marriage in Article 31 - Age (1) Without prejudice to Sub-Article (2) of Article 7 of this Code, marriage concluded by a man or a woman under the age of eighteen years shall dissolve on the application of any interested person or the public prosecutor. (2) It may no longer be applied for after the age required by law for marriage is satisfied.</p> <p>Article 311 regarding marriage of minors provides that where a minor is married in accordance with Article 7(2) of this Code, he shall be emancipated by the sole fact of such marriage.</p>		<p>of all concerned stakeholders in order to implement the strategic interventions set out in the National Strategy.</p> <ul style="list-style-type: none"> There is a platform that consists of federal ministries; regional counterparts; United Nations agencies; and international organizations. Similar institutional mechanisms exist at the regional level with the Somali Regional State taking the lead. The Government entered a commitment to end child marriage and 		<p>or guardian of one of them for serious cause, the court grants dispensation of not more than two years.</p> <p>According to national activists, information about the status of the implementation of these commitments is not widely publicized or publicly known. Furthermore, it is unclear whether gaps in eradication of child marriage are from poor implementation or limitations in the policies and laws designed by the government.⁴⁸</p> <p>The committee also stated its concern on the prevalence of female child marriage and the underreporting of cases.⁴⁹</p> <p>A brief⁵⁰ has provided a basic profile of child marriage in Ethiopia. Measures of child</p>

⁴¹ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

⁴⁸ Musawah, Ethiopia 72nd CEDAW Session Geneva, Switzerland February 2019

⁴⁹ The Committee considered the eighth periodic report of Ethiopia ([CEDAW/C/ETH/8](#)) at its 1665th and 1666th meetings (see [CEDAW/C/SR.1665](#) and [CEDAW/C/SR.1666](#)), held on 21 February 2019. The Committee's list of issues and questions is contained in [CEDAW/C/ETH/Q/8](#), and the responses of the State party are contained in [CEDAW/C/ETH/Q/8/Add.1](#).

⁵⁰ "Malé, Chata; Wodon, Quentin. 2016. Basic Profile of Child Marriage in Ethiopia. Health, Nutrition and Population Knowledge Brief;. World Bank, Washington, DC. © World Bank.

<https://openknowledge.worldbank.org/handle/10986/25465> License: CC BY 3.0 IGO."

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 312 (“Explicit Emancipation”): (1) Where a minor has attained the age of fourteen years, his guardian or his tutor or any interested person may apply to the court for his emancipation. (2) The court may decide to emancipate the minor after considering his conditions, the reasons applied for, and where it finds that the emancipation is in the best interest of the minor.</p> <p>Article 313 (“Effects of Emancipation”): An emancipated minor shall be deemed under the law to have attained majority.</p> <p>Article 314 (“Irrevocability”): (1) Emancipation may not be revoked. (2) Emancipation resulting from marriage shall retain its effects notwithstanding that the marriage is dissolved</p> <p>Criminal Code⁴² The Criminal Code penalizes early marriage as follows: Article 648.- Early Marriage Whoever concludes marriage with a minor apart from circumstances permitted by relevant Family Code is punishable</p>		<p>FGM by 2025 at the London Summit in 2015.</p> <ul style="list-style-type: none"> The Strategy has identified child marriage as one of three of the most practiced Harmful Traditional Practices (HTPs) and has developed an action plan for three years. It adopts a multi-sectoral approach with a national HTP Platform composed of various ministries, national associations, and faith-based organizations, headed by the Ministry of Women and Children, overseeing 		<p>marriage remain high. The share of women ages 18-22 who married as children is 36.4%, but it has declined substantially over time. The share of girls marrying very early, before the age of 15, has also declined. Other measures of child marriage have declined as well over the last 25 years. Child marriage is associated with lower wealth and lower education levels.</p> <p>Trend analysis of child protection indicators shows that progress in eliminating child marriage and teenage pregnancy has been slow over the last 16 years. Even though incidence of child marriage nearly halved between 2000 and 2016, from 20% to 11%, in Afar nearly a third of 15- to 17-year-olds were already married in 2016.</p> <p>Incidence of teenage pregnancy declined to 13% in 2016, but in</p>

⁴² Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	with a) rigorous imprisonment not exceeding three years, where the age of the victim is thirteen years or above; or b) rigorous imprisonment not exceeding seven years, where the age of the victim is below thirteen years.		<p>implementation of the Strategy.</p> <ul style="list-style-type: none"> Awareness raising and advocacy efforts continue to be the main instruments of change on child marriage. Community conversations have been successful as they were wide reaching and carried out in a continuous and sustainable manner.⁴⁵ 		<p>Somali it was as high as 19% and in Afar 23%.⁵¹</p> <p>According to the Federal Sharia court in Addis Ababa, the minimum age of 18 is in conformity with the constitution and Revised Family Code and therefore the Sharia court won't approve a marriage of parties with no national IDs as a proof since IDs are only given at the age of 18. However, in some areas, especially rural areas, parents ask a sheik or Imam from the Masjid to conduct the marriage ceremony without contacting the Sharia court. And those marriages are not known nor approved by the Sharia court unless the parties come for registration. If they are younger than 18 years of age, they will not get the approval. The loophole of just having a religious ceremony might be used by parents to marry off their</p>

⁴⁵ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁵¹ Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
					girls outside of Sharia court oversight. ⁵²
<p>Consent to marriage / Forced marriage <i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is it mandatory to register a marriage? Is there a standard marriage contract? If so, what are its broad provisions and is there anything</i></p>	<p>Constitution⁵³ Article 34 (2) of the Constitution states "Marriage shall be entered into only with the free and full consent of the intending spouses."</p> <p>Revised Family Code⁵⁴ The Revised Family Code provides consent as one of the Essential Conditions of Marriage in Article 6, which states that a valid marriage shall take place only when the spouses have given their free and full consent.</p> <p>The Revised Family code also provides:⁵⁵</p> <p>Article 13 ("Fundamental Errors"): (1) Marriage concluded as a result of error in consent shall not be valid. (2) Consent is deemed to be vitiated as a</p>		<p>Reservations and Declarations on the Maputo Protocol by Ethiopia as follows:⁵⁷ b) Ethiopia does not consider itself to be bound by marriage registration as legally recognized by Article 6(d) of the Protocol.</p> <p>The government of Ethiopia in its report to CEDAW Committee explained that:⁵⁸</p> <ul style="list-style-type: none"> ▪ The Federal Supreme Court Cassation Division in line with its mandate of providing 		<p>There is a concern about the territorial coverage of the vital events registration system, in remote areas, and about risks associated with the falsification of civil status documents that can affect the rights of women and girls.⁶⁰ Regardless of the laws, the high prevalence rate of child marriage indicates that some children are being forced into marriages. Therefore, free and full or a valid consent as such is not always obtained.⁶¹ In other words consent by a minor to a marriage cannot be considered an informed and valid consent mainly in informal settings that means out of sharia courts.</p>

⁵² Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

⁵³ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

⁵⁴ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

⁵⁵ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

⁵⁷ Proclamation No. 1082/2018 Proclamation to Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa available at:

[Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](#)

⁵⁸ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁶⁰ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁶¹ Musawah, Ethiopia 72nd CEDAW Session Geneva, Switzerland February 2019

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise?</i></p>	<p>result of error where such error is a fundamental error.</p> <p>Article 14: (1) Marriage concluded as a result of consent which is extorted by violence shall not be valid. (2) Consent is deemed to be extorted by violence where it is given by a spouse to protect himself or one of his ascendants or descendants, or any other close relative from a serious and imminent danger or threat of danger.</p> <p>Article 12 provides that Representation is not allowed in marriage. (1) Each of the future spouses shall personally be present and consent to the marriage at the time and place of its celebration. 2) Notwithstanding the provisions of Sub-Art. (1) of this Article, marriage by representation may be allowed by the Ministry of Justice where it has ascertained that there is a serious cause and the person who intended to do so has fully consented thereto.</p> <p>Article 28 covers Registration of marriage: (1) Marriage shall be registered by a competent officer of civil status irrespective of the form according to</p>		<p>mandatory interpretations of laws applicable in all federal and regional courts has provided interpretations of the family law that ensure effective protection of the rights of women.</p> <ul style="list-style-type: none"> The Government has enacted Vital Events and National Identity Card Proclamation No. 760/2012 which provides for compulsory, permanent, and universal registration and certification of vital events that include birth, death, marriage and divorce. The vital registration system became operational in August 		<p>According to national surveys, the incidence of child marriage in Ethiopia has substantially decreased from 25 years ago, however the country continues to have one of the highest rates of child marriage in the world.^{62 63} As per the Federal Sharia court president seated in Addis Ababa, consent should be confirmed by asking the girl in person and forced marriage ('<i>Ijbar</i>') is not allowed.⁶⁴</p> <p>The Federal Sharia court provided an example for the marriage contract that is a simple contract format with no attempt to ensure women's rights or protection. The particulars include names, age and place of birth along with two witnesses' names, and mentions 'Mahr/Mukher paid or will be paid later'. The Mahr/Muakher amount in the example contract was 300 Ethiopian Birr, which is</p>

⁶² Musawah , Ethiopia 72nd CEDAW Session Geneva, Switzerland February 2019

⁶³ Basic Profile of Child Marriage in Ethiopia <http://documents.worldbank.org/curated/en/726751467831767984/pdf/105922-BRI-ADD-SERIES-PUBLICINP-Brief-Ethiopia-Profile-CM>

⁶⁴ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>which the marriage is celebrated. (2) The officer of civil status who recorded the marriage in accordance with Sub Article (1) of this Article shall issue a certificate of marriage to the spouses. (3) Any marriage shall have effect from the date of its conclusion.</p> <p>Article 29 covers failure to register marriage: (1) Where the spouses have failed to have registered their marriage in accordance with Sub-Article (1) of Article 28. the officer of civil status shall draw up the record of marriage of his own motion whenever he becomes aware of the marriage. (2) In such cases, the officer of civil status shall summon the spouses and their witnesses to sign in the record of marriage.</p> <p>Proclamation on the Registration of Vital Events and National Identity Card⁶⁶</p> <p>This Proclamation provides the following articles with regards to registration of marriage:</p> <p>Article 31 (“Obligation to Declare Marriage”): 2/ Where marriage is celebrated by religious or customary</p>		<p>2016 pursuant to the Proclamation.</p> <ul style="list-style-type: none"> The Vital Events Registration Agency is entrusted with directing, coordinating and supporting the registration of vital events at national level. However, the Proclamation envisages for the registration of vital events at the lowest level of the administrative hierarchy (Kebele). The Agency works in close collaboration with international partners such as UNICEF to train professionals that set up the system for vital registration and for 		<p>around 6 USD.⁶⁵ This indicates that there is an out of sharia court financial agreement or that ‘Mahr/Muakher’ is very low, since some say that it’s a sunnaa.</p> <p>The ‘Mahr’ and ‘Muakher’, as explained by the president of the sharia court in Addis Ababa, is the amount to be paid fully at the beginning as ‘Mahr’ or a portion paid and the rest to be paid later ‘Muakher’.⁶⁶</p>

⁶⁶ Proclamation on the Registration of Vital Events and National Identity Card (Proc. No. 760/2012) [Ethiopia], 22 August 2012, available at: <https://www.refworld.org/docid/5ec7f94d4.html>

⁶⁵ A marriage contract provided from the Federal Sharia court in Addis Ababa.

⁶⁶ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>ceremony, the couples shall present to an officer of civil status, for registration, the evidence of the marriage referred to in Article 33 of this Proclamation.</p> <p>Article 33 (“Evidence of Religious or Customary Marriage”) - Where the marriage is celebrated by a religious ceremony or customary practice, the religious institution or the elders who have observed the marriage shall immediately provide the couples with evidence of the marriage containing the following: 1/ the names, ages and principal residences of the couples; 2/ the date and place of the marriage; and 3/ the names and principal residences of the witnesses.</p> <p>Article 66 (“Penalty”): 1/ Whosoever: a) fails to declare vital events shall be guilty of an offence and be punishable with simple imprisonment not exceeding six months or with a fine from Birr five hundred to Birr five thousand.</p> <p>Article 68 (“Repealed Laws”) - sub 2/ No law or customary practice shall, in so far as it is inconsistent with this</p>		<p>facilitating the institutional system.⁵⁹</p>		

⁵⁹ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	Proclamation, be applicable with respect to matters provided for by this Proclamation.				
<p>Women's capacity to enter into marriage <i>Is consent of a guardian (wali) required? Can the woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marriage rights prior to marriage and can</i></p>	<p>Revised Family Code⁶⁷ Article 12 provides the following: Where Representation is not allowed in marriage. (1) Each of the future spouses shall personally be present and consent to the marriage at the time and place of its celebration. 2) Notwithstanding the provisions of Sub-Art. (1) of this Article, marriage by representation may be allowed by the Ministry of Justice where it has ascertained that there is a serious cause and the person who intended to do so has fully consented thereto. Article 17 provides that opposition may be made when marriage is to be concluded in violation of one of the essential conditions of marriage. Article 18 provides that opposition to the conclusion of marriage shall be made only by the following persons: (a) In case of age, by the parents of the minor, public prosecutor or any other interested</p>	<p>In the case Abdurahman Ali et al Vs Hajji Kassim Mohammed and Zenit Ali the issue of consent entertained went as follows: Marriage was concluded before a sharia court judge in the presence of two witnesses. Zenit's two brothers and her uncle filed an objection to the marriage before the First Instance Sharia Court alleging that there was no consent of her parents and relatives to the marriage.</p>			<p>For the last couple of years, the Sharia courts in Addis Ababa have handled more or less a similar volume of cases: on average, a minimum of 7000 cases and a maximum of 8000 cases have been filed every year. Most cases relate to matrimonial issues, including nikah (the engagement that happens before the marriage ceremony) and permission to marry, marriage registration.⁶⁹ As per the president⁷⁰ of the Federal Sharia court seated in Addis Ababa, there is a need for a wali and two witnesses to conclude a marriage. If a party has no relatives then the khadi can be wali. Therefore, in Shafie school of thought is a must however some women use the</p>

⁶⁷Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

⁶⁹ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Eppele and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

⁷⁰ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p>	<p>person; (b) In case of relationship by consanguinity or affinity, by the ascendants of the future spouses, or the ascendants of one of them, or by the brothers or sisters of the future spouses, who have attained the age of eighteen years or by the public prosecutor.</p> <p>Article 42 (“(1) Contract of Marriage”): (1) The spouses may, before or on the date of their marriage, regulate by a contract the pecuniary effects of their marriage. (2) They may also specify in such contract their reciprocal rights and obligations in matters concerning their personal relations. (3) Such contracts shall not affect mandatory provisions of the law.</p> <p>Article 45 (“(4) Deposit of Contract”): (1) A copy of the contract of marriage shall be deposited in the court or with the office of civil statue, (2) It may be freely consulted by any one of the spouses or by persons authorized by court or by any one of the spouses.</p> <p>Article 46 (“(5) Restrictions to Freedom of Contract”): sub (1) The spouses shall not impose an obligation upon third parties by their contract of marriage. (2) The</p>	<p>Zenit’s relatives argued that under Islamic law parents and relatives must consent to the marriage. They claimed that they were never consulted and that the spouses did not invite them to attend the process before a judge. The spouses did not appear and express their consent to the jurisdiction of the First Instance Sharia Court. Nevertheless, the court has decided to annul the marriage.</p> <p>This case shows the complexity regarding the consent disputing parties before Sharia court and is an example of one of</p>			<p>excuse that they follow the Hanafi school of thought and get married without a wali but only if that is not their first marriage and therefore ‘not virgins’.</p> <p>Since a wali is required in the Shafie school of thought, the president mentioned an incident where the father did not allow the marriage and the girl insisted, so the president had to persuade the dad or they wouldn’t be able to conclude the marriage.</p> <p>In another incident, a marriage that occurred without the father’s approval was annulled and the woman was married off to another man. After this, the previous husband went to another region which follows the Hanafi school of thought to verify and authenticate that marriage without her walis consent is a valid one and which he did. Then that verification was accepted in the Sharia court and therefore the second marriage annulled.⁷¹</p>

⁷¹ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>contract of marriage shall be of no effect where it simply refers to local custom, religion or law of a country.</p> <p>Article 47 (“(6) Modifications to Contract of Marriage”): (1) Where the interest of the family so requires, the spouses may by agreement, modify the terms of the contract of marriage and request the court for approval of such modifications. (2) The court may approve such modifications where it ascertains that it does not affect the interest of the family. (3) Where the modifications are approved by the court under Sub-Article (2) of this Article, a copy of the modified contract shall be deposited in the court or with the office civil status.</p> <p>Article 48 (“(7) Legal Regime”): In the absence of a contract of marriage or where the contract of marriage is not valid under the law, the provisions mentioned (Article 41-56 which include respect, support and assistance and joint management) shall apply.</p>	<p>the cases that was brought before federal cassation.⁶⁸</p>			

⁶⁸ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021).
<https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Polygamous marriage</p> <p><i>Does the law or marriage contract prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? If conditions are required, under what conditions is polygamy allowed? Is the permission of an existing wife required for a</i></p>	<p>Revised Family Code⁷² Article 11 (“Bigamy”): A person shall not conclude marriage as long as he is bound by bonds of a preceding marriage.</p> <p>Opposition is also allowed in Article 18 (c) In case of bigamy, by the person alleging to have had a prior marital relationship with the bigamous spouse or by the public prosecutor.</p> <p>Article 33(1) provides that the dissolution of a bigamous marriage shall be ordered on the application of either of the spouses of the bigamous marriage or the public prosecutor. (2) The dissolution mentioned in Sub-Article ((1) of this Article may no longer be applied for where the former spouse of the bigamous marriage has died.</p>		<p>Ethiopia’s Reservations and Declarations on the MAPUTO Protocol include:⁷⁴</p> <p>1/a) The Federal Democratic Republic of Ethiopia does not consider itself to be bound by Article 6(c) of the Protocol, which is Article 6 regarding Marriage which provides that States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to</p>		<p>The CEDAW Committee⁷⁶ is concerned that the legal provisions on bigamous and polygamous marriage have not been harmonized at the federal level and Afar and Somali regions have not yet enacted family laws in conformity with the revised Family Code.⁷⁷</p> <p>Most of the grounds for divorce in Addis Ababa include irreconcilable differences, abuse and violence, the husband’s absence, and husbands marrying second wives without their first wives’ consent.⁷⁸</p> <p>As per the Federal Sharia court president,⁷⁹ in Ethiopia polygamy is allowed without any</p>

⁷²Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

⁷⁴ PROCLAMATION NO.1082/2018 PROCLAMATION TO RATIFY THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA available at:

[Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](#)

⁷⁶ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁷⁷ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁷⁸ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

⁷⁹ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>polygamous marriage? Is it necessary to register a polygamous marriage? Are temporary marriages recognised?</i></p>	<p>Criminal Code⁷³ Article 650 (1) Whoever, being tied by the bond of a valid marriage, intentionally contracts another marriage before the first union has been dissolved or annulled, is punishable with simple imprisonment, or, in grave cases, and especially where the criminal has knowingly misled his partner in the second union as to his true state, with rigorous imprisonment not exceeding five years. (2) Any unmarried person who marries another he knows to be tied by the bond of an existing marriage, is punishable with simple imprisonment. (3) Limitation of criminal proceedings is suspended until such time as one of the two marriages shall have been dissolved or annulled. With the exception provided in as follows;</p> <p>Article 651 (“Exception”): The preceding Article shall not apply where bigamy is committed in conformity with religious or traditional practices recognized by law.</p>		<p>guarantee that: (c) monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships, are promoted and protected;⁷⁵</p>		<p>preconditions and the consent of the first wife is not needed. The president mentioned an incident where a national of a neighboring country had multiple marriages. When checked, it was his fifth time and he was denied the marriage. This shows the fact there is no proper data or a mechanism for checking if a person is married already, so anyone can just come and get married. There was an attempt for training from the women and children welfare institutions and when they started their training with the statement of ‘the crime of having multiple wives’ as per the criminal code, there was a rejection by the audience mainly consisting of the sharia courts judges or qadi’s who were married to multiple wives. The approach was therefore not successful.</p> <p>There was also another incident where an older woman in Afar region was asked about her</p>

⁷³ Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

⁷⁵ African Union, Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, 11 July 2003, available at: <https://www.refworld.org/docid/3f4b139d4.html>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
					<p>thoughts of the fact that her husband has three more wives. She mentioned that she ‘was burning from the inside but can’t not say a thing or get a divorce in fear of social sanction.’</p> <p>Temporary marriages are not a known practice in Ethiopia.</p>
<p>Violence against women in the family <i>Are there laws and practices that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault, mental and other forms of violence that affects a</i></p>	<p>Constitution⁸⁰ Article 16 provides the Right of the Security of Person. Everyone has the right to protection against bodily harm.</p> <p>Article 35 (“Rights of Women”): (4)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.</p> <p>Article 18 (“Prohibition against Inhuman Treatment”): (1) Everyone has the right to protection against cruel, inhuman or degrading treatment or punishment.</p>		<p>Ethiopia entered a reservation to the Maputo Protocol on marital rape. The reservation states: a) Article 4(2)(a) shall be applicable in accordance with Article 620 of the Criminal Code of Ethiopia that defines rape to be a forced sexual intercourse that occurs out of wedlock.⁸⁵</p>		<p>In Ethiopia, violence against women (VAW) is one of the top human rights violations experienced in the country. This implies that women throughout the country experience a wide range of violations to their persons and dignity. Among these, physical and sexual violence are of serious concern, particularly intimate partner violence, which was recorded to have a rate as high as 54%. Domestic violence is a socially condoned reality in the country, with 88% of rural and 69% of urban women still believing that</p>

⁸⁰ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

⁸⁵ Proclamation No. 1082/2018 Proclamation to Ratify the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa available at:

[Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](#)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>women's mental health, which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Are there support services for women who are the victims of aggression or abuses?</i></p>	<p>Criminal Code⁸¹ The Criminal Code outlaws violence in general and more specifically penalizes violence against women titled as 'crimes committed against life, person and health through harmful traditional practices' as follows.</p> <p>Article 561 ("Endangering the Lives of Pregnant Women and Children through Harmful Traditional Practices"): (1) Whoever causes the death of a pregnant or a delivering woman or that of a newly born child as a result of the application of a harmful traditional practice such as: a) massaging the abdomen of a pregnant woman, or shaking a woman in a prolonged labour; or b) soiling the umbilical cord of a newly-born child with dung or other similar substances, keeping a newly-born child out of the sun or feeding it butter, excising the uvula of a child or taking out milk teeth or preventing the child from being vaccinated; or c) through the exercise of other traditional practices known by the medical profession to be</p>		<p>Ethiopia reported to the CEDAW Committee that:⁸⁶</p> <ul style="list-style-type: none"> In 2011, it adopted the Criminal Justice Policy, which lays the foundation for special protection of vulnerable groups namely women and children. The policy caters for the needs and special situation of women both as defendants and victims of crimes. Implementation of the Strategic Plan for an Integrated and Multi-Sectoral Response on Violence Against Women and Children (VAWC) and Child Justice in Ethiopia 		<p>their husbands are entitled to beat them.⁸⁸</p> <p>And while sexual violence prevails in both the public and private sphere, sexual violence by intimate partners has been proven to be very frequent in Ethiopia. In the years 2000 to 2014, the prevalence of sexual violence perpetrated by husbands or intimate partners against women was found to range between 19.2 to 59%. 'Berchi', a study by Ethiopian Women Lawyers Association (EWLA), demonstrates that a substantial amount of domestic and sexual VAW takes place within marriage and in the form of rape. Among the major factors contributing to such a high level of violence in Ethiopia is women's economic disempowerment. The fact that mostly women are financially dependent on their husbands is</p>

⁸¹ Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

⁸⁶ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁸⁸ Woldu, T.H. (2017). Human rights of women and the phenomenon of marital rape in Ethiopia: a critical analysis.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>harmful, is punishable with fine or simple imprisonment from three months to one year. (2) Where the death was caused by negligence, the relevant provision of this Code (Art. 543) shall apply.</p> <p>Article 562 (“Causing Bodily Injury to Pregnant Women and Children Through Harmful Traditional Practices”): (1) Whoever causes bodily injury or mental impairment to a pregnant or delivering woman or to a newly-born child as a result of the application of a harmful traditional practice such as: a) massaging the abdomen of a pregnant woman, or shaking a woman in a prolonged labour; or b) soiling the umbilical cord of a newly-born child with dung or other similar substances, keeping a newly-born child out of the sun or feeding it butter, excising the uvula of a child or taking out milk teeth or preventing the child from being vaccinated; or c) through the exercise of other traditional practices known by the medical profession to be harmful, is punishable with fine or simple imprisonment not exceeding six months.</p>		<p>commenced within the reporting period.</p> <ul style="list-style-type: none"> ▪ The Strategic Plan focuses on prevention, protection of GBV and devises response mechanisms concerning violence against women and children. ▪ The Government also adopted the National Strategy on Harmful Traditional Practices (HTPs) and the accompanying action plan on Female Genital Mutilation (FGM), child marriage and abduction in 2013. ▪ The Revised Sentencing Guideline No. 2/2012 was 		<p>exposing them more to violence perpetrated by their husbands.⁸⁹</p> <p>The legitimate nature of gender-based violence in Ethiopia, as elsewhere in countries where patriarchal societies dominate everyday life, and the scattered nature of the provisions in the Criminal Code complicate attempts to bring perpetrators to justice. Using their economic dominance and access to resources, males abuse females. This is attributed to the absence of comprehensive anti-gender-based violence laws in Ethiopia that prevents law enforcement from pursuing incidents of violence within marriage and cohabitation on the premise that there are no clear legal provisions.⁹⁰</p> <p>The CEDAW Committee stated its concerns that the national</p>

⁸⁹ Woldu, T.H. (2017). Human rights of women and the phenomenon of marital rape in Ethiopia: a critical analysis.

⁹⁰ Salemot, Marew & Birhanu, Alemstehay. (2021). The Ethiopian Legal Frameworks for the Protection of Women and Girls from Gender-Based Violence. PanAfrican Journal of Governance and Development (PJGD). 2. 82-102. 10.46404/panjogov.v2i1.2914.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>(2) Where the injury to body, mind or health was caused by negligence, the relevant provision of this Code (Art. 559) shall apply.</p> <p>Article 563 (“Discretion of the Court”): In respect of the crimes specified under Articles 561 and 562, the Court, taking into account the age, education, experience or social status of the criminal, may give him only a warning instead of fine or a penalty entailing loss of liberty.</p> <p>For domestic violence, the Criminal Code provides the following articles:⁸²</p> <p>Article 564 (“Violence Against a Marriage Partner or a Person Cohabiting in an Irregular Union”): The relevant provision of this Code (Arts. 555 - 560) shall apply to a person who, by doing violence to a marriage partner or a person cohabiting in an irregular union, causes grave or common injury to his /her physical or mental health.</p> <p>Article 555 (“Grave Wilful Injury”): Whoever intentionally: a) wounds a</p>		<p>issued by the Federal Supreme Court in 2012 to guide determination of criminal sentences. Accordingly, judges are required to increase the lower end of the penalty in sentencing GBV crimes covered under articles 555–560 of the Criminal Code and sexual violence crimes covered under articles 620–628 of the Criminal Code.</p> <ul style="list-style-type: none"> ▪ The Government developed a Standard Operational Procedure (SOP) on Elimination of all forms of GBV. 		<p>strategy and action plan on harmful traditional practices against women and children, adopted in 2013 to combat female genital mutilation, child marriage and abduction, remains subject to a lack of proper implementation, monitoring and evaluation and that the increased penalties envisaged for female genital mutilation under the Criminal Code of 2005 (arts. 561, 562, 567, 569 and 570) have not been implemented.⁹¹ It is also concerned about the prevalence of female genital mutilation and child marriage and the underreporting of cases of traditional harmful practices, including child marriage, female genital mutilation and abduction.⁹²</p> <p>The Committee noted the adoption of the strategic plan for an integrated and multisectoral</p>

⁸² Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

⁹¹ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

⁹² The Committee considered the eighth periodic report of Ethiopia ([CEDAW/C/ETH/8](#)) at its 1665th and 1666th meetings (see [CEDAW/C/SR.1665](#) and [CEDAW/C/SR.1666](#)), held on 21 February 2019. The Committee’s list of issues and questions is contained in [CEDAW/C/ETH/O/8](#), and the responses of the State party are contained in [CEDAW/C/ETH/O/8/Add.1](#).

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>person so as to endanger his life or to permanently jeopardize his physical or mental health; or b) maims his body or one of his essential limbs or organs, or disables them, or gravely and conspicuously disfigures him; or c) in any other way inflicts upon another an injury or disease of a serious nature, is punishable, according to the circumstances of the case and the gravity of the injury, with rigorous imprisonment not exceeding fifteen years, or with simple imprisonment for not less than one year.</p> <p>Article 556 (“Common Wilful Injury”): (1) Whoever causes another to suffer an injury to body or health other than those specified in Article 555 above, is punishable, upon complaint, with simple imprisonment not exceeding one year, or with fine. (2) The crime is punishable, upon accusation, with simple imprisonment from six months to three years where: a) the criminal has used poison, a lethal weapon or any other instrument capable of inflicting injuries; or b) the criminal has inflicted the injuries in</p>		<ul style="list-style-type: none"> ▪ The Government also established child and women protection units in police stations responsible for handling cases of VAW, the VAW investigation and prosecution team (Addis Ababa and Dire Dawa as well as in the regions) and child friendly and victim friendly benches within federal as well as regional courts ▪ The Child and Women Protection Units have expanded significantly in number and coverage through the country. In addition, gender sensitive steps have been implemented in 		<p>response to violence against women and children and child justice in Ethiopia and revised sentencing guideline No. 2/2012, which requires judges to increase the lower threshold for penalties when handing down sentences for crimes of gender-based violence and sexual violence covered under the Criminal Code. It also notes the establishment of child and protection units in police and justice offices and specialized courts dealing with sexual violence, as well as the creation of one-stop centres. It further notes that modules on violence against women, child marriage and female genital mutilation were included in the Ethiopian demographic and health survey in 2016.^{93 94}</p> <p>Regarding FGM, it is important to note that: there are four types of FGM; ‘Type 1’ is ‘Partial or total removal of the clitoris</p>

⁹³ Central Statistical Agency/CSA/Ethiopia and ICF. 2016. Ethiopia Demographic and Health Survey 2016. Addis Ababa, Ethiopia, and Rockville, Maryland, USA: CSA and ICF.

⁹⁴ CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>breach of a duty, professional or other; or c) the victim is weak, sick or incapable of defending himself.</p> <p>Article 557 (“Extenuating Circumstances”): (1) Whoever intentionally does injury to the person or health of another: a) by exceeding the limits of necessity (Art. 75), or legitimate defence (Art. 78); or b) following gross provocation, or under the shock or influence of a surprise, an emotion or a passion made understandable and in some degree excusable by the circumstances; or c) at the request or with the consent of the victim who is capable of realizing his action and its consequences, where the injury is forbidden by law or offends public decency, is punishable with simple imprisonment not exceeding two years, or fine not exceeding four thousand Birr. (2) In the case provided for in sub-article (1)(c), simple imprisonment shall not exceed four years where the victim, due to age, mental or other conditions, was partially or completely incapable of</p>		<p>criminal proceedings, including investigation and evidence gathering, has been rolled out throughout the country.</p> <ul style="list-style-type: none"> Members of law enforcement organs are trained in order to ensure effective implementation of laws and gender sensitive procedures. These trainings are designed to equip law enforcement officials with the skill and technique needed to handle cases on VAW. In addition, women’s and children’s affairs offices at federal, regional and woreda levels are staffed with 		<p>and/or the prepuce (clitoridectomy), also called “Sunna type”⁹⁵, Type 2 is ‘Partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (excision)’, Type 3 is ‘narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the labia minora and/or the labia majora, with or without excision of the clitoris (infibulation)’, and Type 4 ‘includes all other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization.’⁹⁶</p> <p>FGM’ ranges ‘from removal of the clitoral hood to its most extreme form, infibulation’ which is practiced predominantly in Somalia, Sudan, Djibouti, Egypt and Ethiopia,⁹⁷ dominantly in the Somali region of Ethiopia. Infibulation is a type where the</p>

⁹⁵Abathun, A. D., J. Sundby and A. A. Gele (2016). "Attitude toward female genital mutilation among Somali and Harari people, Eastern Ethiopia." International Journal of Women's Health 8: 557-569.

⁹⁶WHO, Classification of female genital mutilation. (2019). Retrieved from <https://www.who.int/reproductivehealth/topics/FGM/overview/en/>

⁹⁷ Lukale, N. (2014). "Harmful Traditional Practices: A Great Barrier to Women’s Empowerment." Gender Based violence <https://www.girlsglobe.org/2014/02/24/harmful-traditional-practices-a-great-barrier-to-womens-empowerment/>.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>realizing the consequences of his request or consent</p> <p>Article 558 (“Consequences not Intended by the Criminal”): Whoever has caused grave injury through criminal negligence, although his intention was to inflict common injury, is punishable with simple imprisonment from six months to three years.</p> <p>Article 559 (“Injuries Caused by Negligence”): (1) Whoever, by criminal negligence, causes another to suffer common injury to person or to health, is punishable with simple imprisonment not exceeding six months, or fine not exceeding one thousand Birr. (2) The punishment shall be simple imprisonment for not less than six months, and a fine of not less than one thousand Birr, where the injury inflicted is of the same kind as the one stated in Article 555, or where it was caused by a person like a doctor or driver, who had a special duty to safeguard the body or health of another. (3) The crime is punishable upon accusation, where the injury is grave, and upon complaint,</p>		<p>legal officers that provide legal advice to women.</p> <ul style="list-style-type: none"> Similarly, women’s associations provide legal advice services to their members and their community. The Strategic Plan provides for support systems for victims of VAW. The Federal Attorney General (FAG) is in the process of developing and implementing the National Integrated Justice Information System (NIJIS). The system will compile data on legislation management, case management, court information and prisoner 		<p>‘entire clitoris and some or all of the labia minora are excised, and incisions are made in the labia majora to create raw surfaces and is ‘associated with longer-term gynecologic or urinary-tract difficulties, cysts and pelvic infection, dysmenorrhea, hematocolpos, painful intercourse, infertility, and problems during childbirth” and sometimes leading to death.⁹⁸</p> <p>Even though there is no religious endorsement for FGM, the Somali ethnic group performs FGM with the belief that it is ‘required by the religion of Islam’ and ‘as a means to ensure virginity’.⁹⁹ FGM is ‘not a requirement and it even predates Islam’,¹⁰⁰ yet still, the so called “Sunna” type of FGM is considered as a religious requirement, and infibulation as a ‘protection against rape’, ‘preservation of the girl’s virginity’ and fear of ‘rejection of</p>

⁹⁸ Lelieveld, M. (2011). "Child Protection in the Somali Region of Ethiopia." Feinstein International Center, Tufts University.

⁹⁹ Lelieveld, M. (2011). "Child Protection in the Somali Region of Ethiopia." Feinstein International Center, Tufts University.

¹⁰⁰ Boyden, J., A. Pankhurst and Y. Tafere (2013). Harmful traditional practices and child protection: contested understandings and practices of female child marriage and circumcision in Ethiopia.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>where it is common. The extent of the injury shall be determined in accordance with Articles 555 and 556.</p> <p>Article 560 (“Assaults”): (1) Whoever assaults another or does him violence without causing bodily injury or impairment of health, is punishable, upon complaint, with a fine not exceeding three hundred Bjrr, or, in serious cases, with simple imprisonment not exceeding three months. Simple bruises, swellings or transient aches and pains are not held to be injuries to person or health. (2) Minor crimes that do not come under sub-article (1) of this Article are punishable in accordance with the provision of Article 840 of the Code of Petty Offences. (3) Where the victim has returned assault for assault, the Court may refrain from inflicting any punishment other than a reprimand or warning for the future on either of the two or both parties.</p> <p>Harmful Traditional practices that puts women and girls at risk are further</p>		<p>management. The Program will be implemented in three phases and it will be finalized by the end of the GTP II (2015/16–2020/2021)</p> <ul style="list-style-type: none"> ▪ The Ethiopian Human Rights Commission opened eight branch offices in the regions. In each branch office, the Commission assigned women and children directorates. Protection and promotion of human rights of women and children are among the strategic directions in the Commission’s five year strategy. 		<p>marriage’.¹⁰¹ Noting that Infibulation comprises around 6% of all procedures in Ethiopia and is mainly restricted to the Somali region.¹⁰² This is why decades after after criminalizing it, the FGM rate is still almost universal in the Muslim dominated Somali region of Ethiopia.</p> <p>Remarkably, in the neighboring country of Sudan a village eradicated FGM when a single family took a stand on the practice and others followed based on their own will.¹⁰³ There may be a need to look into alternative ways of tackling this irreversible inhuman practice beyond just criminalizing it.</p> <p>The practice is most prevalent in Afar and Somali regions, which have majority Muslim populations. The 2016 Ethiopian</p>

¹⁰¹ Lelieveld, M. (2011). "Child Protection in the Somali Region of Ethiopia." Feinstein International Center, Tufts University.

¹⁰² Markus, H. R. and S. Kitayama (1992). "The what, why and how of cultural psychology: A review of Shweder's thinking through cultures." *Psychological Inquiry* 3(4): 357-364.

¹⁰³ Sudanese villagers ‘WHO’ ‘eradicated’ FGM provide a national blueprint for success – Women in the World. (2018). Retrieved 2 August 2019, from <https://womenintheworld.com/2018/11/27/sudanese-villagers-‘WHO’-eradicated-FGM-provide-a-national-blueprint-for-success/>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>outlawed by the Criminal Code⁸³ as follows: Article 565 (“Female Circumcision”): Whoever circumcises a woman of any age, is punishable with simple imprisonment for not less than three months, or fine not less than five hundred Birr.</p> <p>Article 566 (“Infibulation of the Female Genitalia”): (1)Whoever infibulates the genitalia of a woman, is punishable with rigorous imprisonment from three years to five years. (2) Where injury to body or health has resulted due to the act prescribed in sub-article (1) above, subject to the provision of the Criminal Code which provides for a more severe penalty, the punishment shall be rigorous imprisonment from five years to ten years.</p> <p>Article 567 (“Bodily Injuries Caused Through Other Harmful Traditional Practices”): Whoever, apart from the circumstances specified in this Chapter, inflicts upon another bodily injury or</p>		<ul style="list-style-type: none"> The Government adopted a National Strategy and Action Plan on Harmful Traditional Practices against Women and Children in Ethiopia in 2013. The Strategy institutionalizes national, regional and grass roots mechanisms with the objective of preventing HTPs, protecting women and children and providing services to survivors of HTPs. It adopts a multi-sectoral approach where a national HTP Platform composed of various sectoral ministries, national 		<p>Demographic Health Survey (EDHS) data on FGM among the age group of 15-49 showed a prevalence of 98% of women and girls affected in Afar and 99% in Somali respectively.¹⁰⁴ Data also shows that more rural women (68%) than urban women (54%) are likely to have undergone the practice.¹⁰⁵</p> <p>Approximately 64% of daughters of women aged 15–49 who have undergone FGM were cut before the age of four and almost all FGM is carried out by ‘traditional practitioners’,¹⁰⁶ making it even riskier.</p> <p>According to women activists, FGM/C has been normalized as a customary practice, condoned and often promoted by religious and community leaders. EDHS data also indicates that: 89% of Muslim women and girls aged 15 – 49 have undergone FGM/C;</p>

⁸³ Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

¹⁰⁴ Central Statistical Agency/CSA/Ethiopia and ICF. 2016. Ethiopia Demographic and Health Survey 2016. Addis Ababa, Ethiopia, and Rockville, Maryland, USA: CSA and ICF.

¹⁰⁵ Central Statistical Agency/CSA/Ethiopia and ICF. 2016. Ethiopia Demographic and Health Survey 2016. Addis Ababa, Ethiopia, and Rockville, Maryland, USA: CSA and ICF.

¹⁰⁶ 28 Too Many, Country Profile: FGM in Ethiopia, October 2013, available at: <https://www.refworld.org/docid/54bce29e4.html>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>mental impairment through a harmful traditional practice known for its inhumanity and ascertained to be harmful by the medical profession, shall, according to the circumstances of the case, be liable to one of the penalties prescribed under the provisions of Article 561 or Article 562 of this Code.</p> <p>Article 568 (“Transmission of Disease Through Harmful Traditional Practices”): Where the victim has contracted a communicable disease as a result of one of the harmful traditional practices specified in the above provisions, the penalties prescribed in this Code concerning the spread of communicable diseases shall apply concurrently.</p> <p>Article 569 (“Participation in Harmful Traditional Practices”): A parent or any other person who participates in the commission of one of the crimes specified in this Chapter, is punishable with simple imprisonment not exceeding three months, or fine not exceeding five hundred Birr.</p>		<p>associations as well as faith-based organizations headed by the Ministry of Women and Children oversee the implementation of the Strategy.</p> <ul style="list-style-type: none"> National level alliances on different forms of HTPs are established and have gone operational at regional levels. The Somali Regional State is one of the pioneer regional states in establishing its own regional level alliance against HTPs. Similarly, the SNNPR has established its own regional platform to combat HTPs. 		<p>most girls and women (64%) have undergone FGM during the first four years of their lives, while 22% have experienced it between 5–9 years of age. In 98% of cases, FGM was carried out by a traditional practitioner.¹⁰⁷</p> <p>The incidence of FGM among girls aged 15-19 declined from 71% in 2000 to 52% in 2016 (Figure 6), but in Somali remained as high as 96% and in Afar at 87%. The incidence of FGM among 0-14-year-old girls remained at 24% between 2011 and 2016. In 2016, the incidence of FGM among adolescent girls in the richest quintile was 43% and 73% for girls in the poorest quintile.¹⁰⁸</p> <p>Changes in attitudes towards FGM have been reported to have shown improvements over the years. Only 17% of adolescent girls in 2016 shared the opinion that FGM should be continued or were undecided</p>

¹⁰⁷ MUSAWA , Ethiopia 72nd CEDAW Session Geneva, Switzerland February 2019

¹⁰⁸ Cebotari, V. (2020). Changing Trends in Gender Equality in Ethiopia. UNICEF. <https://doi.org/10.13140/RG.2.2.14369.56165>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 570 (“Incitement Against the Enforcement of Provisions Prohibiting Harmful Traditional Practices”): Any person who publicly or otherwise incites or provokes another to disregard the provisions of this Code prohibiting harmful traditional practices, or organizes a movement to promote such end, or takes part in such a movement, or subscribes to its schemes, is punishable with simple imprisonment for not less than three months, or fine not less than five hundred Birr, or both.</p> <p>Rape is also criminalized as follows:⁸⁴</p> <p>Article 620 (“Rape”): (1) Whoever compels a woman to submit to sexual intercourse outside wedlock, whether by the use of violence or grave intimidation, or after having rendered her unconscious or incapable of resistance, is punishable with rigorous imprisonment from five years to fifteen years.(2) Where the crime is committed: a) on a young woman between thirteen and eighteen years of</p>		<ul style="list-style-type: none"> A significant step in the fight against HTPs and GBV has been the endorsement of the cause by different religions through their Inter-Faith Council that consists of seven faith-based organizations from Christianity and Islam. Since its establishment in 2010 the Council has been working on GBV, HTPs, mother and child health, HIV and AIDS issues. It provides forum for discussion and formulates strategies to address these problems through the 		<p>about it compared to 65% in 2000.¹⁰⁹</p> <p>An even lower percentage of adolescent boys (13%) supported the practice of FGM or were unsure about it in 2016. Across regions, Amhara, SNNPR, and Benishangul-Gumuz achieved the greatest progress in changing attitudes towards FGM, while in Somali and Afar more than half of adolescents in 2016 thought that the practice should be continued. Attitudes have also changed drastically among adolescents in rural areas. Evidence of attitudes towards FGM across wealth quintiles shows that poorer individuals were generally more in favour of the practice.^{110 111}</p> <p>Regarding marital rape, the CEDAW Committee further recommended the Ethiopian</p>

⁸⁴ Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

¹⁰⁹ Cebotari, V. (2020). Changing Trends in Gender Equality in Ethiopia. UNICEF. <https://doi.org/10.13140/RG.2.2.14369.56165>; Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

¹¹⁰ Cebotari, V. (2020). Changing Trends in Gender Equality in Ethiopia. UNICEF. <https://doi.org/10.13140/RG.2.2.14369.56165>

¹¹¹ Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>age; or b) on an inmate of an alms-house or asylum or any establishment of health, education, correction, detention or internment which is under the direction, supervision or authority of the accused person, or on anyone who is under the supervision or control of or dependent upon him; or c) on a woman incapable of understanding the nature or consequences of the act, or of resisting the act, due to old age, physical or mental illness, depression or any other reason; or d) by a number of men acting in concert, or by subjecting the victim to act of cruelty or sadism, the punishment shall be rigorous imprisonment from five years to twenty years. (3) Where the rape has caused grave physical or mental injury or death, the punishment shall be life imprisonment. (4) Where the rape is related to illegal restraint or abduction of the victim, or where communicable disease has been transmitted to her, the relevant provisions of this Code shall apply concurrently.</p> <p>Article 621 (“Compelling a Man to Sexual Intercourse”): A woman who compels a</p>		<p>involvement of their followers. The Council has taken a stand to eliminate FGM and child marriage by 2025.</p> <ul style="list-style-type: none"> In 2014, the role of different faith-based organizations has been discussed at a consultative meeting that convened over 350 participants from across the country. The Council established a taskforce that will follow up and monitor the implementation of its strategies. This concerted effort has resulted in the rescue of 1,116 individuals from different forms of GBV through the intervention of faith 		<p>government removes its reservations to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa regarding marital rape and polygamy.¹¹²</p> <p>The marital rape exemption or spousal immunity to rape is a concept that reflects patriarchal undertones which are deeply entrenched in Ethiopian society and negatively impact women’s rights. Married women are also more vulnerable to violence due to their economic disempowerment, which is reinforced by the country’s economic structure and the effect of globalisation. Left with economic disadvantage and without any legal protection, women are exposed to abusive marriages.¹¹³</p> <p>Rural women are the ones predominantly exposed to</p>

¹¹² CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹¹³ Woldu, T.H. (2017). Human rights of women and the phenomenon of marital rape in Ethiopia: a critical analysis.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	man to sexual intercourse with herself, is punishable with rigorous imprisonment not exceeding five years.		<p>based organizations in different parts of the country; sensitization of 385 religious organizations and 830,352 religious leaders on the need to end FGM and other forms of HTPs; inclusion of HTPs and GBV in the curriculum of 60 theology colleges, and dissemination of messages concerning FGM and HTPs through print and electronic medias to an estimate of nine million people.</p> <ul style="list-style-type: none"> These efforts contributed to the decrease in the rate of FGM from 56% to 23%; child marriage from 21% to 8% and 		<p>harmful traditional norms that tolerate marital rape especially without economic empowerment of women, which worsens the problem. Patriarchy plays a major role in the prevalence of marital rape and the challenges in legislating and implementing laws against it. In Ethiopia, the magnitude of the impact that patriarchal traditions and disempowerment of women have on violation of women's rights is very significant.¹¹⁴</p> <p>In the Criminal Code (Article 620) rape is defined as 'Whoever compels a woman to submit to sexual intercourse outside wedlock', while Article 621 states that 'A woman who compels a man to sexual intercourse with herself, is punishable' and it doesn't specify sexual intercourse outside wedlock. Therefore, rape of a man is crime whether in or out of wedlock while marital rape of a women is not a crime.</p>

¹¹⁴ Woldu, T.H. (2017). Human rights of women and the phenomenon of marital rape in Ethiopia: a critical analysis.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
			<p>decline in the incidence of abduction by 12.7%. Despite the significant progress, there are challenges that emanate from the deep-rooted customary norms and practices in the communities, the low level of awareness over the law and the interference by traditional institutions like elders in the formal legal process. The legal literacy programs that are being carried out are expected to address these challenges.</p> <ul style="list-style-type: none"> ▪ The EHRC began organizing 'Human Right Forums' at federal, regional and 		<p>Regarding wife-beating, the empowerment rate for attitudes towards wife beating rose from 24% in 2005 to 41% in 2016. The proportion of urban women fully empowered in this domain is twice that of rural women.¹¹⁵</p> <p>There are persistent regional disparities in women's empowerment in Ethiopia. Women's empowerment in education is exceptionally low in Somali, SNNPR, Afar, Oromia, and Benishangul-Gumuz. Economic empowerment is lowest in Afar, Amhara, Benishangul-Gumuz, Oromia, and Somali. The proportion of women empowered in the familial domain was lowest in Afar. Afar, Oromia, and Tigray have the lowest rates of empowerment in terms of attitudes towards wife-beating.¹¹⁶ Attitudes towards GBV show a wide gender gap. Significantly</p>

¹¹⁵ Cebotari, Victor & Ramful, Nesha & Elezaj, Erëblina & De Neubourg, Chris. (2020). Women's Empowerment and Child Wellbeing in Ethiopia. 10.13140/RG.2.2.11014.11845.

¹¹⁶ Cebotari, Victor & Ramful, Nesha & Elezaj, Erëblina & De Neubourg, Chris. (2020). Women's Empowerment and Child Wellbeing in Ethiopia. 10.13140/RG.2.2.11014.11845.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
			<p>grass root levels that envisage an organized mobilization of the public. The training manual of the Forums consists of a module on the effects of HTPs on human rights of individuals.</p> <ul style="list-style-type: none"> ▪ Towards facilitating women's access to justice, the Federal Attorney General, justice bureaus of regional states, universities that have legal aid centres, the EHRC, and civil society organizations render legal aid services. Moreover, the Federal Attorney General coordinates the free legal service rendered by private 		<p>fewer men (between 13 and 20%) shared the opinion that wife-beating is justified in certain situations compared to between 37 and 44% of adolescent girls and adult women, respectively. In 2016, wife-beating was widely justified among men in Amhara, and women in Oromia, Afar, Tigray, and SNNPR.^{117 118}</p> <p>In addition, as mentioned above on early marriage, more than a third of adolescent girls experienced some form of violence – physical, psychological or sexual – during 2016. Incidence was significantly higher in urban areas, Addis Ababa, Amhara, and Harari.¹¹⁹</p> <p>Finally, recent research on the Prevalence of Intimate Partner Violence (IPV) against women and associated factors in Ethiopia concluded that the prevalence of IPV was found high in Ethiopia and that the</p>

¹¹⁷ Cebotari, V. (2020). Changing Trends in Gender Equality in Ethiopia. UNICEF. <https://doi.org/10.13140/RG.2.2.14369.56165>

¹¹⁸ Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

¹¹⁹ Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
			<p>attorneys in accordance with their duty to give pro bono service under the supervision of FAG. In 2014/2015 and 2015/2016 private attorneys and federal prosecutors provided free legal services for 1671 and 217 persons respectively.</p> <p>The Government of Ethiopia also noted the CEDAW Committee's recommendation regarding harmful traditional practices, and therefore.⁸⁷</p> <ul style="list-style-type: none"> ▪ The Government entered a commitment to end child marriage and FGM by 2025 at the London Summit 		<p>government and any concerned bodies should design appropriate strategies and work hard to tackle the problem. There is a need for giving special attention to women living in rural areas, women from poor families, and women who are 25–39 years old to decrease the burden of IPV. Over 30% of the study participants were subjected to Intimate Partner violence. Living in rural areas, divorced, primary and secondary education, 25–39 years old, being poor are found to be predictors of IPV against women in Ethiopia¹²⁰ In the above study from the total of 4714 ever-married women in reproductive age the result showed that most women lived in rural areas (74.3%) but had a relatively low level of education; only 16.8% of women attended secondary and higher while half of them (49.0%) of are uneducated. The sample has a</p>

⁸⁷ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹²⁰ Chernet, A.G., Cherie, K.T. Prevalence of intimate partner violence against women and associated factors in Ethiopia. BMC Women's Health 20, 22 (2020). <https://doi.org/10.1186/s12905-020-0892-1>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
			<p>towards the end of 2015.</p> <ul style="list-style-type: none"> The Ministry established a “National Alliance to End Child Marriage and FGM” consisting of all concerned stakeholders in order to implement the strategic interventions set out in the National Strategy. A national platform for the prevention of all forms of HTPs has also been recently launched. This platform consists of federal ministries; regional counterparts; United Nations agencies and international organizations. There are similar institutional mechanisms at the regional level with the 		<p>fairly young age distribution and nearly two thirds of women (71.3%) are married, while the rest of them are divorced and widowed. Over 30% of study participants were subjected to IPV.</p> <p>According to religion of respondents, the maximum burden of IPV is observed in other religions (37.9%) while lowest (26.3%) is observed among Muslim women. About half of the divorced women (43.6%) are victims of IPV while 26.5 and 28.7% of widowed and married women reported that they have experienced IPV respectively. The findings also showed that women from rich and middle wealth categories are 31.2 and 30.7% respectively, which means they are less likely to experience IPV compared to women from poor wealth category (34.5%).</p> <p>The summary of the prevalence of IPV among different regions of Ethiopia. The maximum IPV is</p>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
			<p>Somali Regional State taking the lead in establishing one.</p> <ul style="list-style-type: none"> The awareness raising and advocacy efforts continued to be the main instruments of change. A notable approach is the creation of sustained community level conversation on FGM, child marriage and abduction. Community conversations have been successful as they were wide reaching and carried out in a continuous and sustainable manner. 		<p>found in Harari (39.1%) followed by Oromia and Gambela regional states 38% and 35% respectively, while the lowest (11.6%) is observed in Somali regional state. Even though the government tried to lower violence against women, the prevalence of IPV among ever married women is still high in Ethiopia.¹²¹</p>
Family Planning (OPTIONAL)	<p>Constitution¹²² Article 35 (“Rights of Women”): sub (9) To prevent harm arising from pregnancy and</p>		<p>Ethiopia’s reservation on Maputo Protocol</p>	<p>Abortion is still classified as illegal in the country’s</p>	<p>The revised criminal code came into effect in 2005. Abortion remained criminalized with the</p>

¹²¹ Chernet, A.G., Cherie, K.T. Prevalence of intimate partner violence against women and associated factors in Ethiopia. BMC Women's Health 20, 22 (2020). <https://doi.org/10.1186/s12905-020-0892-1>

¹²² The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<i>Do women require the consent of the husband to practise family planning, including abortions and sterilization in the law, procedure or practice?</i>	<p>childbirth and in order to safeguard their health, women have the right of access to family planning education, information and capacity.</p> <p>Criminal Code¹²³ Detailed provisions on Abortion are provided in the Criminal Code are provided as follows:</p> <p>Article 545 (“Principle”): (1) The intentional termination of a pregnancy, at whatever stage or however effected, is punishable according to the following provisions, except as otherwise provided under Article 551. (2) The nature and extent of the punishment given for intentional abortion shall be determined according to whether it is procured by the pregnant woman herself or by another, and in the latter case according to whether or not the pregnant woman gave her consent.</p> <p>Article 546 (“Abortion Procured by the Pregnant Woman”): (1) A pregnant</p>		<p>regarding family planning is as follows: (f) Article 14(b) of the Protocol shall apply in accordance with the agreement of spouses whether to have birth or not the right of women within the wedlock.¹²⁵ At the turn of the century, the regime put the Millennium Development Goal (MDG) on maternal health (MDG 5) high on the political agenda. Avoiding a tenuous framing of induced abortion as a women’s rights issue, the governmental discourse gained legitimacy through the aim of protecting girls and women from the</p>	<p>Criminal Code, the revised abortion law of 2005 allows women to terminate pregnancies that result from rape or incest, if the fetus has a severe defect, or if a girl is under the age of 18. Also, there is an implied significant change from the previous act which allowed abortion only to save the mother’s life. An additional clause in the law states that the woman’s word is sufficient evidence of rape or incest.</p> <p>The Technical and Procedural Guidelines for Safe</p>	<p>following exceptions: rape or incest, risk to the life or health of the mother, fatal malformation, and maternal disability or age younger than 18 years. Two features of the law allowed for the creation of guidelines that expanded access to safe abortion services. First, the law was crafted to shift liability away from providers, who were permitted to accept that “the mere statement by the woman is adequate” when determining if the patient met the criteria for an abortion in the case of rape or incest.¹³²</p> <p>While still classified as illegal in the country’s Criminal Code, the revised abortion law makes it more accessible.</p> <p>Research¹³³ shows progress has been achieved in the area of family planning. Prevalence of</p>

¹²³ Ethiopia: Criminal Code [Ethiopia], Proclamation No. 414/2004, 9 May 2005, available at: <https://www.refworld.org/docid/49216b572.html>

¹²⁵ Proclamation No. 1082/2018 Proclamation to Ratify the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa available at: [Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](https://www.refworld.org/docid/49216b572.html)

¹³² Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

¹³³ Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>woman who intentionally procures her own abortion is punishable with simple imprisonment. (2) Any other person who procured for her the means of, or aids her in the abortion, shall be punishable as a principal criminal or an accomplice, with simple imprisonment.</p> <p>Article 547 (“Abortion Procured by Another”): (1) Whoever contrary to the law performs an abortion on another, or assists in the commission of the crime, is punishable with simple imprisonment. (2) Rigorous imprisonment shall be from three years to ten years, where the intervention was effected against the will of the pregnant woman, or where she was incapable of giving her consent, or where such consent was extorted by threat, coercion or deceit, or where she was incapable of realizing the significance of her actions. (3) A pregnant woman who consents to an act of abortion except as is otherwise permitted by law, is punishable with simple imprisonment.</p> <p>Article 548 (“Aggravated Cases”):</p>		<p>adverse health implications of unsafe abortions, and ultimately of reducing abortion-related death rates.¹²⁶</p> <p>The law empowered the Ministry to interpret the law and determine how broadly the exemptions could be applied by developing technical guidelines. No limits on gestational age or level of provider training were initially established in the statute. Instead, they were deferred to the Ministry for clarification. Interviews with the drafters of the new Abortion law stated that through the drafting process “they wanted to push for a more liberal law without</p>	<p>Abortion Services affirms that ‘stated age’ is all that is needed to authorize an age-based abortion. Therefore, it is under the jurisdiction of the health professional to interpret and apply the family abortion law. According to the ‘women-centred care’ concept underlying the guideline, eligible women have the right to access abortion services within three days of contact with the health services.¹³⁰ A problem pointed was that the clauses that were intended to ease access to safe abortion</p>	<p>knowledge about modern contraception increased significantly among adolescents, from 68-70% in 2000 to 95-97% in 2016. Incidence of women having an unmet need for family planning – spacing or limiting the number of births – fell from 36% in 2000 to 22% in 2016.</p> <p>However, progress has not been consistent across all geographical areas. More than twice as many women in rural areas (25%) had an unmet need for family planning in 2016, compared to 11% of women in urban areas; by region incidence was highest in Gambella and Oromia.</p> <p>Exposure to family planning information, on the other hand, showed a worsening trend between 2011 and 2016 and the gender gap is wide among adults. Over the 16 year period, the exposure of adolescents and</p>

¹²⁶ Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

¹³⁰ Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Where abortion is performed apart from the circumstances provided by law the punishment shall be aggravated as follows: (1) in cases where the criminal has acted for gain, or made a profession of abortion (Art. 92), he is punishable with fine in addition to the penalties prescribed in Article 547 above; (2) in cases where the crime is committed by a person who has no proper medical profession, the punishment shall be simple imprisonment for not less than one year, and fine; (3) in cases where the crime is committed by a professional, in particular, by a doctor, pharmacist, midwife, or nurse practising his profession, the Court shall, in addition to simple imprisonment and fine, order prohibition of practice, either for a limited period, or, where the crime is repeatedly committed, for life (Art. 123).</p> <p>Article 550 (“Extenuating Circumstances”): Subject to the provision of Article 551 below, the Court shall mitigate the punishment under Article 180, where the pregnancy has been</p>		<p>specifying in it the specific language.” Interviewees further reported that after the process moved to the Ministry of Health, opposition groups did not participate in developing the technical guide.¹²⁷</p> <p>The technical guidelines were revised in 2014 following a revision to the WHO’s guidelines as additional data were available both locally and internationally. The use of medical abortion was expanded beyond 9 weeks, as additional data demonstrated the safety of the procedure at later gestational ages. Second-trimester abortions were divided</p>	<p>services are not well known to the public or to individuals working in the police and judicial system. As a consequence, health workers performing abortion could be caught between the operational guidelines of the Ministry of Health, authorizing abortion solely based on a woman’s own claim of rape, and the demands of the police to have all rape cases reported.¹³¹</p> <p>Professional who keeps the interest of the client can use the permissive law. That depends on the</p>	<p>adult women to family planning information improved significantly in Harari and Benishangul-Gumuz.¹³⁴</p> <p>Knowledge among adult women and men also steadily increased, reaching nearly all of the adult population in 2016. In the country, Afar, Somali, Gambela, Benishangul-Gumuz and SNNPR showed the greatest improvement in knowledge of modern contraception over the years.¹³⁵</p> <p>In 2018 a study of the socioeconomic and religious differentials in contraceptive uptake in western Ethiopia concluded that even though the Ethiopian government has so far improved access to contraceptives, utilization is lagging, mainly due to religious influences, limited contraceptives knowledge in the community,</p>

¹²⁷ Bridgman-Packer D, Kidanemariam S. The implementation of safe abortion services in Ethiopia. *Int J Gynaecol Obstet.* 2018 Oct;143 Suppl 4:19-24. doi: 10.1002/ijgo.12673. PMID: 30374983.

¹³³ Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

¹³⁴ Elezaj, Erëblina & Ramful, Nesha & Cebotari, Victor & De Neubourg, Chris. (2019). Gender Equality, Women's empowerment and child wellbeing in Ethiopia.

¹³⁵ Cebotari, V. (2020). Changing Trends in Gender Equality in Ethiopia. UNICEF. <https://doi.org/10.13140/RG.2.2.14369.56165>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>terminated on account of an extreme poverty. The exception to the general rule of criminalizing abortion is; Article 551 (“Cases where Terminating Pregnancy is Allowed by Law”): (1) Termination of pregnancy by a recognized medical institution within the period permitted by the profession is not punishable where: a) the pregnancy is the result of rape or incest; or b) the continuance of the pregnancy endangers the life of the mother or the child or the health of the mother or where the birth of the child is a risk to the life or health of the mother; or c) where the child has an incurable and serious deformity; or d) where the pregnant woman, owing to a physical or mental deficiency she suffers from or her minority, is physically as well as mentally unfit to bring up the child. (2) In the case of grave and imminent danger which can be averted only by an immediate intervention, an act of terminating pregnancy in accordance with the provision of Article 75 of this Code is not punishable.</p>		<p>into two categories by gestational age and were assigned to either primary hospitals or general/referral hospitals. Finally, the guidelines clarified the role of community health workers in providing education and referrals, as well as extending the role of integrated emergency surgical officers to include second trimester services.¹²⁸</p> <p>After legal reform, comprehensive abortion care training continued at the NGO level. The Ministry of Health then adapted the Ipas training manual and curriculum, which was installed as the national standard. The Ministry faced the challenge of training</p>	<p>attitude of the professional.</p>	<p>and low home-based contraceptive coverage. Societal attitudes and norms of the community towards modern contraceptives need to be modified through innovative and culturally appropriate interventions. In countries like Ethiopia, where people’s religious devotion remains reasonably high, knowledge on natural contraceptive methods is equally important to help religious people make an informed decision about family planning in accordance with their faith.</p> <p>The research, which was conducted by mixed-methods phenomenological study in western Ethiopia, Oromia region, collected data through a survey with 1352 mothers of reproductive age. The results showed that 68% lived in rural settings and 50% were unable to read and write. Religiously, 42% were Protestant Christian, 30%</p>

¹²⁸ Bridgman-Packer D, Kidanemariam S. The implementation of safe abortion services in Ethiopia. *Int J Gynaecol Obstet.* 2018 Oct;143 Suppl 4:19-24. doi: 10.1002/ijgo.12673. PMID: 30374983.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 552 (“Procedure of Terminating Pregnancy and the Penalty of Violating the Procedure”): (1) The Ministry of Health shall shortly issue a directive whereby pregnancy may be terminated under the conditions specified in Article 551 above, in a manner which does not affect the interest of pregnant women. (2) In the case of terminating pregnancy in accordance with subarticle (1) (a) of Article 551 the mere statement by the woman is adequate to prove that her pregnancy is the result of rape or incest. (3) Any person who violated the directive mentioned in sub-article (1) above, is punishable with fine not exceeding one thousand Birr, or simple imprisonment not exceeding three months.</p> <p>Ethiopia's Abortion Law in Amharic (reproductiverights.org) ¹²⁴</p>		<p>sufficient providers to reach a large population distributed across rural communities.¹²⁹</p>		<p>Orthodox Christian and 25% Muslim. Modern contraceptives were available at healthcare facilities; however, all mothers have been influenced by religion not to use contraceptives. Muslims were 65% less likely to utilize modern contraceptives as compared to Orthodox Christians. 71% of women reported ever using contraceptives, of whom 76% were Protestant, 75% Orthodox, and 61% Muslim. Out of these, 36% used contraceptives for limiting and 64% for spacing children.¹³⁶</p> <p>In Ethiopia estimates indicate that despite the availability of legal abortion services, one third of adolescent abortions are underground and thus potentially unsafe. There are strong indications that abortion-related</p>

¹²⁴ It allows women to terminate pregnancies that result from rape or incest, if the fetus has a severe defect, or if a girl is under the age of 18.

This implied a significant change from the previous act which allowed abortion only to save the mother’s life. An additional clause in the law states that the woman’s word is sufficient evidence of rape or incest, and the Technical and Procedural Guidelines for Safe Abortion Services affirms that ‘stated age’ is all that is needed to authorize an age-based abortion.

¹²⁹ Bridgman-Packer D, Kidanemariam S. The implementation of safe abortion services in Ethiopia. *Int J Gynaecol Obstet.* 2018 Oct;143 Suppl 4:19-24. doi: 10.1002/ijgo.12673. PMID: 30374983.

¹³⁶ Tigabu, Setegn & Demelew, Tesfa & Seid, Awol & Sime, Bistrate & Manyazewal, Tsegahun. (2018). Socioeconomic and religious differentials in contraceptive uptake in western Ethiopia: A mixed-methods phenomenological study. *BMC Women's Health.* 18. 10.1186/s12905-018-0580-6.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
					<p>deaths have been reduced after the revision of the law in 2005, and recent estimates indicate that complications from unsafe abortions account for 19.6% of all maternal deaths.¹³⁷ The law may be said to be restrictive, as it is located within the country's Criminal Code, but although abortion is not permitted 'on demand', the law text backed by detailed clinical guidelines arguably make abortion rather liberal and permissive, particularly in a sub-Saharan African context.¹³⁸</p> <p>The centrality of religion to people's lives is a key feature, as is the role of religion in policy processes pertaining to issues of sexuality and reproduction. In Ethiopia, the Ethiopian Orthodox Tewahedo Church is the largest (44%), with significant minorities of Muslims (34%), protestants and evangelical Christians. While both Christianity and Islam</p>

¹³⁷ Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

¹³⁸ Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
					represent induced abortion as an act against the will of God, a broader global anti-abortion movement also condemns abortion on broader moral and philosophical grounds, arguing for the right to life of the unborn child. ¹³⁹
<p>Divorce</p> <p><i>Is there an equal right to divorce? Can the husband divorce at will and without grounds? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the</i></p>	<p>Constitution¹⁴⁰ Article 34(1) provides that the spouses have equal rights while entering into, during marriage and at the time of divorce.</p> <p>Revised Family Code¹⁴¹ The following provisions relate to the dissolution of marriage:</p> <p>Article 74(1) The causes and effects of dissolution of marriage shall be the same whichever the form of celebration of the marriage. (2) No distinction shall be made</p>	<p>In the case between Kyria Yahiya vs Haji Jihad Umer before the Federal Supreme Court, Cassation Division, the applicant brought a claim for the dissolution of her marriage before Jimma Woreda Sharia court, and the court pronounced a decision approving</p>	<p>The Federal Democratic Republic of Ethiopia entered a reservation on article 7 (a) of the Maputo Protocol that requires separation of spouses to be decided by judicial organs. The laws of Ethiopia that permit spouses to separate by agreement shall apply.¹⁴⁶</p>	<p>If reconciliation fails, the courts issue a divorce verdict, the effect of which depends on the petitioner. If a woman petitions for the divorce, it takes effect as soon as the presiding judge pronounces his verdict. If the husband is the petitioner, he has to</p>	<p>The CEDAW Committee has expressed its concern on customary and religious adjudication of disputes relating to personal and family laws.¹⁵²</p> <p>For the last couple of years, the Sharia courts in Addis Ababa have handled more or less a similar volume of cases. Most cases relate to matrimonial issues, including divorce, which makes up the lion's share of Sharia courts' caseload.¹⁵³</p>

¹³⁹ Blystad, A., Haukanes, H., Tadele, G. et al. The access paradox: abortion law, policy and practice in Ethiopia, Tanzania and Zambia. *Int J Equity Health* 18, 126 (2019). <https://doi.org/10.1186/s12939-019-1024-0>

¹⁴⁰ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

¹⁴¹ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

¹⁴⁶ PROCLAMATION NO.1082/2018 PROCLAMATION TO RATIFY THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA available at:

[Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](#)

¹⁵² CEDAW/C/ETH/8 Concluding observations on the 8th periodic report of Ethiopia : Committee on the Elimination of Discrimination against Women available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹⁵³ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". *Legal Pluralism in Ethiopia: Actors, Challenges and Solutions*, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>grounds for divorce the same for the husband and wife? Is unilateral divorce prohibited? If unilateral divorce is not prohibited, what is the procedure e.g. are witnesses required or does the spouse need to go to court? Is the right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce? Are the procedures for divorce by</i></p>	<p>concerning dissolution whichever the form according to which the marriage is celebrated.</p> <p>Article 75 (“Causes of Dissolution of Marriage”): The following shall be causes of dissolution of marriage:(b) dissolution order by court due to violation of one of the essential conditions of marriage; or (c) divorce.</p> <p>Article76 (“Conditions of Decision for Divorce”): Marriage shall dissolve by divorce where: (a) the spouses have agreed to divorce by mutual consent and such agreement is accepted by the court; or (b) the spouses or one of them made a petition, for divorce, to the court.</p> <p>Article 77 (“Petition for Divorce by Mutual Consent”): (1) Where the spouses have agreed to divorce by mutual consent, such agreement, which shall also regulate the consequences thereof, shall be submitted in writing to the court for approval.</p>	<p>the divorce and referring her to take the case before the competent regular court that had jurisdiction to decide on the effect of divorce. Accordingly, she took the case before the regular court. However, all state courts (the Woreda First Instance, High Court, and Supreme Court) declined jurisdiction.</p> <p>The State High Court and Supreme Court sustained the ruling of the First Instance court, which stated the Sharia court that approved the divorce shall also decide on the effect too,</p>	<p>The government of Ethiopia reported to CEDAW Committee¹⁴⁷ regarding its concern on customary and religious adjudication of family matters as follows: Recognizing the fact that Ethiopia is a country with ancient history and diverse society with a rich tradition of administration and dispute settlement, the Constitution recognizes religious and customary courts. The only religious court that exists in the country is the Islamic Court of the Country established by the Federal Courts of Sharia Consolidation Proclamation 188/1995. The Court</p>	<p>come to the court in person to pronounce the talak (unilateral divorce or release of his wife from marriage) before the judge in order for the divorce to come into effect.¹⁴⁹</p> <p>Despite the fact that Sharia law prescribes a patriarchal tendency in marital ties and sanctions a sex-based differential treatment of divorce and post-divorce matters, young, educated and economically independent women form the overwhelming</p>	<p>Recent research shows that gender relations are undergoing changes in Ethiopia in urban settings, particularly in big cities like Addis Ababa.¹⁵⁴ Women now tend to be educated and have jobs both in the public and private sectors, although their representation in the public space is not yet on a par with men. Education has paved the way for an increasing awareness of civic matters, especially regarding gender roles in society, espoused by government and human rights activists in general and women’s rights activists in particular.</p> <p>A judicial divorce obtained through either the civil or Sharia courts is the only one recognized by Ethiopian law. The Sharia courts have thus been dealing with the issue of women’s</p>

¹⁴⁷ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹⁴⁹ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

¹⁵⁴ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<i>women and men different?</i>	<p>(2) Notwithstanding the provisions of Sub-Article (1) of this Article, spouses whose marriage lasted for less than six months shall not be permitted to divorce by mutual consent. (3) Spouses who petition for divorce by mutual consent are not obliged to state the reason thereof.</p> <p>Article 81 (“Petition for Divorce”): (1) A petition for divorce may be made to the court either by the two spouses conjointly or by one of them. (2) The spouses or one of them may state in the petition the reasons for divorce.</p> <p>Article 83 (“Decision on Conditions of Divorce”): (1) Where the marriage is dissolved by divorce under this section, the court shall request the spouses to agree on the conditions of divorce. (2) Where the spouses are not willing to agree or have failed to agree in accordance with Sub-Article (1) of this Article, the court shall, by itself, or through arbitrators, or experts appointed by it, or by any other means it thinks</p>	<p>invoking Article 245 and Article 5 of the Civil Procedure Code.</p> <p>However, the Sharia court has not been willing to entertain the case, insisting the subject matter is not within its jurisdiction. The applicant then took her case to the Federal Supreme Court, Cassation Bench, alleging fundamental error of law that breached her constitutional right to access to justice.</p> <p>Such refusal of forum by both formal and informal orders</p>	<p>has jurisdiction over matters of marriage, divorce, maintenance, and guardianship and minors and family rights if the marriage was concluded under and the parties have consented to be adjudicated by Islamic law.</p> <p>Thus, a party who concluded his/her marriage and does not consent to have a dispute he is a party to, to be adjudicated by the Sharia court will not be subjected to the jurisdiction of the Court.</p> <p>Moreover, under Ethiopian law, despite the type of marriage —</p>	<p>majority in suits brought before Sharia courts in Addis Ababa.¹⁵⁰ Divorce usually takes about a week if both parties are available and takes to about 15 days to a month’s time if the husband is not present since they must proclaim in the news first.¹⁵¹</p> <p>Also a woman can get divorce if she has three witnesses to prove that the husband has not been providing maintenance for three months.</p>	<p>divorce and post-divorce rights, which are burdened with gender sensitivity and involve normative differences and tensions between statutory rights and obligations on the one hand and religious norms and values on the other. Although the exact figure is difficult to come by, divorce accounts for up to 90% of marriage suits.</p> <p>Looking at their caseload, one could be justified in calling the courts ‘divorce courts’. In recent years there has been a dramatic change that seems to have baffled the Sharia courts and currently around 85–90% of divorce petitions are filed by women.¹⁵⁵</p> <p>Most of the grounds for divorce include irreconcilable differences, abuse and violence, the husband’s absence, and</p>

¹⁵⁰ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

¹⁵¹ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

¹⁵⁵ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>appropriate, decide on the conditions of divorce. (3) The conditions of divorce agreed upon by the spouses or decided by arbitrators or experts shall be submitted to the court for approval. (4) After deciding the divorce, the court may postpone the judgment on conditions of the divorce for not more than six months.</p> <p>Article 84 (“Indemnities”): Where the cause of the divorce is imputable to one of the spouses and where justice so requires, the court may order such spouse to make good the damage sustained by the other spouse.</p> <p>Proclamation on the Registration of Vital Events and National Identity Card¹⁴²</p> <p>Article 35. (“Obligation to Declare Divorce”): The divorcing partners or one of them shall present the decision of the competent court on the divorce to an officer of civil status for registration of the divorce within the period specified under</p>	<p>violates the right of women for access to justice enshrined under the FDRE Constitution and international human rights in which Ethiopia is a signatory state.¹⁴⁴</p> <p>Access to justice is a right recognised under the FDRE Constitution and various international human rights instruments ratified by the country. However, the interplay between multiple different legal orders impedes the enforcement of such rights due to lack of crucial regulatory</p>	<p>whether it is civil, customary or religious — the preconditions and consequences of marriage are similar. Pertaining to the resolution of disputes through customary mechanisms that are not courts, the mechanism has its own advantage in resolving disputes through harmonious procedures. Nevertheless, these customary institutions are not regular dispute settlement mechanisms and their decisions do not bar the courts from assuming jurisdiction. Hence, religious and customary dispute resolution mechanisms are resorted to by the</p>		<p>husbands marrying second wives without their first wives’ consent. Most of the petitioners for divorce are young, employed, educated women. They tend to be economically independent and do not seem to encounter economic hardship in sustaining their post-divorce lives. Such women are thought to be better informed and in a better position to assert their rights before the state courts, which could provide them better post-divorce terms, but they refrain from doing so.</p> <p>According to female informants of the research¹⁵⁶, seeking justice before the Sharia courts has more to do with religious conviction. They believe that the ruling of a civil court would not religiously end their marital ties. They also express that, from a religious point of view, it is not</p>

¹⁴² Proclamation on the Registration of Vital Events and National Identity Card (Proc. No. 760/2012) [Ethiopia], 22 August 2012, available at: <https://www.refworld.org/docid/5ec7f94d4.html>

¹⁴⁴ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021).

<https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

¹⁵⁶ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/97838339450215-008>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>sub-article (1) of Article 18 of this Proclamation.</p> <p>Article 36 (“Place of Registration of Divorce”): The place of registration of divorce shall be the nearest administrative office to the place where the divorce took place.</p> <p>Article 37 (“Evidence of Divorce”): Any court which has rendered decision on divorce shall forthwith provide copies of the decision to the divorcing partners.</p> <p>Article 66 (“Penalty”): 1/ Whosoever: a) fails to declare vital events or to obtain national identity card in accordance with the provisions of this Proclamation or fails to observe any other requirement provided for in relation to the registration of vital events or national identity card shall be guilty of an offence and be punishable with simple imprisonment not exceeding six months or with a fine from Birr five hundred to Birr five thousand.</p> <p>Article 68 (“Repealed Laws”): 1/ The provisions of the 1960 Civil Code from</p>	<p>instruments. Contrary to the jurisdiction competition, there are instances by which legal orders surrender jurisdiction on various grounds.¹⁴⁵</p>	<p>consent of the parties.¹⁴⁸</p>		<p>appropriate to submit claims for divorce to regular courts. As their entry into marriage in the first place was made according to a religious ethos, their exit from it, they believe, should be through the same route. Based on personal observation, the religious renaissance among Muslims seen in Ethiopia over the last two decades might underpin their decisions. Sharia courts tend to mediate between the parties with the aim of reconciling them, in line with Islam’s general decrrial of divorce.</p> <p>According to the qadis and the Registrar of the Federal Sharia Courts in Addis Ababa, it is usually the women who insist on getting divorced, while the men often agree to reconcile or withdraw their cases after having filed an application for divorce. While the rationale is subject to speculation, better economic</p>

¹⁴⁵ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

¹⁴⁸ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 47 to Article 153 are hereby repealed. 2/ No law or customary practice shall, in so far as it is inconsistent with this Proclamation, be applicable with respect to matters provided for by this Proclamation.</p> <p>Proclamation no.1049/2017 Vital Events Registration and National Identity Card proclamation (amendment) proclamation 9811 provides minor amendments.¹⁴³</p>				<p>independence might explain women's insistence on divorce and their refusal to reconcile.¹⁵⁷</p> <p>It is important to note that the above research was conducted in an urban setting, in the capital city of Ethiopia, Addis Ababa, and therefore would not represent the rural setting where there is a high disparity in levels of awareness levels of their rights and financial/economic empowerment.</p> <p>In most cases in Addis Ababa the parties come to the sharia court after agreeing on the terms and the financial issues and custody of children. When not then it is decided by the judge based on the case. <i>Talaq</i> is not allowed.¹⁵⁸</p>

¹⁴³ Proclamation no.1049/2017 Vital Events Registration and National Identity Card proclamation (amendment) proclamation.....9811 available at :

<https://www.refworld.org/cgi-bin/txis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5ec7fa674>

¹⁵⁷ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

¹⁵⁸ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Women's financial rights after divorce</p> <p>Matrimonial property <i>Is there a legal concept of matrimonial assets? Is there equal division of marital property during marriage and at its dissolution? Is the woman's role as wife and mother recognised as contribution to acquisition of assets?</i></p>	<p>Revised Family Code¹⁵⁹ The following articles relate to Property: Article 62 ("Common Property of Spouses"): (1) All income derived by personal efforts of the spouses and from their common or personal property shall be common property. (2) All property acquired by the spouses during marriage by an onerous title shall be common property unless declared personal under Article 58 (2) of this Code. (3) Unless otherwise stipulated in the act of donation or will, Property donated or bequeathed conjointly to the spouses shall be common property.</p> <p>Article 63 ("Legal Presumption"): (1) All property shall be deemed to be common property even if registered in the name of one of the spouses unless such spouse proves that he is the sole owner thereof. (2) The fact that certain property is personal may not be set up by the spouses against third parties unless the latter knew or should have known such fact.</p>	<p>Some of the Sharia courts decisions in such cases have been challenged by parties who have lodged petitions before the cassation division of the Federal Supreme Court, alleging that the Sharia courts committed fundamental errors of law in expanding their jurisdiction. The Federal Supreme Court then rendered invalid the decisions of Sharia Courts made while expanding their subject-matter jurisdiction to cover, for instance, ownership of property, because it exceeded the Sharia Court's jurisdiction.</p>	<p>In ratifying the Maputo Protocol,¹⁶² Ethiopia stipulated that Article 7(d) of the Protocol, which provides for the right of women to acquire equitable share from common property in the marriage, shall apply in line with the laws of Ethiopia that provide for equal share of spouses on the common property. Article 6(j) of the Protocol shall apply in accordance with the law of Ethiopia according to which income acquired during marriage is a common property of the spouses and it is managed and disposed of by their common decision.</p> <p>The government of Ethiopia reported to the</p>		<p>In practice, Federal Sharia Courts, while acknowledging the limits to their power, tend to assume jurisdiction over matrimonial property if parties raise such issues in a particular suit. As long as the parties consent, the courts seem to believe they can legitimately take on these matters, even though they are not specifically outlined under their subject-matter jurisdiction as defined by the enabling legislation.</p> <p>After a divorce decree has been issued, women often make post-divorce claims for things such as spousal and child support and child custody. The courts make their decision based on Islamic law and husbands tend to comply with their rulings. Accordingly, the courts do not – in principle – award any spousal award if it was the woman who petitioned for the divorce. According to qadis, parties</p>

¹⁵⁹ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

¹⁶² Proclamation No. 1082/2018 Proclamation to Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa available at:

[Proclamation-No-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](#)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Maintenance <i>What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the</i></p>	<p>Article 64 (“Income of Spouse Normal Management”): (1) Each spouse shall receive his earnings. (2) The spouses may deposit their respective earnings either in a personal or joint bank account. (3) One of the spouses shall, at the request of the other spouse, render an account to the latter of the income received by him.</p> <p>Article 66 (“Administration of Common Property”): (1) Common property shall be administered conjointly by the spouses unless there is an agreement which empowers one of them to administer all or part of the common property. (2) Where one of the spouses is declared incapable, or is deprived of his right of property management or for any other reason is unable to administer the common property, the other spouse shall alone administer such common property.</p> <p>Article 72 (“Contribution to Household Expenses”): The spouses shall contribute to the household expenses in proportion to their respective means.</p>	<p>The decisions of the Supreme Court set a precedent and are binding on any court. They demarcate the extent of Sharia courts’ subject-matter jurisdiction and confine the provisions of the establishment law, “purportedly” creating room for widening the scope of the Sharia courts’ competence in practice.¹⁶¹</p>	<p>CEDAW Committee¹⁶³ that, in addition to the Constitution that enshrines the equality of spouses during and after marriage, the Revised Family Code provides for the equal rights of women to communal property during the dissolution of marriage. Different measures are being taken by the government to address challenges in the implementation of the laws. Among these measures are continuous sensitization of judges on the rights of women, awareness raising programs and legal aid implemented by the Ethiopian Human</p>		<p>sometimes refrain from pursuing post-divorce claims, probably to avoid further confrontation and/or in the belief that ex-husbands will provide spousal and child support through their own volition. Parties also tend to make informal/private arrangements for post-divorce claims to avoid washing their dirty linen in public. Sharia court decisions settle such issues should informal arrangements fail to work out.¹⁶⁵ Note that this study was conducted in Addis Ababa, where social dynamics are different than in rural areas.</p> <p>There is kind of a principle of matrimonial property for property earned after marriage. There is an attempt to give half of it to the women, but some fail to prove or get evidence to prove the property after marriage and therefore they will only get the</p>

¹⁶¹ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

¹⁶³ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹⁶⁵ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>divorce (iddah)? Is she entitled to a 'gift' upon divorce (muta'a)?</i></p>	<p>Article 85 (“Liquidation by Agreement”): (1) Without prejudice to the provisions of this Code relating to compensation, where the marriage is dissolved in accordance with the provisions of this Code, the pecuniary relation between spouses shall be liquidated in accordance with the agreement entered into by the spouses or the contract of their marriage. (2) In default of a contract of marriage or an agreement, or if these are not valid under the law, the pecuniary relations between spouses shall be liquidated in accordance with the following provisions.</p> <p>Article 86 (“Retaking of Personal Property”): (1) Each spouse has the right to retake his personal property in kind where he shows that he is the sole owner thereof. (2) If one of the spouses-proves that any of his personal property has been alienated and that the price thereof has fallen in the common property, he has the right to withdraw there from, beforehand, money or things of value corresponding to such price.</p>		<p>Rights Commission; the Ministry of Women and Children’s Affairs; the Federal Attorney General; Regional Justice Bureaus; and grassroots organizations.</p> <p>In addition, the Federal Supreme Court Cassation Division has provided several interpretations of laws towards effective implementation on equal division of community property upon divorce. These decisions are binding interpretation of laws applicable in all federal and regional courts.¹⁶⁴</p>		<p>Muaaker, Mutta and Idaah and child maintenance depending on the case and calculated by the judges as they see fit.</p> <p>Men are in a better position when the women ask for the divorce since most women in Addis waive any rights for the sake of just getting the divorce; many are economically independent. If the reason for the divorce is that the woman says ‘I just don’t want this’, then she will pay compensation to the husband.</p> <p>There should always be a reason given to the court for the divorce and the president noted here that sometimes women would be more comfortable to share the reason with a woman judge than a man.¹⁶⁶</p> <p>An example of a judgement accessed in the sharia court shows a divorce and custody of the two children with the mother and the children getting</p>

¹⁶⁴ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹⁶⁶ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>(3) Where both spouses have such a right each of them shall take their respective share from the common property in proportion to their contribution.</p> <p>Article 87 (“Indemnities”): (1) Where one of the spouses who has been vested with the power to administer the common property or the personal property of the other spouse in accordance with this law, has performed acts which adversely affect such spouse, or where the spouse who has performed such acts did not have the mandate, or where such acts constitute acts of had administration, or have been performed in fraud of the right of the spouse making the claim, the court may, at the request of the aggrieved spouse, award damage to such spouse.(2) No claim for indemnity based on Sub-Article (1) of this Article may be made by reason of acts which have been performed five years before the dissolution of the marriage.</p> <p>Article 88 (“Unlawful Enrichment”): Unless otherwise agreed, the court may award indemnity to a spouse who proves that the personal property of the other</p>				<p>maintenance of 3000 Ethiopian Birr monthly and gives further executive directions as follows: Visiting rights of the father every 15 days and when necessary to take the children on Sundays at 9pm and returning them at 10:30pm; the parties approved that they don’t have common property.¹⁶⁷</p>

¹⁶⁷ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>spouse or of the common property has been enriched to the prejudice of his own personal property.</p> <p>Article 90 (“(1) Partition of Common Property”): Without prejudice to the provisions of the preceding Articles and agreements entered into by the spouses, common property shall be divided equally between the spouses.</p> <p>Article 91 (“(2) Rule of Partition in Kind”): (1) As a rule, partition shall be made in kind in such a way that each spouse receives some property from the common property. (2) Where it is not possible to divide such Common Property equally under SubArticle (1) of this Article, the inequality of shares in kind shall be set off by the payment of sums of money. (3) The utmost care shall be taken to give each spouse things which are most useful to him.</p> <p>Article 92 (“Properties which are Difficult to Divide”): (1) If there is a certain property which is difficult or impossible to be divided and if the spouses do not agree as to who shall have that property in his share, such property shall be sold and the proceeds thereof shall be divided</p>				

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>between them. (2) If the spouses do not agree on the condition of sale and if one of them so requires, the sale shall be made by auction.</p> <p>For Muslims based on their consent to Common Jurisdiction of the Federal Sharia Courts Principle 4¹⁶⁰ provides that the Federal Courts of Sharia shall have common jurisdiction over a number of matters, including maintenance.</p>				
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If not, who has priority rights over the child? Is custody decided based on the best interest of the child? Do</i></p>	<p>The Constitution¹⁶⁸ The Constitution protects children's interests as follows; Article 36 ("Rights of Children"): (2) In all actions concerning children undertaken by public and private welfare institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interests of the child.</p> <p>Article 34(1) guarantees that Laws shall be enacted to ensure the protection of</p>				<p>For the last couple of years, the Sharia courts in Addis Ababa have handled more or less a similar volume of cases. Most cases relate to matrimonial issues, including custody of children among others.¹⁷¹</p> <p>Normally the custody of children until 7 years of age is with the mother and then after 7 the children get to choose. However, the woman loses her custodial right if she remarries.¹⁷²</p>

¹⁶⁰ Proclamation No. 188/1999 Federal Courts of Sharia Consolidation.

¹⁶⁸ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

¹⁷¹ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". *Legal Pluralism in Ethiopia: Actors, Challenges and Solutions*, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

¹⁷² Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<i>mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i>	<p>rights and interests of children at the time of divorce.</p> <p>Revised Family Code¹⁶⁹ The Revised Family Code further protects children's interest as follows:</p> <p>Article 219 ("Authority of Parents") - The father and the mother are, during their marriage, jointly guardians and tutors of their minor children.</p> <p>Article 113 ("Custody of Children"): (1) the court shall, when deciding the dissolution of marriage, also decide as to which spouse shall have custody of the children, care of their education, health, maintenance and the rights of the parents and the children to visit each other. (2) When giving decision under Sub-Article (1), the court shall take into account the income, age, health, and condition of living of the spouses as well as the age and interests of the children. (3) The court may, on application and taking into account the change of circumstances, revise or reverse its decision given under this Article regarding the custody and maintenance of the children.</p>				

¹⁶⁹ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>Article 221 (“Divorce of Parents”): (1) Where the spouses decide to divorce by mutual consent in accordance with Article 77 of this Code, they shall decide by agreement regarding the tutor and guardians of their children. (2) Where, in any case of divorce, the spouses did not agree on the tutorial and guardianship of their children, the court which decides the divorce shall also decide the tutor and guardian of children.</p> <p>For Muslims based on their consent to Common Jurisdiction of the Federal Sharia Courts Principle 4¹⁷⁰ provides that the Federal Courts of Sharia shall have common jurisdiction over a number of matters, including child custody.</p>				
<p>Guardianship of Children</p> <p><i>Is there an equal right to guardianship? If not, who has priority rights over the guardianship</i></p>	<p>Revised Family Code¹⁷³</p> <p>Article 219 (“Authority of Parents”): The father and the mother are, during their marriage, jointly guardians and tutors of their minor children.</p> <p>Article 221 (“Divorce of Parents”): (1) Where the spouses decide to divorce by mutual consent in accordance with Article</p>				

¹⁷⁰ Proclamation No. 188/1999 Federal Courts of Sharia Consolidation.

¹⁷³ Proclamation No. 213/2000 of 2000, The Revised Family Code [Ethiopia], 4 July 2000, available at: <https://www.refworld.org/docid/4c0ccc052.html>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<i>of the child? Is guardianship decided based on the best interest of the child?</i>	<p>77 of this Code, they shall decide by agreement regarding the tutor and guardians of their children. (2) Where, in any case of divorce, the spouses did not agree on the tutorial and guardianship of their children, the court which decides the divorce shall also decide the tutor and guardian of children.</p> <p>Article 224 (“Application to the Court”): (3) The restrictions or conditions imposed by the father or the mother on the powers of the guardian or tutor may, where the interest of the minor so requires, be revoked or modified by the court.</p> <p>Article 225 (“Relatives Called to Exercise the Functions of Guardian or Tutor”): (1) Order to be followed where the child no longer has his father and mother, and in default of a valid appointment made by the survivor, the functions of guardian or tutor of the child shall devolve, by virtue of the law, on the following persons: (a) ascendants of the child; (b) in their default, the brothers or sisters of the child who have attained majority; (c) in their default, the uncle or aunt of the child. For Muslims based on their consent to Common Jurisdiction of the Federal</p>				

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	Sharia Courts Principle 4 ¹⁷⁴ provides that the Federal Courts of Sharia shall have common jurisdiction over a number of matters, including guardianship of minors.				
<p>Inheritance</p> <p><i>Are men and women in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession?</i></p>	<p>Constitution¹⁷⁵ Article 35 (“Rights of Women”) provides: (7) Women have the right to acquire, administer, control, use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property.</p> <p>Federal Courts of Sharia Consolidation Proclamation No.188/1999¹⁷⁶ For Muslims, based on their consent the Sharia court have jurisdiction over any question regarding Wakf, gift/Hiba/, succession of wills; provided that the endower or donor is a Muslim, or the deceased was a Muslim at the time of his death.</p>	Similar to the issue of matrimonial property, some of the Sharia courts’ decisions have been challenged and the Federal Supreme Court rendered invalid decisions of Sharia Courts that were made while expanding their subject-matter jurisdiction to cover, for instance, division of inheritance. The Federal Supreme Court ruled on the grounds that the Sharia Courts	The government of Ethiopia in its report to the CEDAW Committee ¹⁷⁸ explained that: Recognizing reliable, timely, updated and regular statistical information is necessary to make relevant policy and decision-making, including resolving court cases regarding succession, paternity and others, the Government has enacted Vital Events and National Identity		<p>For the last couple of years, the Sharia courts in Addis Ababa have handled more or less a similar volume of cases (on average, a minimum of 7000 cases and a maximum of 8000 cases have been filed every year). Most cases relate to matrimonial issues, including nikah (the engagement that happens before the marriage ceremony) and permission to marry, marriage registration, divorce, custody of children and inheritance.¹⁸⁰</p> <p>In practice, Federal Sharia Courts, while acknowledging the limits to their power, tend to assume jurisdiction over division</p>

¹⁷⁴ Proclamation No. 188/1999 Federal Courts of Sharia Consolidation.

¹⁷⁵ The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

¹⁷⁶ Proc No. 188-1999 Federal Courts of Sharia Consolidation.

¹⁷⁸ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

¹⁸⁰ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
		exceeded their jurisdiction. Decisions of the Supreme Court set a precedent and are binding on any court. ¹⁷⁷	Card Proclamation No. 760/2012. The Federal Democratic Republic of Ethiopia enters a reservation on article 21(I) of the Maputo Protocol regarding the right of a widow to inherit her deceased spouse. The law of the country according to which spouses inherit each other if he/she is designated as a legatee by a will shall apply. ¹⁷⁹		of inheritance if parties raise such issues in a particular suit. As long as the parties consent, the courts seem to believe they can legitimately take on these matters, even though they are not specifically outlined under their subject-matter jurisdiction as defined by the enabling legislation. ¹⁸¹
Nationality <i>Does a wife have the right to confer citizenship on</i>	Constitution ¹⁸² Article 6 guarantees any person of either sex to be an Ethiopian national where both or either parent is Ethiopian.		The government of Ethiopia reported to the CEDAW Committee ¹⁸⁴ that:		

¹⁷⁷ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Eppele and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

¹⁷⁹ Proclamation No. 1082/2018 Proclamation to Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa available at: [Proclamation-No.-1082-2018-Proclamation-to-Ratify-The-Protocol-to-the-African.pdf](https://www.legislation.gov.et/proclamation/1082-2018-proclamation-to-ratify-the-protocol-to-the-african.pdf)

¹⁸¹ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Eppele and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

¹⁸² The Constitution of the Federal Democratic Republic of Ethiopia (FDRE) 1995 (Constitution, 1995)

¹⁸⁴ CEDAW/C/ETH/8 available at <https://undocs.org/en/CEDAW/C/ETH/8>

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><i>foreign born husbands and children? Can the nationality of the adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p>	<p>Article 33 of the Constitution and the Ethiopian Nationality Proclamation No. 378/2003 gives any Ethiopian the right to maintain and/or changes his/her nationality.</p> <p>Ethiopian Nationality Proclamation No. 378/2003¹⁸³ repeals and replaces the nationality law of 1930. It establishes a descent-based regime for attribution of citizenship at birth, removing gender discrimination in relation to transmission of citizenship to children and spouses, and providing for a presumption in favour of abandoned infants found in Ethiopia.</p> <p>This Proclamation outlines the process of acquiring Ethiopian nationality through marriage for both genders without discrimination in Article 6 as follows:</p> <p>A foreigner who is married to an Ethiopian national may acquire Ethiopian nationality by law if (1) the marriage is concluded in accordance with the Ethiopian laws or in accordance with the laws of any other country where the marriage is contracted.(2) there is a lapse</p>		<p>The law guarantees that a child born from Ethiopian parents can acquire Ethiopian nationality. In addition, women have the right to maintain their Ethiopian nationality as well as pass on their nationality to their foreigner spouses.</p>		

¹⁸³ Ethiopian Nationality Proclamation No. 378/2003.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
	<p>of at least two years since the conclusion of the marriage.(3) he has lived in Ethiopia for at least one year preceding the submission of his application; and by fulfilling the fulfilled the conditions stated under this proclamation (4). Furthermore, Article 21 of the Nationality proclamation states that A person's loss of Ethiopian nationality shall have no effect on the nationalities of his spouse and children.</p>				

ACCESS TO JUSTICE

SYSTEM	PROCEDURES & TIMELINES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p>How do Muslim family law (i.e. marriage and family related) cases get administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</p> <p>Customary and/or religious marriages form a strong alternative to state institutions and may even be the first resort for justice for many people in rural areas.¹⁸⁵ While the FDRE constitution emphasizes the secular character of the state as well as the equality of adherents of different religions before the law, Articles 34(5) and 78(5) of the Constitution set conditions for state-recognized and state-funded religious courts and suggest that the provisions were</p>	<p>Briefly describe procedures for filing a divorce or any other family law related cases.</p> <p>The divorce timeline usually takes about a week if both parties are available and takes to about 15 days to a month if the husband is not present since they must proclaim in the news first.¹⁹⁶</p>	<p>What are some key challenges that Muslim women face in accessing justice on family law matters? (E.g. lack of accessibility, bad procedures, delayed processes, gender insensitive judges, etc?)</p> <p>Pressure from family, religious leaders, or elders often force women not to recourse to regular courts.¹⁹⁹</p> <p>There are also no sufficient legal and institutional frameworks that regulate the complex operation of multiple legal orders and their interaction with formal laws and institutions. Women often face difficulties in the enforcement of constitutional rights due to unregulated competing and conflicting</p>	<p>Are there any good practices, procedures or policies that you would like to share pertaining to how courts in your country deal with family law cases? (E.g. prioritising certain types of cases, timely delivery of decisions, clear procedure, etc)</p> <p>In the urban setting of Addis Ababa women stated that they were neither afraid of the stigma attached to divorce nor worried about post-divorce life.²⁰⁷ Based on the case law of Sharia courts based in Addis, divorce has today become a women's practice as opposed to being part of men's long-held sphere of influence over marital ties. Better economic conditions, religious conviction, and/or changing societal attitudes to divorce push women to waive their rights</p>

¹⁸⁵ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

¹⁹⁶ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa, Ethiopia on 5/11/21.

¹⁹⁹ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²⁰⁷ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

<p>designed specifically for Muslim courts.¹⁸⁶ Also, the FDRE constitution has not established new Kadi Courts. Rather it recognized the already existing courts, giving them Federal Structure.¹⁸⁷ Accordingly, each region has its own proclamations except for Gambella region, where there is no sharia court yet.</p> <p>How many courthouses/court rooms around the country administer Muslim family law cases?</p> <p>There are ten court systems in Ethiopia: nine state court systems and one federal judiciary, all subordinate to the Federal Constitution in matters of basic rights. Article 5(4) of the Proclamation explicitly precludes cases that meet its procedural requirement of parties' consent from being reviewed by secular federal courts.¹⁸⁸</p> <p>How many Muslim family law-related judges? Are there women working within the court system as</p>	<p>Regarding child custody cases the parties may opt to go to regular courts to be adjudicated in accordance with the general article found in the Revised Family Code that deals with child custody. Even though this article is an improvement from the previous law, leaving custody matters to the court instead of family arbitrators, who could easily get biased by family or friendship ties, it lacks effectiveness primarily due to the fact that it lays too much burden on the courts, because now it is the duty of the courts to ascertain</p>	<p>legal orders. From limited cases entertained and interviews made there are a number of problems identified that hamper the enforcement of women's rights, including recognition of customary and religious laws without examining their substantive content, absence of judgement review mechanism between the legal orders, forum shopping mechanisms, and related problems.²⁰⁰</p> <p>Personal jurisdiction shall be established if the parties to the dispute have consented to adjudicate the matter to Sharia courts. Yet, consent of the parties could be made expressly or impliedly, Contrary to the constitutional stipulation of express consent under Article 34 (5). Parties may give their express consent by filling the form attached in the proclamation, or implied consent may be established when one of the parties failed to object to the jurisdiction of the court as stated under Article 5(2) of the Sharia Court Proclamation.</p>	<p>to go to the relatively better protection that may be afforded by state courts.²⁰⁸ This does not represent women all over Ethiopia and it is always important to note the disparity between women empowerment in Addis Ababa and the rural areas of Ethiopia.</p> <p>Priority in the sharia court of Addis Ababa is given to²⁰⁹</p> <ul style="list-style-type: none"> • Cases involving children or issues of child custody • Cases where the party/ies are persons with disabilities. • Cases involving people holding official offices in the government because they serve the public. • Cases involving investors.
--	--	--	--

¹⁸⁶ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162.

¹⁸⁷ Islamic Law. Teaching Material. Developed By: Abdulmalik Abubaker (LL.B, MA) Sponsored by the Justice and Legal System Research Institute

¹⁸⁸ Kebede, M. (2021). Commentary :: Ethiopia's 1999 Federal Courts of Sharia Consolidation Proclamation: The Function of the Sharī'a Courts. Retrieved 14 October 2021, from <https://islamiclaw.blog/2019/08/29/commentary-ethiopia-1999-federal-courts-of-sharia-consolidation-proclamation-the-function-of-the-shari%CA%BFa-courts/>

²⁰⁰ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²⁰⁸ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

²⁰⁹ Interview with Sheikh Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa Ethiopia on 5/11/21.

<p>judges/marriage registrars e.t.c? There are no female judges yet, even though the criteria provided in Sharia court proclamation doesn't specifically forbid women. But the Federal proclamation¹⁸⁹ Amharic version defines a kadi with a 'He', and there is no article to clarify that all laws are applicable for both genders regardless of using 'He' in the laws like the proclamation of the region of Tigray¹⁹⁰ and Afar.¹⁹¹ The president has stated that he has been trying to amend the proclamation of the Sharia court consolidation of Addis Ababa similar to that of Tigray Region, which is far more progressive specially with its inclusivity of women and their representation in the committee as well as their ability to be judges (unlike the Federal Proclamation). However, amending the proclamation in the Somali region and Addis Ababa has not been successful yet because a majority of the Muslims claim that the Shafie school of thought</p>	<p>the income, age, living conditions of the spouses concerned. This wide range of duties takes up the time and manpower especially of an office of government that would have hundreds of similar cases pending. Decisions could, therefore, be very much delayed.¹⁹⁷</p> <p>However, as per the Sharia court in Addis Ababa, they don't have data to provide but the President stated that most women are aware if their rights including the independent and educated women who come from abroad</p>	<p>The Sharia courts adjudicate disputes in accordance with Islamic substantive law, and evidence, disposal of cases, and execution of judgements are made in accordance with the formal civil procedure of the country.²⁰¹</p> <p>The absence of clear linkages and referral mechanisms between the two systems creates a gap that is likely to escalate existing gender biases and inequalities especially where complainants have no choice in determining where and how far to take complaints.²⁰²</p> <p>There are few cases brought before the Federal Supreme Court against the decision of Sharia court. Among others, financial capacities, lack of awareness, and fear of condemnation are the main restraints that impede women from taking their cases before such a forum.²⁰³ For example, in Kedija Kedir's rare case, the case passed through a number of costly proceedings which would be very difficult for ordinary citizens that struggle with extreme poverty; the problem is worse in</p>	
---	--	--	--

¹⁸⁹ Proc No. 188-1999 Federal Courts of Sharia Consolidation.

¹⁹⁰ Proclamation No.133/1998 Ethiopian Calendar

¹⁹¹ Proclamation No.94/2008 Ethiopian Calendar

¹⁹⁷ Child Custody under the Ethiopian Legal System, Fikadu Asfaw and Associates Law Office

²⁰¹ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²⁰² Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²⁰³ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

<p>is against the idea of allowing women to be judges and that their place is at home. Educated Muslim women holding official offices were even against the idea of having female judges. The House of People's Representatives seems to also hold the stand of the current Federal proclamation.¹⁹²</p> <p>Do lawyers represent clients? No, according to a research¹⁹³ and confirmed by the president of the Sharia court of Addis Ababa.¹⁹⁴ Most parties are not represented by lawyers and handle cases by themselves or are assisted by family members and/or friends. They may also hire legal representatives when appealing a decision made by the lower Sharia courts. Yet, there is a factor that may curtail the use of legal representation is a lack of lawyers with a sound knowledge of Islamic law, or their lack of interest in appearing before Sharia</p>	<p>choose the sharia court even if they would benefit more from the regular courts.¹⁹⁸</p>	<p>relation to women.²⁰⁴</p> <p>The lack of legal and institutional instruments that regulate interplay between multiple laws significantly affects the property, personal, and marital rights of women. Discriminatory religious and customary laws, forum shopping, financial constraints, and lack of legal awareness across the legal orders are the main problems that hamper women's rights enforcement. These problems are aggravated by the absence of judicial review on the decision rendered by the religious and customary courts.²⁰⁵</p> <p>Regarding the physical accessibility in 2015 the Federal Sharia Courts in Addis Ababa moved into their current building from the previous cramped and dilapidated buildings that created an uncondusive environment. At present, the courts occupy a four-storey building which is spacious and conducive for the successful conducting of proceedings with</p>	
--	---	--	--

¹⁹² Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa Ethiopia on 5/11/21.

¹⁹³ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Epple and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

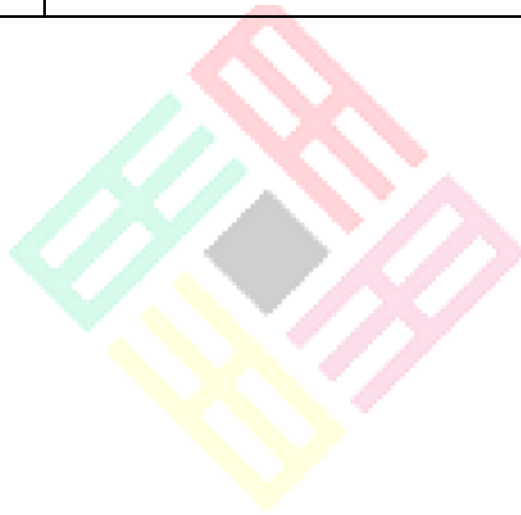
¹⁹⁴ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa Ethiopia on 24/3/2022

¹⁹⁸ Interview with Sheik Mohammed Al-Mubarak, The President of the Sharia Court Addis Ababa Ethiopia on 24/3/2022

²⁰⁴ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

²⁰⁵ Daniel E. Alemayehu, Multiple Legal Orders in Ethiopia: An Impediment on the Enforcement of Women Rights, 19 Nw. J. Hum. Rts. 38 (2021). <https://scholarlycommons.law.northwestern.edu/njihr/vol19/iss1/4>

courts. ¹⁹⁵		more amenities than the previous buildings and has waiting areas for clients, a separate room for each judge, a wide room for the Registrar, a room for old files and documents, and separate room for active cases. ²⁰⁶	
------------------------	--	---	--



¹⁹⁵ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Eppe and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>

²⁰⁶ Abdo, Mohammed. "7. Federal Sharia Courts in Addis Ababa: Their administration and the application of law in the light of recent developments". Legal Pluralism in Ethiopia: Actors, Challenges and Solutions, edited by Susanne Eppe and Getachew Assefa, Bielefeld: transcript Verlag, 2020, pp. 139-162. <https://doi.org/10.14361/9783839450215-008>