

Report on Ethiopia- Universal Periodic Review – Sixth Round (2009)

A. Introduction

This report is submitted by the **Sexual Rights Initiative** (a coalition including Mulabi – Latin American Space for Sexualities and Rights; Action Canada for Population and Development; Creating Resources for Empowerment and Action-India, the Polish Federation for Women and Family Planning, and others). It was written by an Ethiopian activist who chose to remain anonymous. It deals with the rights of the girl child in Ethiopia with special focus on issues pertaining to sexual rights. In this regard, the themes covered are girls' right to education, HIV/AIDS and the girl child, female genital mutilation (FGM), and child marriage. In addition, the recent law titled "Proclamation for the Registration and Regulation of Charities and Societies" is highlighted as far as its general implications on the sexual rights of the girl child in Ethiopia are concerned.

1. The approximately 85.2 million (UN 2008) inhabitants of the Federal Republic of Ethiopia come from one of around 80 different ethnic groups, the major ones of which are the Amhara (30 %), Oromo (30 %), Tigrinya (6 %) and Somali (6 %). The majority of the population is Orthodox Christian, one third is Muslim. Urbanisation is comparatively low at 16 %, but rapidly increasing. Average life expectancy is 54 years for women, and 52 years for men. For girls the mean age at marriage is 17 years; the total fertility rate is 6.1. Less than one third of adult women (29 %) are literate compared with 59 % of men.

2. Ethiopia is one of the world's poorest states. Almost two-thirds of its people are illiterate. The economy revolves around agriculture, which in turn relies on rainfall. The country is one of Africa's leading coffee producers. Given the limitations of the country's infrastructure, access to basic social services such as health care and education is severely confined to urban centres and their environs.

3. The lack of land rights for women (especially in rural areas), the gender-gap in work (including wage gaps and gender-segregation in jobs), access to education and health, as well as the threat of harmful traditional practices such as FGM are an expression of the widespread belief in Ethiopia that women and girls are inferior to men and boys respectively.¹ Women and girls are the most affected by HIV/AIDS, having less information and access to services, especially in rural areas. A National Coalition for Women against HIV/AIDS (made up of women ministers, women parliamentarians and other female leaders) was formed to mobilise communities in the prevention HIV/AIDS. Girls' enrolment in primary and secondary schools has increased under the Education Sector Development Programme.

B. Legal Framework

4. Ethiopia's current Constitution was adopted in 1995, with executive powers vested in the Prime Minister. In a decisive break with Ethiopia's tradition of centralised rule, the new institutions are based on the principle of ethnic federalism, designed to provide self-determination and autonomy to Ethiopia's different ethnic groups. A two-tier system of parliament was created, viz., the House of Federation and the Houses of Peoples' Representatives.

5. Article 36 of the Constitution entrenches some rights for children. In addition, according to article 4 of the Constitution "[w]omen have the right to protection by the state from harmful customs. Laws and practices that oppress them and cause bodily or mental harm to them are prohibited". The revised Penal Code criminalizes widespread traditional practices perpetrated against women and children. The Code criminalizes abduction regardless of the ultimate outcome of the act; in other words, whether it leads to the consummation of marriage or not. While the Code punishes FGM by a prison term of no less than three months or a fine of no less than Birr 500 (around \$50), a more rigorous prison term of three to five years is imposed for stitching. Under article 620 of the Code, the penalty for rape is rigorous imprisonment from 5-15 years, and under aggravating circumstances (such as in the case of a recidivist) the penalty could go up to twenty years. The Code also provides under article 620(4) that if the rape resulted in the transmission of disease, or in the grave injury or death of the victim, the accused will be charged for concurrent offences under the relevant provisions of the code. Under the Revised Federal Family Law discriminatory laws (such as provisions of the Civil Code of 1965) have been revised and made equitable and age of marriage has been made 18 for both boys and girls, though customary practices pertaining to marriage, divorce and inheritance often discriminate against women and girls. Ethiopia's legal system is based on civil law, and the judiciary is composed of a transitional mix of national and regional courts.

¹ GTZ "Female Genital Mutilation in Ethiopia" available at <<http://www.gtz.de/de/dokumente/en-fgm-countries-ethiopia.pdf>> (November 2007) (accessed 23 February 2009).

6. Ethiopia is a state party to a number of international and regional human rights instruments including the Convention on the Elimination of Discrimination against Women (CEDAW); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child (CRC); African Charter on Human and Peoples' Rights; the Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child (ACRWC).

7. If reporting is of any guidance about a state's implementation of children's rights on the ground, Ethiopia is one of the 15 countries in the world and the only one from Africa that has reported to the CRC Committee three times. However, as this report will show below, the reality suggests a lot of room for improvement.

C. Various issues pertaining to the girl child's sexual rights in Ethiopia

1. Girls' right to education

8. Education helps men and women claim their rights and realise their potential in economic, political and social arenas. Basic education provides girls a better understanding of basic health, nutrition and family planning giving them the choices and the power to decide over their own lives and bodies. Girl's education leads directly to better reproductive health, improved family health, economic growth, for the family and for society and lower rates of child mortality and malnutrition. Despite these benefits, girls are less likely to access school, to remain in school or to achieve in education.

9. Unfortunately, in Ethiopia, owing to several socio-cultural factors the proportion of girls enrolled in primary schools is still lower than that of boys. The Government's Five-Year Plan for the period 2000-01 to 2004-5 included specific strategies to reduce the gender gap in gross enrolment rates to 15.8 % by 2004-05 from its current level of 20 %. The target set for the share of girls in primary school enrolment was 43.3 %. There is no clearly verifiable evidence to suggest that this target was met.

10. However, several strategies have been initiated by the Ministry of Education to promote the education of girls, to increase enrolment at lower levels, and to decrease the drop-out rate among girls. Affirmative action has been taken to increase enrolment of female students in the educational institutions at different levels. The introduction of the Girls' Scholarship Programme is a major step forward in the advancement of Ethiopian women. Though this is a recent initiative taken by the Women's Affairs Department in the Ministry of Education in collaboration with the Forum for African Women's Education, it has already demonstrated its effectiveness to promote girls' education and to encourage girls to remain in school. UNICEF's "25 by 2005" initiative to intensify efforts in 25 countries (including Ethiopia) to maximize the number of girls in school by 2005 has been mainly successful.

11. In Ethiopia, a genuinely (as opposed to nominally) free (which does include uniforms, stationery, and so forth) and compulsory primary education law and policy that can go a long way in ensuring girls' access to primary education is lacking. The 1995 Constitution stipulates that "every Ethiopian national has the right to equal access to publicly funded social services". As the former Special Rapporteur on the Right to Education highlighted in 2006, the "choice of *access* rather than *right* to education points to an underlying decision not to recognize education as a human right".²

12. While efforts made by the government in order to achieve the Millennium Development Goals (MDGs) 2 (primary education for all) and MDG 3 (gender parity) are laudable, there is a strong need for a nation wide re-entry policy to ensure that pregnant girls can go back to school and the decrease of drop-out rate. The lack of such a policy is a clear violation of article 11(6) of the ACRWC which entrenches that "States Parties to the present Charter shall have all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability".

13. Gender based violence continues to be an obstacle to girls' access to primary education. There is concrete evidence to suggest that lack of gender parity in primary and secondary education is intimately linked to violence and abuse at schools. To mention one example, the continued prevalence of corporal punishment (along with other gender based violence) in schools in Ethiopia serves as a barrier as it makes school unsafe, and girls, particularly during adolescence, are less likely to attend school than adolescent boys.

² K Tomasevski "Global report 2006: The state of the right to education worldwide: Free or fee" (2006) 33.

14. There is recognition that, apart from building fences for schools, the need for a protection policy for children to be developed by the Ministry of Education could go a long way in ensuring access to primary education. The protection policy should be developed by taking into account the 4 general principles of the CRC and the ACRWC as well as article 19 relating to the protection of children from all forms of violence, and could draw guidance from the UN Secretary General's Study on Violence against Children.

2. HIV/AIDS and the rights of the girl child

15. According to a UNAIDS report in 2008, site expansion for the delivery of HIV counseling and testing, preventing mother to child transmission (PMTCT) and antiretroviral treatment services have dramatically increased over the last three years; the number of people living with HIV/AIDS (PLHIV) started on antiretroviral treatment has increased sharply from 8276 in June 2005 to 117 970 at the end of December 2007.³ Despite this, coverage of essential prevention, treatment and care services remains limited. It is reported that among young people aged 15-24 years, only one out of three (33.3%) young males and one out of five (20.5%) young females have comprehensive knowledge about HIV/AIDS.⁴ In addition, according to the 2005 DHS, 6% of young women and 37% of young men (age 15-24) engaged in higher risk sexual activity in the year 2007. The women face of the pandemic continues to take a toll on the girl child.

16. As highlighted by the CRC Committee in 2006, gender-based discrimination combined with taboos or negative or judgemental attitudes to sexual activity of girls, often limiting their access to preventive measures and other services continue to contribute to the spread of HIV/AIDS amongst girls. In the design of HIV/AIDS-related strategies, and in keeping with its obligations under the CRC and the ACRWC, it is important that the government of Ethiopia give careful consideration to prescribed gender norms within its societies with a view to eliminating gender-based discrimination as these norms impact on the vulnerability of girls to HIV/AIDS.

17. In addition, while the adoption of the 2007 National Adolescent and Youth Reproductive Health Strategy to enhance reproductive health and well-being among young people in Ethiopia ages 10-24 is laudable, it still represents only the first step in a larger process that will see the proposed strategies evolve into concrete programs, initiatives, and results. A lot needs to be done to provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs).

3. Child marriage

18. Some of the key issues surrounding early marriage include discrimination against the girl child, gender related violence, negative implications on the right to education, hampering the enjoyment of sexual and reproductive health (such as maternal mortality and morbidity), domestic violence and early widowhood.⁵ Child marriages are prevalent in rural regions, and the *Amhara* region has the highest rates in Ethiopia. About 40 % of girls are married by 15 or younger. In 1995, Ethiopia set the minimum age limit for marrying at 18, but early marriages have not stopped.

19. The government is backing a series of new family-planning policies, including a ban on the practice of marrying girls while they are still children. While a clear prohibition of early marriage is provided for under national law, article 21 of the ACRWC, and the Protocol on the Rights of Women in Africa to which Ethiopia is a party to, knowledge of and respect for the law is limited among many rural communities. Central to fighting the practice is awareness raising and strict enforcement of the law.

20. Awareness raising campaigns need to be creative, participatory and comprehensive both in content and geographical coverage. In this regard, a good example worth emulating is the canvas painting event organized by the United Nations Population Fund (UNFPA) at *Meskel* Square on 7 and 8 March 2008 under the theme "Stop Early Marriage". The painting of a 100 meter canvas was undertaken on the two consecutive days by 30 of Ethiopia's prominent artists and the painting was launched on March 8, the

³ UNAIDS "Ethiopia: Country situation" (July 2008) available at <http://data.unaids.org/pub/FactSheet/2008/sa08_eth_en.pdf> (accessed 10 March 2009).

⁴ UNAIDS "Ethiopia: Country situation" (July 2008) available at <http://data.unaids.org/pub/FactSheet/2008/sa08_eth_en.pdf> (accessed 10 March 2009).

⁵ Forum on Marriage and the Rights of Women and Girls "Early marriage: Whose right to choose?" (2000) available at <http://www.eenet.org.uk/key_issues/gender/emarriage_choose.pdf> (accessed 23 February 2009).

International Women's Day. The canvas painting event was one major activity forming part of a national campaign entitled "Stop Early Marriage". This unique, participatory and big-impact canvas painting event was believed to be a key milestone in enhancing the understanding of the public, policy-makers and development stakeholders on early marriage. The need to look at this and similar activities as a process and not as an event is crucial in awareness raising.

4. Female genital mutilation (FGM)

21. The practice of FGM is a serious health issue affecting women, helping to spread HIV/AIDS and responsible for high female mortality rates in Africa. A recent study (2006) published by the World Health Organization (WHO) has shown that women who have had FGM are significantly more likely to experience difficulties during childbirth and that their babies are more likely to die as a result of the practice.⁶

22. According to the 2007 UN Secretary General's report on violence against children, Ethiopia is still one of the countries with the highest rates of FGM in Africa. The 2005 Ethiopia Demographic Health Survey (DHS) shows that the rate of FGM declined only 6% from 80% in 2000 to 74% in 2005. Unfortunately, it is indicated that at this rate, the country will not see the elimination of FGM until 2080.⁷

23. A 2007 survey conducted by the Ethiopian National Committee on Traditional Practices (commonly referred to as EGLDAM - its name in Amharic) found that prevalence across the country had dropped from 61 % in 1997 to 46 %. However, rather on a sad note, while nine regions including *Tigray* and *Oromiya* as well as two city administrations namely the capital Addis Ababa and Dire Dawa, showed the highest improvement, it was reported that there was almost no decrease in Afar and Somali regions - the strongholds of infibulations.⁸ This is indicative of the need to implement children's right at all levels of administration and region.

24. It is laudable that instead of trying to educate practitioners in order to make FGM it easier and safer, the Ethiopian government has outlawed the practice. However, in many cases, the enforcement of this prohibition seems to be a low priority for the government.

5. Potentially repressive new law on civil society organizations

25. The Ethiopian government recognizes the role played by civil society organizations in the promotion and protection of children's and women's rights. The total budget of CSOs in Ethiopia is estimated at \$1.5 billion a year and this is a lot of money in a country in which the annual government budget is about \$4 billion a year.

26. The Proclamation for the Registration and Regulation of Charities and Societies was passed by the government-dominated 547-seat parliament with 327 members in favour and 79 against. The law establishes an oversight agency, rules and supervision for the establishment of trusts and endowments, societies and charities. Rules governing fund-raising, membership and governance are detailed. It also sets tough penalties and powers to investigate and oversee charities, and restricts activity in human and democratic rights, gender or ethnic equality, conflict resolution, the strengthening of judicial practices or law enforcement. Only Ethiopian charities or societies with no more than 10 % of their spending coming from "foreign sources" would be able to work in those areas.⁹

27. The current legislation has the potential to limit CSOs that receive essential funds from abroad to a mere service delivery role through prohibitions from working on key areas including advancement of human and democratic rights, *gender equality*, conflict resolution and accountability of law enforcement agencies. For instance, the Ethiopian Women Lawyers' Association whose 99% of funding to provide legal aid to women and girls currently comes from abroad will have a difficulty meeting the requirements of the law.¹⁰

⁶ WHO "New study shows female genital mutilation exposes women and babies to significant risk at childbirth" available at <<http://www.who.int/mediacentre/news/releases/2006/pr30/en/index.html>>

⁷ U.N. Report: Ethiopia Still One of Highest for FGM (26 February 2009) available at <<http://www.tadias.com/2009/02/26/un-report-ethiopia-still-one-of-highest-for-fgm/>> (accessed 24 February 2009).

⁸ IRIN News "ETHIOPIA: More parents saying no to FGM" (11 September 2008) available at <<http://www.irinnews.org/Report.aspx?ReportId=80290>> (accessed 28 February 2009).

⁹ The law has been criticised by Human Rights Watch, Amnesty International, the development committee of the European Parliament, the civil society lobby group CIVICUS and the US government.

¹⁰ BBC "Ethiopian imposes aid agency curbs" (6 January 2009) available at <<http://news.bbc.co.uk/1/hi/world/africa/7814145.stm>> (accessed 02 March 2009).

The law would also exclude groups that are largely funded by Ethiopians living in the diaspora from working on these issues.

28. While it is important that the accountability and transparency of CSOs is ensured, it is important not to curtail the progress made in promoting and protecting the sexual rights of the girl child (any right for that matter). Whereas any regulatory mechanism for civil society must be underpinned by legislation that is equitable, just and fair, the current law substantially fails this test especially if implemented rigorously.

D. Recommendations

The general recommendation that transpires from the above discussion is that Ethiopia needs to move from the normative standard setting stage to the implementation phase in promoting the rights of girls' in particular their rights pertaining to sexual rights. While legal standards are fairly in place, their enforcement as well as non-legal measures to ensure implementation of standards are in short supply.

In particular, it is recommended that the country should:

- make the right to primary education free and compulsory in practice, and address gender based violence and all other issues that hinder girls' access to education;
- establish early childhood programmes and day care centers to facilitate access to school for girl children who are entrusted with the care of babies; establish (in a scaled up manner) a network of parents, teachers, NGOs, students, and community leaders to change family schooling practices in relation to girls in order to increase girls' primary education is crucial; decrease military spending, and increase social spending including on education in order to increase interventions such as social mobilization and awareness creation activities; exert effort to ensure the presence of female teachers to serve as role models and counselors; make the school environment more gender sensitive by constructing separate latrine facilities for boys and girls as well as with the provision of teacher training and curriculum development to remove gender biases in textbooks and instruction.
- strengthen its HIV/AIDS awareness campaigns and ensure access to age-appropriate HIV/AIDS education and information which target children and adolescents, inside and outside schools, to equip them with the life skills to deal with and reduce their vulnerability to HIV and STDs;
- apart from legislative measures, adopt other measures to prohibit harmful traditional practices affecting children including the strengthening of awareness-raising and sensitization activities for practitioners, families, traditional or religious leaders and the general public adopting a child rights approach in order to encourage the dissemination of a culture of respect for the child;
- ensure that the Ministry of Women's Affairs should be called upon to lead the development of a national plan for scaling up interventions for the abandonment of FGM. Other recommendations include mapping of agencies working on FGM; development of a national guideline on FGM abandonment; identification of long-term and flexible funding; and the identification of champions against FGM in each region. Government should also consider providing retraining, where appropriate, for practitioners of FGM and support them to find alternative sources of income;
- ensure that child victims of sexual exploitation, harmful cultural practices, or abuse have access to free, child sensitive complaints mechanisms and are not criminalized or penalized;
- ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
- closely monitor the impact of the new law on CSOs and limit its negative impact on human rights organizations operating in the country;
- ensure that the new law on CSOs is implemented in an open-minded and constructive spirit, leaving room for education and awareness raising activities and should balance the need for regulation with the need for continued development of a strong non-governmental civil society in Ethiopia.