

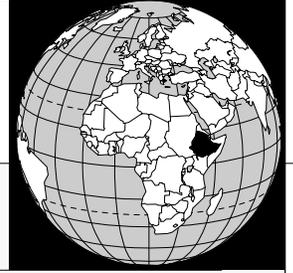


© 2003 Center for Reproductive Rights

www.reproductiverights.org

formerly the Center for Reproductive Law and Policy

2. Ethiopia



Statistics

GENERAL

Population

- The total population of Ethiopia is approximately 56 million.¹ The annual population growth rate is 2.9%;² the gender ratio is 98 males per 100 females;³ the median age is 17.1 years.⁴
- In 1996, the proportion of the population residing in urban areas was estimated to be 15%.⁵ In 1993, 55.5% of Ethiopia's urban population was made up of women.⁶

Economy

- In 1989, the estimated gross national product ("GNP") per capita was U.S.\$120.⁷
- In 1993, the average gross domestic product ("GDP") per capita was U.S.\$400.⁸
- The government spent approximately 4% of its GDP on health in 1990, compared to the U.S., which spent approximately 12.7% of its GDP on health in the same year.⁹

Employment

- In 1993, 22 million persons were employed in Ethiopia, while an estimated 30% were unemployed.¹⁰ Approximately 56% of women in Ethiopia are in the labor force, while the corresponding number for men is 79%. Women make up about 21% of professional and technical posts and 1% of administrative and managerial posts.¹¹

WOMEN'S STATUS

- The average life expectancy for women is 48.7 years, compared to 45.4 years for men. The average life expectancy for both sexes combined is 47 years.¹²
- In 1990, over 1/3 of married women between the ages of 15 and 49 were married before the age of 15, while 41.1% married between the ages of 15 and 17.¹³
- There is a strong gender differential in education. Women comprise 50% of the Ethiopian population, but only 23% of the student population.¹⁴

ADOLESCENTS

- The prevalence of FGM in Ethiopia is estimated at 90%.¹⁵
- Approximately 31% of the Ethiopian population is between the ages of 10 and 21.¹⁶
- A study of fertility in rural areas estimated the mean age of marriage to be 15.2 years for girls and 21.5 for boys.¹⁷ A study of fertility in the northwestern region of Ethiopia estimated that at least half of the women married at the age of 14 or younger.¹⁸

MATERNAL HEALTH

- In 1990, the average total fertility rate was 6.8 children per woman. The rate was four children for women living in urban areas.¹⁹
- In 1995, the maternal mortality rate was estimated to be 560 per 100,000 live births.²⁰
- The infant mortality rate is estimated to be between 99 and 123 out of 1,000 births.²¹ The under-five mortality rate is estimated at 204 per 1,000 births.²²
- The number of births aided by midwives is approximately 5%.²³
- About 98% of mothers and potential mothers have no access to family planning.²⁴
- In 1993, 17% of births were to women under age 20 and 13% were to women over age 35.²⁵

CONTRACEPTION AND ABORTION

- The overall use of contraceptives in Ethiopia is low in comparison to other African countries.²⁶ In 1990, the use of

contraceptives among Ethiopian women between the ages of 15 and 49 was 3.9%.²⁷ Between 1988-93, 4% of married women of childbearing age used contraception (including women whose husbands use contraception).²⁸

■ In 1994, birth control pills accounted for 57.9% of the total contraceptives used, condoms accounted for 15.5%, intrauterine devices (IUDs) accounted for 4.5%, NORPLANT® accounted for 1.4%, injectables accounted for 19.0%, and other methods accounted for 1.1%.²⁹

■ Voluntary surgical contraception accounted for 0.6% of total contraception use.³⁰

■ A 1988 survey in five hospitals showed that between 1985 and 1986, abortion cases accounted for 55.2% of the total number of cases in the gynecological departments. That figure rose to 58.6% in the following year.³¹

■ Unsafe abortion is the major cause of maternal death in Ethiopia, with the majority of cases occurring among young women.³²

HIV/AIDS AND STDs

■ As of July 1994, an estimated 14,074 persons were suffering from AIDS.³³

■ Of the reported AIDS cases between the years 1985 and 1995, 150 females suffering from AIDS were below the age of four; 900 were between the ages of 15 and 19; 3,750 were between the ages of 20 and 29; 1,750 were between the ages of 30 and 39; 500 were between the ages of 40 and 50; and 200 were between the ages of 50 and 59.³⁴

■ A recent AIDS screening survey of 34,702 people (of whom 6,564 were commercial sex workers) showed that the overall rate of infection was 6.4%. The positivity rate for women was 16.8%.³⁵

■ A study in the capital of Addis Ababa states that the rate of STD infection is higher among women than among men; it gives the figures of 45.3% and 32%, respectively.³⁶

ENDNOTES

1. ASSEFA HAILEMARIAN, POPULATION POLICIES AND PROGRAMS, MINISTRY OF EDUCATION, INSTITUTE FOR CURRICULUM DEVELOPMENT AND RESEARCH 19 (1994).

2. THE WORLD ALMANAC AND BOOK OF FACTS 1997, 763 (1996) [hereinafter WORLD ALMANAC].

3. TRANSITIONAL GOVERNMENT OF ETHIOPIA, CENTRAL STATISTICAL AUTHORITY POPULATION ANALYSIS AND STUDIES CENTER, THE 1990 NATIONAL FAMILY AND FERTILITY SURVEY REPORT 45 (JUNE 1993) [hereinafter 1990 FFS].

4. UNFPA, ETHIOPIA PROGRAMME REVIEW AND STRATEGY DEVELOPMENT REPORT vi (1993) [hereinafter UNFPA].

5. WORLD ALMANAC, *supra* NOTE 2.

6. THE NATIONAL WOMEN'S POLICY § 1.2.1 (Sept. 1993).

7. UNFPA, *supra* NOTE 4.

8. WORLD ALMANAC, *supra* NOTE 2, at 763.

9. WORKERS IN AN INTEGRATING WORLD, WORLD DEVELOPMENT REPORT 180 (1995) [hereinafter WORLD DEVELOPMENT REPORT].

10. THE STATESMAN'S YEAR-BOOK, *Ethiopia* 468 (Brian Hunter ed., 1996).

11. SWEDEN INTERNATIONAL DEVELOPMENT ASSOCIATION, WOMEN AND MEN IN ETHIOPIA, STATISTICAL FACTS AND FIGURES 40 (1992). *But cf.* UNFPA, *supra* NOTE 4, at 72 (women make up 7% of professional positions).

12. UNFPA, *supra* NOTE 4, at vi.

13. 1990 FFS, *supra* NOTE 3, at 94.

14. THE TRANSITIONAL GOVERNMENT OF ETHIOPIA, OFFICE OF THE PRIME MINISTER, NATIONAL POLICY ON ETHIOPIAN WOMEN 19 (Sept. 1993) [hereinafter NATIONAL POL.].

15. NAHID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION 25 (Rainb♀ 1995).

16. KIRSTAN HAWKINS et al., REVIEW OF THE YOUTH PROGRAMME OF THE FAMILY GUIDANCE ASSOCIATION OF ETHIOPIA 1 (1993).

17. *Id.*, at 1 (citing A. Kidane, *Regional Variation in Fertility, Mortality and Population Growth in Ethiopia, 1970-1981*, GENUS VOL XLV1 No 1-2 (1990)).

18. HAWKINS, *supra* note 16, at 1 (citing A. Haile, *Fertility Conditions in Condor, North-Western Ethiopia: An Appraisal of Current Status* (1990)).

19. 1990 FFS, *supra* note 3, at 120.

20. THE HEALTH SECTOR STRATEGY OF THE TRANSITIONAL GOVERNMENT OF ETHIOPIA 1 (APR. 1995).

21. *Id.*; WORLD DEVELOPMENT REPORT, *supra* note 9, at 214; WORLD ALMANAC, *supra* note 2, at 763.

22. WORLD DEVELOPMENT REPORT, *supra* note 9, at 214.

23. NATIONAL PROGRAMME OF ACTION FOR WOMEN IN ETHIOPIA, WOMEN'S AFFAIRS OFFICE 16 (1993).

24. NATIONAL POL., *supra* note 14, at 17.

25. WORLD DEVELOPMENT REPORT, *supra* note 9, at 212.

26. 1990 FFS, *supra* note 3, at 192.

27. *Id.*

28. WORLD DEVELOPMENT REPORT, *supra* note 9, at 212.

29. FAMILY GUIDANCE ASSOCIATION OF ETHIOPIA, RESEARCH AND EVALUATION UNIT, STATISTICAL ABSTRACT, No. 8, at 15 (1995) (available in the Wsrary).

30. *Id.*

31. NATIONAL POPULATION POLICY 10 (1993).

32. HAWKINS et al., *supra* note 16, at 2.

33. WORLD HEALTH ORGANIZATION WEEKLY EPIDEMIOLOGICAL RECORD, 70th year (Jan. 13, 1995).

34. AIDS PREVENTION AND CONTROL DEPARTMENT OF THE MINISTER OF HEALTH, THE HIV/AIDS PYRAMID (1995).

35. E. Tsega, *The Demographic, Social and Clinical Presentation of 100 Ethiopian Patients with HIV Infection*, 28 ETH. MED. J. 81-88 (year not included).

36. K. Adanech and T. Azeb, *Gender Influence on Women's Health; A Review of the Ethiopian Situation*, in PROCEEDINGS OF THE FIRST UNIVERSITY SEMINAR ON GENDER ISSUES IN ETHIOPIA 49 (Dec. 24-26, 1989).

In August 1995, the Federal Democratic Republic of Ethiopia (“Ethiopia”) was established pursuant to a revised constitution ratified in December 1994.¹ National and regional elections were held in May and June 1995. These events occurred under the administration of the Transitional Government of Ethiopia, which was established in 1991 after the overthrow of Colonel Mengistu Haile Mariam’s 17-year-long Marxist dictatorship. Mengistu’s military government faced civil war in Eritrea and Tigray and conflict over the Ogaden region in the southeast. These conflicts exacerbated the region’s cyclical drought and accompanying famine conditions, which brought millions to the brink of starvation in the 1970s and 1980s. In May of 1993, Eritrea established itself as an independent nation. Prior to the Mengistu government, Ethiopia was ruled by Emperor Haile Sellassie I, who took an active role in creating the country’s legal system, much of which remains in force today.² Ethiopia differs from many other countries in sub-Saharan Africa in that it was not colonized by foreign interests, except for a five-year Italian occupation, from 1936 to 1941.³

The total population of Ethiopia is estimated to be 55,979,018.⁴ Women make up 52% of the population.⁵ Approximately 45% to 50% of the population is Muslim, 35% to 40% is Ethiopian Orthodox, and 12% of the population is animist.⁶ Ethiopia has many ethnic groups.⁷ The Oromo make up approximately 40% of the population, Amhara and Tigre about 32%, and Sidamo about 9%.⁸ Other ethnic groups include the Afar, Somalia, Saho, and Agew peoples.⁹ There are 286 languages spoken in Ethiopia;¹⁰ the official language is Amharic.¹¹

I. Setting the Stage: The Legal and Political Framework

To understand the various laws and policies affecting women’s reproductive rights in Ethiopia, it is necessary to consider the legal and political systems of the country. Without this background, it is difficult to determine the manner in which laws and policies are enacted, interpreted, modified, and challenged. The passage and enforcement of laws often involve specific formal procedures. Policy enactments, however, are not subject to such a process.

A. THE STRUCTURE OF GOVERNMENT

Ethiopia has a parliamentary federal government administering nine states formed “on the basis of settlement patterns, identity, language and the consent of the people concerned.”¹² The two primary federal bodies are the Council of

Peoples’ Representatives and the Federal Council; the membership of the former is elected by a majority vote in each electoral district,¹³ whereas the latter consists of representatives of nations, nationalities, and peoples, elected either by state legislators or directly by the people of each state.¹⁴ The Council of Peoples’ Representatives has broad legislative powers,¹⁵ while the Federal Council is responsible primarily for interpreting the Constitution and promoting unity among Ethiopia’s various nationalities.¹⁶

The head of state is the president of the nation,¹⁷ elected upon winning the support of two thirds of the members of both councils in a joint session.¹⁸ The president signs into law the legislation approved by the Council of Peoples’ Representatives.¹⁹ The prime minister and the Council of Ministers have the highest executive powers in Ethiopia.²⁰ The prime minister is elected by the Council of Peoples’ Representatives from among its members.²¹ As chief executive, chairman of the Council of Ministers and commander-in-chief of the armed forces, the prime minister has broad powers to supervise and ensure the implementation of laws, policies, and directives adopted by the Council of Peoples’ Representatives.²² The Council of Ministers, among other duties, determines the organizational structure of government administrative agencies, presents an annual budget to be approved by the Council of Peoples’ Representatives, and administers the National Bank.²³

The Constitution establishes an independent judiciary branch at both the federal and state levels.²⁴ Federal judges are appointed by the Council of Peoples’ Representatives, and state judges are appointed by state legislatures.²⁵ Judges may not be removed before they reach a legally mandated retirement age, except for violation of disciplinary rules, gross incompetence, or illness.²⁶ All removal decisions by the Judicial Administration Commission require approval by a majority of the Council of Peoples’ Representatives or State Council.²⁷ Ultimate power to review the constitutionality of laws lies with the Federal Council.²⁸

Courts both create and interpret laws. The judicial system can have a significant impact on legislation, including that affecting reproductive rights, because it is able to both enforce law and deal with complaints from individuals challenging the constitutionality of specific laws.

The systematic modernization of Ethiopia’s legal system began after the country’s liberation from Italy’s short occupation.²⁹ In 1954, Emperor Haile Sellassie I undertook to codify Ethiopian law.³⁰ While most similar to a civil law regime,³¹ Ethiopian law has been characterized as “eclectic.”³² Free of colonial domination for most of its modern history,³³ Ethiopia has supplemented or replaced indigenous legal

principles³⁴ with laws from various foreign sources. The substantive law on civil matters is largely drawn from European civil law systems, while procedural codes are akin to those of Commonwealth countries.³⁵ Public law, including constitutional law, has historically reflected the Anglo-American system.³⁶ Under Colonel Mengistu's regime, influential socialist laws were reflected in the Constitution of the People's Democratic Republic, an instrument that is no longer in force.³⁷

The judicial system of Ethiopia consists of regular courts, Mohammedan (Muslim) courts, special courts, and people's tribunals.³⁸ Regular courts consist of four levels: the Supreme Court, the High Court, the Awraja (province) Court, and the Woreda (district) Court. The Supreme Court, which sits in Addis Ababa and has a branch in Asmara, consists of three judges and has appellate jurisdiction. If the president of the court determines that the complexity of a case requires it, he or she may decide that a division may be constituted by more than three judges. Such a division is referred to as a panel. The High Court is a court of nationwide jurisdiction, and it sits in all provincial capitals. It has both original jurisdiction of some matters and appellate jurisdiction from cases coming from the Awraja court. The Awraja court sits in each Awraja and exercises jurisdiction within the local limits of the Awraja administration. The lowest court is the Woreda court, which sits in each Woreda and exercises jurisdiction within the local limits of the Woreda administration.³⁹

Muslim courts were established in 1944 and consist of three levels: Naiba Councils, Kadia Councils, and the Court of Sharat — the court of last resort. These courts have jurisdiction over two types of cases: cases regarding marriage, divorce, maintenance, guardianship of minors, and family relationships, if the marriage to which the case relates was concluded in accordance with Mohammedan law, or if the parties are all Mohammedan; and cases regarding religious endowments, gifts, succession, or wills, if the endower or donor is a Mohammedan or the deceased was a Mohammedan at the time of his death. The Muslim courts apply the Mohammedan religious laws of the Koran.⁴⁰ Although the Civil Code of 1960 attempts to establish a uniform legal regime for all Ethiopians, without exception, Muslim courts continue to exist and function. In fact, the Court of Sharat sits as a division of the Supreme Court.⁴¹

Special courts, comprised of First Instance Special Court and an Appellate Special Court, serve the function of applying a special provision of the penal code dealing specifically with offenses against the Ethiopian government, the head of state, breach of trust, and offenses against the interest of the government or public, abuse of authority, and offenses against official duties.⁴²

The People's Tribunals are the judicial tribunals that were developed after the eruption of the Ethiopian Revolution of 1974 by the Peasant Associations and the Urban Dwellers Associations at the same time that the Public Ownership of Rural Lands Proclamation and the Nationalization of Urban Lands and Extra Houses were passed. The jurisdiction of these tribunals is more or less limited to minor civil and criminal cases.⁴³

B. SOURCES OF LAW

Domestic Sources of Law

As in other civil law regimes, legislation is the primary source of law, although in Ethiopia accepted statutory interpretation has progressed through case law.⁴⁴ The Constitution of the Federal Democratic Republic of Ethiopia (the "1994 Constitution") declares itself the supreme law of the land. Furthermore, Ethiopia has six major legal codes: the Penal Code of the Empire of Ethiopia,⁴⁵ the Civil Code of the Empire of Ethiopia,⁴⁶ the Maritime Code of the Empire of Ethiopia,⁴⁷ the Commercial Code of the Empire of Ethiopia,⁴⁸ the Criminal Procedure Code of the Empire of Ethiopia,⁴⁹ and the Civil Procedure Code of the Empire of Ethiopia.⁵⁰ The Civil Code explicitly repeals customary law,⁵¹ and with over 3,000 provisions it is comprehensive in its coverage.⁵² However, customary law is preserved in all matters not covered by the Civil Code.⁵³ The Civil Code generally incorporates customary law provisions when such custom is: sufficiently general; consistent with Ethiopian views of "natural justice"; conducive to economic and social development; and clearly articulable.⁵⁴ Other provisions explicitly refer to custom, particularly in matters of family law, property, contract, and torts.⁵⁵ For example, a Civil Code article on betrothal specifies that "[t]he form of betrothal shall be regulated by the usage of the place where it is celebrated."⁵⁶

Any law, customary practice, or government order that contradicts the 1994 Constitution is invalid.⁵⁷ However, Article 34 of the 1994 Constitution proclaims that this Constitution shall not preclude the adjudication of personal or family disputes by "religious or cultural laws" if all parties agree.⁵⁸ Further, Article 78 specifies that the federal and state legislatures may establish or give official recognition to religious and cultural courts.⁵⁹

International Sources of Law

Many international human rights treaties recognize and promote specific reproductive rights. Because they are legally binding on governments, these international instruments impose specific obligations to protect and advance these rights. All international agreements ratified by Ethiopia have the status of national law.⁶⁰ In addition, the Fundamental

Rights and Freedoms enumerated in the Constitution are to be interpreted “in conformity with the Universal Declaration of Human Rights, international human rights covenants, humanitarian conventions and with the principles of other relevant international instruments which Ethiopia has accepted or ratified.”⁶¹ Ethiopia has ratified, *inter alia*: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”); the Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Rights of the Child.⁶²

II. Examining Reproductive Health and Rights

Issues of reproductive health and rights are dealt with in Ethiopia within the context of the country’s health and population policies. Thus, an understanding of reproductive rights in Ethiopia must be based on an examination of those policies.

A. HEALTH LAWS AND POLICIES

Objectives of the Health Policy

Article 90 of the 1994 Constitution declares that “[t]o the extent the country’s resources permit, policies shall aim to provide all Ethiopians access to public health....”⁶³ In 1993, the Transitional Government released a National Health Policy (“Health Policy”), which defines “health” as “constituting physical, mental and social well-being.”⁶⁴ Criticizing the highly centralized health service infrastructure of the previous regime, which it calls “unresponsive, self-serving and imperious to change,”⁶⁵ the Health Policy declares a commitment to “democratization and decentralization of the health service system.”⁶⁶ Strategies for promoting democratization of health services include the establishment of health councils with community representation and the formation of grassroots committees.⁶⁷ These bodies are intended “to participate in the identifying of major health problems, budgeting, planning, implementation, monitoring and evaluating health services.”⁶⁸ Decentralization is to be achieved by transferring to the regional level significant responsibility for “decision-making, health care organization, capacity building, planning, implementation and monitoring.”⁶⁹

The Health Policy has as a priority, among other things, to control communicable diseases, epidemics, and diseases related to malnutrition and poor living conditions, and to give special attention to the health needs of the family, particularly women and children.⁷⁰ It is among the general strategies of the policy to ensure adequate maternal health care and refer-

ral facilities for high-risk pregnancies, to intensify family planning for the optimal health of the mother, child, and family, to encourage early utilization of available health care facilities for the management of common childhood diseases, and to address the special health problems and related needs of adolescents.⁷¹

In April 1995, the transitional government issued the Transitional Government’s Health Sector Strategy (“Health Strategy”), which outlines the course of action to be taken by governmental public health officials.⁷² Citing severe health service distribution problems — due in part to a very centralized system⁷³ — one of its key objectives is to implement the provision of basic health service at the community level.⁷⁴ The Health Strategy outlines a plan to establish equitably distributed “primary health care units with standard facilities and staffing” that will serve “a manageable population.”⁷⁵ These units are to “provide a comprehensive and integrated health service encompassing health education, preventive activities and the treatment and control of common communicable and epidemic diseases.”⁷⁶ Referral facilities are to be available at nearby hospitals.⁷⁷

A commitment to family health — and thus, reproductive health — is reaffirmed in the Health Strategy.⁷⁸ The Health Strategy calls for special attention to be given to “maternal and child care with provision of antenatal, perinatal and postnatal care, family planning advice and service, growth monitoring, nutrition education and immunization.”⁷⁹

Infrastructure of Health Services

The Ministry of Health (“MOH”) oversees the delivery of health care.⁸⁰ Its duties include the establishment and administration of hospitals, the determination of standards for health services, the licensing and supervising of health facilities established by foreign organizations and investors, and the licensing of health care professionals according to standards set by the MOH.⁸¹ The ministry is also charged with devising strategies for the prevention and eradication of communicable diseases and initiating research on traditional medicines and nutrition.⁸² Health care is intended to be delivered in a six-tier pyramid system, which, according to the Health Strategy, is in practice more of a reversed pyramid.⁸³ The pyramid is structured in the following descending order: hospitals, regional hospitals, zonal hospitals, health centers, health stations, and community health clinics.⁸⁴ As of 1994, the MOH operated 72 hospitals (with 9,538 beds), 153 health centers, and 2094 health stations,⁸⁵ serving a population of 55 million people. Roughly more than 50% of health facilities are in urban areas, most of them in Addis Ababa.⁸⁶ Geographic distribution of these health services also varies enormously from one state to another. For example, there are 21 hospitals and

801 health services in Oromia state, whereas there is only one hospital and 30 health stations in Gambela state.⁸⁷

Cost of Health Services

The 1994 Constitution provides that it is the duty of the Ethiopian state to finance health care services.⁸⁸ The Transitional Government's Health Strategy explains that health services have always been underfunded; however, in the last decade or so, underfunding has been aggravated by a decline in the per capita share of public expenditure in health due to the utilization of resources for civil war efforts of "the previous regime."⁸⁹

Thus, the likelihood of comprehensive implementation of Ethiopia's current health policy relies on the extent to which health care delivery can be financed. Article 41 of the 1994 Constitution obligates the State to allocate increasing resources to public health financing.⁹⁰ The Health Policy specifies that health services will be financed through public, private, and international sources.⁹¹ While the government's recurrent health budget doubled from 1983 to 1993 (from 100 million Ethiopian Birr to 200 million Ethiopian Birr, which is approximately U.S.\$16 million to U.S.\$31 million),⁹² it has been found inadequate to cover drugs, medical supplies, and general expenses.⁹³

Regulation of Health Care Providers

The Council of Ministers provides regulation for the licensing and supervision of health service institutions.⁹⁴ Health institutions are defined as hospitals, health centers, clinics, or diagnostic centers run by any person who provides services either free of charge or by charging fees.⁹⁵ Any person who wishes to establish or operate a health service institution must obtain a license in accordance with these regulations.⁹⁶ A license may be suspended when the licensee: "1. fails to observe medical ethics; 2. engages in rendering services which are outside the competence of the health service institution for which the license is obtained; 3. allows a practitioner, who is not registered pursuant to the appropriate law or who has been suspended by a court from practicing his profession or who is addicted to alcohol or drugs, to work in the health service institution; 4. fails to observe laws, regulations and directives relating to health services; 5. fails to submit, accurately and on time, information required under these Regulations and directives issued for the implementation of these Regulations."⁹⁷ In addition, these regulations mandate that the licensing authority inspect health service institutions to ascertain that the licensee is working in conformity with these regulations and other laws, regulations, and directives relating to health services.⁹⁸

A committee formed by the Minister of Health in Ethiopia has drafted and published a book entitled "Medical Ethics for

Physicians Practicing in Ethiopia."⁹⁹ In addition to providing a code of ethics, this book compiles all provisions of laws relating to health care. Because the curricula of medical schools do not include medical ethics, and neither the Ministry of Health nor existing medical health associations have codes of ethics, these are the only guidelines concerning medical ethics in Ethiopia.¹⁰⁰ These guidelines include a general code of ethics, which addresses issues such as "the physician as a professional," "advertisement and publicity," "certificate, prescription and signature," the "supervisory role of the physician," and "patients' informed consent."¹⁰¹ In regards to this last issue, the guidelines state that it is the duty of the physician to inform the patient about treatment, including surgical procedures. Furthermore, physicians are always obliged to obtain a written consent from the patient before carrying out procedures. The guidelines also allow physicians, on "legitimate grounds," to use their own discretion in withholding information about a serious diagnosis unless the patient demands it.¹⁰²

The Penal Code also addresses issues of regulation of health providers. It calls for simple imprisonment¹⁰³ and a fine for the "[u]nlawful Exercise of the Medical or Public-Health Professions."¹⁰⁴ Article 518 states that "[w]hosoever, having neither the professional qualifications. . . nor the authorization to set up official practice required under the relevant regulations, makes a practice of treating sick persons in no matter what form. . ." shall be punished.¹⁰⁵ An exception is provided for the practice of "a system of therapeutics according to indigenous methods by persons recognized by the local community to which they belong," as long as such methods are not dangerous or injurious to the health or life of the person.¹⁰⁶

The Penal Code also criminalizes those who "contravene [] the rules or regulations regarding: the permission to practise [sic], and the practice of, the medical, pharmaceutical and veterinary professions and auxiliary professions of any kind whatsoever, including physio-therapy, natural therapeutics and chiropractic"; or the sale or delivery of drugs and medicines; or the opening or management of establishments for cures of any nature.¹⁰⁷

The Penal Code also provides for punishment for any physician, dentist, midwife, veterinary-surgeon, or person officially authorized to attend patients who fails to bring to the notice of the competent authority facts which, under the law, they are obliged to report in particular with a view to preventing the spread of contagious diseases, drug addiction, or epizootic.¹⁰⁸

Patients' Rights

The Ethiopian Civil Code establishes tort principles¹⁰⁹ that could be applied in the context of patients' rights. For example, Article 2031, entitled "Profession fault," states that

“[a] person practising [sic] a profession or a specific activity shall, in the practice of such profession or activity, observe the rules governing that practice.”¹¹⁰ Such person shall be liable where he or she is guilty of “imprudence” or “negligence constituting definite ignorance” of his or her duties.¹¹¹

B. POPULATION AND FAMILY PLANNING

The Population and Family Planning Policy

The broad goal of the Transitional Government’s 1993 Population Policy is to promote social welfare by harmonizing the rate of population growth and the country’s capacity for development and rational utilization of natural resources.¹¹² Citing political turmoil and adverse climatic conditions, the Population Policy notes that the Ethiopian population has been thrown into abject poverty during recent decades.¹¹³ The Population Policy expresses particular concern over an age structure — Ethiopia’s population is so dominated by young people that its mean age is 17 and the number of women of childbearing age is very high — that makes rapid population growth highly probable.¹¹⁴ The 1994 Constitution focuses on women’s right to plan their families. Article 35 of the Constitution states: “[t]o prevent harm arising from bearing or giving birth to a child and in order to safeguard their health, women have the right to information and to means that would enable them to plan their families.”¹¹⁵

The Population Policy’s general objectives include: closing the gap between high population growth and low economic productivity through planned reduction of population growth and increasing economic returns; expediting economic and social development processes through holistic, integrated development programs designed to expedite the structural differentiation of the economy and employment; reducing the rate of rural-to-urban migration; assuring environmental protections; raising the economic and social status of women by freeing them from the restrictions of traditional life and making it possible for them to participate productively in the larger community; and improving the social and economic status of vulnerable groups, such as adolescents, children, and the elderly.¹¹⁶ Specific objectives of the Population Policy include: reducing the current total fertility rate of 7.7 children per woman to about 4.0 by the year 2015; increasing the prevalence of contraceptive use from 4.0% to 44.0% by the year 2015; reducing maternal, infant, and child morbidity and mortality, as well as promoting the level of general welfare of the population; significantly increasing female participation in the educational system at all levels; removing all legal and customary practices militating against the full enjoyment of economic and social rights by women including the full enjoyment of property rights and access to gain-

ful employment; ensuring spatially balanced population distribution patterns with a view to maintaining environmental security and extending the scope of development activities; improving productivity in agricultural activities for the purpose of employment diversification; and mounting an effective countrywide population information and education program addressing issues pertaining to small family size and its relationship to human welfare and the environment.¹¹⁷

The strategies by which the goals of the Population Policy are to be attained are varied. The strategies include expanding contraceptive distribution, promoting breast-feeding as a means of birth-spacing, raising the minimum age of marriage for girls from 15 years to at least 18 years, implementing career counseling services in public schools, and integrating women into the “modern” sector of the economy.¹¹⁸ In addition, one of the plan’s strategies involves amending all laws “impeding, in any way, the access of women to all social, economic and cultural resources,” and amending relevant articles and sections of the civil code to remove unnecessary restrictions to the “advertisement, propagation and popularization of diverse contraception control methods.”¹¹⁹ Other strategies listed include: establishing teenage and youth reproductive health counseling centers; increasing research in reproductive health; promoting male involvement in family planning; and diversifying available contraceptive methods.¹²⁰

The Population Policy acknowledges that existing delivery systems are limited in scope and that choice of family planning methods is limited.¹²¹ To correct these problems, it calls for an expansion of reproductive health service delivery — currently available only through the limited formal health structure — to clinical and community-based outreach services.¹²² It also recommends the involvement of non-governmental organizations (“NGOs”) in providing services, including the widest possible choice of contraceptives.¹²³ The Population Policy also acknowledges a need to expand capacity for performing population research and training family planning advisors. To implement the latter goal, the plan calls for family planning to be integrated into the curricula of medical schools, nursing and health assistants’ schools, junior colleges, and technical vocational schools. Finally, the Population Policy calls for the expansion of Information, Education, and Communication (“IEC”), and community involvement in achieving the goals of the Population Policy.¹²⁴

The Population Policy takes a multidisciplinary approach towards implementation.¹²⁵ The National Population Council and the Office of Population within the Office of the Prime Minister were created to implement the strategies of the Population Policy.¹²⁶ This national structure is to be replicated on the regional, zonal, and district levels.¹²⁷

New duties for the MOH include the improvement of maternal/child health programs, the provision of family planning services at all levels of health service delivery, the strengthening of the content of reproductive health in education programs, the improvement and expansion of training for health personnel, and the setting of standards for the provision of family planning services.¹²⁸ Duties of the Ministry of Justice include the amendment of all “existing laws and ordinances that restrict the right of individuals and families to regulate their family size.”¹²⁹ The Family Guidance Association of Ethiopia and other NGOs are called upon to, among other things, “expand networks of family planning service delivery by increasing the number of family planning clinics and reaching out heretofore unreached communities...”¹³⁰

Government Delivery of Family Planning Services

Since 1987, family planning services have been rendered through health institutions run by the MOH.¹³¹ The government health institutions that provide family planning services are hospitals, clinics, and health centers.¹³² Government support for family planning is distributed in keeping with the Health Strategy’s statement that health services should “emphasize the preventive and promotive aspect of health care” and not spend disproportionately on curative care.¹³³ According to the Health Policy, the promotion of “family health” is among the government’s priorities.¹³⁴ It is in the context of family health that the Health Policy makes reference to reproductive health. Strategies for promoting family health include providing adequate maternal health care and medical facilities for women with high-risk pregnancies, implementing family planning services, educating pregnant women about maternal nutrition, and encouraging breastfeeding and the use of homemade baby foods.¹³⁵ Also listed as a strategy is the identification and discouragement of harmful traditional practices.¹³⁶

C. CONTRACEPTION

Contraceptive prevalence in Ethiopia is approximately 4.0%.¹³⁷ In 1990, the most prevalent contraceptives were the pill (76%), condoms (7%), and intrauterine devices (“IUDs”) (4.2%).¹³⁸

Legal Status of Contraceptives

Since there is no official law authorizing the sale and use of contraceptives, they can be purchased in pharmacies without a prescription.¹³⁹ Present government policy on population planning aims at increasing access to reproductive health care and at repealing laws that inhibit the distribution of contraceptives.¹⁴⁰ The Population Policy lists as a strategy: “Amending relevant articles and sections of the civil code [sic] in order to remove unnecessary restrictions pertaining to the advertisement, propagation and popularization of diverse

conception control methods...”¹⁴¹ The current policy of the MOH’s Family Health Department¹⁴² is to provide complete access to contraceptives for every woman of reproductive age and at all socioeconomic levels.¹⁴³

The Ethiopian supply of contraceptive products has been provided largely by international organizations and donor governments.¹⁴⁴ Because none of the widely used contraceptives is actually manufactured in Ethiopia,¹⁴⁵ the absence of domestic production of contraceptives makes the supply vulnerable to shortage.¹⁴⁶ The Family Health Department of the MOH is currently devising a plan for the widest possible distribution of contraceptives.¹⁴⁷

The sale and distribution of contraceptives are governed by laws regulating pharmaceuticals in general. Articles 510(1) and 786(c) of the Penal Code and Article 23 of the Pharmacy Regulations¹⁴⁸ are concerned with the legal authority of those who produce and distribute poisons, drugs, and narcotics and with the manner in which they do so. Articles 52 and 54 of the Pharmacy Regulations give the MOH the power to set quality standards for all medicinal preparations.¹⁴⁹ Articles 510 and 786 of the Penal Code impose penalties for the adulteration or mislabeling of pharmaceutical products.¹⁵⁰

Regulation of Information on Contraception

The Penal Code of Ethiopia penalizes the advertisement of contraceptive methods: “Whosoever, (a) advertises or displays in public, or sends to persons who did not solicit them or are not, by reason of their profession, interested therein, contraceptive publications, or contraceptive samples. . . is punishable with fine or arrest not exceeding one month.”¹⁵¹ However, because of the present government’s policy on population, this provision of the Penal Code regarding advertisement of contraceptive methods is in effect void.¹⁵² The Ethiopian Family Guidance Association, among others, including the Ministry of Health, are actively engaged in the promotion, sale, and distribution of various contraceptives.

D. ABORTION

Legal Status of Abortion

Ethiopian law restricts women’s ability to obtain abortions. “The deliberate termination of a pregnancy, at whatever stage or however effected” is prohibited by the Penal Code¹⁵³ and, depending on the circumstances under which the abortion is performed, subject to varying levels of punishment. The Penal Code does not punish terminations of pregnancies that arise from “imprudence or negligence.”¹⁵⁴ Moreover, an abortion obtained to save the pregnant woman from “grave and permanent danger to life or health” that “is impossible to avert in any other way” is not punishable when certain legal requirements

are observed.¹⁵⁵ (These requirements are discussed below.) Punishment for abortions may also be mitigated by a court when the pregnancy is terminated on account of “an exceptionally grave state of physical or mental distress, especially following rape or incest, or because of extreme poverty.”¹⁵⁶

Requirements for Obtaining Legal Abortion

A woman may obtain a legal abortion under defined circumstances only when several formalities have been completed. The requirements for terminating a pregnancy on “medical grounds” include the presentation of a written, certified diagnosis submitted by a registered medical practitioner after examination of the pregnant woman.¹⁵⁷ The diagnosis must be approved by a second doctor who is a specialist in the diagnosed condition and is empowered to make an authorization.¹⁵⁸ In addition, the pregnant woman must give her consent, or, if she is incapable of granting that consent, her next of kin or legal representative must consent for her.¹⁵⁹ The second doctor must keep a duplicate of the findings and the decision and transmit them to the appropriate government official.¹⁶⁰ If these formalities are not completed, the abortion shall be deemed illegal and the relevant penalties shall apply.¹⁶¹

While these requirements may be modified in the case of a pregnancy terminated upon the grounds of medical emergency, prior consent of the pregnant woman or that of her next of kin or legal representative and subsequent notice to the appropriate official are indispensable under the current law.¹⁶²

Abortion is also addressed in the “Medical Ethics for Physicians Practicing in Ethiopia.” These guidelines state that “[a]n abortion is justifiable only when it is performed for the purpose [sic] of saving the endangered life or health of a woman.”¹⁶³ Furthermore, an abortion is “justifiable if performed by a physician in health institutions where appropriate facilities are available.”¹⁶⁴ In addition, the guidelines state that it is mandatory to treat a patient who is suffering from the effect of a criminal abortion induced by another person and that the doctor must never disclose the cause of his or her patient’s condition to anyone else without her consent, unless ordered to do so by a court of law.¹⁶⁵ A criminal abortion “leading to death should be reported to the concerned authorities by the treating physician.”¹⁶⁶

Penalties

The penalty for terminating a pregnancy upon grounds not permitted by the Penal Code varies. If an illegal abortion is procured by the pregnant woman herself, she is subject to three months to five years of “simple” imprisonment.¹⁶⁷ Anyone who procures an illegal abortion for her or assists her in the

abortion shall be punished as an accomplice or co-offender and is subject to one to five years of simple imprisonment.¹⁶⁸ One who performs an illegal abortion, or one who assists in performing the abortion, is subject to a maximum of five years of “rigorous” imprisonment.¹⁶⁹ If the woman’s consent is lacking, by virtue of her own incapacity to consent or understand the significance of her actions or because she was threatened, coerced, deceived, or physically forced, the abortion provider faces three to ten years of rigorous imprisonment.¹⁷⁰ When the performer of the abortion has acted for gain or has made a profession of performing abortions, the offense is deemed aggravated and the punishment is extended to three to ten years of rigorous imprisonment.¹⁷¹ In addition, if the performer is a doctor, pharmacist, midwife, or nurse, he or she shall be barred from practice either temporarily or, if the offense is repeatedly committed, permanently.¹⁷²

Regulation on Abortion Information

Article 802 of the Penal Code prohibits the advertising or offer for sale of products designed to cause abortion or the offer to perform an abortion; it states: “Whosoever... (b) advertises or offers for sale means or products designed to cause abortion, or publicly offers his services to perform abortion, is punishable with fine or arrest not exceeding one month.”¹⁷³

E. STERILIZATION

Although sterilization is not mentioned specifically in the Penal Code, Articles 537 and 538 of this law, which prohibit the “maiming and disabling of essential organs,” have been interpreted to prohibit sterilization.¹⁷⁴ Nonetheless, in effect, the existence of Articles 537 and 538 of the Penal Code have not proven to be a significant legal barrier to sterilization.¹⁷⁵ Since 1987, sterilization has been utilized as a means of birth control in Ethiopia.¹⁷⁶ The procedure is performed in public hospitals, as well as by the Family Guidance Association of Ethiopia (“FGAE”),¹⁷⁷ a national NGO involved in population and family planning activities.¹⁷⁸ In practice, a person is not required to meet any stringent requirements before undergoing sterilization.¹⁷⁹ The patient is only required to express a desire to limit his or her family size.¹⁸⁰ Furthermore, health institutions do not require spousal consent.¹⁸¹

F. FEMALE GENITAL MUTILATION/ FEMALE CIRCUMCISION

Muslims, Christians, and Ethiopian Jews (Falashas) practice female genital mutilation (“FGM”) — also referred to as female circumcision — in Ethiopia, where its prevalence is estimated at 90%.¹⁸² While there is no law that specifically refers to FGM, Article 35 of the 1994 Constitution provides that “[w]omen have the right to protection by the state from

harmful customs. Laws, customs and practices that oppress women or cause bodily or mental harm to them are prohibited.”¹⁸³ The Health Policy also lists as a general strategy the identification and discouragement of harmful traditional practices.¹⁸⁴ For further discussion regarding FGM, see section on adolescents.

G. HIV/AIDS AND SEXUALLY TRANSMITTED DISEASES

Examining HIV/AIDS issues within a reproductive health framework is essential insofar as the two areas are related from both a medical and public health standpoint. Hence, a full evaluation of laws and policies affecting reproductive health and rights in Ethiopia must examine HIV/AIDS and sexually transmitted diseases (“STDs”). The actual number of people in Ethiopia suffering from AIDS is estimated to be 350,000,¹⁸⁵ while approximately 1.7 million people are HIV-positive.¹⁸⁶ As of July 1995, 19,433 cases of AIDS had been reported to the MOH.¹⁸⁷ Forty-two percent of those who reportedly had the disease were women.¹⁸⁸ A study in Addis Ababa claims that the rate of STD infection in Addis Ababa is 32% for women and 45.3% for men.¹⁸⁹

Laws Affecting HIV/AIDS

Presently, there is no explicit law that refers to HIV or AIDS.¹⁹⁰ The Penal Code does, however, criminalize the act of spreading or transmitting a “communicable human disease,”¹⁹¹ and the degree of punishment depends on whether the act was done “intentionally,” “maliciously,” or through “negligence.”¹⁹² In addition, any offense of “sexual outrage”¹⁹³ is considered aggravated if the offender transmits a “venereal disease with which he knows himself to be infected.”¹⁹⁴ These provisions of the code are arguably applicable to cases of STDs and HIV/AIDS.¹⁹⁵

Policies Affecting Prevention and Treatment of HIV/AIDS

While the Health Policy cites as a priority “the control of communicable diseases” and “epidemics,”¹⁹⁶ the government has not yet issued a national policy on AIDS. However, the MOH has added to its administrative structure a Department of AIDS Prevention and Control, which has adopted the World Health Organization’s (“WHO”) AIDS Prevention and Control Strategy (“WHO AIDS Strategy”).¹⁹⁷ The WHO AIDS Strategy outlines programs to prevent HIV infection and provide support to those living with AIDS.¹⁹⁸ It focuses on transmission of HIV through sexual contact, through blood, and through prenatal exposure.¹⁹⁹ The strategy calls for the prevention of HIV infection through sexual contact to be combated through improved health service delivery, condom distribution, and education via the media and schools with extra focus on target groups particularly at risk.²⁰⁰

The WHO AIDS Prevention and Control Department has already taken steps to implement the strategy through educational campaigns in schools and annual distribution of condoms.²⁰¹ A visible publicity campaign has been initiated, and signs reading “Let’s stop AIDS together” are common sights in public health and school facilities, city buses, taxis, and busy public squares.²⁰²

III. Understanding the Exercise of Reproductive Rights: Women’s Legal Status

Women’s reproductive health and rights cannot be fully evaluated without investigating women’s status within the society in which they live. Not only do laws relating to women’s legal status reflect societal attitudes that will affect reproductive rights, but such laws often have a direct impact on women’s ability to exercise reproductive rights. The legal context of family life, a woman’s access to education, and laws and policies affecting her economic status can contribute to the promotion or the prohibition of a woman’s access to reproductive health care and her ability to make voluntary, informed decisions about such care. Laws regarding age of first marriage can have a significant impact on a young woman’s reproductive health. Furthermore, rape and other laws prohibiting sexual assault or domestic violence present significant rights issues and can also have direct consequences for women’s health.

A. RIGHTS WITHIN MARRIAGE

Marriage Law

The 1994 Constitution, pursuant to an article entitled “Marital, Personal and Family Rights,” states that “[m]arriage shall be entered into only with the free and full consent of the intending spouses.”²⁰³ Article 34 provides that “[m]en and women, who have attained marriageable age as defined by law...are entitled to equal rights as to marriage, during marriage and at its dissolution.”²⁰⁴ The Civil Code bars marriage contracts between men under the age of 18 years and women under the age of 15 years.²⁰⁵ It also prohibits marriage of any kind between persons related by consanguinity or affinity.²⁰⁶ In addition, the Civil Code bars bigamy,²⁰⁷ and the Penal Code provides criminal sanctions for it.²⁰⁸ In accordance with Article 34 of the 1994 Constitution, consent for marriage obtained by violence is invalid under the Civil Code.²⁰⁹ However, the Civil Code specifies that if consent is prompted by “reverential fear” towards an “ascendent” or another

person, such consent is not considered to have been obtained by violence.²¹⁰ This provision in the Civil Code is in potential contradiction with the provision of the 1994 Constitution that states that “[m]arriage shall be entered into only with the free and full consent of the intending spouses.”²¹¹

The Civil Code recognizes three types of marriage: civil, religious, and customary.²¹² Marriages contracted in accordance with the religious or local customs of the parties are recognized and regulated under the Code just as are marriages contracted before an officer of civil status.²¹³ A marriage may take place in any one of these forms, but the legal effects of the marriage, both in terms of the personal relationship between the spouses and in terms of their property, are regulated by the Code.²¹⁴ Therefore, even though a marriage may be consummated according to the custom of either of the spouses, the effects of the marriage are regulated by the Civil Code and not by the customary law. The Civil Code provides that spouses may determine by contract prior to marriage the “pecuniary effects” of their marriage as well as their reciprocal rights and obligations in their relationship.²¹⁵ These contracts cannot affect any mandatory provisions of the law,²¹⁶ and such contracts made between spouses have no effect under the law unless approved by family arbitrators²¹⁷ or the court.²¹⁸ Also, the provisions of a marriage contract may not refer simply to “local custom.”²¹⁹ Regardless of the terms of the contract of marriage, spouses owe each other “respect, support and assistance.”²²⁰ In terms of “pecuniary effects,” it is important to note that absent marriage contract provisions to the contrary, property belonging to either spouse on the day of marriage or acquired after marriage, either by succession or donation, remains that spouse’s personal property.²²¹ Each spouse is entitled to administer, receive income from, and dispose of his or her personal property as he or she pleases.²²² Salaries and income of the spouses, property acquired by the spouses during marriage, and property bequeathed to both spouses jointly constitutes common property.²²³ Also, under the Civil Code, common property is to be administered by the husband, although family arbitrators may entrust to the wife the administration of the common property.²²⁴ The agreement of both spouses, however, is required for the alienation of common real estate and movables of high value, the contracting of a loan, or the making of a donation of high value.²²⁵

In the absence of a valid contract regulating the terms of the marriage, the “[p]ersonal effects of marriage” and the “[p]ecuniary effects of marriage” provisions of the Civil Code apply.²²⁶ The personal effects of marriage concern the personal relationship between the spouses; the pecuniary effects concern the property that belongs to each spouse as well as

the property the spouses have in common. These provisions dictate, for example: that the husband is the head of the family and, unless otherwise expressly provided in the Civil Code, the wife must obey him in all lawful things which he orders;²²⁷ that the common residence is to be chosen by the husband;²²⁸ and that the husband owes his wife protection and may “guide her in her conduct, provided this is in the interest of the household, without being arbitrary and without vexatious or other abuses.”²²⁹ For a discussion on marriage and adolescents, see section on adolescents below.

Divorce and Custody Law

The laws regarding the dissolution of marriage are the same regardless of whether the marriage was contracted under civil, customary, or religious law.²³⁰ A marriage can be dissolved on the following grounds: death of spouse;²³¹ when a court orders its dissolution as a sanction of one of the “conditions” of marriage;²³² or by divorce.²³³ A divorce may be sought for “serious causes” or for “other causes.”²³⁴ “Serious cause” for divorce is present when one of the spouses has committed adultery,²³⁵ or when one of the spouses has deserted the couple’s residence and the other spouse does not know his [or her] whereabouts for a period of two years.²³⁶ “Serious causes” may also exist which are “not due to a spouse,”²³⁷ when one spouse is “confined in a lunatic asylum” for a minimum of two years or when the “absence” of a spouse has been “judicially declared.”²³⁸

Couples seeking divorce must first seek out “family arbitrators.”²³⁹ According to the Civil Code, the witnesses to the marriage should serve as arbitrators, but the couple may seek arbitration from other persons.²⁴⁰ In cases where there is no “serious cause” for divorce, the arbitrators “shall attempt to reconcile the parties.”²⁴¹ The Civil Code states that when reconciliation attempts fail, arbitrators shall grant a divorce, preferably upon terms agreed to by the parties.²⁴² If a spouse can establish “serious cause” for divorce “imputable to one of the spouses,” the family arbitrator may distribute to the spouse responsible for the divorce a smaller share of the couple’s common property.²⁴³ When there is no serious cause, property is distributed unevenly to the disadvantage of the spouse who has petitioned for divorce.²⁴⁴ The rules for distribution of property may not be altered contractually before or during marriage.²⁴⁵ While arbitrators are bound to apply the penalties enumerated in the Civil Code, they may use their discretion in deciding whether or not to penalize parties.²⁴⁶ In particular, they may consider the “importance and the gravity of the faults by reason of which the divorce has been ordered and the more or less morally reprehensible nature of the petition for divorce.”²⁴⁷ The arbitrator’s decision may be appealed to the courts. The court will only overturn

an arbitrator's decision upon a finding of arbitrator corruption, third-party fraud, or that the decisions were "illegal or manifestly unreasonable."²⁴⁸

Periodic support payments (or "alimony") to a former spouse after divorce are apparently not recognized in Ethiopian culture.²⁴⁹ There is an article of the Penal Code, however, entitled "Failure to Maintain," which makes it an offense to refuse or omit "to provide the allowances, necessities of life or maintenance which he owes, by virtue of family rights or of a judicial decision, to...his spouse, even where divorced...."²⁵⁰ Furthermore, support payments are often given (to the wife) pending the conclusion of the litigation related to a divorce.²⁵¹ That payment is then deducted from her share of property if divorce ultimately results.²⁵²

The Civil Code states that, following divorce, arrangements for the custody and maintenance of children born of the marriage shall be made solely with the interest of the children in mind.²⁵³ This law specifies that unless there is a "serious reason" for deciding otherwise, the children shall be in the custody of their mother up to the age of five years.²⁵⁴ All arrangements made for the custody and maintenance of the children may be revised at any time by the arbitrators upon the application of the father, mother, or other ascendent of the children.²⁵⁵

B. ECONOMIC AND SOCIAL RIGHTS

Property Rights

The 1994 Constitution provides for women's equal right to "acquire, administer, control, transfer and benefit from property."²⁵⁶ In particular, women have "equal rights with men with respect to access, use, administration and transfer of land."²⁵⁷ The 1994 Constitution also includes a provision guaranteeing equal treatment in the inheritance of property.²⁵⁸ According to the Civil Code, spouses only inherit from each other pursuant to a will. Thus, if a person dies intestate, his or her spouse does not inherit the decedent's property.²⁵⁹ Women's right to own property is also addressed in the Public Ownership of Rural Lands Proclamation of 1975,²⁶⁰ which provides that "[w]ithout differentiation of the sexes, any person who is willing to personally cultivate land shall be allotted rural land sufficient for his maintenance and that of his family,"²⁶¹ and 10 hectares²⁶² per family was set as the maximum limit.²⁶³

Labor Rights

The 1994 Constitution assures women the right to "equality in employment, promotion, pay, and the entitlement to bequeath pensions."²⁶⁴ There is also a measure declaring that "in recognition of the history of inequality and discrimination suffered by women in Ethiopia, women are entitled to

remedial and affirmative measures" intended to "enable women to compete and participate on the basis of equality with men in political, economic and social life, and to gain access to opportunities and positions in public and private institutions."²⁶⁵ The "Labour Proclamation" of 1993²⁶⁶ also regulates the working conditions of women. It states: "Women shall not be discriminated against as regards employment and payment, on the basis of sex."²⁶⁷ However, the proclamation then goes on to state that it is prohibited to employ women to do types of work that according to the Minister are particularly "arduous or harmful to their health."²⁶⁸ Furthermore, pregnant women are not to be "assigned to night work between 10 p.m. and 6 a.m. or to be employed on overtime work,"²⁶⁹ nor is a pregnant woman to be given an assignment outside her permanent place of work, unless it is determined by a medical doctor that her permanent work is dangerous to her health or pregnancy.²⁷⁰

The 1994 Constitution also guarantees women the right to maternity leave with full pay, leaving specific terms to be determined by law according to the "nature of the work, the health of the mother and the welfare of the child and the family."²⁷¹ It further states that maternity leave may include pre-natal leave with full pay.²⁷² This constitutional provision has been at least partially implemented by the Labour Proclamation, which grants women, upon medical recommendation, the right to maternity leave with full pay, specifying that a woman worker shall be granted a period of 30 consecutive days of leave with pay preceding the presumed date of her confinement and a period of 60 consecutive days of leave, also with pay, after her confinement.²⁷³

Access to Credit

As stated above, the Constitution entitles women to remedial and affirmative measures to enable them to participate equally with men in economic life.²⁷⁴ This principle is reiterated in the 1993 National Policy on Ethiopian Women (the "National Women's Policy").²⁷⁵ While no specific reference is made in Ethiopian law to women's access to credit, a mandate to eliminate barriers to credit is most likely implicit in these broad policy statements. Moreover, the National Women's Policy states that it was based, in part, on the Convention on the Elimination of All Forms of Discrimination against Women, to which Ethiopia has been a party since 1981.²⁷⁶ This international instrument specifically refers to "the right to bank loans, mortgages, and other forms of financial credit."²⁷⁷

Access to Education

Both the National Women's Policy and the 1993 National Population Policy of Ethiopia (the "Population Policy") call for improved access to education for women.²⁷⁸ The Women's Policy asserts that, while the education policy of

Ethiopia makes no explicit distinction between the sexes, the curriculum is indirectly discriminatory against girls.²⁷⁹ Traditionally, subjects are categorized as either appropriate for both girls and boys or as only appropriate for boys.²⁸⁰ As the Population Policy points out, families with limited resources will often send only male children to school and keep girls at home.²⁸¹ The Population Policy calls upon the Ministry of Education to “[s]tudy the factors militating against female participation in the educational system and design appropriate corrective measurements [sic].”²⁸² For further discussion regarding education, see section on adolescents below.

Women’s Bureaus

The Transitional Government’s National Women’s Policy implemented a Women’s Affairs Sector, which has been placed in the Prime Minister’s Office. The Women’s Affairs Sector is “accountable to the Prime Minister and shall be responsible for the coordination, facilitation and monitoring of women’s affairs activities at [a] national level.”²⁸³ The Women’s Policy also provides for the establishment of women’s affairs offices on the regional level and in governmental organizations on the department level.²⁸⁴

C. RIGHT TO PHYSICAL INTEGRITY

Rape

The Penal Code, pursuant to a section entitled “Injury to Sexual Liberty and Chastity,” defines rape as compelling “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.”²⁸⁵ The punishment for such an offense is a maximum of 10 years of “rigorous imprisonment.”²⁸⁶ The punishment for rape can be extended to 15 years of rigorous imprisonment under the following circumstances: when the rape is committed against a child under the age of 15; against an institutionalized woman in the care of the offender; or by a number of persons acting in concert.²⁸⁷ The Penal Code thus recognizes statutory rape, but since it defines rape as occurring “outside wedlock,” it does not recognize marital rape as a crime.²⁸⁸ For further discussion regarding sexual offenses against minors, see section on adolescents below.

Domestic Violence

While the Penal Code assigns criminal penalties for willful injury²⁸⁹ and assault,²⁹⁰ the laws do not specify the consequences of violence occurring between husband and wife. The Civil Code states, however, that “the spouses owe each other respect, support and assistance.”²⁹¹ Moreover, as mentioned above, under the Civil Code, consent for marriage is invalid if obtained through violence.²⁹² Article 558 of the Penal Code on “abduction” assigns a maximum of three years

of rigorous imprisonment for “[w]hosoever carries off a woman by violence, or after having obtained her consent to abduction by intimidation or violence, trickery [sic] or deceit.”²⁹³ There is no prosecution if the woman “freely contracts with her abductor a valid marriage” unless the marriage is later annulled by law.²⁹⁴ One who “carries off an insane, idiot or feeble-minded woman, one not fully conscious” or unable to defend herself, is punishable with a maximum of five years of rigorous imprisonment.²⁹⁵

Sexual Harassment

There is currently no law specifically addressing sexual harassment in Ethiopia. Because Article 2 of the Penal Code does not allow for the liberal interpretation of Penal Code provisions, it is difficult to consider using existing provisions in the Penal Code to address the issue of sexual harassment.

IV. Focusing on the Rights of a Special Group: Adolescents

A minor is defined by the Civil Code as “a person of either sex who has not yet attained the full age of eighteen years.”²⁹⁶ The needs of adolescents are often unrecognized or neglected. Given that young people between the ages of 10 and 21 years represent about 31% of Ethiopia’s population,²⁹⁷ it is particularly important to meet the reproductive health needs of this group. The effort to address issues of adolescents’ rights, including those related to reproductive health, is important for women’s right to self-determination as well as for their health.

A. REPRODUCTIVE HEALTH AND ADOLESCENTS

As of 1990, many family planning clinics did not offer services to women under the age of 18.²⁹⁸ However, no explicit laws or policies prevent adolescents from obtaining family planning or maternal/child health services.²⁹⁹ While the Population Policy expressly sets forth a strategy for the establishment of reproductive health counseling for teenagers and youth,³⁰⁰ and the inclusion of family life education in the public schools,³⁰¹ no mention is made of the provision of reproductive health services to this group.

B. FEMALE GENITAL MUTILATION AND ADOLESCENTS

Depending on the region, girls usually undergo FGM at the age of seven days, seven years, or during their teenage years.³⁰² Where FGM is practiced, girls who have not undergone it are ostracized and are considered unmarriageable in their communities.³⁰³

C. MARRIAGE AND ADOLESCENTS

As stated above, the Civil Code prohibits marriage of men under the age of 18 years and women under the age of 15 years.³⁰⁴ Early marriage, however, is pervasive in Ethiopia, with girls often marrying at the age of 14 or younger.³⁰⁵ These marriages, generally arranged by a couple's parents in conformity with tradition, are motivated in part by the need to ensure a girl's virginity at the time of marriage.³⁰⁶

D. SEX EDUCATION AND ADOLESCENTS

There is no comprehensive sex education policy in Ethiopia. However, various policies and programs run by the government agencies encompass sex education.³⁰⁷

E. SEXUAL OFFENSES AGAINST MINORS

As stated above, the punishment for rape can be extended to 15 years when the rape is committed against a child under the age of 15.³⁰⁸ The Ethiopian Penal Code also criminalizes "sexual outrages" — defined as sexual intercourse, or performing an act corresponding to the sexual act — with infants or young persons under the age of 15,³⁰⁹ as well as with minors between 15 and 18 years of age.³¹⁰ Furthermore, the Penal Code criminalizes the "seduction" of adolescent women. This law provides for "simple" imprisonment for "[w]hoever, by taking unfair advantage of the inexperience or trust of a female minor between 15 and 18 years of age, induces her to have sexual intercourse with him, whether by promise of marriage, trickery or otherwise."³¹¹

ENDNOTES

1. 1996 United States Department of State, DEPARTMENT OF STATE DISPATCH, ETHIOPIA HUMAN RIGHTS PRACTICES 1995 (Mar. 1996).
2. René David, *Sources of the Ethiopian Civil Code*, 4 J.ETH.L. 341 (1967) [hereinafter David].
3. John H. Beckstrom, *Transplantation of Legal Systems: An Early Report on the Reception of Western Laws in Ethiopia*, 21 AM. J. COM. LAW 557, 557-58 (1973) [hereinafter Beckstrom].
4. THE WORLD ALMANAC AND BOOK OF FACTS 1997, 762 (1996) [hereinafter WORLD ALMANAC].
5. TRANSITIONAL GOVERNMENT OF ETHIOPIA, CENTRAL STATISTICAL AUTHORITY POPULATION ANALYSIS AND STUDIES CENTER, THE 1990 NATIONAL FAMILY AND FERTILITY SURVEY REPORT 45 (June 1993).
6. WORLD ALMANAC, *supra* note 4.
7. THE STATESMAN'S YEAR-BOOK 466 (1996-97). There are 8 major and 60 minor ethnic groups. *Id.*
8. WORLD ALMANAC, *supra* note 4.
9. 4 ENCYCLOPEDIA BRITANNICA, *Ethiopia* 579 (1992).
10. THE STATESMAN'S YEAR-BOOK 466 (1996-97).
11. 4 ENCYCLOPEDIA BRITANNICA, *supra* note 9.
12. CONSTITUTION OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA Art. 46 (Dec. 8, 1994) (unofficial Eng. trans.), *reprinted in* CONSTITUTIONS OF THE COUNTRIES OF THE WORLD (Gisbert H. Flanz ed., 1996) [hereinafter ETHIOPIA CONST.]. The nine States are: Tigrari; Afar; Amara; Oromia; Somali; Benshangul/Gumuz; Southern Nations; Nationalities and Peoples; Gambela Peoples; and Harari People. *Id.* at Art. 47. The Constitution grants each of these States the right to secede from the Federal Republic at any time. *Id.*
13. *Id.* at Art. 54.
14. *Id.* at Art. 61.
15. *Id.* at Art. 55.
16. *Id.* at Art. 62.
17. *Id.* at Art. 69.
18. *Id.* at Art. 70.
19. *Id.* at Art. 71.
20. *Id.* at Art. 72.
21. *Id.* at Art. 73.
22. *Id.* at Art. 74.
23. *Id.* at Art. 77.
24. *Id.* at Art. 78.
25. *Id.* at Art. 81.
26. *Id.* at Art. 79.
27. *Id.*
28. Courts and parties to disputes may submit claims to the Council of Constitutional Inquiry, which is supervised by the Federal Council. The chief justice and vice-chief justice of the Federal Supreme Court serve as the Council of Constitutional Inquiry's president and vice-president, respectively. The remainder of the body is comprised of six legal experts and three members of the Federal Council. While the Council of Constitutional Inquiry is deemed to have judicial powers, decisions are not final until they are confirmed by the Federal Council. *Id.* at Arts. 82-84.
29. Daniel Haile, *Legal Scholarship in Ethiopia*, in LEGAL SCHOLARSHIP IN AFRICA 29, (Marco Guadagni ed., 1989) [hereinafter Haile].
30. David, *supra* note 2.
31. Civil law (also called Roman law or Roman Civil law) is based upon statutes as opposed to court decisions. BARRON'S LAW DICTIONARY 78 (1996).
32. Haile, *supra* note 29, at 30.
33. The brief Italian occupation of Ethiopia from 1936 to 1941 had little impact on the development of public institutions. See Beckstrom, *supra* note 3.
34. Indigenous Ethiopian legal principles fall within two categories. The first category consists of principles derived from religious laws that govern both Ethiopian Christians and Muslims. The *Fetha Negast* (Justice of the Kings), drafted in the mid-thirteenth century by the Egyptian scholar Al-Asad Ibn-al-Assal, constitutes a codification of principles of divine law for Ethiopian Christians. Ethiopian Muslims consider Islamic Law sacred. Second, customary rules, though never unified nor systematized, have been important sources of community governance. David, *supra* note 2, at 342-43.
35. Haile, *supra* note 29, at 30.
36. *Id.*
37. *Id.*
38. Daniel Haile, *The Legal System of Ethiopia* § 1.3, in MODERN LEGAL SYSTEMS CYCLOPEDIA (Kenneth Robert Redden ed., 1990).

39. *Id.* § 1.3(A).
40. *Id.* § 1.3(B).
41. *Id.*
42. *Id.* § 1.3(C).
43. *Id.* § 1.3(D).
44. J. Vanderlinden, *An Introduction to the Sources of Ethiopian Law from the 13th to the 20th Century*, 3 J. ETH. L. 37, 55 (1966).
45. PENAL CODE OF THE EMPIRE OF ETHIOPIA 158/1957, 1 Negarit Gazeta, Gazette Extraordinary (July 23, 1957) [hereinafter PEN. CODE].
46. CIVIL CODE OF THE EMPIRE OF ETHIOPIA 165/1960, 2 Negarit Gazeta, Gazette Extraordinary (May 5, 1960) [hereinafter CIV. CODE].
47. MARITIME CODE OF THE EMPIRE OF ETHIOPIA 164/1960, 1 Negarit Gazeta, Gazette Extraordinary (May 5, 1960).
48. COMMERCIAL CODE OF THE EMPIRE OF ETHIOPIA 166/1960, 3 Negarit Gazeta, Gazette Extraordinary (May 5, 1960).
49. CRIMINAL PROCEDURE CODE OF THE EMPIRE OF ETHIOPIA 185/1961, 7 Negarit Gazeta, Gazette Extraordinary (Nov. 2, 1961).
50. CIVIL PROCEDURE CODE OF THE EMPIRE OF ETHIOPIA 52/1965, 3 Negarit Gazeta, Gazette Extraordinary (Oct. 8, 1965).
51. CIV. CODE Art. 3347.
52. George Krzeczunowicz, *Code and Custom in Ethiopia*, 2 J. ETH. L., 425, 433 (1965).
53. *Id.*
54. *Id.* at 429-30.
55. *Id.* at 430-33.
56. CIV. CODE Art. 567.
57. ETHIOPIA CONST. Art. 9
58. *Id.* at Art. 34.
59. *Id.* at Art. 78.
60. *Id.* at Art. 9.
61. *Id.* at Art. 13.
62. International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Jan. 3, 1976) (ratified by Ethiopia on June 11, 1993); International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 (*entry into force* Jan. 3, 1976) (ratified by Ethiopia on June 11, 1993); Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (*entry into force* Sept. 3, 1981) (signed by Ethiopia on July 8, 1980 and ratified Sept. 10, 1981); International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195 (*entry into force* Jan. 4, 1969) (ratified by Ethiopia on June 23, 1976); and Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, G.A. Res. 44/25, U.N.G.A.O.R., 44th Sess., Supp. No. 49, U.N. Doc. A/44/49, *reprinted in* 28 I.L.M. 1448 (*entry into force* Sept. 2, 1990) (ratified by Ethiopia on May 14, 1991).
63. ETHIOPIA CONST. Art. 90.
64. HEALTH POLICY OF THE TRANSITIONAL GOVERNMENT OF ETHIOPIA 23 (Sept. 1993) [hereinafter HEALTH POL.]. This definition is consistent with the Preamble of the Constitution of the World Health Organization, which defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." 1 INT'L ENCYCLOPEDIA OF LAWS 55-59 (1993).
65. HEALTH POL., *supra* note 64, at 22.
66. *Id.* at 24. Other broad policies include the development of preventive and promotion health care services, the equitable distribution of services to all segments of the population, the promotion of intersectoral activities, the promotion of national self-reliance in health development, the assurance of health care service accessibility, increased cooperation with neighboring countries and international organizations, the development of capacity in meeting assessed needs, the scaling of health service fees according to patient ability to pay, and the encouragement of private sector and non-governmental organization participation in health care. *Id.* at 24-25.
67. *Id.* at 28.
68. *Id.*
69. *Id.*
70. *Id.* at 26-27.
71. *Id.* at 34.
72. THE HEALTH SECTOR STRATEGY OF THE TRANSITIONAL GOVERNMENT OF ETHIOPIA 14 (April 1995) [hereinafter HEALTH STRATEGY].
73. *Id.* at 11.
74. *Id.* at 13-14.
75. *Id.* at 13.
76. *Id.* at 14.
77. *Id.*
78. *Id.*
79. *Id.*
80. DEFINITION OF POWERS AND DUTIES OF THE EXECUTIVE ORGANS OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA 4/1995, 1 Federal Negarit Gazeta 1, 52-53 (1995) [hereinafter DEFINITION OF POWERS].
81. *Id.* at 53.
82. *Id.*
83. HEALTH STRATEGY, *supra* note 72, at 6.
84. *Id.* at 7.
85. *Id.* at 5. For a regional distribution of health facilities in Ethiopia, *see id.* at 5, tbl. 3.
86. *Id.* at 5.
87. *Id.*
88. ETHIOPIA CONST. Art. 41.
89. HEALTH STRATEGY, *supra* note 72, at 9.
90. ETHIOPIA CONST. Art. 41.
91. HEALTH POL., *supra* note 64, at 38.
92. HEALTH STRATEGY, *supra* note 72, at 10. One U.S. dollar is worth approximately 6.42 Ethiopian Birr. *See* U.N. Operational Rates of Exchange (visited Feb. 27, 1997) <gopher://gopher.undp.org./00/uncurr/exch_rates>.
93. HEALTH STRATEGY, *supra* note 72, at 11.
94. COUNCIL OF MINISTERS REGULATIONS TO PROVIDE FOR LICENSING AND SUPERVISION OF HEALTH SERVICE INSTITUTIONS 174/1994, 66 Negarit Gazeta of the Transitional Government of Ethiopia 331 (Feb. 16, 1994) [hereinafter HEALTH SERVICES].
95. *Id.* at Part I (2).
96. *Id.* at Part II (4).
97. *Id.* at Part II (11).
98. *Id.* at Part III (15).
99. MEDICAL ETHICS FOR PHYSICIANS PRACTICING IN ETHIOPIA (1992) [hereinafter MED. ETHICS].
100. *Id.* at 1-2.
101. *See id.* at 11-17.
102. *Id.* at 14.
103. "Simple" imprisonment is defined as a sentence applicable to offenses of a not very serious nature committed by persons who are not a serious danger to society. The Penal Code states that "[s]ubject to any special provisions of law and without prejudice to conditional release, simple imprisonment may extend for a period of ten days to three years; such period shall be fixed by the court." Furthermore, the sentence is to be served in "such a prison or in such section... as is appointed for the purpose." PEN. CODE Art. 105.
104. *Id.* at Art. 518.
105. *Id.* at Art. 518 (1).
106. *Id.* at Art. 518 (4).
107. *Id.* at Art. 789.
108. *Id.* at Art. 790.
109. *See* CIV. CODE Arts. 2028-65 (for "[l]iability arising from an offence"), 2066-89 (for "[l]iability in the absence of an offence").
110. *Id.* at Art. 2031.
111. *Id.*
112. NATIONAL POPULATION POLICY OF ETHIOPIA, *Preface* (Apr. 1993) [hereinafter POP. POL.].
113. *Id.* at 1.
114. *Id.* at 4.
115. ETHIOPIA CONST. Art. 35.
116. POP. POL., *supra* note 112 at 27-28.
117. *Id.* at 28-29.
118. *Id.* at 30.
119. *Id.* at 31.
120. *Id.*
121. *Id.* at 32.
122. *Id.*
123. *Id.*
124. *Id.* at 34-36.
125. *Id.* at 37.
126. *Id.* at 38-43.
127. *Id.* at 44-52.
128. *Id.* at 55.

129. *Id.* at 57.
130. *Id.* at 59.
131. Report by Zewdu Alem, Inter Africa Group, Addis Ababa, Ethiopia (1996) (on file with The Center for Reproductive Law and Policy) [hereinafter Alem Report], citing FAMILY GUIDANCE ASSOCIATION OF ETHIOPIA, RESEARCH AND EVALUATION UNIT, STATISTICAL ABSTRACT, No. 8, at 13 (1995) (available in the Wsrary) [hereinafter FGAE].
132. FGAE, *supra* note 131, at 13.
133. HEALTH STRATEGY, *supra* note 72, at 12.
134. HEALTH POL., *supra* note 64, at 27.
135. *Id.* at 34.
136. *Id.* at 35.
137. POP. POL., *supra* note 112, at 28.
138. UNITED NATIONS POPULATION FUND, PROGRAMME REVIEW AND STRATEGY DEVELOPMENT REPORT, *Ethiopia* 31 (1994) [hereinafter UNFPA Report].
139. KIRSTAN HAWKINS ET AL., REVIEW OF THE YOUTH PROGRAMME OF THE FAMILY GUIDANCE ASSOCIATION OF ETHIOPIA 1 (1993) [hereinafter HAWKINS ET AL.].
140. POP. POL., *supra* note 112, at 30-31.
141. *Id.* at 31.
142. The Department of Health initiates, proposes and executes national policies/programs designed to promote family health, with a special focus on children, adolescents, and women. Interview by Zewdu Alem with Woizero Hiwot Mengistu, Family Health Department, Ministry of Health, Addis Ababa, Ethiopia (July 25, 1996) [hereinafter Interview with Woizero Hiwot Mengistu].
143. *Id.*
144. *Id.*
145. Interview by Zewdu Alem with Ato Antenane Korra, Research Officer, Family Guidance Association of Ethiopia, Addis Ababa, Ethiopia (July 9, 1996).
146. Alem Report, *supra* note 131, at 8.
147. Interview with Woizero Hiwot Mengistu, *supra* note 142.
148. DANIEL HAILE AND ERKU YIMER, LAW AND POPULATION GROWTH IN ETHIOPIA 19 (1976) [hereinafter HAILE AND YIMER]. The government is currently conducting a study with a view to review and possibly amend the Pharmacy Regulations.
149. *Id.*
150. *Id.*
151. PEN. CODE Art. 802.
152. Alem Report, *supra* note 131, at 8.
153. PEN. CODE Arts. 528-35.
154. *Id.* at Art. 528.
155. *Id.* at Art. 534.
156. *Id.* at Art. 533.
157. *Id.* at Art. 534.
158. *Id.*
159. *Id.*
160. *Id.* at Art. 535.
161. *Id.* at Art. 534.
162. *Id.* at Art. 536.
163. MED. ETHICS, *supra* note 99, at 19.
164. *Id.*
165. *Id.*
166. *Id.* at 20.
167. PEN. CODE Art. 529. For a definition of simple imprisonment see *supra* note 103.
168. PEN. CODE Art. 529.
169. *Id.* at Art. 530. "Rigorous" imprisonment is defined as a sentence applicable only to "offences of a very grave nature committed by offenders who are particularly dangerous to society." The Penal Code further states that "[b]esides providing for the punishment and for the rehabilitation of the offender, this sentence is intended also to provide for a strict confinement [sic] of the offender and for special protection of society." The Penal Code provides that "[w]ithout prejudice to conditional release, the sentence of rigorous imprisonment is normally for a period of one to twenty-five years," or when provided for by law, for life. The sentence is to be carried out in "such central prisons as are appointed for the purpose." PEN. CODE Art. 107.
170. *Id.*
171. *Id.* at Art. 531.
172. *Id.*
173. *Id.* at Art. 802.
174. HAILE AND YIMER, *supra* note 148, at 22.
175. Alem Report, *supra* note 131, at 10.
176. FGAE, *supra* note 131, at 26.
177. *Id.*
178. UNFPA REPORT, *supra* note 138, at 49. The FGAE became a member of the International Planned Parenthood Federation in 1971. It advocates for family planning and provides family planning education, counseling, service delivery, and contraceptive technology. *Id.*
179. Interview with Woizero Hiwot Mengistu, *supra* note 142.
180. *Id.*
181. *Id.*
182. NAHID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION 25 (Rainb 9 1995).
183. ETHIOPIA CONST. Art. 35.
184. HEALTH POL., *supra* note 64, at 30.
185. Interview by Zewdu Alem with Dr. Hailu Negassa, Acting Head, AIDS Prevention and Control Department, Ministry of Health (July 25, 1996) [hereinafter Interview with Hailu Negassa].
186. *Id.*
187. *Id.*
188. *Id.*
189. Alem Report, *supra* note 131, at 4, citing Adanech, K. and Azeb, T., "Gender Influence on Women's Health; A Review of the Ethiopian Situation," in PROCEEDINGS OF THE FIRST UNIVERSITY SEMINAR ON GENDER ISSUES IN ETHIOPIA 49 (Dec. 24-26, 1989).
190. Alem Report, *supra* note 131, at 10.
191. The term "communicable human disease" is not defined in the Penal Code.
192. PEN. CODE Art. 503.
193. For a discussion of the offenses defined as "sexual outrage" see *id.* at Art. 594.
194. *Id.* at Art. 598(b). "Venereal disease" is not defined in the Penal Code.
195. Alem Report, *supra* note 131, at 10-11.
196. HEALTH POL., *supra* note 64, at 26.
197. Interview with Hailu Negassa, *supra* note 185.
198. WORLD HEALTH ORGANIZATION, AIDS PREVENTION AND CONTROL STRATEGY (year not included in report).
199. *Id.*
200. *Id.*
201. Interview with Hailu Negassa, *supra* note 185.
202. Alem Report, *supra* note 131, at 11.
203. ETHIOPIA CONST. Art. 34.
204. *Id.*
205. CIV. CODE Art. 581.
206. *Id.* at Art. 582-83.
207. The Civil Code states: "A person may not contract marriage so long as he is bound by the bonds of a preceding marriage." *Id.* at Art. 585.
208. PEN. CODE Art. 616.
209. CIV. CODE Art. 589.
210. *Id.*
211. ETHIOPIA CONST. Art. 34.
212. See CIV. CODE Art. 577.
213. *Id.* at Art. 625.
214. *Id.*
215. *Id.* at Art. 627.
216. *Id.* at Art. 631.
217. Family arbitrators are, in theory, relatives, neighbors and friends who are selected by the couple to help resolve marital disputes. Courts have no jurisdiction to resolve these disputes prior to arbitration. John H. Beckstrom, *Divorce in Urban Ethiopia Ten Years after the Civil Code*, 6 J. ETH. L. 283, 290-91 (1969) [hereinafter Beckstrom, *Divorce in Ethiopia*].
218. CIV. CODE Art. 633.
219. *Id.* at Art. 631.
220. *Id.* at Art. 636.
221. *Id.* at Art. 647.
222. *Id.* at Art. 649.
223. *Id.* at Art. 652.
224. *Id.* at Art. 656.
225. *Id.* at Art. 658.
226. *Id.* at Art. 634. For the "Personal effects of marriage" provisions, see *id.* at Arts. 635-46; for the "Pecuniary effects of marriage" provisions see *id.* at Arts. 647-61.
227. CIV. CODE Art. 635.
228. *Id.* at Art. 641.

229. *Id.* at Art. 644.
230. *Id.* at Art. 662.
231. *Id.* at Art. 663.
232. *Id.* For a discussion of the “conditions” of marriage, see *infra* section on marriage.
233. CIV. CODE Art. 663.
234. *Id.* at Art. 667.
235. *Id.* at Art. 669.
236. *Id.*
237. *Id.* at Art. 670.
238. *Id.*
239. *Id.* at Art. 727.
240. *Id.* at Art. 725.
241. *Id.* at Art. 676.
242. *Id.* at Arts. 677–78.
243. *Id.* at Arts. 692–93.
244. *Id.* at Art. 694.
245. *Id.* at Art. 690.
246. *Id.* at Art. 695.
247. *Id.*
248. *Id.* at Art. 736.
249. Beckstrom, *Divorce in Ethiopia*, *supra* note 217, at 300, citing N. MAREIN, THE ETHIOPIAN EMPIRE, FEDERATION AND LAWS 163 (1954).
250. PEN. CODE Art. 625.
251. Beckstrom, *Divorce in Ethiopia*, *supra* note 217, at 300.
252. *Id.*
253. CIV. CODE Art. 681. The 1994 Constitution gives added force to this provision, stating that “[i]n all actions concerning children undertaken by...courts of law,...the primary consideration shall be the best interests of the child.” ETHIOPIA CONST. Art. 36.
254. CIV. CODE Art. 681.
255. *Id.* at Art. 682.
256. ETHIOPIA CONST. Art. 35
257. *Id.*
258. *Id.*
259. See *id.* at Arts. 842–56 for the intestate succession laws. Under these intestate succession laws the decedent’s descendants are the first to inherit (children first). If there are no descendants, the estate goes to the parents. If the parents do not survive the deceased, then to the grandparents, and so on. *Id.*
260. PUBLIC OWNERSHIP OF RURAL LANDS, 31/1971, 26 Negarit Gazeta 93 (April 29, 1975) [hereinafter PUB. LANDS].
261. *Id.* at Ch. 2, § 4.1.
262. One hectare is equivalent to 10,000 square meters (or 2.47 acres).
263. PUB. LANDS, *supra* note 260, at Ch. 2, § 4.3.
264. ETHIOPIA CONST. Art. 35.
265. *Id.*
266. LABOUR PROCLAMATION 42/1993, 27 Negarit Gazeta 268 (Jan. 20, 1993) [hereinafter LAB. PROC.].
267. *Id.* at Part Six, Ch. 1, § 87.1.
268. *Id.* at Part Six, Ch. 1, § 87.2.
269. *Id.* at Part Six, Ch. 1, § 87.3.
270. *Id.* at Part Six, Ch. 1, § 87.4.
271. ETHIOPIA CONST. Art. 35. Prior to the 1994 Constitution, the Civil Code provided that an employee “who expects a child shall be entitled to one month’s leave during the period of her confinement.” CIV. CODE Art. 2566. The employer under the Civil Code was only obligated to pay half the employee’s salary during the leave. *Id.*
272. ETHIOPIA CONST. Art. 35.
273. LAB. PROC., *supra* note 266, at Part Six, Ch. 1, § 88.
274. ETHIOPIA CONST. Art. 35.
275. TRANSITIONAL GOVERNMENT OF ETHIOPIA, NATIONAL POLICY ON ETHIOPIAN WOMEN 25 (1993) [hereinafter WOMEN’S POL.].
276. Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature Mar. 1, 1980, 1249 U.N.T.S. 13 (entry into force Sept. 3, 1981) (signed by Ethiopia on July 8, 1980 and ratified Sept. 10, 1981).
277. *Id.* at Art. 13(b).
278. WOMEN’S POL., *supra* note 275, at 7; POP. POL., *supra* note 112, at 28.
279. WOMEN’S POL., *supra* note 275, at 18.
280. *Id.* at 18–19.
281. POP. POL., *supra* note 112, at 17–18.
282. *Id.* at 54.
283. WOMEN’S POL., *supra* note 275, at 34.
284. *Id.* at 36–41.
285. PEN. CODE Art. 589.
286. For a definition of “rigorous” imprisonment see *supra* note 169.
287. *Id.* at Art. 589.
288. See *id.*
289. *Id.* at Arts. 538–39.
290. *Id.* at Art. 544.
291. CIV. CODE Art. 536.
292. *Id.* at Art. 589.
293. PEN. CODE Art. 558.
294. *Id.*
295. *Id.* at Art. 559.
296. CIV. CODE. Art. 198.
297. HAWKINS ET AL., *supra* note 139.
298. *Id.*
299. *Id.*
300. POP. POL., *supra* note 112, at 31.
301. *Id.* at 54.
302. Tsiganesh Gudeta, *The Silent Shame, in PRIVATE DECISIONS, PUBLIC DEBATE: WOMEN, REPRODUCTION & POPULATION* 95, 100–01 (Judith Mirsky et al. eds., 1994).
303. *Id.* at 101.
304. CIV. CODE Art. 581.
305. See HAWKINS ET AL., *supra* note 139.
306. Haile Gabriel Dagne, *Early Marriage in Northern Ethiopia*, 4 REPRODUCTIVE HEALTH MATTERS 35–36 (1994).
307. See HEALTH POL., *supra* note 64, at 29–30; POP. POL., *supra* note 112, at 35–36.
308. PEN. CODE Art. 589.
309. *Id.* at Art. 594.
310. *Id.* at Art. 595.
311. *Id.* at Art. 596.