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Rooted in Inequality: Uprooting Barriers to Women's Land Rights in Ethiopia

Getayawkal Mehari

Navigating Women's labor in Ethiopia and their ignored voices

Dagmawit Hailu

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Rooted in Inequality: Uprooting Barriers to Women's Land Rights in Ethiopia

By- Getayawkal Mehari

A famous Ethiopian proverb goes like this "በ ሚስት እና በ ርስት ቀልድ የለም" a saying directly translated as "There is no room for compromise when it comes to a wife or the matter of land (property) rights". Land this single word carries a weight far beyond its literal meaning. It's not just dirt and rock; it's woven into the very fabric of our history, our culture, and our identity. For generations, land has been the lifeblood of our people, the source of sustenance, and the foundation of our communities. The struggle for it has fueled revolutions, ignited conflicts. From the feudal systems of the past to the complex land tenure issues of the present, the story of Ethiopia is intricately linked to the story of its land. Its story has a deep connection of ancestral ties and of the enduring quest for justice and equitable access to this precious resource. It's a sensitivity born from centuries of struggle, a sensitivity that continues to resonate today, and in the future. Currently, it sustains the vast majority of Ethiopian farmers and underpins a significant portion of the economy.

Throughout history, controlling land has frequently led to conflicts. In Ethiopia, this struggle has been deeply shaped by gender inequality, often ignoring women's needs and rights when it comes to owning or holding land. Despite constituting nearly half of the population, women in Ethiopia have historically experienced significantly limited access to land holding rights. This disparity stems from a systemic power imbalance favoring male control, a phenomenon prevalent not only in rural regions but also demonstrably persisting within urban areas. This historical disadvantage has created significant disparities in promoting equity and the economy, holding back women's progress and the country's development. While laws have been put in place to try and promote equity, old traditions and customs still make it hard for many Ethiopian women to own land, making it an unattainable goal.

The Wolaita community can be an example of ingrained patriarchal land rights, where land is managed through lineage and religious norms, not as a commodity.[1] These customary rules place men at the center of land control, limiting women's access primarily to relationships with male relatives.[2]Unmarried women face severe inheritance restrictions, with sons favored in land distribution, perpetuating women's dependency.[3]This systemic discrimination continues to restrict women's economic and social participation, reinforcing inequality.

This essay explores the rights afforded to women regarding land holding right in Ethiopia, alongside the persistent barriers that hinder their ability to fully exercise these rights. By weaving together compelling real-life stories—such as those from the Wolaita community—the aim of this essay is to uncover the multifaceted challenges women face. Through this analysis, the essay will seek to provide actionable insights for fostering meaningful and lasting change, ultimately breaking the chains that have long denied women their rightful place as equal stakeholders in Ethiopia's land.

Examining Women's Land Holding Rights: Legal Framework vs. Customary Practice in Wolaita Communities

Ethiopia has constitutional and legal frameworks protecting women's rights,

[1] Husen Ahmed Tura, *Women's Right to and Control over Rural Land in Ethiopia: The Law and the Practice*, 2 Int'l J. Gender & Women's Stud. 137, 137-65 (2014) [hereinafter Tura, Land Rights].

[2] Id at (151-152)

[3] Id

particularly regarding property. Articles 34 and 35 of the FDRE Constitution guarantee equal rights for men and women in marriage, divorce, and property holding right, including land. It also mandates affirmative measures to address historical inequalities faced by women. Family codes echo these principles, distinguishing between personal and common property acquired before, during, and after marriage (Arts. 57-73 RFC, Arts. 73-89 Oromia FC, Arts. 80-94 Tigray RFC, Arts. 66-82 SNNP RFC). Personal property owned before marriage or acquired through donation/inheritance remains separate (Art. 57 RFC). Spouses manage their personal property (Art. 59 RFC), but can agree on joint management (Art. 60 RFC). Income, regardless of source, is considered common property (Art. 62 RFC). Property held by spouses is presumed common unless proven otherwise (Art. 62 RFC). While spouses manage their incomes (Art. 64 RFC), disposal of common property requires mutual consent, especially for high-value items (Arts. 68 & 69 RFC). Unilateral actions can be invalidated by the court. Issues remain around implementation and customary practices that may contradict these legal provisions.

Ethiopia's commitment to women's rights is further reinforced by its ratification of key international and regional legal instruments. Since International treaties ratified by Ethiopia are also part of the law of the land (FDRE Constitution Article 9(4)) These include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which specifically calls for the elimination of discrimination against women in rural areas and guarantees their equality in property rights. Additionally, Ethiopia has ratified the African Charter on Human and Peoples' Rights (Banjul Charter) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol). Both of these instruments contain crucial provisions for the protection of women's rights and their active participation in matters related to land and natural resources.

However, when we examine the role of informal customary land rights, which are deeply rooted in the collective understanding and traditions of community members, we see how they shape access to land and other vital resources. In many communities, land is not treated as a commodity to be traded or sold in markets. Instead, it is governed by intricate systems tied to family lineage, marriage customs, and religious beliefs. These systems, while deeply cultural, often place men at the helm of land control. This dynamic is starkly evident in the Wolaita community, where customary laws have long reinforced patriarchal values, systematically marginalizing women and relegating them to subordinate roles within society.

For unmarried women in Wolaita and other parts of southern Ethiopia, the barriers are even more pronounced. Without the right to inherit property, they are left with little to no access to land, a resource that is vital for survival and economic independence. Customary laws explicitly favor sons over daughters in matters of inheritance, perpetuating a cycle of inequality that begins in childhood and extends throughout a woman’s life. These unwritten rules, passed down through generations and deeply embedded in the community’s shared values, continue to dictate who holds power and who remains dependent. Women are often expected to rely entirely on men for their basic needs, such as food and clothing, and are excluded from meaningful roles in managing family or marital property. This systemic discrimination not only denies women control over land but also stifles their ability to benefit from their own labor, trapping them in cycles of economic and social dependency. In all this we see that while the Wolaita community exemplifies the challenges women face, Ethiopia’s legal framework offers a contrasting vision of equality.

Chuna's Story: A Personal Reflection of Systemic Injustice

Chuna's story, as documented by Husen Ahmed Tura (2014) in the *International Journal of Gender and Women's Studies*, highlights the harsh realities faced by many Ethiopian women in their struggle for land rights.[4] A middle-aged woman from the Wolaita zone, Sodo Zuria district (Dalbo kebele), Chuna shared her heartbreaking experience during a focus group discussion. She recounted how, after her divorce, she was forced to leave her marital home with only her clothes, denied any share of the common property, including land. Her ex-husband insisted, "The land belongs to me, and you are not entitled to it at all."

Chuna's challenges did not end there. Returning to her parents' village, she sought her share of her deceased parents' land from her brother, who had inherited it. Despite her pleas and mediation attempts through community elders, he refused. Even after her brother's death, his children—her nephews—rejected her claims, asserting, "The land belongs to us." With limited income from selling locally distilled beverages, Chuna struggled to provide for her three children, her physical condition and facial expression silently speaking volumes about her suffering.

This story is not unique; it still reflects the systemic barriers women face in accessing land rights, even when legal frameworks exist to protect them. By denying women equal inheritance rights and restricting their access to land, these traditions hinder their ability to participate fully in the economic and social life of their communities. For generations, these practices have been justified as part of the cultural fabric, but they remain a significant barrier to gender equality and progress.

The story of the Wolaita community is a microcosm of a broader issue: the struggle for women's land rights in Ethiopia is not just about legal reform but about challenging deeply ingrained traditions that continue to shape lives and livelihoods. Until these customs are addressed, the promise of equitable land rights for women will remain out of reach, leaving half the population unable to fully contribute to or benefit from the nation's development. The denial of land rights translates to a denial of economic independence, social empowerment, and ultimately, the ability for women to fully participate in the development process. It creates a cycle of dependency, limiting women's opportunities and perpetuating their marginalization. We must recognize that when women are denied their rightful place in society, the entire nation suffers.

Pathways to Change: Practical and Creative Solutions

The stories of women like Chuna highlight the harsh realities of systemic discrimination, where even well-intentioned laws fail to create real change. So, the big question is: *What can we do to improve this?* We know the problem exists, and we know that laws alone aren't enough. How, then, can we bridge the gap between legal frameworks and the lived experiences of women? How Can We Shift Cultural Norms? Because Traditions and customs play a huge role in shaping attitudes toward women's land rights. How can we engage communities in conversations about gender equality without dismissing their cultural values? Could community dialogues help people see the benefits of empowering women? What role can religious leaders, elders, and local influencers play in driving this shift?

So, to tackle the ongoing inequalities in women's land rights in Ethiopia, especially in places like Wolaita and others, we need a mix of practical and creative solutions. While laws exist to protect women's rights, they often clash with long-standing traditions that favor men. To address the systemic barriers women, face in accessing

[4] Tura, Land Rights

land rights, a combination of practical and creative solutions is essential. Below are key strategies to drive meaningful change:

- **Make Laws Work in Real Life**: Many women, like Chuna, are aware of their rights but struggle to enforce them due to inconsistent implementation by courts and local leaders. To address this:
    - Train Community leaders and Officials to support women's land rights and spread awareness about laws protecting women's rights to own land.
    - Expand legal aid programs to ensure women can advocate for their rights without fear or financial barriers.
    - **Educate and Change Minds**: Lasting change begins with awareness. To shift societal attitudes:
    - Launch community workshops, radio programs, and social media campaigns to educate people about women's land rights.
    - Share powerful stories, like Chuna's, in schools, churches, mosques, and community gatherings.
    - Engage religious leaders, elders, and local influencers to champion gender equality.
    - **Help Women Earn and Own**: Economic empowerment is critical for women to assert their rights. Key actions include:
    - Providing training in farming skills, access to loans, and support for small businesses this can be done by establishing women's cooperatives to pool resources for buying or leasing land.
    - **Open Dialogue Sessions (Talk It Out)**:
      Cultural change takes time but can be accelerated through open conversations.
    - Organizing community discussions where men and women can openly discuss the importance of women's land rights.
    - Showcasing "model families" who practice fair land sharing to demonstrate its benefits.
    - **Protect the Most Vulnerable**: Unmarried and divorced women often face the greatest challenges. To support them:
    - Strengthen implementation of laws to protect rights to inheritance and marital property.
    - Create support systems, such as shelters, job training, and legal aid, for women forced out of their homes.
    - **Track Progress**: Measuring impact is crucial for identifying what works and what doesn't.
    - Collecting data on women's land holding right, court cases, and outcomes.
    - Partnering with universities and research groups to conduct surveys and publish reports

As part of the solutions in addressing these challenges effectively, we cannot rely solely on conventional approaches only. Instead, we must also embrace innovative and creative solutions to drive meaningful change, such as

- Land Rights Ambassadors: Like the idea of Model Pastoralist and Model Farmers we can Train young women and men to become "land rights ambassadors" in their communities. Where they can educate others, mediate disputes, and help women navigate the legal system.
- Using Artistic ways: Using Movies, theater, and music to share stories about women's land rights. Because a play or a song can Impact people in ways a lecture never could.
- Using Technology for Justice: Creating a mobile application where women can report land rights violations, get legal advice, or find support services.

- Land Sharing Festivals: Organize community events where families publicly pledge to share land equally between sons and daughters. Make it a celebration of fairness and progress!

All this might serve as practical steps in our fight for a more equitable land rights to women in Ethiopia because the fight for women's land rights in Ethiopia isn't just about laws—it's about changing hearts and minds. Women like Chuna deserve to own land, build their futures, and contribute to their communities. But for that to happen, we need to challenge the traditions that hold them back. This isn't just a women's issue; it's a national issue. When women thrive, everyone benefits. Let's work together—students, activists, leaders, and communities to break the chains of tradition and build a future where every Ethiopian, man or woman, has a fair shot at success. The time for change is now, and it starts with us.

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Navigating Women's labor in Ethiopia and their ignored voices

By – Dagmawit Hailu

Women's rights refer to the fundamental human rights that pertain specifically to women and girls, encompassing a range of issues that include equality, freedom from discrimination, access to education and healthcare, and the ability to participate fully in society. The concept of women's rights emerged from the broader human rights movement.[5]

While men and women share many of the same rights as human beings, there are distinctions in how these rights are experienced and enforced due to historical, cultural, and social factors. For instance, women often encounter barriers in areas such as education, employment, and political representation, which can be exacerbated by intersecting factors such as race, class, and geography. Understanding women's rights involves recognizing these disparities and advocating for policies and practices that promote gender equality. It is essential to address

not only the legal frameworks that protect women's rights but also the societal norms and attitudes that perpetuate gender-based discrimination. The lack of understanding of women's rights as human rights is reflected in the fact that few governments are committed to domestic or foreign policy to women's equality as the basic human right.

In Ethiopia, a nation rich in culture and history, significant challenges regarding women's rights and labor conditions arise. Women in Ethiopia often encounter multifaceted barriers that compel many to seek employment opportunities abroad, while those who remain face severe exploitation in domestic home works and in factories. Ethiopian women are disproportionately affected by socio-economic barriers that hinder their access to decent work. These barriers include limited educational opportunities, gender-based discrimination, and cultural norms that prioritize male employment. As a result, many women find themselves trapped in low-paying jobs with little chance for advancement. The lack of economic empowerment not only affects their individual livelihoods but also perpetuates cycles of poverty within their families and communities

[5] Ethiopian human right law teaching material 2009 page 67

Women's labor

I believe that both men and women are equal but are not the same because every human being is a unique creature. No one is the same each other even if they are the same sex, so to say both men and women are equal; we should treat them considering their nature. Most of the laws in the world are enacted by men's standard and they are not considerate for women's, that's why women are still discriminated against. I believe nature does not make favors for anyone, but what hold us back are our culture, norms, and our own beliefs.

As Ethiopia is a sub-Saharan developing country, with population of more than 120 million, approximately 27 million live in poverty out of this number 73% are youth comprise under age of 30, but only three million young people enter the competitive labor market annually. However young women often face underemployment, low paid or unregulated work.[6] and as we know, poverty makes things worse. Women disproportionally bear the burden of poverty in Ethiopia which is mainly a result of the gender-based division of labor and lack of access and control over resources prescribed not only tradition and culture but also reiterated in the law.[7]

Women in Ethiopia face different challenges Even though it depends on geographical location (urban or rural). Most women in rural areas have no quality access to education, educational facilities, or legal frameworks that encourage them to stay in school, and by default, they are forced to marry or to assist their families with domestic work. Others migrate to urban areas and work with poor conditions, and the rest of them migrate abroad. In the pursuit of better opportunities, many Ethiopian women choose to migrate abroad for work. According to many researches More than 840,000 Ethiopians migrated abroad in the past five years, with 78 percent aged between 15 and 29 years.[8] (this number may increase by different internal and external factors) While this decision is often seen as a means of escaping economic hardship, it exposes them to a new set of vulnerabilities.

[6]. Fabienne Todtli, Elevation Women across Industries in Ethiopia06 December2024

[7] women watch, Ethiopia national action plan 1997-2003

[8] international organization for migration, together with Ethiopian's central statical agency (CSA) 21 Aug2021

Migrant women frequently face exploitation, abuse, and human trafficking. They are often subjected to poor working conditions, long hours, and inadequate pay. Furthermore, their legal status may render them powerless to advocate for their rights, leaving them at the mercy of employers who may exploit their desperation.

For those who remain in Ethiopia, the situation is similarly dire. Many women find employment in factories and domestic works, under harsh conditions characterized by low wages, long hours, and minimal labor protections. Their lack of protection is a product of a large legal and moral vacuum that the Ethiopian society has yet to be addressed. The legal vacuum was a purposeful act by the legislature on the basis that there would be difficulties of implementation of any legal obligation upon the employer.[9] Despite Ethiopia's rapid industrialization, labor laws often fail to provide adequate safeguards for workers, particularly women. Many factories operate in a legal gray area where regulations are poorly enforced, leading to widespread violations of workers' rights. Women working in these factories frequently endure unsafe working environments, lack of access to healthcare, and harassment. The pressure to meet production targets often results in physical and mental strain, further compromising their health. Moreover, the lack of support systems exacerbates their vulnerability; many women are left without recourse to address grievances or seek justice.

Women who are involved in these careers not only face economic challenges but also health issues. Let’s talk a little about these issues:-

Reproductive Health Risks: Ethiopian women who migrate for work often face significant reproductive health risks. Many of these women work in sectors such as domestic labor or manufacturing, where they may be subjected to long hours, strenuous labor, and exposure to hazardous materials. These conditions can lead to complications such as menstrual irregularities, reproductive tract infections, and other gynecological issues. Many migrant women face exploitation and abuse, including sexual harassment and violence.

[9] Mehret Berhe, the struggle begins at home: domestic workers in Ethiopia

In my view, Ethiopia should adopt not only legal frameworks but also societal norms when it is founded beneficial for women's right protection. The best example I ever found about

women's right protection is China's family law; China encompasses the basic woman's right we are talking about.

In China, women's domestic work as a wife is deeply rooted in cultural traditions and is increasingly recognized in legal frameworks, particularly in terms of property rights and divorce settlements that give protection for every woman in marriage and in their day today life. When we compare Ethiopia to those countries, I can certainly say we did nothing for

women's protection. in Ethiopia, Child girls are raped and murdered, girls are kidnapped, girls are forced to join the military without attaining the age, girls drop out of their school and migrate abroad, early marriage, are the main notable factors that ruin women's life and hinder development of the country. Many researchers indicated that poverty, illiterate society, lack of political stability, environmental barriers, and proper implementation of law are the barriers.

Despite the fact Ethiopia has made commitments to improve women's rights and health through national policies and international agreements; much work remains to be done. Strengthening healthcare access, improving working conditions, and ensuring that women's reproductive rights are upheld are crucial steps toward achieving gender equality and enhancing the health of women workers in Ethiopia. Addressing these issues not only benefits individual women but also contributes to the broader socio-economic development of the country. Ongoing advocacy and activism are essential to ensure that women's rights are fully recognized and respected in all aspects of life.

As human beings are imperfect, challenges always remain, but we should minimize their effect on the country. We cannot reach towards our dream unless we create an inclusive society where every woman has the right to choose her life, the right to shape her future, her family, and the society. To achieve these, we all shall contribute, like a drop of water finally filling a container; every activity starts with one's self-attitude and manifests to the outside.

In conclusion women, particularly in countries like Ethiopia, face significant challenges due to historical, cultural, and socio-economic barriers. These challenges include limited access to education, healthcare, and decent work, as well as systemic discrimination and exploitation in both domestic and international labor markets. Ethiopian women, especially those in rural areas, are disproportionately affected by poverty, early marriage, and lack of educational opportunities, which often force them into vulnerable situations such as migration, low- paying jobs, or exploitative working conditions. Despite Ethiopia signed multiple international agreements and the enactment of domestic laws aimed at protecting women's rights, implementation remains weak. Issues such as gender-based violence, poor labor conditions, and lack of access to reproductive healthcare persist.

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የወንጀል ቅጣት እና የሴቶች ዘርን የመተካት መብት በኢትዮጵያ

በሄራን ተሾመ

ሰው መሆን ሚኖረው መንግሥታዊ፣ ማህበራዊ፣ ባህላዊ እና ሃይማኖታዊ መዋቅሮች አንድ ላይ ሲመጡ ነው። ይህ መዋቅር የአናናር ዘይቤአችንን እና በማህበርሰብ ውስጥ ያለን ቦታ እንዴት እንደምንረዳ ይገልጻል። ይሄም ራሱን የቻለ አዎንታዊ እና አሉታዊ ተፅዕኖዎችን የሚያስከትል ሲሆን: እንደ ማህበራዊ አንድነት ህብረት መተሳሰብን የመሳሰሉ አዎንታዊ ተፅኖችን ማድነቅ አልፎም እውቅና መስጠት አስፈላጊ ቢሆንም በዛው መጠን ስለሚያሳድረው አሉታዊ ተፅዕኖ በተለይም የሴቶችን መብት በተመለከተ ያለውን እውነታ መንቀፍ ተገቢ ነው ብዬ አምናለው። እነዚህ ማኅበራዊ አመለካከቶች እና እሴቶች ለብዙ አመታት ሴቶችን በማህበረሰሠብ ውስጥ የበታቾኝነት ስሜት እንዲሰማቸው እንዲሁም የሥርዓተ ፆታ እኩልነትን እንዲስተጓጎል አድርገውታል።

ሴቶች በሁሉም ማህበረሰብ ሊባል በሚችል ደረጃ ለዘመናት አድሏዊ ልዩነት እየተደረገባቸው እና ሰብዓዊ መብቶቻቸው ሳይከበሩላቸው መቆየታቸውን ከታሪክ መመልከት እንችላለን::እነዚህን የመብት አለመከበር እና ፆታን መሰረት ያደረጉ ልዩነቶችን ለማስወገድ በርካታ አለም አቀፍ ስምምነቶች እና አገር አቀፍ ህጎች በአሁኑ ወቅት በስራ ላይ ውለው ይገኛሉ::ለሁሉም የሰው ልጆች ሰብዓዊ መብቶች እውቅናን ከሰጡት እንደ ሁሉን አቀፍ የሰብዓዊ መብት መገለጫ(UDHR)፣ ዓለምአቀፍ የሲቪልና የፖለቲካ መብቶች ቃልኪዳን(ICCPR)፣ ዓለምአቀፍ የኢኮኖሚ፣ማህበራዊና ባህላዊ መብቶች ቃልኪዳን(ICESCR)፣እንዲሁም በልዩ ሁኔታ ለሴቶች መብት ልዩ ትኩረት ያደረጉት የሴቶች የፖለቲካ መብቶች ስምምነት(CPRW)፣በሴቶች ላይ የሚደረግ ማንኛውንም ልዩነት ለማስወገድ የተደረገ መግለጫ(CEDAW) የመሳሳሉ ሰነዶች ለሴቶች መብት እውቅና የሰጡ አለምአቀፍ ስምምነቶች ናቸው::

እነዚህ ስምምነቶች በዓለም አቀፍ ደረጃ የሴቶች መብትን በማስተዋወቅ ለመብቶቹ ጥበቃን በመስጠት እንዲሁም በማስከበር ሂደት ውስጥ ትልቅ ሚና ተጫውተዋል። እነዚህ የሕግ ማዕቀፎች ለፆታ እኩልነት መሠረታዊ መመዘኛዎችን ማስቀመጥ ብቻ ሳይሆን ተጠያቂነት, ጥበቃ እንዲሁም ስልቶችን ያቀርባሉ። እነዚህ የሕግ መስፈርቶችን በማቋቋም, ግንዛቤን በማጎልበት, ለፆታ እኩልነት በዓለም አቀፍ ትግል በከፍተኛ ሁኔታ አስተዋፅኦ ያደርጋሉ. ሀገራትም ከነዚህ ማዕቀፎች ጋር በመወዳጀት የሴቶች መብትን ማስከበር እና ማስተዋወቅ የዘወትር ስራቸዉ አድርገውታል።

በኢትዮጵያም የሴቶች መብት ከኢ.ፌ.ድ.ሪ. ህገ መንግስት ጀምሮ በተለያዩ የህግ ማዕቀፎች ውስጥ እውቅና ተሰጥቶት ይገኛል:: እንዲሁም በህገ መንግስቱ አንቀፅ 9/4 መሰረት ኢትዮጵያ ያፀደቀቻቸው አለም አቀፍ ስምምነቶች የሀገሪቱ የህግ አካል ይሆናሉ በማለት የደነገገ በመሆኑ በስምምነቶቹ የተዘረዘሩትን የሴቶች መብት የማክበር እና የማስከበር ሀላፊነት በመንግስት ላይ ወድቋል ማለት ነው፡ መንግስት የሴቶችን መብት ለማክበር እና ለማስከበር ከሚወስዳቸው መሰረታዊ እርምጃዎች መካከል ለመብቶቹ በቂ የህግ ማዕቀፍ መስጠት ይገኝበታል::በዚሁ መሰረት ለሴቶች መብት ሰፊ ሽፋን ከሰጡ ህጎች የተሻሻለው የኢ.ፌ.ድ.ሪ የቤተሰብ ህግ ተጠቃሽ ነው::በክልሎችም እንደ ክልሎቹ ማህበረሰብ ነባራዊ ሁኔታ የቤተሰብ ህግ አውጥተው እየተገበሩ ይገኛል:: በዚህ አጭር ፅሁፍ በተሻሻለው የኢ.ፌ.ድ.ሪ የቤተሰብ ህግ በጋብቻ አፈፃፀም፣በጋብቻ ዘመን እና በፍቺ ጊዜ የሚኖሩ የሴቶች የእኩልነት መብቶች፣ የጋራ ንብረትን የማስተዳደር መብት፣ቀለብ የማግኘትና የመስጠት መብት እና እንደባልና ሚስት አብሮ በመኖር ወቅት የሚኖሩ መብቶች ይዳሰሳሉ:: በተሻሻለው የቤተሰብ ህግ ለሴቶች መብት እውቅና የሰጡ ድንጋጌዎችን

ከመመልከታችን በፊት የህጎች ሁሉ የበላይ ህግ በሆነው የኢ.ፌ.ድ.ሪ ህገ መንግስት ስለሴቶች መብት የተደነገገውን ድንጋጌ መመልከት ጠቃሚ ነው፡፡

በህገ መንግስቱ አንቀፅ 35 ስር ሴቶች ህገ መንግስቱ በአረጋገጣቸው መብቶችና ጥበቃዎች በመጠቀም ረገድ እና በጋብቻ ከወንዶች ጋር እኩል መብት እንዳላቸው፣ በበታችነትና በልዩነት በመታየታቸው የደረሰባቸውን የታሪክ ቅርስ ከግምት ውስጥ በማስገባት ይህ ቅርስ እንዲታረምላቸው በተጨማሪ የድጋፍ እርምጃዎች ተጠቃሚ የመሆን መብት እንዳላቸው፣ከጎጂ ባሕል ተፅዕኖ የመላቀቅቀ መብታቸውን መንግስት ማስከበር እንዳለበት፣ የወሊድ ፈቃድ ከሙሉ የደሞዝ ክፍያ ጋር የማግኘት መብት እንዳላቸው፣በብሄራዊ የልማት ፖሊሲዎች ዕቅድና በፕሮጀክቶች ዝግጅትና አፈፃፀም በተለይ የሴቶችን ጥቅም በሚነኩ ፕሮጀክቶች ሀሳባቸውን በተሟላ ሁኔታ እንዲሰጡ የመጠየቅ መብት እንዳላቸው፣ንብረት የማፍራት፣ የማስተዳደር፣የመቆጣጠር፣የመጠቀምና የማስተላለፍ በተላይ መሬት በመጠቀም ፣በማስተላለፍ፣በማስተዳደርና በመቆጣጠር ረገድ ከወንዶች ጋር እኩል መብት እንዳላቸው፣የቅጥር የስራ እድገት፣የእኩል ክፍያና ጡረታን የማስተላለፍ እኩል መብት እንዳላቸው እና በእርግዝናና በወሊድ ምክንያት የሚደርስባቸውን ጉዳት ለመከላከልና ጤንነታቸውን ለማስጠበቅ የሚያስችል የቤተሰብ ምጣኔ ትምህርት፣መረጃ እና አቅም የማግኘት መብት እንዳላቸው ተገንግነ ይገኛል፡፡

የተሻሻለውን የቤተሰብ ህግ ስንመለከት በጋብቻ ወቅት ሁለቱም ተጋቢዎች ጋብቻን ለመመስረት ነፃ ፍቃዳቸውን መስጠት እንዳለባቸው ያስቀምጣል፡፡ይህም መመዘኛ መሰረታዊ እና ጋብቻን በህግ ፊት እንዲፀና የሚያደርግ ነው፡፡ይህ የሆነበት ዋና ምክንያት በአብዛኛውም የሀገሪቱ የገጠር ክፍል ጋብቻ የሚፈፀመው በተጋቢዎች ነፃ ፍቃድ ሳይሆን በቤተሰብ በተዘጋጀ ጋብቻ(arranged marriage) ሲሆን ሴቶች ከማይፈልጉት ሰው ጋር እንዲኖሩ የሚያስገድድ በመሆኑ ነው፡፡በተጨማሪም የተጋቢዎች የጋብቻ እድሜ ለሁለቱም እኩል 18 ዓመት መሆኑ ተጋቢዎች የኑሮ ጫናን በእኩል ሀላፊነት እንዲጋሩ የሚያስችላቸው ነው፡፡ ሌላው በቤተሰብ ህጉ አንቀፅ 49/1 ስር እንደተደነገገው ባልና ሚስት እርስ በርሳቸው መከባበር፣መተጋገዝ እና መደጋገፍ አለባቸው፡፡ ይህም ሴቶች ተገቢውን ክብር የማግኘት መብት እንዳላቸው አመላካች ነው፡፡የቤተሰብ አመራርን በተመለከተ ባልና ሚስት እኩል መብት እንዳላቸው እና በማናቸውም ረገድ የቤተሰቡን ደህንነትና ጥቅም ለማስጠበቅ፣ ልጆቻቸውን በመልካም ስነ ምግባር እንዲታነፁ፣ ተገቢውን ትምህርት እንዲቀስሙና ሀላፊነት የሚሰማቸው ዜጎች ሆነው እንዲያድጉ ለማድረግ መተባበር እንዳለባቸው በአንቀጽ 50 ስር ሰፍሮ ይገኛል፡፡ይህም በቀድሞው የፍትሐ ብሄር ህግ የቤተሰብ አስተዳደሩን ለባል ሰጥቶ የነበረውን ያሻሻለ ህግ ሲሆን ሴቶች ከጋብቻ በፊት ያገኙትን የግል ንብረታቸውን፣በጋብቻ ውስጥ ያፈሩተን የጋራ ንብረታቸውን እንዲሁም ልጆቻቸውን የማስተዳደር መብት አላቸው፡፡ባልና ሚስት እያንዳንዳቸው ገቢያቸውን በየራሳቸው ቢቀበሉም እንደኛው ተጋቢ ሲጠይቅ ሌላኛው ተጋቢ ያገኘውን የገቢ መጠን የማሳወቅ ግዴታ አለበት፡፡ ይህም የሚያመለክተው ሴቶች የባሎቻቸውን ገቢ የማወቅ መብት እንዳላቸው ነው፡፡እንዲሁም ሴቶች በጋብቻ ውስጥ እያሉ በቀጥታ በስጋ ወይም በጋብቻ ለሚዛመዷቸው ዘመዶቻቸው ማለትም ከጋብቻ በፊት ለነበራቸው ልጃቸው፣ለእናት፣ለአባት፣ለአያት፣ለእህት ወይም ለወንድማቸው የቤተሰብ ህጉ የሚያስቀምጠውን መስፈርት በመከተል ቀለብ የመስጠት መብት ያላቸው ሲሆን ከባላቸው ቀለብ የማግኘት መብትም አላቸው (የተሻሻለው የቤተሰብ ህግ አንቀፅ 198 እና 49)፡፡ በሌላ በኩል ሴቶች በፍቺ ወቅት ከጋራ ንብረታቸው እኩል የመካፈል መብት እንዳላቸው የሚያመለክተው በተሻሻለው የቤተሰብ ህግ እንቀፅ 90 ስር የተቀመጠው ድንጋጌ ነው፡፡ በመሰረቱ በፍቺ ጊዜ ባልና ሚስት የየግል ሀብታቸውን

መልሰው መውሰድ የሚችሉ እንዲሁም ንብረታቸውን በስምምነት መካፈል የሚቻል መሆኑ እንደተጠበቀ ሆኖ የባልና ሚስት የጋራ ሀብት ለሁለቱም እኩል የሚካፈል ይሆናል፡፡ የንብረት ክፍፍሉም በአይነት ወይም በገንዘብ ሊደረግ የሚችል ሲሆን በአይነት ክፍፍሉ ሲገረግ ለእያንዳንዱ ተጋቢ ይበልጥ ጠቃሚነት ያላቸው ንብረቶች እንዲያገኝ ጥረት መደረግ ይኖርበታል፡፡ በመሆኑም ሴቶች በፍቺ ወቅት በንብረት ረገድ እኩል የተጠቃሚነት መብት አላቸው፡፡ በተጨማሪም ፍቺ ሲወሰን የልጆች አጠባበቅና አያያዝን የሚመለከት ውሳኔ ፍርድ ቤት እንደሚሰጥ በቤተሰብ ህጉ አንቀፅ 113 ስር ሰፍሮ ይገኛል፡፡ በዚሁ መሰረት ልጆች ከማን ጋር ሊኖሩ እንደሚገባ፣ ስለትምህርታቸው እና ስለጤናቸው አጠባበቅ፣ ስለቀለባቸውና ባጠቃላይ ስለአኗኗራቸው እንዲሁም ወላጆችና ልጆቻቸው ለመጠየቅ ስላላቸው መብት ይወስናል፡፡ውሳኔውንም በሚወሰንበት ጊዜ ከሚያገናዝባቸው ጉዳዮች የልጆቻቸውን ፅድሜ፣ ጥቅማቸውንና ፍላጎታቸው የሚጠበቅበት ሁኔታ ይገኝበታል፡፡ስለሆነም ለምሳሌ ልጃቸው በጣም ህፃን በመሆኑ የእናቱ እንክብካቤ ይበልጥ የሚያስፈልገው ከሆነ ሴቷ ህፃኑን/ኗን የማሳደግ መብት እንዲሰጣት ለፍርድ ቤት ልታመለክት ትችላለች፡፡

የሴቶች መብት ሲነሳ ሌላ መነሳት ያለበት ጉዳይ የሴቶች የመራባት ወይም ዘርን የማስቀጠል መብት (reproductive right of women) ሲሆን በአለም አቀፍ ደረጃ ይሄ መብት እንደ አንድ የሴቶች መብት ተደርጎ ይቆጠራል አልፎም ሴቶች ይሄን መብታቸውን ያለምንም ጣልቃ ገብነት እንዲጠቀሙትም ያበረታታል። ሆኖም ግን ሴቶች በተከሰሱበት የወንጀል ክስ ቅጣት ተቀብለው ማረሚያ ቤት በሚገቡበት ወቅት ከመታረም ባህሪያቸውን ከማስተካከል በላይ ይሄን የሰብዐዊ መብታየውን እንዳይጠቀሙ መሰናከል ሲሆንባቸው እንመለከታል። በሀገራችንም ይሄንኑ ርዕሰ ጉዳይ በማስመልከት በአንድ ወቅት በባህርዳር ዩኒቨርሲቲ "The Reproductive Rights of Women Prisoners; the Case of Kality prison,Addis Ababa" በሚል ርዕስ የተሰራውም ጥናታዊ ምርምር (research) በኢትዮጵያ በእስር ቤት የሚገኙ ሴቶች ዘርን የመተካት መብታቸውን (reproductive right of women in prison) ምን እንደሚመስል እስከምን ጥግ እንደሆነ ለዚህም መብት የተሰጠውን እውቅና እንዲሁም ይሄን መብት በተመለከተ በሀገራችንም ያለውንም እውነታ ፍንትው አድርጎ የሚያሳይ ሆኖ አጊንቼዋለው።

የወጀል ቅጣት ከ Reproductive Rights አንጻር ሲታይ በዋነኝነት ሁለት አከራካሪ ነጥቦች አሉ፡፡ አንደኛው በህጉ በግልጽ የተቀመጠው የወንጀል ህግ ቅጣት የመንቀሳቀስ ገደብ ብቻ ነው ሌሎች መብቶች ሚገደቡት መንቀሳቀስን የሚጠይቁ በመሆናቸው ገደቡ እግረመንገድ ነው የሚል ነው፡፡ ሁለተኛው ደግሞ የወንጀል ቅጣት ከመንቀሳቀስ መብት ባለፈ ሌሎች መብቶችንም የመገደብ አላማ ያለው ነው የሚል ነው፡፡ ከዚህ አንጻር የሞት ፍርድ ወይም የእድሜልክ እስራት የተፈረደባቸው ሰዎች በተለይም ሴቶች ዘርን የመተካት መብታቸውን አስመልክቶ በህግ በግልጽ የተቀመጠ ነገር ባለመሆኑ አከራካሪ ሆኗል፡፡ ይህ ጉዳይ በአንድ ወቅት ጠቅላይ ፍርድቤት ቤት ድረስ ደርሶ ውድቅ ተደርጎ ነበር። ሁለቱ ክርክሮች እንዳሉ ሆነው ወደ ሀገራችን ህግ ስንመለስ ይሄን ጉዳይ በተመለከተ ግልፅ የሆነ ምላሽ ባይኖርም ህገመንግስቱን እና የወንጀል ህጉን አጤነን ስንመለከት ለዚህ ጉዳይ ምላሽ የሚሆን ፍንጭ የሚሰጥ ይመስላል።

የወንጀል ህጋችንን አንቀፅ 1 ስንመለከት የወንጀል ህጉን ዓላማ እና ግብ በግልፅ የሚያስቀምጥልን ሲሆን ይሄም ዓላማው ለጠቅላላ ጥቅም ሲባል የአገሪቱን መንግስት : የሕዝቦቹን : የነዋሪዎቹን: ሰላም :ደህንነት: ሥረዓት : መብት እና ጥቅም መጠበቅ እና ማረጋገጥ ሲሆን ግቡ

ደግሞ ወንጀል እንዳይፈፀም መከላከል ሲሆን ይሄንን የሚያደርገው ስለወንጀሎች እና ስለ ቅጣታቸው በቅድሚያ ማስጠንቀቂያ በመስጠት : ማስጠንቀቂያነቱ በቂ ባልሆነበት ጊዜ ወንጀል አድራጊዎቹ ተቀጥተው ሌላ ወንጀል ከመፈፀም እንዲቆጠቡ እና ለሌሎች ማስተማሪያ እንዲሆኑ ወይም እንዲታረሙ በማድረግ ወይም ተጨማሪ ወንጀሎች እንዳይፍፅሙ እርምጃዎች እንዲወሰዱባቸው በማድረግ ነው። ስለዚህ በሀገራችን በወንጀል ተከሰው ቅጣት የተላላፈባቸውን ሴቶች ወደ ማረሚያ ቤት እንዲገቡ የሚደረግበት ምክንያትም ይሄንኑ የወንጀል ህጉን ግብ ለመምታት ነው። ስለዚህ ህጉ ወንጀለኞችን ከመቅጣት : ስነ-ምግባራቸውን ከማነፅ እና ለማህበረሰቡ ማስተማሪያ ከማድረግ ባለፍ የሴቶችን ዘርን የመተካት መብታቸውን (reproductive right of women) ለመግታት አይመስልም።

በተመሳሳይ መልኩ በህገ መንግስታችን አንቀፅ 21/2 መሠረት በፍርድ ስለታሰሩ ሰዎች መብት ሲናገር ታራሚዎች ከትዳር ጓደኞቻቸው ከቅርብ ዘመዶቻቸው ወዘተ ጋር ለመገናኘት እዲጓበኟቸው ዕድል የማግኘት መብት እንዳላቸው ይደነግጋል። ስለዚህ ህጉ ማረሚያ ቤት የሚገኙ ሴቶችን የመራባት/ዘርን የማስቀጠል መብታቸውን መገደብ ቢፈልግ ኖሮ ይሄን አንቀፅ ባላካተተ ነበር ብዬ አምናለው።

ታዲያ ስለ ሴቶች መብት ህጉ ላይ የተቀመጠው አንቀፅ እንዳለ ሆኖ መሬት ላይ ያለው ተግባር እና ልምድ ግን ፍፁም ከዚህ እወነታ የራቀ እና የተጣረሰ ነው። ሀገራችንም ለዚህ መብት እውቅና በመስጠት ሴቶች ይሄን ሰብዓዊ መብታቸውን እንዲጠቀሙት እድል ከማመቻቸት በማረሚያ ቤት አስተዳደር ስፍራ የሚነኙ የሚመለከታቸውን አካላት ከማንቃት ይልቅ በተቃራኒው ይሄ መብት ሲነፈግ ሲሸፈን ሲድበሰበስ እናስተውላለን። ይሄም ሴቶች ይሄ ሰብዓዊ መብታቸውን እንዳያጣጥሙት መሰናክል ከመሆኑም ለዚህ መብት ትኩረት ካለመሰጠቱ የተነሳ ሁሉም ሴቶች ለማለት በሚያስደፍር መልኩ ይሄን መብት መጠቀም ቀርቶ ይሄ መብት እንዳላቸው እንኳን ግንዛቤው የሌላቸው ስፍር ቁጥር የሌላቸው መሆኑን ያስረዳናል። ይሄም እውነታ ሀገራችን የሴቶችን መብትን በማሳወቅ ለማህበረሰቡ ግንዛቤን በማስጨበጥ መብቶቹ ተፈፃሚነት እንዲኖራቸው በማድረግ እንዲሁም መብቶቹን በማስጠበቅ የደረሰችበትን ጀረጃ በግልፅ የሚተርክ ድርሰት ነው።

በመጨረሻም ከላይ የተመለከትናቸው መረጃ እና አውነታ በአጠቃላይ ሀገራችን የሴቶችን መብትን ለማስተዋወቅ ለመብቱም እውቅና ለመስጠት የሄደችበትን ደረጃ የሚያሳይ ሲሆን እኔም እንደ አንድ የመብቶቹ ተጠቃሚ እንደሆነ ሰው ይሄን ተግባር እበረታታው በዛው መጠን ሀገራችን ይሄን መብት በማስፍፍት ሂደትውስጥ ብዙ ክፍተቶች እንዳሉ ውጤታማ የሆነ ለውጥም ለማምጣት ብዙ ጉዞ እንደሚቀር ለዚህም ይሄ ጉዳይ በትኩረት መሰራት እንዳለበት መልክቴን ጥዬ ለማለፍ እወዳለዉ ያማለት ግን የሴቶችን መብት የማስጠበቅ ድርሻ የግለሰብ : የመንግስት :የተቋማት: ለዚሁ አላማ የተቋቋሙት ማህበሮች ሀላፊነት ብቻ ነው ማለት ግን አይደለም! ይልቁኑ የእያንዳንዳችን የቤት ስራ መሆኑን ተገንዝበን የቤተሰብ መሰረት የማህበረሰብ ድምቀት የሀገር ተስፍ እና ምሰሶ የሆኑትን የሴቶችን መብት በማስጠበቅ ሂደት ውስጥ ሁላችንም የበኩላችንን ድርሻ እንወጣ ለማለት ወዳለው።

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ሰብአዊ መብቶች የሴቶች መብቶች
የሴቶች መብቶች ደግሞ ሰብአዊ መብቶች ናቸው!

Association for Human Rights in Ethiopia



ስብስብ ለሰብአዊ መብቶች በኢትዮጲያ

Women rights are human rights and human rights are women rights!