

The Implications of Multiple Spousal Relationships: Experience of Women in Hawassa and Adama Towns

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Abstract

The case reports from the legal aid centers run by Addis Ababa University, Center for Human Rights in Hawassa and Adama towns showed that bigamy is one of the causes of divorce and legal claims raised by women. A preliminary review revealed that most of these cases do not fulfill the legal definition of bigamy and hence none of the legal consequences arising there from. This research investigates the range of multiple spousal relations existing in the study areas, documents the experience of women affected in such settings, and presents on the normative standards applicable and the challenges women encounter in seeking legal remedies. The research identified that multiple spousal relations in the study areas that range from formal polygamy to infidelity and keeping of mistresses are mainly triggered by excessive sexual desire of men, failure to get, seeking sons instead of daughters, and mobility for work and newfound wealth by men. Lack of proper public records and difficulty of access, along with the absence of culture in using such records, are also raised as factors allowing men get away with practicing multiple spousal relations with relative ease. The study found that most women view the practice as unfair and socially unacceptable and are aware of the full range of legal remedies available to them; all study participants have also the understanding that multiple spousal relationships engender negative socio-economic and psychological impact on women. Despite such awareness, women rarely pursue the 'dissolution' of the second marriage or seek for men to be punished for adultery; rather, the most frequented claim is identified to be asking maintenance for children and/or divorce. The weak economic position of women involved and lack of trust in the justice system are found to be the main reasons that deter women from seeking legal remedies.

Key Words: Multiple spousal relationships, polygamy, bigamy, *de facto* marriage, irregular union, Ethiopian matrimonial law

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I. Introduction

This research originated from a review of cases handled by the Access to Justice Project at Addis Ababa University, Center for Human Rights. A part of what the Center designed to implement through this project was a program of legal aid services that targeted vulnerable groups including women in Hawassa⁸⁸ and Adama⁸⁹ towns as well as in the adjacent rural districts. A preliminary assessment of cases handled by the legal aid centers indicated that several petitions had been submitted by women seeking divorce on the basis of allegations that their partners were involved in polygamous relations. Many of the petitions also alleged other factors – such as failure to provide maintenance and domestic abuse – as the grounds for seeking divorce, implying that at least for some women, polygamy does not stand as the sole consideration for pursuing divorce. Discussions with the project staffs stationed in the towns revealed that polygamy is practiced in both sites with increasing urbanization, cultural and religious norms, and increasing wealth, among others, cited as contributing factors.

The research was designed to primarily explore and document the experience, perception and attitudes of women who live in multiple spousal relationships. The research also aimed at identifying the norms, mechanisms, procedures as well as the level of legitimacy of multiple spousal relationships in Adama and Hawassa towns. Moreover, the study intended to identify the types of claims raised by women participating in multiple spousal relationships and how these claims were handled under the traditional and formal justice mechanisms in the study areas; it also aimed to identify the key stakeholders who shall involve in the design and carrying out of intervention measures targeting the practice and consequences that ensue from implementing the measures.

From the initial round of interviews held with women and key informants, a reading of the preliminary results indicated that in the rural areas, especially around Hawassa, the assumption that polygamy—defined as the situation where a man formally marries two or more women and regularly cohabits with them simultaneously—is factually valid. However, in urban settings—both in Hawassa and Adama, this assumption did not hold ground. Instead, it was observed that in most cases, multiple spousal relations did not meet the technical definition of polygamy under Ethiopian

⁸⁸Sidama Administrative Zone, Southern Nations, Nationalities and Peoples (SNNP) Region, Ethiopia.

⁸⁹East Shewa Administrative Zone, Oromia National Regional State, Ethiopia.

law. In both towns, the cases mostly involved that at least one of the relationships, usually the second, lacked any formal celebration of marriage that fulfills the requirements of civil, religious or traditional forms. The men usually abandon their first partners and move on with the new one without dissolving the first marriage.

Accordingly, the preliminary data gathering revealed divergent scenarios of experience practiced in rural and urban settings. Generally, the forms and mechanisms of the practice in the study areas do not conform to the conventional meaning of polygamy. Rather, the practice could best be labeled as 'multiple sexual relationships' or 'multiple spousal relationships' - with varying modalities and degree of formality.

Therefore, there was a shift in terms of the subject matter of study from polygamy *per se* to multiple spousal relationships, and in this light, the study area was refocused to the urban context - Hawassa and Adama towns. Moreover, it is acknowledged that this subject matter is a little explored area of inquiry - with a number of practical and legal gaps that protect the interest of women. While there are several works pursued in the past on polygamy, irregular unions and their effects on the rights and interests of women, there is hardly any substantive study that has investigated the legal and social issues that ensue when polygamy and irregular unions happen involving the same 'spouses' at the same time.

As sources that deal with multiple spousal relationship are lacking, literature that make reference to researches on polygamy have been used to draw lessons, and particularly, to outline justifications from cultural and religious perspectives, to understand socio-economic considerations, and highlight the normative and psychological implications on women. The literature review generally focused on exploring the extent of the practice in Ethiopia. Through normative review that makes use of doctrinal legal research, the position of international, national and sub-national norms - as relating to polygamy and its validity - have been extensively analyzed.

Based on the assumptions, the literature reviews and normative appraisals, the research team developed tools to gather empirical data based on the objectives of the research undertaking. Such tools included interview questions that are meant to gather information from women in multiple spousal relationships. It also involved questions used in in-depth interviews - with key informants including judges of both ordinary and Sharia Courts, traditional elders, police, prosecutors, and experts working in local functionalities of women and children's affairs offices.

The article starts by clarifying the concept of 'multiple spousal relationship'. This will be followed by a highlight of key researches previously conducted

on polygamy that apply to and inform multiple spousal relations, and presentations on normative standards as are relevant to the analysis of multiple spousal relations. Subsequent sections will present on findings of the empirical investigation in Hawassa and Adama. Given that the socio-cultural settings in both towns exhibit marked difference (in terms of ethnicity and dominant religion for example), the authors have presented and analyzed the two sets of data separately.

II. Conceptual Clarifications

The phrase 'multiple spousal relationships' is an inclusive term that may mean irregular union, extra-marital affair, *de facto* marriage and other similar relationships. Multiple spousal relationships may also entail the practice polygamy. Nonetheless, it has distinct characteristics, patterns and implications. The authors therefore choose the term as connoting a relationship that shows the existence of more than one woman, and an informal relationship in the eyes of the law but perceived to be a formal marriage in the minds of the women involved. For the purpose of presenting and analyzing the empirical data, the term used to describe the characteristics of the relationship women informants had formed with their partners is 'multiple spousal relationships'.

The authors submit that such term best describes the relationship and is crafted based on the peculiar characters of the relationship as revealed by testimonies of female informants in the study. These particularly include the fact that the relations are perceived as formal marriage in the minds of the women who consider their partners as husbands. However, they did not celebrate the marriage in a traditional, religious or formal way and do not have any form of proof of marriage.

The duration of such relationships ranges from a few months to 30 years. In the case of women whose multiple spousal relationships last for not less than three years, it is considered as irregular union - with judicial effects as per the applicable family codes adopted at the federal and regional levels. Irregular union creates a pecuniary relationship among the parties but does not have personal effects.⁹⁰ The other feature of such relationship is that the first female partners are neither formally informed by their male partners or

⁹⁰ The personal effect of marriage generally refers to the respect, support and assistance each spouse owes the other, the duty of cohabitation, and determination of residence. Pecuniary effects, on the other hand, relate with the effects of marriage on the administration, title and acquisition of property of the spouses. See Art 49-56 and 75-73 of the Federal Negarit Gazette Extra Ordinary Issue No. 1/2000 The Revised Family Code Proclamation No. 213/2000.

through elders about the existence of the second spousal relationship. The female informants came to understand about the second relationships only from third parties, and in few cases, from the second wife or by physically going to the house of the second wife to personally verify the existence of the relationship.

With the small sample data used in the research, it is difficult to come up with a conclusive and singular pattern and characteristics of women's experiences. Although some commonalities could be drawn from the testimonies of women, all relationships demonstrate their own distinct features. Further, for conceptual clarity and pattern, at least three groups of study subjects – the men, the first women in the relationship and the third person who is labeled as the second spouse – should have been included in the study. As the main objective of the research is to document the experience of women in marriage-like relationships, the scope of the study is as such limited to the testimonies of women in such relationships.

Since polygamy is one form of multiple spousal relationship and due to the rich literature on the subject, the definition of terminologies and justifications have focused on the practice of polygamy so as to draw general trends in relation to factors and rationalizations for involvement in multiple spousal relationships and the impact of such practice on women.

III. Definition of Terminologies

One form of multiple spousal relationship is the practice of polygamy. Polygamy is practiced among many societies with different cultures around the world.⁹¹ It takes place commonly in cultures that recognize social status based on heredity and inheritance.⁹² Originally, the term polygamy is derived from the Greek word *polugamos* that literally refers to 'often marrying'.⁹³ From anthropologists' point of view, polygamy is defined as "a marital relationship involving multiple wives".⁹⁴ Sociologists understand

⁹¹Al-Krenawi, Alean.Graham, John R. & Al-Krenawi, Salem. 1997. "Social Work Practice with Polygamous Families", *Child and Adolescent Social Work Journal* 14 (6): 445-458.

⁹²Young, Manee. 2003. "A Qualitative Study Examining The Effects of Polygyny on Among Individuals Who Had Been Raised in Polygamous Households", A Research Paper Submitted in Partial Fulfillment of Requirements for the Master of Science Degree With a Major in Guidance and Counseling, The Graduate School University of Wisconsin-Stout May 10.

⁹³Jonas, Obonye. 2012. "Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: A Critical Appraisal", *Journal of African Studies and Development* 4(5): 142.

http://www.academicjournals.org/article/article1380034821_Obonye.pdf.

⁹⁴B.S. Low, Bobbie S. 1988. "Measures of polygamy in humans", *Current Anthropology* 29(1): 189

polygamy as a means that enable men to increase the number of their offspring and at the same time reduce the amount invested in each child.⁹⁵ According to Zeitzen, the term polygamy refers to a marriage where there is more than one partner.⁹⁶ A Law Reform Commission of Canada provides a more comprehensive definition for the term polygamy: it entails “the maintaining of conjugal relations with more than two persons. When the result of such relations is to form a single matrimonial or family entity with the spouses, this is regarded as polygamous marriage.”⁹⁷

IV. Justifications and Factors Behind the Practice of Multiple Spousal Relationships

i. Multiple Spousal Relations from Religious Perspective

Religion is among the main factors that shape societal values and norms that govern individual behavior. Religion also determines how societies and individuals perceive and practice spousal relationships including marriage. Religious rules determine the very definition of marriage as well as how marriage should be practiced.⁹⁸

The 2007 Population and Housing Census of Ethiopia classified Ethiopian religions into six different categories. According to the data, 43.5 percent of the total population was Orthodox Christian, 33.9 percent Muslim, 18.6 percent Protestant and 2.6 percent traditional beliefs. There are significant variations between rural and urban data – especially with Orthodox (59.1 percent living in Urban and 40.5 percent in rural) and Islam (with 29.5 in Urban and 35.4 in rural).⁹⁹ The next section focuses on Christianity – involving orthodox, protestant and catholic, and Islam, both of which are predominant religions in Ethiopia.

a. Polygamy and Christianity

In the Old Testament, there are evidences of the existences of polygamy before the time of great flood during the time of Noah and throughout the lives of prophets and after the giving of the law to Moses.¹⁰⁰ Lamech, a

⁹⁵White, D. R. (1988). “Causes of polygamy: Ecology, economy, kinship and warfare.” *American Anthropologist* 90: 871–887.

⁹⁶Zeitzen, Kocktvedgaard M.2008. *Polygamy: A Cross Cultural Analysis*. New York: New York University Press 2.

⁹⁷Obonye 2012, 142

⁹⁸Beresford, Sara. 2011 “Seeking Secularism: Resisting Religiosity in Marriage and Divorce. A comparative Study of England and America.” *Web Journal of Current legal Issues* 3, Web JCLI.<http://eprints.lanacs.ac.uk/52299/1/WJCLI.pdf> 3

⁹⁹Summary and Statistical Report of the 2007 Population and Housing Census; http://ecastats.uneca.org/aicmd/Portals/0/Cen2007_firstdraft.pdf.

¹⁰⁰Meckler, Claire. (1985) “Polygamy from the Perspectives of the Old Testament, The Quran and The Current Muslim Thought.” *Journal of Frontier Missions* 2(4): 324.

lineage of Cain, was the first polygamous man with two wives.¹⁰¹As pointed in Genesis 2:23-24, God made one wife for Adam with the command that the two should become one flesh. As contended by many Christian theologians, the phrase one flesh requires monogamy and indissolubility. Monogamy, therefore, was ordained to be God's ideal marriage, but polygamy was not explicitly forbidden especially before the giving of the Levitical law. Four centuries later, another revelation of God's will was made to Moses, which was believed to have given temporary passage to polygamy.¹⁰²Since, different scholars had provided different interpretation on these revelations in relation to polygamy. Meckler shares the argument presented by Karl Barth on the difficulty in identifying biblical verses that clearly forbid polygamy and uphold monogamy.¹⁰³

By contrast, the New Testament considers polygamous marriage as adultery.¹⁰⁴ In Christianity, marriage is considered as honorable and indissoluble union of a man and a woman. The teachings of Jesus Christ were the source of this belief and the Christian doctrine of monogamy.¹⁰⁵ There is also Paul's teaching to the Romans which reiterates the same principles applying to the wife - condemning polyandrous woman and urging church leaders to practice monogamous marriage.¹⁰⁶ Similarly, any form of sexual relationship outside of wedlock is considered as adultery. If fact, under the New Testament, even divorcing a wife, except on grounds of infidelity, is considered as adultery. Hence, it can be concluded that multiple spousal relationship of any form is against the fundamental doctrines of Christianity.¹⁰⁷

b. Polygamy and Islam

Marriage is considered to be a fundamental source of stability, growth and unity in the Muslim society. Polygamy, too, is considered as a source of constancy, advancement and harmony in the Muslim community.¹⁰⁸ It

¹⁰¹*The Holy Bible*, King James Version Genesis 4:19.

¹⁰²Exodus 21:10, Leviticus 18:18, Deut 21:15.

¹⁰³Meckler 1985,328.

¹⁰⁴Hussein Bedru, "Polygamy: an Ethical Case Study."85.

www.anabaptistwiki.org/awiki/images/5/5f/Vol.10_Hussein_Polygamy-An_Ethical_Case_Study.pdf; Meckler 1985, 329; see also *The Holy Bible*, King James Version Genesis 1:27 and 2:14 and Matt 19:1-9.

¹⁰⁵Id.

¹⁰⁶Phi1.3: 17; 4:9; 1 Thes.1: 6,7; 2 Thess. 3:7,9; 1 Tim.4: 12; 1 Pet. 5:3; 1 Cor. 4:6; 1 Cor. 11: 1, Tim 3:2 and Titus 1:6.

¹⁰⁷*The Holy Bible*, King James Version, Exodus 20:14, Deuteronomy 22:22, Leviticus 20:10; Matthew 19:9, Mark 10:11, Mark 10:12, Luke 16:18.

¹⁰⁸Esposito, John.1982. *Women in Muslim Family Law*.50-51 Syacuse University press.

plays a “restorative function” for the protection of orphans and widows following the end of wars and the loss of a large number of men.¹⁰⁹ That Prophet Mohammed did not marry more than one woman before he was fifty, and only took more women as wives to provide protection for widows and orphans, bears out that polygamy was in fact part of social responsibility.¹¹⁰ However, such act was not without limitation: Islam permits a maximum of four women with a precondition that the husband treats them equally in every way – including affection.¹¹¹ The Quran states: “And if ye fear that ye shall not deal justly with the orphans, marry a woman of your choice two or three or four, but if ye fear that ye shall not deal justly with them, then only one, or captive that your right hand possesses. That will be more suitable to prevent you from doing injustice.”¹¹²

With regard to sexual relationships outside of formal marriages, most mainstream schools in Islamic jurisprudence consider such acts to be adultery or fornication.¹¹³ There are, however, fringe opinions among some jurists that allow for what is known as secret marriage where the Nikah is celebrated but not in public. Here, most of the formal requirements of marriage – such as witnesses and the presence of a Qadhi will be fulfilled. However, the requirements of parental consent and publicity are omitted. In Ethiopia, most of the polygamy-like relationships among the practicing Muslims – in both rural and urban settings – happen using this “loophole” as a basis.

c. Multiple Spousal Relations from the Perspective of Some Cultures

There are different cultural factors leading to and intensifying the practice of polygamy in different societies. For instance, among many societies in Sub-Saharan Africa, polygamy has been a well established, coherent and generally accepted way of life and system since pre-colonial times. One of the factors that intensified the practice of polygamy in African societies is the need for reproduction. The history of Sub-Saharan Africa has long been associated with hostile weather conditions, non-curable diseases and warfare that have weakened the strength of the population, posing threat to

¹⁰⁹Obonye2012, 143.

¹¹⁰Meckler 1985, 330.

¹¹¹Yusuf Ali, Abdullah. 1977 “The Holy Kuran: Translation and Commentary Second Edition, American Trust Foundation” *cited* in Rebecca J. Cook and Lisa M. Kelly. 2006. “Polygyny and Canada’s Obligation under International Human Rights Law.” Faculty of Law, University of Toronto 8; Meckler 1985, 330.

¹¹²Quran 4:3.

¹¹³Fadel, Mohammed. 2016. “Not all marriages are Equal: Islamic Marriage, Temporary Marriage, Secret Marriage, and Polygamous Marriage.”

<http://www.altmuslimah.com/2016/03/>. Accessed 25 July 2015

the existence of the tribes. Moreover, sterility was highly abominated.¹¹⁴ The only option, therefore, was to promote polygamy so as to ensure reproduction and the continuation of the population. As a result, women married at early ages to ensure early child rearing. Men got married at older ages guaranteeing their ability to provide financial security. Women who lose husbands to death, are separated or divorced also remarried quickly making sure that their reproduction is extended.¹¹⁵

Polygamy was also considered as a means to strengthen family and patriarchy.¹¹⁶ Lineage and gerontocracy contributed in cultivating this feature of polygamy in Sub-Saharan Africa.¹¹⁷ The male dominated the family - which is believed to have correspondence with ancestral lineage, and allows men to control all matters related to descendants- including arranging marriages.¹¹⁸ The main objectives of such practice are guaranteeing the continuation of bloodlines through the creation of many descendants and creating an opportunity for the rebirth of ancestors. ¹¹⁹ Hence, polygamy played important role in ensuring the continuation of the family line, enhancing the strength of the family, keep intact the status of the old patriarchy and the extension of congeal relations with other clans.¹²⁰

A person's energy, hyper-sexuality and sex are some of the biological drives that are frequently raised as causes for polygamy.¹²¹ This so-called "libido" argument that heaves men's stronger biological urge for sexual intercourse than women is meant to highlight men's hyper-sexuality.¹²²

The other factor that contributes to polygamous marriage is wife inheritance tradition. This is a practice of communities, which obliges the brother of the deceased husband to inherit or marry the widowed wife. The rationale for wife inheritance is to keep the property of the deceased in the family and to raise children by a relative closer to the deceased. It is also

¹¹⁴ Hayasee, Yasuko and Liaw, Kao Lee, 1997. "Factors on Polygamy in Sub Saharan Africa: findings based on the demographic and health surveys, the developing economies." 293-327.

http://www.ide.go.jp/English/Publish/Periodicals/De/pdf/97_03_04.pdf. Accessed on June 5, 2015.

¹¹⁵ Id.

¹¹⁶ Hayasee, Yasuko and Liaw, Kao Lee, 1997; 295.

¹¹⁷ Caldwell Jhonand Caldwell Pat, 1987 "The cultural contextivity of high fertility in sub Saharan Africa", *Population and Development Review*. 13(3) 409- 437.

¹¹⁸ Hayasee, Yasuko and Liaw, Kao Lee, 1997; 295-296.

¹¹⁹ Hayasee, Yasuko and Liaw, Kao Lee, 1997; 296.

¹²⁰ Id.

¹²¹ Wichelen, Sonja, 2009. "Polygamy Talk and the Politics of Feminism: Contestations over Masculinity in a New Muslim Indonesia", *Journal of International Women's Studies* 11(1) 176.

¹²² Id.

motivated by the desire to keep line of lineage of the deceased in his family as well as providing social security for the widowed wife. If the widow refused to marry her brother-in-law, then she would be stripped of her marital property rights.¹²³

The other justification for polygamy is enforced abstinence of women from sexual activities after giving birth. In some societies, sexual relationship is banned while the mother is breast-feeding. Breast-feeding time can be as long as three years in certain cultures such as the aborigines in Paraguay. Thus, men get frustrated with the long period of breastfeeding with no sexual intercourse – triggering the introduction of a second wife.¹²⁴

The anthropological and religious roots of polygamy in some settings indicate that originally it was designed to serve protective or remedial purposes for women and families.¹²⁵ In some destitute societies, polygamy still serves as protective shield for impoverished women.¹²⁶ But, polygamy, as it is currently practiced, usually preserves and strengthens patriarch within the family.¹²⁷ Historically, polygamy also provided restorative function to societies when a significant proportion of the male population has been sacrificed during warfare.¹²⁸

V. Multiple Spousal Relationship from Human Rights Perspective

Normative frameworks adopted at the international and regional levels provide equality clauses for men and women. However, it should be underlined that international and regional human rights systems do not explicitly prohibit the practice of polygamous marriage.¹²⁹

A cursory review of international human rights laws reveals that polygamy is a practice that, at best, should be proscribed or discouraged by domestic laws. There are numerous provisions in the International Covenant on Civil and Political Rights (ICCPR) that are intended to establish the equality of

¹²³Bizualem, Solomon 2011, “A Sociological Study of the Practice of Polygyny and its impacts: The Case of Gena Bossa Woreda of Dawro Zone, SNNPRS” (Unpublished MA Thesis) School of Graduate Studies, Addis Ababa University 30-35.

¹²⁴Belayneh, Abebech 2005. “The Costs of Polygamy: tension between co-wives of the Hamar” (Unpublished MA thesis), College of Social Science, School of Graduate Studies, Addis Ababa University, 72.

¹²⁵Cook, Rebecca, 2006 “Polygyny and Canada’s Obligations under International Human Rights Law, Family, Children and Youth Section Research Report. “Department of Justice Canada, 7.

¹²⁶Id.

¹²⁷Id.

¹²⁸Cook, 20068.

¹²⁹Fikre, Belachew Mekuria. 2013 “Bigamy and Women’s Land Rights: The Case of Oromia and SNNP National Regional State” *Ethiopian Journal of Human Rights* 1 90-91.

men and women. Article 23 (4) of the ICCPR specifically reads that “[States Parties] shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution [...]”¹³⁰ The Human Rights Committee (HRC) in its exposition of this provision stated: “it should also be noted that equality of treatment with regard to the right to marry implies that polygamy is incompatible with this principle; polygamy violates the dignity of women. It is inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.”¹³¹

More directly, Article 5(a) of the Convention on the Elimination of Discrimination Against Women (CEDAW) obligates States Parties to “modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”¹³²

Since usually polygamy is justified as part of customary practice, State Parties to the CEDAW, including Ethiopia, have the obligation to attempt to modify this pattern of conduct; the fact that it is rooted in the cultural and religious value systems of the country could not be presented as excuse. The CEDAW Committee, in one of its general comments, clarified that it considers polygamous marriage as not only a simple threat to equality of the sexes having serious emotional and financial repercussions on women, but also as a practice affecting the dignity of women and discriminating against them.¹³³ In the words of the Committee, “polygamous marriage contravenes a woman’s right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited. The Committee notes with concern that some States parties whose Constitutions guarantee equal rights permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women, and breaches the provisions of article 5(a) of the Convention.”¹³⁴

¹³⁰The International Covenant on Civil and Political Rights (1976), Article 23

¹³¹UN Human Rights Committee (HRC), *CCPR General Comment No. 28: on “The Equality of Rights Between Men and Women”*, March 2000, Para 24.

¹³²Convention on the Elimination of All forms of Discrimination Against Women (1979), Article 5(a).

¹³³Fikre 2013, 92.

¹³⁴UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No.21: On Equality in Marriage and Family Relations*, para. 14.

On the other hand, the African Charter on Human and People's Rights (ACHPR) generally recognizes the international standards that have been discussed earlier. It stipulates that states "shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions."¹³⁵ Moreover, a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, which Ethiopia has yet to ratify, is more explicit in the condemnation of polygamy as a practice prejudicial to the rights of women. It encourages State Parties to the Protocol to enact appropriate laws to guarantee that "[...] monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships, are promoted and protected."¹³⁶ This provision is meant to promote domestic efforts by member states to discourage polygamy - while accentuating the need for protecting the rights of women who already are in polygamous marriage.

VI. Ethiopian Law on Polygamy and Multiple spousal Relationships

Coming to the domestic laws having direct or indirect bearing on the practice of polygamy in Ethiopia, it is apt to start with the FDRE Constitution. Establishing the right to equality of women in marriage, Article 34 (1) of the FDRE Constitution provides that "men and women [...] have equal rights while entering into, during marriage and at the time of divorce." The same idea has been reiterated under Article 35 (2) of the Constitution which is devoted to outlining the rights of women; it provides that "women have equal rights with men in marriage as prescribed by this Constitution."

In relation to polygamy and its possible legality under Ethiopian law, the Constitution envisages the possibility of promulgating laws giving recognition to marriage concluded under religious or customary laws.¹³⁷ This provision is often cited to argue that polygamous marriages concluded under religious or customary laws are valid as long as the specific norms under which the marriages are celebrated allow it. Nonetheless, Article 35(4) of the FDRE Constitution also imposes a clear duty on the state to enforce the rights of women to eliminate harmful customs; it declares,

¹³⁵The African Charter on Human and People's Rights (1985), Article 18(3).

¹³⁶The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa), Nov. 2005, Article 6(d).

¹³⁷Constitution of the Federal Democratic Republic of Ethiopia Proclamation 1/1995, Federal Negarit Gazeta, 1st Year No 1, Article 34 Sub Articles 4& 5.

“Laws, customs and practices that oppress women are prohibited.” Hence, to the extent that polygamy is interpreted as harmful practice, the fact that it is acceptable under religious or customary norms does not preclude the State’s obligation from abolishing it.

One of the major departures in the state regulation of family relations in Ethiopia since 1995 came with the restructuring of the previous unitary state in to a federally decentralized one. As part of the division of legislative competence, the power to promulgate family law was allocated to the states who have since adopted their respective family codes. Even though the first rounds of family codes showed some level of originality in dealing with the question of bigamy in comparison with both the Federal revised family code and the civil code before it, they have since been revised to conform to the position of monogamy as the only acceptable arrangement of marital relations.¹³⁸ Bigamy is now one of the essential conditions that need to be checked before one gets married in both Oromia and SNNP regional states. In other words, polygamy is not directly prohibited in the laws; rather, it is provided as one of the prohibitive conditions to marriage under the regional states’ family laws.¹³⁹ However, in various cases, the Federal Supreme Court’s Cassation Bench had given effect to second marriages to protect the interest of the second wives.¹⁴⁰

More importantly, it would be noted that bigamy is labeled a crime under the Revised Federal Criminal Code of 2004 – following precedent of the previous law on the subject.¹⁴¹ The relevant part states that “whoever, being tied by the bond of a valid marriage, intentionally contracts another marriage before the first union has been dissolved or annulled, is punishable with simple imprisonment.” The responsibility is not only limited to the person who is taking a second spouse, but also applies to “any unmarried person who marries another he knows to be tied by the bond of an existing marriage.”¹⁴² However, the Criminal Code provides for a possibility of escaping criminal liability under Article 651 where bigamy “is committed inconformity with religious or traditional practices recognized by law.” Accordingly, for a bigamous act to be excused under

¹³⁸See for example the repealed Tigray Family Law Proclamation 33/1998, Article 32.

¹³⁹Chewaka, Jetu 2006 “Bigamous Marriage and the division of Common Property Under the Ethiopian Law, Regulatory Challenges and Options, *Oromia Law Journal*3 (1).

¹⁴⁰*Aregawi Abache v. Mrs. Aster Abegaz et al*, Federal Supreme Court, Civ. Cassation No. 39408, Federal Supreme Court Cassation Decisions, Vol. 10, 2002.

¹⁴¹Federal Negarit Gazeta, Proclamation No.414/2004, *Federal Criminal Code*, Article 650 Sub Article 1.

¹⁴²Federal Criminal Code, Article 650 Sub Article 2.

this provision, the existence of a law acknowledging the particular religious or traditional practice must be proved.¹⁴³

With regard to protecting the interest of women in marriage, one major gap in the law is when the second relation the husband enters into does not qualify as valid marriage and hence the civil and criminal remedies available are not applicable. The only legal remedy appears to be the institution of criminal prosecution for adultery, which only requires proving sexual relationship with another woman.¹⁴⁴

In analyzing the legal status of polygamy in the Oromia and the SNNP, one major deviation from the hitherto established prohibition relates to land registration procedures practiced in the context of rural land registration and certification. In clear contradiction to the family laws and other relevant legislations that outlaw bigamy and the rural land administration proclamations in both regions that reaffirm the principle of equality of men and women,¹⁴⁵ the practice appears to extend factual recognition to polygamous marriages. In both regions, the registration documents – including the certificates – have created the possibility for people in polygamous marriages to register not only the first wife and her husband, but also the second, third and fourth as the case may be.¹⁴⁶ It is the non-state laws that usually serve as the ultimate sources of legitimacy for the practice of polygamy. Since the only legally established religious or customary court in the study areas is related to the Sharia courts, it will suffice to see the position of Islamic law in this context.

The primary source of Islamic law is the Qur'an – believed to be the direct revelation of Allah to his people through Prophet Mohammed. On the question of polygamy, the most relevant verse in the Qur'an relates to the duty of equal treatment of wives.¹⁴⁷ With many of the traditional schools of jurisprudence, this is unequivocally taken as permission of polygamy. Some of the contemporary scholars, however, have interpreted the last part of the verse that cautions about being just as indirect prohibition of polygamy since it is humanly impossible to be equally fair to two or more wives at the same time. In support of their argument, they cite another verse from the

¹⁴³Fikre 2013, 91-92.

¹⁴⁴FDRE Revised Criminal Code Article 652.

¹⁴⁵Oromia Rural Land Administration and Use Proclamation 130/2007 and SNNPR Rural Land, Administration and Use Proclamation 110/2007.

¹⁴⁶For a detailed account of the modalities of Rural land registration and how polygamous marriages are treated, *see* also Fikre 2013, 88-108.

¹⁴⁷Qur'an Chapter four, verse 3, Surat al Nisa'i.

Qur'an that reads "You are never able to be fair and just as between women even if it is your ardent desire."¹⁴⁸

VII. The Effects of Multiple Spousal Relationships on Women

As mentioned above, multiple spousal relationships take place in varying ways – depending on the cultural and socio-economic set-ups. As a result, although there are some effects that are cross-cultural, the effects differ depending on the context and may be generally considered as negative and positive. Empirical research conducted in Sub-Saharan Africa documented that polygamy, irrespective of the status of women as second or third wife, may have advantages such as social security gained through marriage, support with workloads and household chores, child raising responsibilities, satisfying the need for more children and social stigmatization as the result of being single after a certain age.¹⁴⁹

One striking feature of multiple spousal relationships is that there is the expectation or the prospect that there will be another partner that will be introduced into the union.¹⁵⁰ Due to such factor, negative consequences such as absence of exclusive sexual intimacy, the opportunity to build a life together, to share material and emotional attention, and the feeling of uniqueness could be witnessed.¹⁵¹ This harmful interruption primarily deteriorates the opportunity to build strong marital and familial bonds.¹⁵² The disruption of an exclusive emotional and material relationship is often aggravated by unhealthy co-spousal relationships. Anthropological literature indicates that such union is often attended by emotional feelings of jealousy, tension, strain, and competitiveness.¹⁵³ Various researches conducted in this area also suggest similar outcome.¹⁵⁴

Negative psychological impacts, which multiple spousal relationships engender, include lack of room for personal desires, the ability to express one's emotion, sense of self-will and distinctiveness. The extent of the effects ranges from moderate to extreme – depending on strength of the

¹⁴⁸Qur'an Chapter four, verse 129. Surat al Nisa'I, for more on the position of Islamic law on other forms of informal multi-spousal relation see above, Section 2.1.2.

¹⁴⁹Zeitzen, 2008, 137 and 175; see also Bizualem, 2011 30-35.

¹⁵⁰Cook, 2006 10.

¹⁵¹Id.

¹⁵²Id.

¹⁵³Altman, Irwin, and Ginat, Joseph, 1996 "Polygamous Families in Contemporary Society", 341

Cambridge: University of Cambridge Press.

¹⁵⁴Veredslonim, Nevow and Aleanal, Krenawiw, 2006 "Success and Failure Among Polygamous Families: The Experience of Wives, Husbands, and Children Family Process" 45 (3) r FPI, Inc. 312; see also Adams, B., & Mburugu, E. 1994 "Kikuyu bride wealth and polygamy today." *Journal of Comparative Family Studies* 25 159-166.

women. Due to the prevalence of such unhealthy emotions, women in such unions are relatively more prone to mental and personality disorder which increase depressive disorders, low-self-esteem, unhappiness and sense of worthlessness when compared to women in monogamous union.¹⁵⁵

VIII. The Practice of Polygamy in Ethiopia

Ethiopia comprises of a multi-ethnic, multi-cultural, multi-religious society.¹⁵⁶ This plurality is reflected in various affairs of the society – including in spousal relationships, marriage and family structures. For instance, in the northern part of the country, which is predominantly inhabited by the Amhara and Tigray ethnic groups, the dominant form of marriage is exogamy, monogamy and arranged marriage. Even in such places where monogamy is the predominant practice, there are communities that accept men that have mistress and concubines. Among some Oromo communities that are predominantly Muslim such as in Bale, Jimma and Arsi, polygamy is widely practiced. Communities in the South Omo that are mainly pastoralists such as Tsemako and Hamar also practice polygamous marriage. Polygamous marriage is also practiced in other communities in the SNNPR such as in Sidama, Gurage, Hadiya, Wolaita, Kembata and Dawro.¹⁵⁷ The Census Report of 2012 indicates that about 11% of Ethiopian women are in polygamous relationship.¹⁵⁸ Given its informal nature, however, there is no definitive data and qualitative report compiled on the number of women living under multiple spousal relationships.

IX. Multiple Spousal Relationships in Hawassa

I. *Social Attitudes towards the Practice of Multiple Spousal Relationships*

Data from interviews and focus group discussions showed that the practice of multiple spousal relationships seems to be tolerated among the

¹⁵⁵Al-Krenawi, Graham, & Al-Krenawi 1997, 445-458; Veredslonim and Krenawiw2006, 312.

¹⁵⁶It was reported that Ethiopia comprises of more than 80 ethnic groups with unique cultural values and traditions. The Country also comprises multiple religions, which includes Christianity, Islam, traditional and other beliefs. Summary and Statistical Report of the 2007 Population and Housing Census, 16 and 18.

http://ecastats.uneca.org/aicmd/Portals/0/Cen2007_firstdraft.pdf.

¹⁵⁷Bizualem, 2011, 1; 30-36; Ezra, Markos, 2003. "Factors Associated with Marriage and Family Formation Process in Southern Ethiopia." *Journal of Comparative Family Studies*; Belayeneh 2005, 68-73, Beyene, Gemechu and Tolera, Assefa, 2006. "Marriage Practices Among The Gidda Oromo, Northern Wollega Ethiopia", *Nordic Journal of African Studies* 15(3): 252.

¹⁵⁸Central Statistical Agency 2012. "Ethiopian Demographic and Health Survey 2011." Calverton, Maryland: ICF International.

community. Even in Hawassa town and the surrounding woredas,¹⁵⁹ there are indications that the practices of multiple spousal relationships in general and polygamous marriages in particular are accepted within the cultural set-ups. For instance, one study participant said that she knew about her husband's first marriage and married him formally as a second wife. A 36 years old study participant stated that:

I knew that my husband already has a first wife. I agreed and accepted to be his second wife. Then he sent elders to my family. After getting permission from my parents, we formally married in front of the civil registration bureau. At the time of the marriage, he has already lived with his first wife for 15 years. He has six children from his previous marriage. [...] The reason why I married him was because I love him. [...] Our society took it as part of culture. In such polygamous marital arrangements, we live together peacefully. She owns and administers the property that she owns during her marriage with him, and I also do the same. I have six children with him.¹⁶⁰

Another key informant also supports the view and submitted that multiple spousal relationships are widely practiced in Tabor sub-city in Hawassa where he works. He confirmed that "[Multiple spousal relationships] is an issue in Tabor sub-city and even as this interview is going, there is a woman at the police station accusing a man of involvement in such act. One reason could be that the sub-city is remote and there are rural woredas around it".¹⁶¹

A third key informant explains that:

Mostly the reason for polygamy is culture; women, especially around Sidama zone, allow their husband to marry a second wife because a second wife will ease the burden of housework. It is only if he gets married without her permission or they have another cause of disagreement that the woman will complain.¹⁶²

¹⁵⁹During the Field Research Testing Conducted in Hawassa and Dore Bafano from 29 July-01 August 2015, the testimonies of women as well as key informant interviews revealed that polygamous marriages have been widely practiced in the Sidama culture.

¹⁶⁰E. M. Study participant from Hawassa City, interviewed 28/08/2015.

¹⁶¹Key Informant Interview (KII) Sergeant Alemayehu Dejene, Tabor Sub-City Police, interviewed 29/08/2015.

¹⁶²KII, W/ro Wengel Yegeletu, SNNPR Special Prosecution Unit, interviewed 29/08/2015.

While admitting the prevalence of multiple spousal relationships in the locality, a key informant from the SNNP Bureau of Women and Children Affairs (BoWCA) argued that:

In Meneharia sub-city, there are 2 Kebeles predominantly inhabited by communities with low economic status and migrants from rural area; cases of multiple spousal relationships mostly come from these kebeles. The allegations involve that men start to live with another woman without dissolving the previous marriage but the second relationship is rarely formalized.¹⁶³

Similarly, a judge at the first instance court explained that although one of the reasons submitted in divorce proceedings is multiple spousal relationship, women often tend to hide it when bringing a petition for divorce; they only mention other reasons which are considered as the effects of multiple spousal relationships such as domestic violence and refusal to provide for the family. This could be associated with the fact that such practice is considered as embedded in culture in the localities surrounding Hawassa which most women tend to accept. In his words:

As a ground for divorce, women usually mention the husbands' failure to provide adequate maintenance and involvement in domestic violence. They rarely mention the fact that their husband has married another woman as a reason for divorce; it is through fact-finding questions of the court that the issue of [multiple spousal relationship] comes out.¹⁶⁴

A key informant from the Menaheria sub-city BoWCA said "mostly women come to complain about domestic abuse when they are thrown out of their house or their husband refuses to provide maintenance. It is through discussion that they mention the problems are happening because their husband has another woman on the side."¹⁶⁵

Another informant who works for NGO and had conducted a baseline survey on harmful traditional practices in the Hawassa surrounding area explained:

The Center where I am working had conducted a baseline survey on harmful traditional practices and found that polygamy is included in the top 5 harmful traditional practices. In an area known as 'Arbegona', polygamy and its impacts are very serious. A large

¹⁶³KII, W/rt Meklit Lucas, Legal Support and Advice Officer, Menaheria Sub-city BoWCA, interviewed 29/08/2015.

¹⁶⁴KII, Ato Tamirat Talo First Instance Court Judge, interviewed 29/08/2015.

¹⁶⁵KII, W/rt Meklit Lucas.

number of children living in Hawassa city had migrated from rural areas because their fathers have multiple wives and are not able to provide for their needs.¹⁶⁶

The last informant, a public prosecutor in the region, verified the stories: “there are 12 rural Kebeles in Tula sub-city – and it is in these areas that polygamy is widely prevalent as opposed to the city itself; this is mainly because the community in the rural areas doesn’t have sufficient awareness. In the city, though, there are more frequent cases of adultery.”¹⁶⁷

ii. Women’s Perception of Men’s Reasons to Engage in Multiple Spousal Relationships

The causes for involvement in multiple spousal relationships are difficult to ascertain; most of the study participants didn’t know of the factors that prompted their husbands’ desire to resort to multiple spousal relationships. Many had expressed their presumptions. In general, the major causes, as narrated by the study participants, include promiscuity, long distance relationships, and the husbands’ success and newfound desire for better wives. Others mentioned the issue of obsession for money, the desire to have sons, and illness.¹⁶⁸ In some instances, the testimonies of study participants revealed that there is more than one reason for husbands to resort to multiple spousal relationships.

Promiscuity

The testimonies of women in Hawassa town showed that one of the reasons for men’s extramarital relationship is related to infidelity. In most cases, the issue is not simply about sexual incompatibility, but also the husbands’ excessive sexual urge and promiscuity. Having multiple sexual relationships of husbands with a number of women manifests the pattern for such excessive sexual urge.

Some of the study participant women believed that their husbands started sexual relationships with other women because of their limited sexual intercourse experiences – since for most such women, their husbands were their first. One study participant from Hawassa who married her teacher when she was only 15 years old and now a mother of three said “I do not know the exact reason for my husband’s extramarital affair; I believe it is related to sex. The woman he is involved with used to work in a bar as a

¹⁶⁶KII, Ato Eyob Gode, Monitoring and Evaluation Officer, Center of Concern, interviewed 29/08/2015.

¹⁶⁷ KII, Ato Habtamu Haro, Tula Sub-City Public Prosecutor, interviewed 29/08/2015.

¹⁶⁸B. L. Study participant, Hawassa City, interviewed 27/08/2015.

prostitute and has had sexual experience with different men. Due to this, she must have created strong impression in sexual bond than I did.”¹⁶⁹

Promiscuity could also be manifested by resorting to younger women. This usually appears in relationships that spanned for a long time. One study participant who is in her 60’s said that “I was married for 30 years, and now my husband married to a young girl in my old age. Husbands treat you well until you give birth and afterwards their love fades through time”.¹⁷⁰

Long Distance Relationship

Another important reason for men to resort to multiple spousal relationships is long distance relationship after marriage. This could be associated with factors such as education in higher institutions and work far from home. With regard to the location of work being far from residence, a study participant from Hawassa who was married for 10 years stated;

I was a housewife – raising my children. My husband was working in a garage. Most of the time, he says, he has fieldworks and does not come home for days or sometimes weeks. One time, I even filed a complaint with the police because I was concerned that something bad had happened to him, as I had not heard from him for a long time. Such incident continued – with the frequency of his staying out increasing by the days. At daytime, he calls but in the evenings, his phone is always switched-off. He says his phone was off due to lack of electricity and he could not charge his phone. I started to check out the situation and heard from people that he is living with another woman in Wolayita. I went to Wolayita to see this for myself and ascertain that he is living with another woman.¹⁷¹

Husbands’ Success and Desire for a Better Wife

Some of the study participants believed that their husbands resorted to multiple spousal relationships due to their financial and career successes and the desire for better wives who matches their newfound standard. Many of the women interviewed were very young and have discontinued their education when married. For such reasons, they were either housewives or have pursued career in low-income activities. In the initial years of marriage, their husbands were also either at the beginning of their careers or still striving to advance in their education.

¹⁶⁹L. A. Study participant, Hawassa City, interviewed 26/08/2015.

¹⁷⁰A. M, Study participant, Hawassa City, interviewed 26/08/2015.

¹⁷¹Y. H. Study participant, Hawassa City, interviewed 28/08/2015.

One of the study participants explained that due to her husband's career and financial achievement in the course of their marriage, her husband chose to marry another wife. She said "we started to have a problem in our marriage 15 years ago when I had my first child. He also became financially stable due to his construction works and started looking for a younger wife".¹⁷²

The desire to marry other wives with better income or education is also associated with the obsession for financial success and higher social status, which is also cited as a reason for their husbands resorting to extramarital relationship.¹⁷³

Desire to Have a Son

In some societies, having a son is considered as one of the most important occasions in the household and the community at large. Such view that has become an important part of the priorities of societies also influences husbands to be longing for boys. In situations where a husband's desire to have a boy could not be fulfilled from a first wife, he takes it as legitimate ground for initiating another relationship. A study participant who married her husband when she was 14 years and now with 4 daughters noted: "my husband wanted to have a son but he could not get that from me. Due to this, he married another woman just for this reason. I heard about his affair from people and ascertained that he had started relationship with another woman".¹⁷⁴

iii. The Psychological and Physical Impact of Multiple Spousal Relationship

All women interviewed affirmed very unequivocally that the extramarital relationship of their husbands have adversely affected their lives. They are deeply hurt knowing that their husbands have started other relationships. They are physically, mentally and psychologically affected by such situation. Moreover, the study participants felt unwanted, worthless and inferior to others and hence became unhappy and miserable in their lives.

One study participant, who was married for 30 years, was told she was badly beaten by her husband due to their frequent quarrel concerning his extramarital affair. She noted "my husband hit me when I refused to leave the house. [...] He used a big stick to strike me hard – so much so that I was taken to a hospital by the neighbors. I was badly injured and due to this, he

¹⁷²A. M. Study participant, Hawassa City, interviewed 26/08/2015.

¹⁷³ Id.

¹⁷⁴ B. B. Study participant, Hawassa City, interviewed 27/08/2015.

was taken to custody by the police.”¹⁷⁵She further explained that she was subjected to frequent insults by an unknown woman who called her house: “I found out that he opened a shop for her. I even went to the shop and was told by the lady that she owns it and gave me his number to call. The neighbors informed me that actually he owns the shop and is living with the woman. Worse, I heard a rumor that there is also another lady for whom he bought a house”.¹⁷⁶

Since most of the women depend financially on incomes of their husbands, after separations caused by extramarital relationships, they could hardly provide for their basic provisions such as food, housing and other needs required for survival. Children in such households are also severely affected; their mental and psychological wellbeing is often at stake. One study participant who found out about her husband’s extramarital relationship from an expectant second wife who came to her house noted: “after my husband left me for another woman, I am living under a dire situation as I had no means to sustain my livelihood. I used to entirely depend on him. I already have a five year old child and am currently pregnant with his baby”.¹⁷⁷Another study participant in a similar situation decided to get back to her husband after her separation simply because she could not raise the children on her own. In her words she said:

I agreed to the elder’s mediation to get back with my husband while knowing of his relationship with another woman; I did so for my children’s sake as I could not raise them due to lack of financial means. I had also witnessed that my children’s behavior was getting depraved due to the lack of proper upbringing.¹⁷⁸

Another study participant disclosed that she became very sick when her husband, who is in a relationship with another woman, took half of her property she received from inheritance. She explained:

I married my husband in 1963 E.C through a traditional ceremony and now I have two children. Years later, I heard that he has been married to another wife. [...] following the divorce, he took half of what I inherited from my family; because of the anger, I became sick.¹⁷⁹

¹⁷⁵ A. M. Study participant, Hawassa City, interviewed 26/08/2015.

¹⁷⁶Id.

¹⁷⁷M. G. Study Participant, Hawassa City, interviewed 27/08/2015.

¹⁷⁸Y. H. Study participant, Hawassa City, interviewed 28/08/2015.

¹⁷⁹B. L. Study participant, Hawassa City, interviewed 27/08/2015.

iv. Remedies and the Responsiveness of Formal Justice Mechanisms

In considering remedies and responses offered by the formal justice system, it is imperative to consider first what the study participants have to say about bringing cases before the concerned authorities.

Most of the study participants plainly submitted that they are aware about their rights under the law and had been advised by different institutions such as the BoWCA and the police to take the matter before courts of law. One study participant who is a kindergarten teacher and a mother of three said: "I am aware of the criminal responsibility that emanates from multiple spousal relationships. However, I do not want my ex-husband to be imprisoned for his act. I believe if he does not want me, I should not force him to stay with me and he can marry anyone of his choice."¹⁸⁰ She further explained: "when I decided to divorce him, I contracted a lawyer; following intense negotiations, my ex-husband left the house and household stuffs for me. He also agreed to pay 800 birr per month to raise the three kids. In addition, he pays 680 birr for a house rent. Since, he has regularly discharged the financial duties."¹⁸¹

Although this could be considered as success story, others were not as fortunate as the aforementioned study participant. One study participant narrated a contrary story: "he took half of what I inherited from my family during the divorce, which he is not entitled to. Since then, I was consumed by overwhelming anger, which led to my serious sickness. Although I wanted to take the matter to court, I could not do so due to my bad health condition."¹⁸²

While women know about their rights and also have the desire to make use of legal remedies, some failed to take cases before courts due to lack of the necessary financial means; hardly do they also have the time as they have to work all day to win daily bread. One study participant noted:

I know that I can file a complaint before the police and make him criminally liable; but I cannot do that because I work the whole day to earn money to sustain my livelihood and the needs of my children. I do not have any extra money to cover court-related expenses. However, if I had the financial means, I am absolutely willing to take the case to court.¹⁸³

¹⁸⁰L. A. Study participant, Hawassa City, interviewed 26/08/2015.

¹⁸¹Id.

¹⁸²B. L. Study participant, Hawassa City, interviewed 27/08/2015.

¹⁸³Y. H. Study participant, Hawassa City, interviewed 28/08/2015.

In other instances, while there was a desire to take the matter to courts, some women had been unable to get witnesses. This is mainly because neighbors and those who knew about the facts do not wish to be seen as going against established culture. Moreover, many of such persons don't want to disrupt their good relationships with the husband. In this regard, one study participant said:

Initially, I did not know that multiple spousal relationships or polygamous marriage is a criminal offense. I became aware after I took part in awareness-raising program at the Kebele. I wish to take the case to the court and sue my ex-husband for his deeds. I even tried to take the matter to the police, but my neighbors were unwilling to testify.¹⁸⁴

In other occasions, women took the cases before courts of law, but elders urged the women to withdraw their claims. One study participant said:

I decided to divorce him when he bit me badly with a stick. I reported the case to the BoWCA and he was caught by the police and held in custody for eight days. After this incident, I pursued the divorce process without mentioning that he has a relationship with other woman. I wanted to sue him for beating and infidelity, but the elders convinced me not to. As a result, the criminal case was dropped.¹⁸⁵

Another dimension of the remedies and responses sought in the context of multiple spousal relationships could be inferred from the testimonies of key informants. A judge at a first instance court submitted:

The issue of multiple spousal relationships is brought forward during petitions for divorce; when one woman petitions for divorce, a second or third woman may join the case arguing that they are also wives and have claim on the property. In such cases, the court devises a mechanism to fairly divide the property based on the duration each marriage has lasted for and what each of the spouses has contributed in the marriage.¹⁸⁶

Regarding the issue of reporting to the police, there were a far fewer cases in the past that had been submitted in Hawassa. Even in Tabor sub-city where, apparently, the prevalence of multiple spousal relationships is

¹⁸⁴B. B. Study participant, Hawassa City, Mehal Sub City, Leku Kebele, interviewed 27/08/2015.

¹⁸⁵A. M. Study Participant, Hawassa City, Menaheria Sub City, Millennium Kebele, interviewed 26/08/2015.

¹⁸⁶ KII, Ato Tamirat Talo, First Instance Court Judge, interviewed 29/08/2015.

prevalent, the number of cases reported to the police is very limited. According to a police officer at Tabor sub-city police station:

There are occasional complaints of [multiple spousal relationships] that are brought to the police station. Some of the women come on their own, while others are referred to the station through the BoWCA. Although a few of such women possess marriage certificates or proof of traditional ceremonies, many complainants had only lived together for a short time and do not have proof of marriage.¹⁸⁷

According to one key informant, while there is a special prosecution unit established to handle cases of violence against women and children, the unit does not admit cases involving women who are older than 18 years of age and hence issues relating to multiple spousal relationships would not be investigated. Moreover, the key informant said:

The police are not willing to investigate multiple spousal relationships and polygamy cases. They expect women to serve the summons and gather the evidence themselves because of shortage of vehicles and budget.¹⁸⁸

An expert from Menaheria sub-city BoWCA points out some of the practical challenges associated with filing a complaint in relation to multiple spousal relationships. The key informant noted:

Concerning [multiple spousal relationships], although the facts are usually there, it is difficult to come up with proof. There is a problem of finding evidence because, often, the subsequent marriages are not concluded in any of the lawfully recognized forms.¹⁸⁹

Further, the key informant pointed that the service gaps observed in the justice administration system are concerning. He noted:

There are recurring problems within justice professionals. One problem is that they just send women with any problem to the BoWCA. Even if the woman had been beaten up and was bleeding, they are very reluctant to consider the incidence as a crime. They also focus on reconciliation rather than instituting criminal cases. Some experts working in these institutions actually consider

¹⁸⁷KII, Sergeant Alemayehu Dejene, Tabor Sub-City Police, interviewed 29/08/2015.

¹⁸⁸KII, W/ro Wengel Yegeletu, SNNPR Special Prosecution Unit, interviewed 29/08/2015.

¹⁸⁹KII, W/rt Meklit Lucas, Legal Support and Advice Officer, Menaheria Sub-city BoWCA.

polygamy as a right or a cultural practice. Traditional elders could play role in renouncing the practice, but they are not willing. Mostly, they come to mediate on behalf of men with the pretext of reconciliation, but in fact, it is just so that men could escape criminal liability.¹⁹⁰

X. Multiple Spousal Relationships in Adama

i. Forms of Multiple Spousal Relationships

Considering the data collected through interviews with many of the public officials such as prosecutors, judges, police and affected women, multiple partner relationships are not technically read as constituting polygamy. In fact, during one of the focus group discussions, a participant estimated that the number of cases of multiple partnerships they encounter that qualify as polygamy in the formal sense of the term does not exceed more than 27%. In this light, an attempt will be made here to highlight as to the other forms of multiple partner relationships observed with some regularity and pattern in the study area.

***Kimit* (Mistress)**

This form of multiple partner relation is where a man is legally married to a woman and still engages in an affair with another woman on a regular basis and he mostly pays for maintenance of the woman. The Amharic word *Kimit* signifies the financial responsibility of the man and a certain level of fidelity expected of the woman. This form of relation is confidential, and most widely practiced by men with relatively better economic status. The data gathered shows that the practice is spreading with the increased urbanization and enlargement of the urban middle class; often, men involved in the practice are either government officials or wealthy businessmen.¹⁹¹

Wife Abandonment

Many of the women who participated in the study actually fit in this category. This is where the man moves in with another woman without formally dissolving his marriage. This may happen with the knowledge of the first wife; sometimes it may be the case that the husbands who moved to or from the study areas start a new family by completely abandoning the first marriage. The data collected from both study areas actually showed that the practice of cohabiting with two or more women is rare; the husbands tend to abandon the first marriage in favor of the second

¹⁹⁰Id.

¹⁹¹KII, Feye Dufera, Adama City Prosecution Office Head, interviewed 20/08/2015.

marriage or relationship, without however fulfilling the formal legal or cultural procedures to end the first relationship hence putting the women in limbo.

ii. Social Attitude towards Multiple Spousal Relationships

According to the key informants and participants in the focus group discussions, the social attitude towards multiple spousal relationships is attuned by religious and cultural norms in the study areas. For Muslims, they enter into polygamous marriage as accepted in the religion. According to one FGD participant:

In Islam, it is allowed for a man to marry up to four wives. This can only happen if the man can treat and support all of them equally. This was practiced in the old times, but nowadays it is not accepted especially by women although there are men who enter into such relationship saying that it is permitted.¹⁹²

The informants also mentioned that the practice is supported by the Oromo culture, which allows a man to marry two or three wives. It was also found that keeping mistresses is a fairly common practice in the area. One of the participants in the FGD stated:

I was born and raised in a rural area and I also work there. I am borne of a peasant family. I know everything; there isn't a man who does not have a mistress although he may not formally enter into another marriage. When a man comes to the city, he has what is called a 'regular'. He goes there, drinks, spends the night with a woman and his wife wouldn't say anything; she accepts him when he returns. In a small rural Kebele like mine, it is commonplace to hear people say that she is somebody's wife. If the society accepts this, then it becomes a rule, a norm of the sorts.¹⁹³

In addition to being common, keeping a mistress was said to be considered as gallantry by many men. *"In rural Kebeles, keeping a mistress is something to brag about; when we go there to give awareness on the issue, we ask why this is the case. They told that it is considered as a sign of economic status to keep a mistress in the city"*.¹⁹⁴As one of the key informants explained, the existence of proverbs such as '*And Mist, And Ayin*' (one Wife is like one eye) shows the wide acceptance of the practice.¹⁹⁵

¹⁹²FGD, Adama City, 21/08/2015.

¹⁹³Id.

¹⁹⁴Id.

¹⁹⁵KII Ato Abudlkadir Feysel, Adama Woreda BoWCA, 20/08/2015.

iii. Women's Perception of Men's Reasons to Engage in Multiple Spousal Relationships

The study participants mentioned different reasons as to why they think their husbands have decided to begin relationship with another woman while still married. Such included sexual drive of men, long distance relationships, desire for better wife, economic reasons and pressure from family.

Sexual Drive of Men

When asked why they believe men take more than one wife or engage in multiple spousal relations, many study participants factored the case of sexual desire by men. They perceive men as having an abnormal level of sexual desire and urge. One of the participants reported that her husband has sexual urge that is so difficult to satisfy; he did not only limit himself to her and the other woman he cohabits with, but also sleeps with prostitutes and other women regularly.¹⁹⁶ Another FGD participant stated:

I am a city girl. I see what goes on in the city. I observe the marriage of my friends as well what is on the streets and I take lessons from that. [...] But this man goes to another woman and from her to another woman. He is now on his fourth and fifth woman [...] I believe this man is promiscuous because I have what the other woman has and I take care of myself, wearing clean clothes; so, I think he has an addiction to sex.¹⁹⁷

Long Distance Relationship

For some of the women interviewed, their husbands entered into another relationship when they were living away from their marital abode. One of the participants experienced this when her husband went to Addis Ababa and Jimma for further education. She explained what happened:

Living separately creates a rift in a relationship. When we were living together, I have neither seen nor heard about such things. He did not have thoughts about other women; you would never know he would. He was disgusted with other people who do such things. But he left for his education and that was it.¹⁹⁸

Another participant said her husband was a contractor – which meant that he stays away on field works frequently.

¹⁹⁶Z.G. Study participant, Adama City, interviewed 20/08/2015.

¹⁹⁷FGD, Adama City, 21/08/2015.

¹⁹⁸FGD, Adama City, 21/08/2015.

When there is shortage of work here, he said he needed to go to rural areas to work and we agreed that he should. At first, he used to come three days a week, then it became two days, then just one day a week [...] after a while he started not coming home for up to six months. Then, he just shows up, is served meals, and drinks his coffee and just leaves.¹⁹⁹

Economic Motivations and Wives with Better Status

Some of the participants stated that their husbands might have left them for women with better education and/or income. One of the participants described what the second wife told her about herself: “she told me she went to Adama University and is a lawyer; she also said she studied psychology and business and has a master’s degree.”²⁰⁰The participant said she did not pursue her education beyond reading and writing. Another participant, whose husband has been with multiple women said: “the first woman he was in a relationship with was a university student. She also had a job. She may have better salary and knowledge than me, but she was not any better in terms of physical appearance.”²⁰¹The same participant then told the following about the woman that he is currently married to:

She came from abroad. She was looking for someone to do a proposal for her and people introduced her to him. They got married after knowing each other for a day. They spent the night the day they met and got married the next day. She has lived in the US for 21 years. She is very wealthy.²⁰²

iv. Physical and Emotional Impact of Multiple Spousal Relationships

For most of the participants in the study, in addition to their husband being in multiple spousal relationships, they also faced other types of violence such as physical and verbal abuse. One of the participants narrated what her husband, 34 years old, did to her:

I went to the court, but he promised to change and we reconciled. A little later, he married another woman. I decided not to say anything, but he started beating me. He gets drunk and comes home in the morning; he verbally abuses me, tells me that he does not want me and that I should leave with my children.²⁰³

¹⁹⁹KII, S.H, Adama City Legal Aid Office, 21/08/2015.

²⁰⁰Id.

²⁰¹FGD Adama City, 21/08/2015.

²⁰²Id.

²⁰³S.H. Study participant, Adama City, interviewed 22/08/2015.

At the time of the interview, she had already left home and was staying with a sister – following the latest episode of beating which resulted in her being unconscious and hospitalized. In addition, she told that the woman who the husband left her for and who also happened to live close by – verbally abuses and throws stones at her.

Another participant who married when she was 16/17 said her husband prevented her from continuing her education or having any kind of contact with other people. He also did not allow her to do any work:

He covers all expenses. I don't do anything. When I try to work, he does not approve; in time, he decreases the allowance he gives me. When he does this, I could not cover all house expenses and as my business failed, I had to go back to being a housewife. I believe he did not want me to work because he feared I would find out his secret [about the other woman].²⁰⁴

Economic hardship is another adverse impact that comes along with multiple spousal relationships. Economic hardship occurs because husbands are often the primary breadwinners of families; when they enter into another relationship, they generally terminate the financial support. This prevents women from taking their cases to courts. As one of the participants put it:

When I called my husband, the new wife insults me– telling that I could not talk to him that way. At last, people advised that I should take my case to the court, but I did not want to. First, I did not have any property; economically, I lead a desperate life. I told him I did not want to sue him, but that he should provide money to raise our child; he kept saying he didn't have money and could only afford to offer 2000 or 5000 birr [...] Finally, I decided to take the case to court which is now pending.²⁰⁵

Another woman described the financial problems she faced when she was expecting her child and after she gave birth because her husband who was living with another woman refused to offer assistance.

I gave birth to my daughter in an empty house. My sister asked him how he leaves a woman who just gave birth in such a state. He replied “that is her problem; she eats if I have money and there is nothing I can do if I don't have [...]”. I have never been able to provide for the basics; instead of milk, I was forced to give her

²⁰⁴Id.

²⁰⁵Id.

potatoes and whatever I can find, and pay the rent with support of other people.²⁰⁶

Another participant in a similar situation narrated that her son could not be enrolled in school for lack of money. Although this participant had earned a degree, she described the difficulties of looking for a job carrying her son on her back.

The economic difficulties also come with going through prolonged court cases. “There is a lot of hardship encountered when pursuing a court case; I had to sacrifice my time, money and job”²⁰⁷ explained one of the participants – adding that her father supported her financially from his pension during the divorce proceeding. Another participant explained: “when a man leaves his house, he already has set himself up. The woman does not have anything. The court proceeding may take a long time. In this process, her finances dwindle while his increase.”²⁰⁸

One of the participants said she was very sick as a result of her husband leaving her and marrying another woman and emotionally hurt.²⁰⁹ Another woman narrated she was so shaken by the experience and was sobbing most of the time during the interview and FGD.

v. Remedies and Responsiveness of the Formal Justice Mechanism

According to the key informants, women affected by multiple spousal relationships seek the formal justice sector as a last resort. In most instances, women affected would try to resolve their disputes through traditional mechanisms such as family mediation – and then through elders and religious leaders.²¹⁰ Whenever they come to state institutions, as noted above, women rarely seek for the dissolution of the second marriage or ask for the man to be punished for adultery; rather, most claims focus on the provision of maintenance for children, dissolution of the marriage and partition of marital property.²¹¹

Although having multiple spousal relationships is a punishable offense under the Criminal Code, criminal prosecutions are rare according to interviewees from justice institutions in Adama. Cases are resolved either through reconciliation, or would be discontinued for lack of sufficient evidence, or the victims would prefer to end the cases in civil courts

²⁰⁶FGD Adama City, 21 /08/2015.

²⁰⁷T. B., Study participant, Adama City Legal Aid Office, 22/08/2015.

²⁰⁸FGD Adama City, 21 /08/2015.

²⁰⁹FGD Adama City, 21 /08/2015.

²¹⁰KII, Ato Feye Dufera, Adama City Public Prosecutor, 20 /08/2015.

²¹¹Multiple sources in the KII as well as the Study Participants interview.

through divorce. The major problem, as pointed out by the key informants, is difficulties in acquiring evidence and proving polygamy. As the head of the Public Prosecutor's Office explained:

Since the man comes from other places to Adama, the wife who lives in another part of the country may not have the information about this. Even if the woman is able to get information, the society is not willing to provide evidence or to be a witness. In rare cases where both live in the area, we can only institute a criminal case if the marriage is formulated in one of three ways: religious, customary or before an officer of civil status. It is also hard to prove irregular union because they have to live together for at least three years and could be proved by the community.²¹²

This view was also shared by another public prosecutor in the same office:

Although cases are submitted alleging the commission of polygamy, it is hard to prove because when men go for a second wife, it is not concluded as a marriage in the eyes of the law; they just start living with the women. There is no hard proof showing that a marriage has been validly concluded in either one of three ways. Given also that many witnesses do not wish to come forward and testify, most cases would be discontinued and shelved while at the police station.²¹³

Lack of concrete evidence to prove the conclusion of marriage is also said to open doors for men to come up with defense: "the first wives who come to file complaint do not even have proof of their own marriage; nor could they find evidence that the second relationship is actually a marriage. In fact, when men are asked, they would simply tell that the woman in the house is a domestic worker or a relative."²¹⁴

The public prosecutors interviewed during the case studies advised that the better solution they recommend when there is no enough evidence to prove a second marriage is to charge the man for adultery. However, this comes with its own problems of proof; the crime is punishable only upon complaint. They also mentioned that in some instances, civil benches adjudicating on divorce cases would send the file to their office asking if prosecutors could detect the commission of polygamy.

There are instances where civil courts send files saying that from the facts presented, the occurrence of polygamy appears to have taken

²¹²KII, Ato Feye Dufera, Adama City Public Prosecutor, 20 /08/2015.

²¹³KII, Abayneh Bayew, Public Prosecutor at Adama City Public Prosecutor's Office 20/08/2015.

²¹⁴KII, Dejene Gonfa, Adama Woreda Public Prosecutor's Office, 20/08/2015.

place which merit further investigation; but, when we ask in which of the three ways the second marriage is concluded, that is when the case gets stuck. The wife would not know and couldn't bring witnesses either.²¹⁵

According to the informants in the justice system, many cases also end up in reconciliation. One of the reasons for opting for reconciliation could be the life they shared.

Most women are very emotional and cry a lot when they first come. They relate their stories from the beginning, and in most relationships, there are children. Although they are hurt by what had happened, because they have shared love and good memories with the husbands and for the sake of children, they are easily persuaded to reconcile.²¹⁶

In addition, there is heavy pressure from traditional elders for settlement—mostly allowing husbands to go back to their first wives and raise the children. Concern about the economic and other ramifications is also another reason that factors in not following through with court cases.

Reconciliation efforts are also pursued by the formal justice institutions.

There are cases when women come to complain about multiple spousal relationships. What do we do in such cases? They have children and we look at their economic status. So, we focus more on reconciliation. For example, the second woman may argue that she did not know that the man had a wife...we negotiate so that she can get what she needs and tell the man to take care of his children and not to abandon his marriage.²¹⁷

Lack of awareness about the criminal nature of the act was also a problem the formal justice system recognizes as a major hindrance. "Women come complaining that their husband is living with another woman - not knowing that polygamy is a crime. If they had the awareness, they might be able to gather evidence and be ready to institute suits."²¹⁸

In the form of assistance, police provides advice to such women who come with complaints of polygamy; often, women are informed how they can gather evidence. But, according to Inspector Berhanu, it is not customary to

²¹⁵Id.

²¹⁶KII, Abayneh Bayew, Public Prosecutor at Adama City Public Prosecutor's Office, 20/08/2015.

²¹⁷FGD, Adama City, 20/08/2015.

²¹⁸KII, Abayneh Bayew.

assign police investigators for such cases; assignments by the police must entail matters of public interest.”²¹⁹

Women who participated in the study revealed that they feel aggrieved with the quality of treatment and service they received in the hands of formal justice institutions. One of their criticisms relates to the amount of time it takes to bring a case to its end. They suggested that the process, especially in cases of divorce and partition of property, has to be expedited. According to one of the participants, “it takes about two or three years to conclude a divorce case and partition a property. During such time, the property or the evidence may just disappear. That means all the hardship endured during the proceedings would be futile – engendering despair and prompting people to leave matters as are” .²²⁰

An FGD participant explained what she encountered when she went to the women and children affairs bureau:

*Although I have never gone to court before, I convinced myself that it is better than leaving my child in a state of starvation. I went to the women and children bureau and met a civil servant to whom I explained my situation. She said ‘so what is the problem if he marries another woman? You should secure maintenance for your child and do nothing’; this affected me psychologically. She made me give up...I believe such offices should focus on addressing psychological issues as well.*²²¹

Some of the women also perceived that actors in the justice system are corrupt, and hence, it would be futile to seek remedies from such institutions. One participant explained that although she knew that polygamy is a criminal offense, she did not want to take the matter to the police; “my husband’s hands extend far, his pocket is full. He is not the kind of person you can defeat in such forum. He knows all the key people; so, I convinced myself that I would not get any benefit pursuing this road.”²²²

²¹⁹KII, Inspector Berhanu, Adama Woreda 3 Police Station, 20/08/2015.

²²⁰FGD, Adama City, 20/08/2015.

²²¹FGD, Adama City, 20/08/2015.

²²²S.H. Study participant, Adama City, interviewed 22 /08/2015.

XI. Conclusions and Recommendations

Conclusions

Despite the various forms of multiple spousal relationships, nearly all women affected by such arrangement have an understanding of the practices as illegitimate and unfair; however, not all possess knowledge that it is a criminal act. All study participants also share the same view that multiple spousal relationships have negative socio-economic and psychological impact on women.

The key reasons for many husbands to seek for additional relationship with women are related to promiscuity, the husbands' excessive sexual desire, mobility to other places for education or work purposes, the husbands' new-found achievements in terms of finance and education and their desire to marry a wife that 'matches' their new status, family pressure. There are also situation where all children from the first marriage/relationship are female, husbands think they have a better chance of getting male offspring if they try with another woman.

In many cases, it was found that there are a few cases where a man cohabits with two or more women simultaneously; for the most part, however, multiple spousal relationship takes a form of abandoning the earlier wife/partner in favor of the new one - without formally dissolving the first relationship. Lack of proper public records and difficulty of access to the available ones - coupled with the absence of developed practice in using such records before getting in to marriages - have been identified as fundamental problems that encourage the ever-increasing incidences of multiple spousal relationships in the study areas.

It was also noted that women rarely seek for the dissolution of the second marriage or request for the man to be punished for adultery. Rather, the most frequent claims submitted by women are confined to issues of maintenance for children, the dissolution of the marriage itself, and the partition of marital properties.

The study established that nearly all women knew about their legal rights both under the civil and criminal laws. However, very few pursue their rights in practice. It was accounted in the study that this is largely due to the availability of limited resources, their economic standing (as most live on daily incomes, they do not have the luxury to pursue cumbersome and time-taking legal actions), lack of trust in the system, and the anticipation of maintaining continued relationship with husbands for children's sake.

Recommendations

What is obvious from both the literature reviews and empirical investigations is that the socio-legal problems women continued to encounter as a result of multiple spousal relations has not been accorded sufficient attention.

To ameliorate the problems of women in the context of multiple spousal relations in Ethiopia in general and the study areas in particular, certain measures have to be adopted. The first measure is to give credence to these virtually unregulated social phenomenons. There is a need for in-depth and multidisciplinary investigation of the subject, which informs the nature, and extent of future actions.

It was clearly established in the research that women particularly suffer from their husbands' decisions to engage in multiple spousal relations because of their economic dependence. Again, the possibilities of extending remedies as provided under the law are hampered because of women's economic conditions. In this light, therefore, promoting measures that empower women economically becomes very imperative; economic emancipation has direct bearing in mitigating the ill effects of multiple spousal relationships. Among others, this includes measures that improve women's access to land, property, technologies and other means of production by involving men in these efforts through legal and human rights education. Creating an environment that enables more women to work in the formal sector, including through affirmative action, can serve the purpose.

In relation to problems associated with lack of access to public records on marital status, Proclamation No.760/2012 on Registration of Vital Events and National Identity Card (as amended) provides for compulsory and universal registration and certification of vital events. Its thorough application can reduce problems related to public record systems. A Federal Vital Events Registration Agency has since been established. Governments of regional states and city administrations have also enacted regional vital events registration laws and furthermore established corresponding regional agencies. However, concerted efforts must be exerted by both tiers of government and civil society organizations to promote a culture of utilizing such records.