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**NOTE ON:**

**THE ADVERSE EFFECTS OF POLYGAMY ON THE RIGHTS OF WOMEN: A CASE STUDY IN GEDEO AND SIDAMA ZONES**

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**Abstract**

*A variety of researches conducted in diverse contexts of Ethiopia found that polygamy type of family relationship hinders the realization of the rights of women in many respects. This research inquires whether the polygamous life style practiced in Gedeo and Sidama Zones adversely affects the rights of women in the same way. To deal with this question, the research has reviewed the legal status of polygamy under the international human rights instruments ratified by Ethiopia and the Ethiopian legal system. It also scrutinizes how polygamous marriages affect the rights of women in Gedeo and Sidama Zones using interview and focus group discussions. The study finds that while the prohibition against polygamy is presumed in the constitutional provisions, there is leniency in the subsidiary laws in Ethiopia. This practice is found to affect the social, economic, and civil rights of women in the study areas. Based on these findings, this article recommends that the Federal and SNNPR governments should revisit their respective laws to outlaw polygamy. Besides, to enhance voluntary compliance of the laws, educational campaigns have to be conducted revealing the adverse effects of polygamy on women and the society as a whole.*

**Key words:** adverse effect, cultural practice, polygamy, rights of women

**I. INTRODUCTION**

The union of a man to multiple women or the practice of having more than one wife at a time is commonly referred to as polygamy.<sup>1</sup> There are two lines of arguments in relation to polygamy. Advocates of multiculturalism argue that different cultures have the right to recognition of their identity and cultural practices including polygamy that are essential to forming their identity.<sup>2</sup> On the other hand, advocates of liberalism contend that polygamy subjugates the rights of women and, hence, needs to be abolished.<sup>3</sup>

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<sup>1</sup> Ruth Gaffney-Rhys, *Polygamy and the Rights of Women*, WOMEN IN SOCIETY, Volume 1, 1(2011) p.1.

<sup>2</sup> Jessica Freitas, *Practicing Polygamy: Multicultural Right or Liberal Crime?* GLOBAL TIDES: Vol. 6, Article 10, (2012).

<sup>3</sup> *Id.*

In the midst of the above contentions, state practice remains diverse. While it is outlawed in most states,<sup>4</sup> the practice remains to be common in much of Africa.<sup>5</sup> In Ethiopia, the FDRE Constitution and international human rights instruments which the country has adopted seem to go against polygamy. However, the subsidiary laws neither entirely permit nor denounce it. In fact, polygamy is being practiced in Ethiopia including in the South Nation, Nationalities and Peoples Region (herein after, SNNPR).<sup>6</sup>

The main issue that this article intends to investigate is the practical impacts of polygamy on the rights of women in Gedeo and Sidama Zones of SNNPR. To do this, interviews and focus group discussions have been conducted involving women and men in polygamous marriages, persons from social courts and Women and Children Affairs Offices. In Addition, different literatures are consulted to substantiate the issues addressed in this article.

The remaining parts of this article are organized as follows. Section II addresses the theoretical and legal discourses relating to polygamy. It tries to define polygamy, reviews its international and national prevalence and tries to examine the arguments for and against and the advantages and disadvantages of polygamy. Section III reviews the legal status of polygamy in the African Regional Human Rights, International Human Rights Instruments which Ethiopia has adopted and the Ethiopian domestic laws. Section IV explores the practical effects of polygamy on the rights of women in Gedeo and Sidama Zones. Finally, section V provides conclusions and recommendations.

## II. THE THEORETICAL AND LEGAL DISCOURSES OF POLYGAMY

### A. Defining Polygamy

The term polygamy is derived from a Greek word ‘*polugamos*’, which literally means often marrying.<sup>7</sup> According to Oxford Advanced Learners Dictionary, polygamy is defined as; “the simultaneous union of a man to multiple women or a practice or custom of having more than one wife at a time and vice versa.”<sup>8</sup> This definition is the wider and technical understanding of polygamy within which the ideas of ‘*polyandry*’ (a woman having more than one husband), and ‘*polygyny*’ (a man having more than one wife) are incorporated.<sup>9</sup> As a general term, therefore, polygamy includes the practices of ‘*polyandry*’ and ‘*polygyny*’.<sup>10</sup>

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<sup>4</sup> Countries in Eastern and Western Europe, North America, South America, Central America, Australia, New Zealand and large parts of Asia, including Japan and China have outlawed. See Rebecca J. Cook & Lisa M. Kelly, *Polygyny and Canada’s Obligations under International Human Rights Law*, (Unpublished, Family, Children and Youth Section Research Report, University of Toronto, 57-65 (2006).

<sup>5</sup> Countries like Nigeria, Mozambique, Kenya, Botswana and Malawi do not prohibit polygamy as stated in Gaffney-Rhys, *supra note 1*.

<sup>6</sup> Jetu Edosa, *Bigamous Marriage and the Division of Common Property under the Ethiopian Law: Regulatory Challenges Adoptions*, 3(1) OROMIA LAW JOURNAL, 84(2014).

<sup>7</sup> Obonye Jonas, *the Practice of Polygamy under the Scheme of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa: a Critical Appraisal*, 4(5) JOURNAL OF AFRICAN STUDIES AND DEVELOPMENT, 142(2012).

<sup>8</sup> OXFORD ADVANCED LEARNERS DICTIONARY 1123 (8<sup>th</sup> Ed., 2011)

<sup>9</sup> Jonas, *supra note 7*.

<sup>10</sup> Cook & Kelly, *supra note 4*, at 1.

The second understanding given to polygamy comes from the common usage where polygamy connotes the simultaneous or successive union of a man to multiple women or a practice or custom of having more than one wife at a time.<sup>11</sup> This definition represents the practice of 'polygyny'. According to this definition, even though 'polygyny' refers to the relationship of a man who is married to or involved in a stable sexual relationship with several wives simultaneously or successively, this, by far, suggests the most common form of polygamy. In most academic discourses, polygamy is used to refer to the condition of a man who has two or more wives at the same time.<sup>12</sup> This definition is the most accepted definition by researchers mainly because 'polygyny' is practiced in different regions of the world including parts of India, most of the Islamic world and Sub-Saharan Africa.<sup>13</sup> On the contrary, polyandry is rarely practiced.<sup>14</sup> Therefore, polygamy is often used in reference to 'polygyny'.<sup>15</sup>

For the purpose of this research, the common usage, as depicted above, is adopted as a working definition. The researcher's preference to adopt this definition is not arbitrary. To begin with, there is a wide range of consensus on the definition of polygamy in the sense that it portrays the conjugal relationship of a man to more than one woman at a time. In addition, the practice of 'polyandry' is rarely practiced, to the extent of being notional,<sup>16</sup> and it is non-existent in the Ethiopian context. Thus, in this article, this common understanding is adopted as a working definition.

### B. The International and National Prevalence of Polygamy

Although polygamy has long been permitted in law and custom in the world, there has been a move away from this practice in recent days.<sup>17</sup> Monogamy is now the rule in Eastern and Western Europe, North America, South America, Central America, Australia, New Zealand and large parts of Asia, including Japan and China.<sup>18</sup> Yet polygamy is still common in much of Africa.<sup>19</sup> In several Sub-Saharan countries such as Nigeria, Mozambique, Kenya, Botswana and Malawi, more than 10% of married women are living in a polygamous union.<sup>20</sup> In the 'polygamy belt' stretching from Senegal to Tanzania, it is also common for more than one third of married women to live in a polygamous marriage.<sup>21</sup>

African polygamy has been increasingly contested in defense to the rights of women.<sup>22</sup> James Fenske argues that polygamous marriage in Africa is declining due to the increased cost of

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<sup>11</sup> Freitas, *supra* note 2, at 3.

<sup>12</sup> *Id.*

<sup>13</sup> JAMES FENSKE, *AFRICAN POLYGAMY: PAST AND PRESENT*, University of Oxford, 1 (2015).

<sup>14</sup> SAMUEL CHAPMAN, *POLYGAMY, BIGAMY AND HUMAN RIGHTS LAW*, 11 (Xlibris Corporation, 2001).

<sup>15</sup> Cook & Kelly, *supra* note 4.

<sup>16</sup> Obonye, *supra* note 9.

<sup>17</sup> Gaffney-Rhys, *supra* note 1, at 5.

<sup>18</sup> Cook & Kelly, *supra* note 4, at 58.

<sup>19</sup> Gaffney-Rhys, *supra* note 1.

<sup>20</sup> *Id.*, at.3; See also S. Elbedour, A. J. Onwuegbuzie, C. Caridine & H. AbuSaad, *The Effect of Polygamous Marital Structure on Behavioral, Emotional and Academic Adjustment in Children, A Comprehensive Review of the Literature*, *CLINICAL CHILD AND FAMILY PSYCHOLOGY REVIEW*, 255-271 (2002)

<sup>21</sup> FENSKE, *supra* note 13.

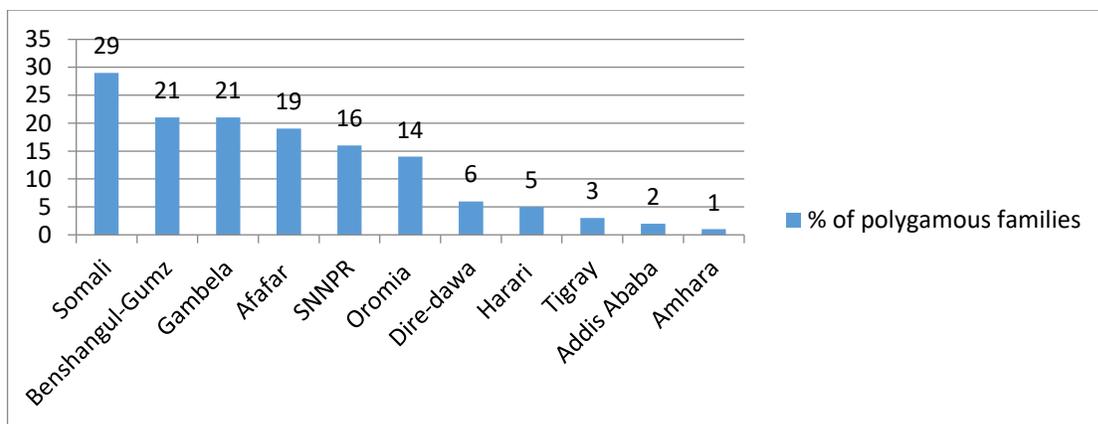
<sup>22</sup> Gaffney-Rhys, *supra* note 1, at.5-6.

living, an increase in the education of women and a gradual change in the status of women to resist polygamy.<sup>23</sup> While some intellectuals appreciate the decline in the practice of polygamy, others are much dissatisfied with the trend.<sup>24</sup>

When it comes to Ethiopian, polygamy is practiced in all regions though the prevalence varies. Pursuant to the Ethiopian Demographic and Health Survey (EDHS) Report of 2011, 11% of married women in Ethiopia are in bigamous marriage, with 9% having one co-wife and 2% having two or more co-wives.<sup>25</sup> Similarly, 5% of married men in Ethiopia live in a bigamous marriage having two or more wives. According to this report, rural women are more likely to be in bigamous unions (12%) than urban women (5%). Moreover, women who are in the lowest wealth quintile are the most likely to be in a bigamous union (16%), compared with just 6% of women in the highest wealth quintile. Lack of women's education is mentioned as another reason for the prevalence of the practice, and the report indicated the existence of an inverse relationship between education and polygamy.

The 2016 EDHS Report also shows similar prevalence of polygamy compared to that of the 2011 report. However, if we look at the whole trend, the percentage of women in a polygamous union has declined slightly over time; from 14% in 2000 and 12% in 2005 to 11% in both 2011 and 2016.<sup>26</sup> According to the 2016 EDHS Report, polygamy is being practiced in through out of Ethiopia though the magnitude differs from region to region.<sup>27</sup> As it can be seen from the chart, the prevalence of polygamy in SNNPR, the study areas, is among the highest, i.e., 16%.

Fig. 1: Prevalence of Polygamy per Regions



Source: *EDHS Report, 2016*

Over all, though the legal systems differ on banning or allowing polygamy, the practice of having plural wives still remains on the ground. As a result, there remains a conflict between the

<sup>23</sup> FENSKE, *supra* note 13, at.22.

<sup>24</sup> *Id.*

<sup>25</sup> Jetu Edosa, *supra* note 6, at 76.

<sup>26</sup> The Ethiopian Demographic and Health Survey, 2016, Central Statistical Agency Addis Ababa, Ethiopia, The DHS Program ICF, Rockville, Maryland, USA, 66(2017).

<sup>27</sup> Ethiopia Demographic and Health Survey 2016, Central Statistical Agency, Addis Ababa, Ethiopia, the DHS Program, ICF Rockville, 66(2017), available at < <https://dhsprogram.com/pubs/pdf/FR328/FR328.pdf>> (Accessed on Nov 2, 2017)

desire to keep the status quo rejoicing polygamy as a cultural and religious value or abolishing it to ensure the realization of the rights of women.<sup>28</sup> As part of this discourse, the upcoming discussion tries to briefly look into the arguments forwarded for and against polygamy.

### C. Arguments for and against Polygamy

When traditional practices, such as polygamy seem to clash with universal approaches to human rights, which rights shall get primacy? Should it be group rights such as cultural or religious identity or individual rights such as equality between men and women? With regard to this, proponents of universality of rights claim that human rights, such as gender equality, self-determination and freedom must be the same everywhere. For that reason, they argue cultural or religious norms and practices including polygamy that conflict with the values of universal human rights shall be rendered inapplicable. On the other hand, the cultural relativists regard different value systems as distinctive and incomparable units. Thus, they argue that cultural or religious practices of the society should get precedence over the protection of individual rights and freedoms. The central precept of ‘cultural relativism’ in this regard is that it challenges the universal standards of human rights arguing human rights should be relative to the context.<sup>29</sup>

By and large, cultural relativism argues that different cultures have a right to recognition of their identity and that their practices are essential to forming that identity.<sup>30</sup> Universalism, in contrast, argues that polygamy results in the subjugation of women to men’s desires for more wives and restrains individual rights. Within such conflict, polygamy is being practiced in different ways depending on the religious, customary, cultural and socio-economic contexts.<sup>31</sup>

Jessica Freitas argues that polygamy can provide many advantages to a society as a whole and to the spouses, children, and the extended families of polygamous unions in particular.<sup>32</sup> Furthermore, William Blum states that “polygamous societies accept polygamy because, in some respects, it embodies some of the society’s ideas.”<sup>33</sup> Societies practicing polygamy maintain that polygamy provides protection for widows and handicapped girls who might otherwise get no husband at all. It helps solve the problems of childlessness and widowhood and takes care of the children of the deceased relative. Polygamists are convinced that polygamy is suited to the social and economic structures of their community. In short, the following points are often summarized as the advantages of polygamy.<sup>34</sup>

- It increases the probability of having children, particularly when a wife is barren or gives birth to female children only;
- It increases the labor supply within a kinship network;

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<sup>28</sup> Simeon O., *Universalism and Relativism in Human Rights Debate in Africa: A Critique of Cultural Essentialism (A talk given at a gathering of Wake Forest University Endowed Professors, November 4, 2009)*.

<sup>29</sup> *Id.*

<sup>30</sup> FREITAS, *supra* note 2.

<sup>31</sup> Cook & Kelly, *supra* note 4, at 7. Ezra M., *Factors Associated with Marriage and Family Formation Processes in Southern Ethiopia*, 34(4) JOURNAL OF COMPARATIVE FAMILY STUDIES, 509 (2003).

<sup>32</sup> FREITAS, *supra* note 2.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

- It deals with the “problem” of surplus women;
- It expands the range of a man's alliances so that he is able to maintain or acquire a position of leadership; and,
- It perhaps also provides sexual satisfaction to men, particularly in societies with lengthy post-partum sexual taboos.

The possible reasons recapitulated above are perceived to have economic, social and political benefits to the family or the husband living under such relationship.

On the other hand, there has recently been a growing opposition to the practice of polygamy around the world. Feminists regard it as another way of subjugating and violating women’s rights. The findings of research conducted in Africa also show that polygamy is a possible cause for low saving rates,<sup>35</sup> high incidence of HIV/AIDS, high levels of child mortality<sup>36</sup> and of female depression.<sup>37</sup>

Many authors also challenge the view that polygamy brings benefits to the wife and children. For instance, Abdulraheem Nimah states that the older women in a polygamous relationship are neglected in favor of the newly married or younger wives.<sup>38</sup> One common consequence of overlooking one wife over the other is jealousy between the co-wives which is almost inevitable.<sup>39</sup> The most frequent cause is the resentment the wives felt from sharing the right of sexual access to a single husband. Unequal distribution of resources or any other special favors given to one wife over the others could be another cause for contention. He also stressed “feelings of jealousy may lead to persistent conflicts.”<sup>40</sup> If one of the co-wives feels slighted or mistreated, she may try to attack the co-wife, her children or even the husband. Therefore, polygamy is suspected to create conflict, disharmony and perpetual strife within the families.

From the perspectives of the interests of children, polygamy creates burdens relating to their education, medical costs, clothing expenses, and so forth. In 2002, researchers conducted a review of all quantitative and qualitative studies that had been done on the effect of polygamy on children.<sup>41</sup> They found out that children from polygamous marriages were at greater risk of experiencing marital conflict, family violence and family disruptions, marital distress,

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<sup>35</sup> Marie Boltz Isabelle Chort, *The Risk of Polygamy and Wives' Saving Behavior*, (2014).

<sup>36</sup> M. Mswela, *Cultural Practices and HIV in South Africa: A Legal Perspective*, 12(4) P.E.R, 180-181 (2009), See Riley Bove & Claudia Vallengia, *Polygyny and Women’s Health in Sub-Saharan Africa*, 68(1), JOURNAL OF SOCIAL SCIENCE & MEDICINE, 21-29 (2008).

<sup>37</sup> A.O. Adewuya, B.A. Ola, O.O. Aloba, A.O. Dada, OOA. Fasoto, *Prevalence and Correlates of Depression in Late Pregnancy among Nigerian Women*, 24(1), JOURNAL OF DEPRESSION AND ANXIETY, 15 (2007).

<sup>38</sup> Abdulraheem Nimah, *Law and Social Values: Polygamy or Extra-Marital Affairs?* At 12, retrieved from [https://unilorin.edu.ng/publications/abdulraheemnm/LAW\\_AND\\_SOCIAL\\_VALUES.pdf](https://unilorin.edu.ng/publications/abdulraheemnm/LAW_AND_SOCIAL_VALUES.pdf), (Accessed on 13 August 2016).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Mohammad Al-Sharfi, Karen Pfeffer & Kirsty A. Miller, *The effects of polygamy on children and adolescents: A Systematic Review*, 22(3) JOURNAL OF FAMILY STUDIES, 272-286 (2016). See also, W. Chikwature & V. Oyedele, *Polygamy and Academic Achievement-A Case of Johanne Marange Apostolic Sect* 4(5) EUROPEAN JOURNAL OF RESEARCH IN SOCIAL SCIENCES, 26-40 (2016).

particularly that related to high levels of unhappiness of women in polygamous unions, absence of the father and financial stress.<sup>42</sup> Abdulraheem underscored;

Such relationship reflects patriarchal relation among the man and the women in a similar relationship. Hence, women are considered instruments for the production of offspring and means for the gratification of the man's desire. As a result, female genital mutilation is accepted and practiced in many polygamous societies and is a deep-rooted cultural and traditional value. It serves in large part to control a woman's sexual desire so that she remains faithful to her husband because a single husband cannot gratify the sexual desires of many more women belonging to him.<sup>43</sup>

Another author, Lotfy Al-Sherbiny, who has investigated the effects of polygamy on the first wife by taking a sample of 100 women, concludes that:

The first wives in polygamous marriages tend to have certain demographic characteristics e.g. relatively older age, lower education, higher number of children and mostly being housewives. The initial reactions of the first wives to remarriage of the husband took the form of severe symptoms and sharp actions. Acceptance and adaptation to the new situation gradually takes place after 6 months in the average. Physical, psychological and social consequences continue to manifest for long time in polygamously married first wives. The most frequent symptoms were pain, psychological symptoms e.g. anxiety and irritability and tiredness.<sup>44</sup>

Even though there is great similarity, we have to notice that the negative effects of polygamy can vary from society to society due to many factors including social, cultural, economic source of the family. However, despite the diverse contexts in which polygamy occurs, the human experience of those who live this way of life tend to be similar in many aspects.

### III. LEGAL RESPONSES TO POLYGAMY

From the foregoing discussion, it is clear that polygamous family relationships generate an entire chain of consequences leading to multiple violations of the rights of women. In view of such problems, it is proper to examine the legal responses given to polygamy.

It is true that laws are important instruments for shaping the behavior of society. Hence, they should be responsive to the rights of the vulnerable part of the society. This section is meant to explore and examine how the Regional and International Human Rights Instruments and Ethiopian legal system address polygamous family relationships.

#### A. The Status of Polygamy under the Human Rights Laws

The issue of polygamy is not explicitly addressed in the normative frameworks of the international human rights instruments. However, there are a plethora of human rights instruments that indirectly address the issue. Among others, Article 2 of the Universal Declaration of Human Rights (UDHR) recognizes to everyone all rights and freedoms set forth

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<sup>42</sup> Nimah, *supra note* 38.

<sup>43</sup> *Id.*

<sup>44</sup> Lotfy A.M. Al-Sherbiny, *the Case of First Wife in Polygamy: Description of an Arabic culture-specific condition*, 8 ARABPSY NETE. JOURNAL, 24 (2005).

in the Declaration without distinction of any kind including sex.<sup>45</sup> On the same vein, Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR)<sup>46</sup> and Article 2 (2) of the International Covenant on Economic Social and Cultural Rights (ICESCR)<sup>47</sup> require the State Parties to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenants without distinction of any kind such as sex. All these human rights instruments contain a general non-discrimination clause which prohibit discrimination on the basis of sex. The ICCPR and ICESCR, in thier common Article 3, impose an obligation on the State Parties to ensure the equal right of men and women in the enjoyment of all the rights set forth in the respective Covenants.

Despite the absence of explicit legal provision regarding the prohibition of polygamy in the body of the human right treaties, different treaty monitoring bodies have tried to address the issue through an extensive interpretation of the rights in the treaties, especially the rights to equality, health and non-discrimination.

According to the CEDAW Committee, the practice of polygamy undermines the self-worth of women. It disregards all the basic tenets for which CEDAW stands for. In fact, the CEDAW committee has also considered the practice as a violation of women's right to health. In its General Recommendation No. 24, the committee stated that:

As a consequence of unequal power relations based on gender, women and adolescent girls are often unable to refuse sex or insist on safe and responsible sex practices. Harmful traditional practices, such as polygamy may also expose girls and women to the risk of contracting HIV/AIDS and other sexually transmitted diseases.<sup>48</sup>

This shows that the CEDAW Committee has considered the practice of polygamy as a violation of Article 12 of the Covenant which guarantees the right to health of women.<sup>49</sup> The CEDAW Committee has urged States to take measures to enforce the prohibition of polygamy within their territories.<sup>50</sup>

In its General Recommendation No. 21, the CEDAW Committee also noted that polygamous marriage contravenes women's right to equality with men and can have such serious emotional and financial consequences for her and her dependents and such marriages ought to be discouraged and prohibited.<sup>51</sup> The CEDAW Committee emphasized with great concern that State Parties who guarantee the right to equality under their constitution and which permit polygamous

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<sup>45</sup> *Universal Declaration of Human Rights*, adopted on 10 December 1948 at New York, G.A. Res. 217A, U.N. GAOR, 3<sup>rd</sup> Sess, Pt. at 71, U.N. Doc. A/810 (1948) (herein after UDHR), Art. 2.

<sup>46</sup> *International Covenant on Civil and Political Rights*, adopted on 19 December 1966 at New York and entered into force on 23 March 1976, 999 U.N.T.S. 171, Art. 2(1).

<sup>47</sup> *International Covenant on Economic, Social and Cultural Rights*, adopted 16 December 1966 and entered into force on 23 March 1976, 993 U.N.T.S.3., Art. 2(2).

<sup>48</sup> CEDAW Committee, General Recommendation No. 24: Article 12 of the Convention (Women and Health), adopted at the Twentieth Session of the Committee on the Elimination of Discrimination against Women, 1999, Para 18.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> CEDAW Committee General Recommendation, No. 21 on the Right to Equality of Women in Marriage and Family Relations, adopted on the 13<sup>th</sup> session of the Committee on the Elimination of Discrimination against Women 1994, art 15, Para 14.

marriage on the basis of personal or customary law are in effect violating the constitutional rights of women<sup>52</sup> and breach the provisions of article 5 (a) of CEDAW.<sup>53</sup> The CEDAW Committee, in its concluding observations with respect to Egypt, has also stated marrying an extra wife may put strain on resources that at times are already woefully inadequate for the man and his existing wife.<sup>54</sup>

Similarly, the UN Human Rights Committee in its general comment No. 28 on the Equality of Rights between Men and Women stated that:

Because polygamy violates the dignity of women and is an inadmissible discrimination against women, it should be definitely abolished wherever it continues to exist. It can be also used as a tool by man to whip woman into toeing their line by threatening their wives that they will marry another wife. In this context, polygamy can be used to control and limit women's ability to assert their rights within marriage. To this end, it is clear that polygamy constitutes a veritable or actual assault on the intrinsic self-worth of women.<sup>55</sup>

The UN Human Rights Committee in its concluding observations on Kenya in 2002 observed that the persistence of polygamy is 'an affront or insult to the dignity of the human person and is discriminatory under the UN Covenants'.<sup>56</sup>

Moreover, the UN Commission on the Status of Women, which first met in 1947, agreed to work for freedom of choice, dignity of the wife, monogamy, and equal rights to dissolution of marriage.<sup>57</sup> The UN General Assembly in the Declaration of Commitment on HIV/AIDS has also addressed the issue of polygamy by reinforcing the idea stated by the CEDAW Committee on women's health. This declaration states implementation of national strategies for women's empowerment, the promotion of women's full enjoyment of all human rights and reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices [such as polygamy].<sup>58</sup>

In Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa that is issued to ensure the rights of women in particular tries to deal with polygamy in its article 6. It states that:

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that ... monogamy is encouraged as the preferred form of marriage and that the

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.*, para 41.

<sup>54</sup> Egypt's Obligations under International Law, the CEDAW Committee observation, *available at* <https://www.hrw.org/reports/2004/egypt1204/8.htm>, (accessed on 10 December, 2016).

<sup>55</sup> Human Rights Committee General Comment No. 28, Equality of rights between men and women, (article 3), U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000), para 24.

<sup>56</sup> *Kenya* UN HRCOR, UN Doc. CCPR/CO/75/YEM, 2002, para. 9.

<sup>57</sup> SONIA HARRIS-SHORT & JOANNA MILES, FAMILY LAW: CASES AND MATERIALS, (Juta and Co), 271-279 (2000).

<sup>58</sup> *UN Declaration of Commitment on HIV/AIDS*, G.A. Res. S-26/2, U.N. Doc.A/RES/S-26/2, adopted on its 26<sup>th</sup> special session, 2001.

rights of women in marriage and family, including in polygamous marital relationships are promoted and protected.<sup>59</sup>

Ironically, this provision does not prohibit the practice of polygamy unequivocally. Despite this fact, looking at polygamy in light of the International Human Rights Instruments and the interpretations given to them, one can safely conclude that polygamy is against the fundamental values of all the Covenants and Declarations. Thus, legalizing polygamy means violating the equality, dignity and the right to health of women. It also means allowing women to be degraded, humiliated, abused and exploited.

### **B. The Status of Polygamy under the Ethiopian Legal System**

A glance at the Ethiopian legal system reveals that the federal Constitution appears at the apex of all laws with the effect of nullifying all laws, practices, cultures and decisions of government organs inconsistent with it.<sup>60</sup> The Constitutional provisions dealing generally with human rights and those specific to the rights of women have indirectly addressed the issue of polygamy. Important in this respect are articles 25, 34 and 35 of the Constitution. Conceptually speaking, these provisions contain the same content of protection to women as are provided under International Human Rights Instruments discussed above. For instance, article 25 of the FDRE Constitution states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race... sex...

The right to equality enshrined above has two aspects. These are equal protection of the law and equality before the law. *Equal protection of the law* connotes laws issued by the government should not discriminate among individuals or groups on ground such as 'sex'. Thus, issuing laws allowing polygamy or failing to give effective protection through laws to women from the adverse effects of polygamy is against the right to equality. The second aspect of the right to equality is *equality before the law* which literally means the laws issued by the legislature shall be enforced on the ground without any sort of discrimination. Thus, failing to enforce laws prohibiting polygamy, which violate the rights of women unlike men, is against the right to equality under the Constitution.

Article 34(1) of the Constitution, which is verbatim copy of Article 23 of the ICCPR, also deals with the rights of women as follows: "*Men and women, without any distinction ... have equal rights while entering into, during marriage and at the time of divorce*" In other words, there shall not be any barrier, whatsoever, which hinders women from having equal rights while entering into marriage, during marriage and at the time of divorce.

Article 23 of the ICCPR has been given authoritative interpretation by the Human Rights Committee under its general comment number 28 and accordingly dwells on explicating what may be pointed out as factors that impose hurdles to the exercise of the equal right of women to

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<sup>59</sup> Jonas, *supra* note 7.

<sup>60</sup> The Federal Democratic Republic of Ethiopian Constitution, Proclamation No.1/1995, NEGARIT GAZETTE, Article 9(1).

marry and states how polygamy is incompatible with the right to equality of treatment in the following manner;

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 an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.<sup>61</sup>

Beyond its International duty, pursuant to article 35(5) of the FDRE constitution, Ethiopia has also constitutional mandate to abolish customs and practices that oppress or cause bodily or mental harm to women which among others includes polygamy.

Besides all these, when one explores the constitutional making history of the FDRE Constitution on the ‘marital, personal and family rights’, the Constituent Assembly had been overwhelmed with a number of questions that principally raised were on the implications of religious and customary laws on Article 34.<sup>62</sup> Among the topics of concern that underpinned the prolonged discussions was equality of men and women in marriage, the status of bigamy and its implications on marital property etc.<sup>63</sup>

Though the overall spirit of the discussion had been on the one hand to acknowledge and provide protection to spousal equality and on the other to leave wider space for religious and customary norms in family relations, there was, however, no concrete position taken on specific matters such as outlawing or permitting plural marriages.<sup>64</sup> In such instances, the author believes the constitution has to be interpreted in line with the international instruments which the country has ratified, particularly, pursuant to the authoritative interpretations given by the General Committees of the respective covenants.

Having said that, the next concern is to evaluate the constitutionality of the provisions dealing with polygamy under the subsidiary laws of Ethiopia.

Article 11 of the Federal Revised Family Code provides that “a person shall not conclude marriage as long as he is bound by bonds of a preceding marriage.”<sup>65</sup> On the basis of this law, what is prohibited is marriage over marriage. It does not prohibit irregular union over marriage and the vice versa. However, Article 21 of SNNPR family code deals with bigamy in a much broader context by prohibiting one from entering into an irregular union if he has already a preceding marriage.<sup>66</sup> However, this code does not prohibit marriage over an existing irregular union.

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<sup>61</sup> Belachew Mekuria, *Bigamy and Women’s Land Rights: The Case of Oromia and SNNP National Regional States*, 1 ETHIOPIAN JOURNAL OF HUMAN RIGHTS, 90-91 (2013).

<sup>62</sup> See the Ethiopian Constituent Assembly Minutes, Hidar 8-13, 1987 (E.C.), sections 000023-000044, Addis Ababa, as cited by Belachew Mekuria, *Id.* at .99.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Revised Family Code, Proclamation No. 213/2000, FED. NEGARIT GAZETA, 6<sup>th</sup> Year No. 1, 2000, Article 11.

<sup>66</sup> The Family Code of South Nation, Nationalities and Peoples Region, Proclamation No. 75/2004, DEBUB NEGARIT GAZETTE, 2004, Art. 21.

In addition, article 650 of the Criminal Code of Ethiopia which 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”.<sup>67</sup> Nevertheless, the Criminal Code puts an exception to this rule under article 651. Article 651 of the criminal code reads as “the preceding Article shall not apply where bigamy is committed in conformity with religious or traditional practices recognized by law.” On the basis of the later provision of the Criminal Code, we can comfortably say that polygamy can be exercised where it is committed in conformity with religious or traditional practices recognized by law. However, pursuant to the Constitution, all cultures and religious practices are constitutionally recognized if they are consistent with it. The problem here is allowing the practice of bigamy in any form seems to contravene the Constitution and the International Human Rights Instruments which Ethiopia has ratified.

#### **IV. THE ADVERSE EFFECTS OF POLYGAMY ON THE RIGHTS OF WOMEN IN GEDEO AND SIDAMA ZONES**

##### **A. The Prevalence of Polygamy**

According to a research by Holden and Tewodros done in the SNNPR of Ethiopia, from the total sample size of 600 households, more than 12% of them are found to be living in polygamous relations.<sup>68</sup> When it comes specifically to the Gedeo and Sidama zones, accurate statistics are not available as to show its exact prevalence. However, informants underlined that these zones are among the regional zones where polygamy is predominantly practiced.<sup>69</sup> Of these, higher rates are found among less educated husbands and wives and among rural residents.<sup>70</sup> The researcher’s discussion with members of the social courts of Sidama and Gedeo zones<sup>71</sup> and women’s association representatives at the zonal and woreda levels revealed that polygamy is a common practice in the study area.<sup>72</sup> It is much common among economically better off but uneducated farmers.<sup>73</sup> Again, it is much common among the traditional community leaders compared to ordinary residents. Nonetheless, this does not mean that there is no polygamous life among the poor and people who still lead a destitute life practice polygamy.

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<sup>67</sup>The FDRE Criminal Code, Proclamation No. 414/2004, FED.NEGARIT GAZETA, May 9, 2005, Article 650.

<sup>68</sup> Stein Holden and Tewodros Tefera, From being property of men to becoming equal owners? Early impacts of land administration and certification on women in Southern Ethiopia (UNHABITAT-Land Tenure and Property Administration (2008), as cited in Belachew Mekuria, *supra* note 77, at 97.

<sup>69</sup> Interview with experts of Women, Youth and Children’s Office, Gedeo and Sidama Zones, Dilla, May 1, 2014, and Hawassa, December 12, 2014 respectively.

<sup>70</sup> *Id.*

<sup>71</sup> Focus Group Discussion with members of the social court judges while they are in training in Dilla University, on 15<sup>th</sup> February 2014.

<sup>72</sup> Focus Group Discussion made with the representatives of women in Gedeo and Sidama zones, Dilla University, on 10<sup>th</sup> and 21<sup>st</sup> February 2015.

<sup>73</sup> *Id.*, and Focus group discussion, *supra* note 72.

## B. Factors for the Prevalence of Polygamy

Informants contacted in the two zones indicated that there are several reasons for the prevalence of the practice of polygamy in the study area.<sup>74</sup> The inability of a wife to give birth, adultery and arranged marriages are told to be the major factors. In Gedeo and Sidama Zones, it is customary to establish a family on the basis of arranged marriages. However, when men get wealth or position, they also seek younger wives. Thus, the picture one gains is that the men often keep two or more wives, first 'the traditional' wife chosen by his family and later wife/wives justifying polygamy either by the first wife's failure to produce a male child or in order to have a love match.<sup>75</sup>

Moreover, the communities believe that larger family size gives greater power, influence and honor within the society. This perception is one of the explanations for the prevalence of polygamy as marrying many wives enhances the chance of having many sons, thus increasing the number of members in the family unit and amplifying one's honor and influence.<sup>76</sup> Socially and psychologically, then, polygamy and its large families are still associated with power and prestige despite the economic burden of supporting multiple households. This belief behind polygamous marriages have been supported by the opinions of husbands with plural wives in Sidama Zone. In almost all cases, the main reason stated was to increase the number of sons and through them strengthen the family.<sup>77</sup> Focus group discussion held with polygamous families in three woredas of Sidama zone unequivocally supported the idea that polygamy is needed for strengthening the family's honor and respect. All of the 9 polygamous husbands interviewed in Kochore, Wonago and Gedeb woredas of Gedeo Zone emphasized the advantage of having many more sons.<sup>78</sup> One interviewee from Wonago woreda explained the advantage of polygamous marriage in the following words;

Having many sons is a blessing, they deter others who possibly quarrel or fight with the family for various reasons. Boys have power. I wanted to give power to my family; the first wife did not bring many sons, so I got her a backup.<sup>79</sup>

Another circumstance often associated with polygamy involves the need to take care of the widow and her children in the event of the husband's death. For instance, a polygamous man in Dara woreda of Sidama Zone justified his second marriage on such grounds. He stated that after his brother's death, his parents urged him to marry the latter's wife because there was no one who could take care of her and his little nephew.<sup>80</sup>

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<sup>74</sup> *Id.*

<sup>75</sup> Interview, *supra note 69*.

<sup>76</sup> *Id.*

<sup>77</sup> Focus Group Discussion with polygamous families in the three woredas of Sidama Zone on 19 & 20 December 2014.

<sup>78</sup> Interview conducted with 9 polygamous families, in Kochere, Wonago and Gedeb Woredas of Gedeo Zone, 5<sup>th</sup> and 6<sup>th</sup> January 2015.

<sup>79</sup> Interview with a man of three wives, in Wonago woreda, on 2<sup>nd</sup> May 2014.

<sup>80</sup> Interview conducted with a resident in Dara Woreda of Sidama Zone, 21<sup>st</sup> December 2014.

### C. The Impact of Polygamy on the Rights of Women

On the basis of the backdrop of the above discussion, this sub-section deals with the impacts of polygamy on the rights of women in Gedeo and Sidama zones.

#### 1. *The Impact on the Right to Dignity and Body Integrity of Women*

In view of the fact that polygamy is typically characterized by the union of a single man with two or more women, competition and jealousy among co-wives is commonly observed within plural marriage communities.<sup>81</sup> This seems predictable as co-wives likely to have very limited private time with the single husband they share. In such communities, having time with a husband is critical to a wife's status within the family and the community.<sup>82</sup> However, if the husband fails to visit his wife, her status in the society will be adversely affected and this will substantially disturb her personal dignity.

Starr and Brilmayer in the same manner revealed that jealousy between co-wives can escalate to intolerable levels resulting in physical injuries.<sup>83</sup> According to them, this is especially true for societies facing higher living expenses since polygamous families often cannot afford multiple residences for each of a husband's wives and her children.<sup>84</sup>

The practice in Gedeo and Sidama zones seem to substantiate the above stated facts. For instance, a public prosecutor in Wonago woreda who had long experience with polygamous families disclosed that there were women treated in Dilla hospital for physical injuries resulting from confrontations among co-wives.<sup>85</sup> He also stated that there was a woman who attempted to commit suicide as a result of domestic tension among co-wives. The negative consequences of co-wife rivalry might be particularly difficult for senior wives according to him. Interview with six senior wives in Gedeb, Aletachiko and Shebedino woredas revealed that senior wives within polygamous families are often less favored by their husbands.<sup>86</sup> They tend to have fewer economic resources and receive less conjugal support and attention from the husband.<sup>87</sup>

Discussion with justice officials at Yergachefe and Wonago woredas of Gedeo zone and Shebedino woreda of Sidama zone indicated that the rights of women in polygamous relations are often violated. Nevertheless, it has been subjected to public oversight and reaction for there are deeply rooted cultural values to the practice. A woman who was following her divorce case at Wonago First Instance Court claimed that both herself and her children have suffered physical and psychological abuses as her husband got his third wife in two successive years despite her fierce objections.<sup>88</sup> According to this informant, much of the resources of the family, time and attention of her husband went to the new wife. Overall, though there are still harmonious

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<sup>81</sup> Al-Sharfi, *supra* note 41.

<sup>82</sup> *Id.*

<sup>83</sup> Starr and Brilmayer, *Family Separation as a Violation of International Law*, 21(2) BERKELEY JOURNAL OF INTERNATIONAL LAW, 247 (2003).

<sup>84</sup> *Id.*

<sup>85</sup> Interview with public prosecutor in Wonago Woreda, on 1<sup>st</sup> June 2014.

<sup>86</sup> Interview with six senior wives in Gedeb, Aletachiko and Shebedino woredas, on 25 December 2014.

<sup>87</sup> Interview with an expert at the Gedeo Zone Women, Youth and Children office, on 1<sup>st</sup> May 2014.

<sup>88</sup> Interview with a women in Wonago woreda, on 1<sup>st</sup> June 2014.

polygamous families, the overwhelming majority faces abuses and mistreatments from their husband and rivalry persists among the wives themselves. Children are also exposed to wide range of vulnerability.

## 2. *The Impact on the Right to Equality of Women*

One may ask whether a union in which two or more women sharing a common husband who, in turn, enjoys plural sexual partners ensure the right to equality between men and women. Fitnat Naa-Adjeleyin replies to this stating that “given the frequent competition among co-wives and patriarchal nature of polygamy, women lose the decision making power.”<sup>89</sup> It is widely understood that the patriarchal nature of polygamy leads not only to women’s subordination, but also to their sexual, physical and emotional abuse at the hands of their husbands.<sup>90</sup> Inequality lies at the core of polygamous marriages and this escalates the risk of spousal violence. Al-Krenawi further stated “there is some evidence to suggest that a husband’s decision to take a subsequent younger wife will frequently cause women to suffer low self-esteem.”<sup>91</sup> Women interviewed for a research on polygamy conducted in Mali expressed similar views.<sup>92</sup> Gage-Brandon Anastasia boldly asserted “inequality was an intrinsic part of polygamy since it inevitably led a husband to favor one wife, usually the youngest and more attractive, over others.”<sup>93</sup> Hence, the potential for unequal treatment of co-wives by their husband is a factor that poisons social relationship and put the husband at an advantageous position.

Related to this issue, focus group discussion made under the study area revealed that polygamy destabilizes the household and the lives of children, and causes women to experience high levels of insecurity and uncertainty.<sup>94</sup> Although women feel devastated when their husband takes subsequent wives, they might feel that they have no choice but to accept this situation. Women who participated in this research as key informants disclosed that polygamy, many times, causes unhealthy relationships amongst themselves.<sup>95</sup> It creates inequality among co-wives and gives men boundless power and authority.<sup>96</sup> Such an experience coupled with the cultural prejudice against women substantially affects the equality of women and men in a polygamous relationship. However, this by no means should be considered to mean women in

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<sup>89</sup> Fitnat Naa-Adjeley Adjetey, *Reclaiming the African Woman's Individuality: The Struggle between Women's Reproductive Autonomy and African Society and Culture*, 44 THE AMERICAN UNIVERSITY LAW REVIEW, 1351 (2005).

<sup>90</sup> *Id.*

<sup>91</sup> Al-Krenawi Alean, *Women from Polygamous and Monogamous Marriages in an Out-Patient Psychiatric Clinic*, TRANS CULTURAL PSYCHIATRY (2001).

<sup>92</sup> Madhavan Sangeetha, *Best of Friends and Worst of Enemies: Competition and Collaboration in Polygyny*, ETHNOLOGY, 41(1): 75 (2004)

<sup>93</sup> Gage-Brandon Anastasia, *The Polygyny-Divorce Relationship: the Case of Nigeria*, 54(2) JOURNAL OF MARRIAGE AND THE FAMILY, 291 (2011).

<sup>94</sup> Focus Group Discussion with women in polygamy in Aletachiko, on 19<sup>th</sup> December 2014 revealed that polygamy destabilizes the lives of women and children living in such relationship and this might, in turn, give raise to divorce.

<sup>95</sup> Interview and Focus Group discussion conducted in wonago, yergachefe and gedeb woredas of gedeo zone and dara, aletachiko and shebedino woredas of Sidama zone in different time periods of the 2014 and 2015.

<sup>96</sup> *Id.*

monogamous families do enjoy equal rights. Rather, it has to be understood that polygamy serves as additional factor which imposes burden on their empowerment and equality.

### 3. *The Impact on Women's Economic Rights*

Victor and Ezeh stated that polygamy deprives women of economic resources.<sup>97</sup> For example, they indicated that wives in plural marriage were more economically marginalized than their monogamous counterparts. Moreover, research related to the polygamous community of Bountiful and British Columbia also reached at the same conclusion.<sup>98</sup> Some other works even suggest that senior wives are at a particular disadvantage compared to the junior wives.<sup>99</sup>

The outcome of this study based on interviews with 18 women living in polygamous relationship in Gedeo and Sidama Zones, is particularly explanatory in this regard. Given the pervasive poverty and the adverse economic conditions that exist within the polygamous families, most of the women who are interviewed testified that they experience economic hardships because additional families share the already existing resource.<sup>100</sup> They further confirmed that senior wives experience significantly greater economic problems compared to junior ones. This is mainly because, according to them, first marriages are often prearranged between families whereas second and subsequent unions are more likely associated with love and affection. As a result, junior wives often get favored treatment by the husband not only with respect to providing economic support but also care and attention.

While the foregoing discussion chiefly indicated that polygamy endangers women's economic condition, there are also some people who suggested polygamy might actually be advantageous for women given the fact that polygamous husbands are financially able to sustain multiple families.<sup>101</sup> Nonetheless, it is good to diagnose this assertion with the existing reality in Gedeo and Sidama zones where economic prosperity has direct correspondence with large available agricultural land. But the Zones are among the most densely populated areas in Ethiopia.<sup>102</sup> In 2010/2011, while the crude population density of SNNPR was 154 persons per square KM, in the most densely populated zones of the region such as Gedeo, population density reaches 707 persons per square KM.<sup>103</sup> Hence, the distribution of the arable land to the total population is very minimal. In view of this fact, the existence of many children and wives cannot often be considered as an asset as the small land could only support few family members. Therefore, larger families would not be welcomed for enhancing economic strength. Rather due

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<sup>97</sup> Agadjanian Victor & Chika Ezeh, Polygyny, *Gender Relations and Reproduction in Ghana*, 31(2) JOURNAL OF COMPARATIVE FAMILY STUDIES, 81 (2000).

<sup>98</sup> Committee on polygamous Issues, *Life in Bountiful: a Report on the Life Style of a Polygamous Community*, (26-28)1993.

<sup>99</sup> Alean, *supra note* 91, at 191-192.

<sup>100</sup> Interview with 9 women from the three Woredas of Gedeo Zone living in polygamy, on 5<sup>th</sup>&6<sup>th</sup>January 2015 and Interview with 9 women from the three Woredas of Sidama Zone living in polygamy, on 19 & 20December, 2014.

<sup>101</sup> *Id.*

<sup>102</sup> Ethiopian Demography and Health Survey, Southern Nations Nationalities and Peoples, *available at* <http://www.ethiodemographyandhealth.org/SNNPR.html> (accessed on 23September, 2017).

<sup>103</sup> Southern Nations, Nationalities and Peoples' Regional State Bureau of Finance and Economic Development, Annual statistical abstract 41 (2011).

to the fixed economic asset i.e. land, the wealth of even the most affluent husbands drains through time if the family numbers continue to increase as a result of polygamous relationship.

#### 4. *The Impact on Women's Health Rights*

According to the 2016 EDHS report, the most common form of HIV transmission in Ethiopia is heterosexual relationships.<sup>104</sup> It also indicates the probability of HIV infection in Ethiopia were higher among adults who had 'multiple lifetime sexual partners' than individuals with only one lifetime partner. Where husbands have multiple sex partners, including wives, they increase their own risk of infection and their wives too. On this point, a research done by Bove and Valeggia found a strong linkage between polygamy and women's health in Sub-Saharan Africa.<sup>105</sup> This research affirms that the risk of transmission in polygamy is compounded by the fact that neither a husband nor his present wife can verify a prospective wife's HIV-status or guarantee her fidelity during marriage, particularly when the husband is away visiting other wives.

Another research done by Rebecca also concludes that "when wives transmit sexual diseases to their husbands or vice-versa, other co-wives, who cannot refuse their husband's sexual advances, are also exposed."<sup>106</sup> This research additionally states the risk of HIV/AIDS transmission in polygamous rural families is high because men are reluctant and wives are unable to insist on condom use during marital intercourse.<sup>107</sup> It is for these reasons that some called the continued legality of polygamy in some African countries as "the equivalent of an official license for men to transmit AIDS to their wives."<sup>108</sup> The link between polygamy and spread of HIV/AIDS is also put forward as a concern by the CEDAW in its General Recommendation No. 24 on Women and Health.<sup>109</sup>

Moreover, Al-Krenawi found that in a plural marriage, polygamous wives, and most importantly senior wives, face family stress and mental health more commonly than monogamous wives.<sup>110</sup> Senior wives expressed great psychological distress and a sense of mourning or loss when their husbands took second or subsequent wives. More specifically, they experienced feelings of failure and low self-esteem, mental health such as anxiety and depression more frequently than junior wives did. This sense of devastation and loss of confidence by a woman when her husband takes a subsequent wife is also reported by women living in other socio-cultural settings. A husband's marriage to a subsequent wife is often perceived as traumatic by preceding wives and their children.<sup>111</sup> This development results in a major change

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<sup>104</sup> EDHS report, *supra note 27*.

<sup>105</sup> Riley Bove and Claudia Valeggia, *Polygyny and women's health in sub-Saharan Africa*, XXX JOURNAL OF SOCIAL SCIENCE & MEDICINE, 1-9 (2008).

<sup>106</sup> Cook & Kelly, *supra note 4*, 20.

<sup>107</sup> *Id.*

<sup>108</sup> WENDY L. PATTEN & J. ANDREW WARD, RECENT DEVELOPMENTS: EMPOWERING WOMEN TO STOP AIDS IN CÔTE D'IVOIRE AND UGANDA, 213-214 (2013).

<sup>109</sup> General Recommendation No. 24, Women and health, UN CEDAW 20<sup>th</sup> Sess., UN Doc, A/54/38/Rev.1, 1999 at para. 18.

<sup>110</sup> Alean, *supra note 91*.

<sup>111</sup> *Id.*

in the family structure and a likely decline in the financial resources and attention that a man provides to his wives and children.<sup>112</sup>

Senior wives of a polygamous family interviewed in Gedeo and Sidama Zones also uncovered the fact that they experienced emotional challenges including depression and sense of lower self-esteem when their husband marries additional wives.<sup>113</sup> The SNNPR Annual Statistical Abstract also indicates that the patriarchal nature of family relationship in general and the polygamous relationships in particular have its own negative implications on the health of women who are most likely vulnerable.<sup>114</sup>

## V. CONCLUSIONS AND RECOMMENDATIONS

The foregoing assessment on polygamy and its impact on the rights of women and children show that polygamy is against the rights of women. It violates the rights of women enshrined under some relevant International Human rights Instruments. Various Committees established to monitor the implementation of these human rights instruments clearly stated that polygamy violates the equality, dignity and health rights of women.

Moreover, a glance at the Ethiopian domestic laws reveals that there exist some discrepancies on the legal status of polygamy. On the one hand, the FDRE Constitution, at least through interpretation, prohibits cultural practices affecting the rights of women. On the other hand, polygamy appears to be somehow tolerated under subsidiary laws relating to family and criminal matters where it is justified on cultural and religious grounds. Hence, it is necessary to demonstrate to the legislative and executive organs the impact of polygamy on the rights of women from the realistic view point so that they will take necessary measures.

Accordingly, several previous studies carried out in different socio-cultures contexts and this empirical assessment in Gedeo and Sidama zones consistently show that polygamy has far reaching consequences to women. Specifically, it leads to co-wife jealousy, competition, unequal distribution of wealth and can generate hostility among co-wives. Polygamous relationships also increases the risk of exposing women to sexually transmitted diseases. It also causes mental and physical illness among women.

In light of the above conclusions regarding polygamy, the following recommendations are forwarded to tackle the existing gaps in law and practice in Gedeo and Sidama Zones:

- Ethiopia has responsibility to oversee family and community relationships, to ensure the promotion of equality and the protection of the vulnerable groups of the society. Therefore, to properly address the rights of women and implement the international obligations imposed on it by various human rights instruments, the Federal and SNNP Regional States should revisit their respective criminal and family codes to completely outlaw polygamy.

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<sup>112</sup> HASSOUNEH-PHILIPS DEAN, *Polygamy and Wife Abuse: A Qualitative Study of Muslim Women in America*, 22(8) Health Care for Women International, 740 (2001).

<sup>113</sup> Interview with 6 senior wives in Yergachefe, Wonago and Gedeb Woredas of Gedeo Zone, on 5 & 6 January, 2015 and in Aleta Chiko, Shebedinoand Dara Woredas of Sidama Zone, on 19<sup>th</sup> and 20<sup>th</sup>December2014.

<sup>114</sup> SNNPR, BoFED Annual Statistical Abstract 143 (2011), at.130.

- Outreach strategies should be designed to inform women and the society as a whole about the impact of polygamy on the rights of women. Particularly, information must be disseminated regarding the psychological, health and economic issues that women face in polygamous family relationships.
- Lastly, there has to be serious follow-up to educate women properly and that should be the long-lasting measure of empowering them economically, socially and politically and thereby create the level of consciousness and will to resist polygamy.

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