

SALALE UNIVERSITY

COLLEGE OF LAW

THE EFFECT OF DIVORCE VERSES THE RIGHT OF CHILDREN UNDER ETHIOPIAN LAW.

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Declaration

I declare that this thesis comprises my work.in a compliance with widely accepted practice I have duly acknowledged, referenced all materials used in this work and Ideas and expressions borrowed from other authors and materials are duly acknowledged and properly cited. That it has not previously been submitted for assessment to another university.

Abstract

This paper investigates “Divorce: Causes and Effects of divorce and verses the right of Children. Worthy of note is that the fact that, divorce is not an uncommon experience in human history. It is experienced by couples irrespective of their social, religious, academic, political, economic, health, etc. status. One of the most hit in the saga of divorce are children born into the wedlock where divorce is experienced. The effects of this divorce on children are most often not well considered by the parents who embark on taking the status of divorcees. This becomes the onus of this paper using sociological and psychoanalytical approaches to the study of human institutions to study these effects on children, though not without looking at the causes of divorce. The paper reveals that the effects of divorce on children often are emotional, psychological, educational, health economical, meantening of child rights, religious spheres and the impact of parental divorce on the psychological, social and child parent relationship of children from divorced families among others and recommends ways in which these affects can be minimized among the right to children.

Lists of Acronyms/Abbreviations

Art..... Article

OAU..... African Organization unity

UN.....United Nation

UDHR.....Universal Declaration of Human Rights

ACHR.....African charter human right

CRC..... Convention on the right of child

FDREC.....federal democratic republic of Ethiopia

RFC.....revised family code

ILO.....international labor organization

UNCRC.....united nation convention right of child

VAC.....violence against children

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Chapter one
Introduction

1.1Background of the study

Marriage is union of couples commit to one another with the expectation of stable and lasting intimate relationships, and, this is socially recognized and approved.

Marriage is a reference point for divorce. Divorce is directly related with the institution of marriage because it is the dissolution of marriage ties. The time of separation or divorce, and still others influence the children following divorce.

The right to children is recognized under international legal instrument such as ,international convention right to children (CRC) under this convention has Four general principles have guided the authors of the Convention, and later been highlighted by the committee on the Rights in the General Guidelines as the core message of the Convention.

Firstly, the principle of the full and equal value of children and that each child shall enjoy the rights set out in the convention without discrimination (Article 2 and 4 of the Convention.)[1]

Secondly, the principle that in all actions concerning children the best interest of the child shall be the primarily consideration (Article 3 of the Convention).[2]

Thirdly, the principle of the right to life does not only entail the right to be protected against being killed but a right to survival and development (Article 6 of the Convention).[3]

Fourthly, the principle that children, who are capable of forming their own views, shall also have the right to participate and express their views, which shall be duly respected (Article 12 of the Convention).[4]

To explain the impact of parental divorce on children the economist theory focus on the accumulation of resources in the family will change by divorce. Although there are adverse effects of persistent conflict in the family, the presence of both parents according to sociological and developmental

[1] Article 2 and 4 of CRC.
[2] Article 3 *id*
[3] Article 6 *id*
[4] Article 12 *id*

psychologist raises skills, social capital, and opportunities of support for physical and social wellbeing and will serve as a spring live achievements (IBD). This is because divorces parents with children will not able to raise social capital after divorce all many responsibilities in and outside home. The impact of divorce on the parent child relationships started before the divorce. The negative consequence of divorce on children according to Defray and Olson (2000) includes distress, fewer ties with kin and friends, less happy marriage and a greater probability of future divorce were great in families where there was high conflict before divorce. That the negative consequence of divorce vary in degree depending on the emotional and behavioral problem of children before divorce. Also found that the negative effects of divorce on the relationships of parents with their children greatly affects father's affection for children but not mother. The relationship of parents with their children is affected by the relationship between the two parents which negatively or positively affects the right of their child or children. Children born out of wedlock shall have the same rights as children born of wedlock .etc.

The United Nation Convention on the Rights of the Child (UNCRC) article (12) states that parties shall assure to the child, who is capable of forming his or her own views, the right to express those views freely in all matters affecting him or her and the views to be given due weight in accordance with the age and maturity of the child.[5] Marriage and divorce in Ethiopia have a long history. Throughout this history, the marriage institution in the country has been challenged by the prevalence of higher divorce rates (Abate & Morgan, 1986). However, the impacts and the severity of divorce have different trends across different time in the country. In the contemporary Ethiopian society, the rate of divorce is by far higher than any previous time (Abate & Morgan, 1986). According to some research conducted, Ethiopia is among the countries having the highest divorce rate in the world (IBD).Tilson and Larson (2001) reported that 45 per cent of first marriage in Ethiopia ends in divorce within 30 years, and two-third of women and men who divorce do so within the first five years of their marriage.

In a study assessing parental divorce impact on children in Dessie Sisay (1997) showed that adolescents from divorced families had more psychological and social adjustment problems than children from stable families. The impact of divorce is further complicated as indicated in the study that adolescent from step mother families had psychological adjustment problems great more often than those from single mother families.

[5] Under the UNCRC Art 12

Under Ethiopian constitution article 36 every child have a right to life.name and nationality to know and be cared for by his or her parent or legal guardians.[6] Be free of corporal punishment or cruel and inhuman treatment schools and other institutions reasonable the care of children all actions concerning children undertaken by public and privet welfare of institutions courts of law.

In Ethiopia Marriage is celebrated in various forms. Marriages celebrated in different formalities, are all equally recognized by the law. There are three forms of marriage. These are: - civil marriage, religious marriage and customary marriage

The improved family code of the Federal Democratic Republic of Ethiopia states that if divorce has adverse effect on the right of children the court has the mandate to see the cases in favor of children (Family code, 2000(80) (3).However, during the implementation procedure the voices of children are not heard. Therefore, this study will attempt to assess the consequences of divorce on the right of children in Ethiopia. Despite the greater effect of divorce in the country, research in this area is limited and fragmented. In this research I will use Ethiopian revised family code, family teaching material, Ethiopian conistitutional,criminal law and code, civil code and use different scholar literatures primary data and will attempt to get access to secondary sources relevant to the topic from in our country the effect of divorce specially women, children office.

1.2 Statement of the Problem

The main objective of this study deals with the law and practice of the current Ethiopian

Jurisdiction On The effect of Divorce vis-à-vis the right of children under Ethiopian law, because At the time of concluding of marriage certain rules must be full filed According to revised Ethiopian family law (art 2, 3 and 4 respectively) These are such different kind of marriage celebrations, civil marriage, customary marriage, and religious marriage.

Even if spouses conclude one of the above three type's marriage sometimes occurred divorce, divorce is the very cause of dissolving of Marriage. During This condition is very difficult to children,

[6] FDRE constitution Art 36

The first problem of effect of Divorce vis-à-vis the right of children under Ethiopian law

Violation of the right to children or four general principles recognized under international convention of children right such as Firstly, the principle of the full and equal value of children and that each child shall enjoy the rights set out in the convention without discrimination (Article 2 and 4 of the Convention.)

Secondly, the principle that in all actions concerning children the best interest of the child shall be the primarily consideration (Article 3 of the Convention).

Thirdly, the principle of the right to life does not only entail the right to be protected against being killed but a right to survival and development (Article 6 of the Convention).

Fourthly, the principle that children, who are capable of forming their own views, shall also have the right to participate and express their views, which shall be duly respected (Article 12 of the Convention).

And also the second problem of The effect of Divorce vis-à-vis the right of children under Ethiopian law at the time of divorce is the broken away of pecuniary relations between spouses, Also the custody of children is very complicated problem means The strong negative effect of divorce on children exposal to prostitution, streetism, juvenile delinquency, homosexuality, drug addiction, alcoholism and other crimes, in case of separation of their family and it can affect the economic life of the spouses and children, Therefore pecuniary relation is the big problem during divorce.

The third problem of the effect of Divorce vis-à-vis the right of children under Ethiopian law during divorce has the main serious psychologically economically, socially and culturally problems, means it has own negative effect upon the spouses and the children in relation to the society, they

couldn’t consider themselves equal to the other people thinking of indifferent directions Different kind of health problems related to their psychological pain. The children of

Divorced spouses are also suffering by different kinds of psychological and emotional

Problems, they directly suffer by the separation of their spouses.

The fourth problem of the effect of Divorce vis-à-vis the right of children under Ethiopian law negative consequence of divorce on children are distress, fewer ties with kin and friends, less happy marriage and a greater probability of future divorce were great in families where there was high conflict before divorce.

The fifth and most of the time the right of children during divorce of family has more negative outcomes on their education achievement, and crime, psychological well-being, unwanted pregnancy, and unethical behaviors when compared with none divorce children.

The problem of implementing the right of children in Ethiopia after divorces are less develops contextual ways of care and custody for the children.

Its impact on the lives of children should also be looked at since it disintegrates the family unity. Additional problem is a social in many factors for most of societies ill such as prostitution, streetism, juvenile delinquency, homosexuality, drug addiction, alcoholism and other crimes and the negative effect of divorce on women and children to contextual care and custody.

The negative effect of divorce is avoid the principle of the best interest of the child.

Divorce affects the state or condition of being well; a condition characterized by loss of happiness, of children of divorce parents, its affects their health or prosperity: moral or physical welfare and affects an achievable degree of economic wellbeing and Parents are exposed for the

economic, social, psychological and physical wellbeing of their child/children some psychological problem and impacts are stress that can lead to anxiety, depression, substance abuse, mood swing. Sometimes, the children even make suicide attempts.

Children are in case divorcing marriage isolated from society, they have poor peer relationship, and they are less sociable they have fewer close friends, spend less time with friends. And economically children from disrupted family might not get enough, health services, getting educational materials and other resources.

Even if I mentioned some negative effects of divorce, the researcher did not address all the problem of divorce the negative effects of on the right children.

1.3 Research Questions

- How to divorce affects the children's Right to develop contextual care and custody?
- What are problems of divorce and the right of children the time of divorce?
- What are the legal remedies / solutions above mentioned?
- What are the duties of government implementing their children right?

1.4 Objectives of the Study

For this study, the broad objective is to describe and explore the impacts of divorce on the wellbeing of children. The study more specifically addresses the following specific objectives.

1.4.1 Specific objectives

1. To explain and to investigate the effect of divorce on the right of children's.

2. To protect marriage and to reduce divorce and maintaining of the right to children

3. To enhance more researches and to identify legal options.

1.5 Significance of the Study

The study might be significant for divorcing couples to critically analyze their decisions

For divorce and see ways of arrangements for the right of their child (children).

For institutions under investigation to enhance divorce related environment by understanding the needs of the children, they will be able to devise a mechanism to and improve their service.

For decision makers (like, The Youth, Children and Women's Affairs Bureau, the court House of peoples representative and Ethiopian human right commission), it is a good stepping stone to design and implement appropriate policy.

For the researcher to enhance the existing theoretical knowledge concerning divorce and its effect on the right of children.

For interested individuals and researchers to lay ground to conduct a wide and in-depth study with respect to divorce and its effect on the right of children.

1.6 Scope of the study

The study focus on comparing the effect of divorce and the right of childe in Ethiopia. All laws in Ethiopia such as the FDRE family law. The criminal law. The FDRE constitiution in different proclamation and regional family laws will be analyses.

1.7 Research design and Methods

The study adopts doctrinal approach it will be carried out by legal analysis and the adopts doctrinal comparative study methodology and so philosophical foundation the researcher uses primary source such as laws such as the constitiution, the criminal code. The FDRE family law. The criminal procedure code and so proclamation, international treaties, regional conventions namely, CRC ACHR and so domestic laws and cases and so the research want to use secondary source, such as books, articles, journals and internet will be assessed relating to effects to divorce and child right. By using these designs the researcher will thermalize the effect of divorce on the right of children. The themes will be the economic effects of

divorce, the social effects of divorce and the psychological on right children's as well as their choices of care and custody of the children.

1.8 Literature Review

It is the parents' great obligation to raise their children well. In most circumstances, spouses in a marriage have reciprocal duties. Additionally, they have obligations to love and support one another in all facets of their interactions. Additionally, in their role as husband and wife, they must treat one another with dignity and respect.

And they have to give each other honor and respect as husband and wife relationship. In addition to this they have the responsibility of rearing of their child /children[7]. Secondly, if spouses even agree to divorce their responsibility shall continue. They must make it easier for their child or children to get custody and support. Husband and wife separation is quite traumatic. And this may make their lives incredibly challenging. They are hurting, as well as their children or chilled. Literates claim that the financial, physical, and emotional well-being of spouses and children can be negatively impacted by a separation or divorce. And in every aspects of their life hindered to the development of their future life"[8] Therefore parents are responsible in the day to day activities of their chilled / Children rights. This is the very significant factor to every activities of chilled/ children in every circumstances. After dissolution of marriage provision of custody and maintenance will be the main issue. Because chilled/Children are the very victims of divorce. In this case the future life of chilled /children shall be affected in different directions. Regarding to custody and maintenance the amount of maintenance and the availability of custody shall be decided by the court[9]. Each of the parent has the right and obligation individually and jointly in keeping and protecting in the mere

[7] Peter G.Jaffe. at 2003 (G.C) Child custody and domestic violence page
[8] ibid p3
[9] Ibid p3

facts of essential interest of the Chilled/children. Peter Gaffe. At 2003 (G.C) Child custody and domestic violence. Divorce and separation of marriage may be harmful for chilled /Children for every family in different conditions. Whereas it can be disadvantageous for child/children. of marriage / divorce is inevitable the effect on child /children particularly depends on the parents economic grounds to resolve the conflict[10] The UN Resolution Article 44 /24 November 1989 States that "parties must keep the right of child / Children By giving medication or health care, feeding over all treatments and rehabilitation. In addition to this special care and assistances must be given for each and every child without any discrimination" According to the above explanation custody and maintenance especially, after desolation of marriage/ divorce is the basic issue and very essential and the best interest for very chilled /Children.[11] The theory of the best interest of a chilled, may be seems easy but when it is going to be practical related to international and national laws, it shall be very difficult. Mostly related to maintenance custody and courts cannot easily give decisions according to specific cases because different circumstance and cases influences on the activities of the courts. Economic backgrounds, job, age and the health Condition of the parents may be the main factors of on the decision of the court, regarding to Custody and maintenance. In Ethiopian Judiciary system parents are liable for maintenance and custody.

The 1960 (GC) Ethiopian Civil code that assured (tender years) and (the best interest of the

Chilled/Children) this legal presumption had been very essential article which is repealed

by the 2000 (GC) FDRE revised family code[12]. "When the court deciding divorce of

[10] Suprantote 6, Article 89 (1)

[11] UN resolution article 44P{24

[12] 1960 (GC)civil code of Ethiopia

Marriage, also should decide as to whom spouses shall give custody education, medication and maintenance.[13] And also the right of the parent and the chilled /children to visit each

Other must be kept[14]. But the decision of courts should consider the income, age, health and living Condition of spouses and the best interest of the chilled/children respectively.

To sum up, the respond maintenance is the duties and responsibilities of the parent in marriage and after dissolution of marriage and after dissolution of marriage

1.9 Chapterization (organization of the study)

The chapterization of the thesis is proposed to be made keeping the study in mind.

The study consists of five chapters namely. Chapter one contains background of the study and the statement of the problem. The Second chapter about divorce. Meaning of divorce and effect of divorce. Chapter three is about the right of child in divorce. Chapter four is about the effect of divorce Vis a Vis right of child in Ethiopia and last chapter five about conclusion and recommendation

[13] The 2000 G.C FDRE Revised family cod Article 113
[14] The 2000 (G.C) FDRE Revised Family Cod ibd

Chapter two

2. Divorce, Meaning definition, Cause and effects divorce

2.1 Meaning of divorce

Understand the full history of divorce, “Divorce” comes from the Latin word “divortium” which means separation. It is also equivalent to the word “divort” or “divortere.” “Di” means apart and “vertere” means to turn to different ways. Divertere was also referred the meaning of divert, turn aside, separate or leave one’s husband. The word was traced in French vocabulary in the later part of the 14th century and in the Middle English in the year 1350-1400.o understand the full history of divorce, today’s modern society, divorce is only recognized if legal and supported by law. The oldest codified law in the history of divorce was traced in 1760 B.C. during the reign of King Hammurabi of Babylon. It is believed that the King carved 282 laws in stone tablets including the law on divorce. During that period, a man could divorce his wife by simply saying, “You are not my wife,” which was followed by payment of a fine and returning the wife’s dowry. However, if it was the wife who wanted divorce, she was required to file a complaint to obtain a divorce.[15]

Divorce legislations passed through different challenges. Divorce existed in antiquity dating at least back to ancient Mesopotamia, as well as the ancient Athenians liberally allowed divorce,[16] but the person requesting divorce had to submit the request to a magistrate, & then the magistrate could determine that the reason given were sufficient. Although liberally granted in ancient Athens, divorce was rare in early Roman culture. Rapture can take place only by judicial authority and for causes determined by law. This shows that divorce presupposes:[17]

[15] /history-of-divorce-meaning/#
[16] /sites/default/files/uploads/shared/docs/ancient_mesopotamia.pdf
[17] ?
q=anicent+athence+was+rarly+roman+calture+.rapture+tkaks+place+only+judicial+anicent+athence

1. A valid marriage that is one which has no defeat before its being contracted. As it is the validity of marriage differentiates divorce from annulment. The validity of a marriage is a matter which is necessarily intrinsic in a divorce decree, a judgment of divorce necessarily adjudicates that plaintiff was married to defendant, and the granting of a divorce implies that the court has force that the petitioner has satisfied statutory requirement,

2. Divorce sets each spouse free each other as concerns any relation between the two prospectively. Each can remarry, manage its own prosperity, or interacts independently.

A decree of final and absolute divorce completely dissolves the material relation; it creates a new relationship between the particles, making them strangers in law with no legal obligation to each other except those preserved by law and contract.

3. Divorce is granted for spouses that are alive not dead. Even if one is alive and the other is dead, no divorce granted.

4. Divorce as a rapture takes place by law not by the will of each party. It takes place only for causes accepted by law; any arbitrary unilateral repudiation of one by the other is prohibited. Divorce is the end result of the exhaustion of all hopes and emotion of the couple to live together for life or for an indefinite period of time. It a reverse of all statements, love and attachments the spouse had at the beginning. It comes as a result of the desire each has to avoid the other, due to the others failure to fulfill the duties expected of him or her. It is sought as a solution or relief to end an unhappy and unworthy union, whose negative side outweighs the positive one and which has no remedy in sight. Assets are divided as well as who will have custody of any children the couple may have. Couples going through a divorce may want to consider hiring a qualified divorce lawyer to help determine the most equitable decisions.

2.3. Cause of divorce in general

Lack of commitment, financial challenges, and infidelity are some of the leading causes of divorce in the world. What are the most common reasons for divorce? Of course, this is a fairly subjective question because the reasons people get divorced are as diverse as the reasons they fell in love in the first place. However, some issues come up frequently among couples on the road to Splits Ville – including conflict, infidelity, and poor communication or misunderstanding each other, incompatibility, and lack of romantic intimacy or sex.Cultural shifts in attitude and behavior over the past 75 years have helped to redefine both why and who we choose to marry. In turn, these shifting beliefs have also normalized and largely eliminated the stigma that once shrouded divorce idea of marriage as a lifelong commitment – often for the primary purpose of having and raising children – has changed significantly, gradually evolving into an emphasis on individual fulfillment and satisfaction. Over time, the United States has transitioned from a country where divorce was virtually unheard of, and building a successful marriage was considered a top priority, to a place with one of the highest divorce rates in the world. Despite increased access to marital education, marriage counseling, and family therapy, divorce is an ever-constant reality in our society. Even as the overall divorce rate is decreasing among adults ages 16 to 65, approximately 45% of marriages still end in divorce in the US

1. Too Much Conflict, Incessant Arguing

According to psychologist Dr. Howard Markman, "How you handle conflict is the single most important predictor of whether your marriage will survive." Constant conflict, bitter battles, and going to bed angry every night are no one’s idea of a healthy marriage. How long could you stick it out when your home – which is supposed to be your place of peace and release from the daily grind – is more stressful than emotionally dangerous

as a terrible boss. Unless interrupted by marriage counseling or therapy, this negative spiral will continue downward until the only place left to go is divorce.

2. Lack of Commitment

A happy and healthy marriage requires commitment from both spouses. Unfortunately, it only takes one spouse with a lack of commitment to the relationship to doom the marriage. If one partner isn't fully committed your worst day at work? In a good marriage, your spouse is your partner, your shelter from the storm, and your number-one cheerleader when you're down. In a high-conflict marriage, your spouse is as to the other, then the marriage will eventually suffer.

When their marriage inevitably ends, after the shock and disbelief have worn off, their rage at being used and taken for granted during the relationship may lead to a very difficult divorce.

3. Infidelity / Extramarital Affairs

Being cheated on by the person who vowed to remain faithful to you forever is a bitter pill to swallow, and most people consider this to be an unforgivable offense. Infidelity doesn't always lead to divorce, but it does destroy how you see your relationship.

4. Lack of Emotional and / or Physical Intimacy

Emotional and physical intimacy "grease the wheels" of a smooth-running relationship. When they're gone, however, serious relationship issues often take their place. Communication decrease between the two, anger, resentment, sadness, loneliness, infidelity, and greatly diminished self-esteem are some of the most serious issues – and left untreated, they can irreparably damage a relationship and pave the road to divorce.

5. Communication Problems between Partners

A breakdown in the lines of communication is one of the biggest predictors of divorce. Couples who don't communicate well cannot resolve issues together and tend to suffer more misunderstandings and hurt feelings than those who have learned how to resolve conflict respectfully. Good communication is physical as well as verbal, and it is required for almost everything in a good relationship, including sex, a couple's finances, whether or not to have children, areas of disagreement, and other sensitive topics

6. Domestic Violence: Abuse by a Partner or Parent Domestic violence can include any act of tangible or threatened abuse – including verbal, physical, sexual, emotional, and/or economic abuse. In such a relationship, one person gains or maintains power over their partner via a pattern of abusive behavior. This abuse can be directed solely at a spouse, or it can also involve one or more children of the marriage.

7. Opposing Values or Morals

There have been literal wars fought over differences in race, religion, nationality, and culture – and persecution based on all of these plus gender, sexuality, and even which political party someone supports. When two spouses have or develop opposing values and/or morals, and neither has the ability or willingness to see things from their spouse's point of view, the marriage is likely to end in divorce.

8. Addiction: Alcohol, Drugs, Gambling, or Sex

There are many different types and degrees of addiction, and many top professionals – politicians, businesspeople, doctors, lawyers, portfolio managers, actors, and athletes, to name a few – have been able to hide their addiction successfully as they rose to the top. Their spouses may be blissfully unaware, willing to look the other way in return for lifestyle/economic benefits, or gas lighted into believing they're crazy to

suspect their spouse’s addiction. No matter how the moment of truth arrives, it is always shattering.

9. Absence of Romantic Intimacy or LoveThis one is far too common given how busy and stressful our lives are – especially when you add driving the kids to football/hockey/baseball/ballet/orchestra/theater/choir practice before and after school into the mix.

10. One Spouse not Carrying Their Weight in the Marriage We all know marriages like this: both spouses work full-time, but only one of them takes responsibility for grocery shopping and cooking, household chores, and child-rearing. Over time, the spouse whose work doesn’t end when they get home can build up a powerful resentment against the other, and unless the situation is addressed and rectified, the marriage could spiral down into divorce.

11. Financial Problems and Debt

Money has been tight for many couples over the last few years. Arguments about money can become nasty and vindictive and if a couple lacks the communication skills to discuss their financial problems calmly and rationally, that can be a reason for divorce.

12. Marrying Too Young

A study from the University of Utah suggests that the perfect age to get married is between 28 and 32. This is because those who marry young most likely don’t fully grasp marriage. This could be a reason why a lot of young married couples get divorced. About 46% of couples who get married young get divorced. Also, 48% of couples who marry before they turn 18 are most likely to get divorced in 10 years, compared to 25% of people who marry after the age of 25.

13. Lack of Shared Interests / Incompatibility Partners, Opposites may attract, but similarities are what bind. With no shared interests, you will

either start spending less and less time with your spouse as you pursue your hobbies and passions or give them up in favor of your spouse's interests.

2.4. Cause of divorce in Ethiopia according to the FDRE family law

According to Pankhurst (cited in Tilson &Larsen, 2000), on study divorce in Ethiopia, the most common reasons women indicated province as causes of divorce were childlessness, physical abuse, maltreatment, wasting money, adultery, exerting too much control over personal activities,[18] early marriage and childlessness are included in CSA

(Central Statistics Authority) 1993 report. Among ever-married and divorced women 34 %

Were younger than 15, 41 % were 15 to 17 years, and 12 % were 18-19 years at first marriage,

in general eighty-seven per cent of ever-married and divorced women were younger than 20

Years at first marriage (Tilson & Larsen, 2000:p.358). The national research by Tilson &

Larsen (2000) indicated 75 % of women who marry earlier than 11 years of age divorce within

20 years, 60 % of women who marry between age 11 and 13 divorces within 20 years.

Similarly, childlessness was a main cause for divorce as 95 % of women who did not have a

Child divorced within 20 years. Among women 85 % divorced within the first 5 years where

Women who did have a child divorced about 23 % within 20 years.

several socio-economic and health problems for the divorced couple and their children Literature from developed countries confirmed that children with divorced parents experienced more mental and physical health problems than do children with married parents. [19]

[18] u.edu.et/bit stream/handle/123456789/2473/Serkalem
[19] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7737979/

2.5. The effect of divorce in the world Divorce in the global phenomena

After a divorce, the couple often experiences effects including decreased levels of happiness, change in economic status, and emotional problems. The effects on children can include academic, behavioral, and psychological problems.

Divorce hinders society by dissolving families and weakening belief in the family as an essential social unit. To sociologists, the family does more than unite people by marriage and blood or adoption; it provides the educational, financial and emotional support its members need to thrive socially. Without this support, divorced adults and their children are mentally and physically weakened, becoming less productive social participants. More broadly, divorce leads people to question whether having a family is worthwhile. The Heritage Foundation reports that children of divorced households tend to enter high-risk marriages.[20]

Divorce can be a difficult time for a family. Not only are the parents realizing new ways of relating to each other, but they are learning new ways to parent their children. When parents divorce, the effects of divorce on children can vary. Some children react to divorce in a natural and understanding way, while other children may struggle with the transition.

Children are resilient and with assistance the divorce transition can be experienced as an adjustment rather than a crisis. Since the children in a divorce vary (different temperaments, different ages), the effects of divorce on children vary, too. Family Means understands this and approaches a divorce by understanding what the effects are on children of all dispositions.

With this in mind, here are some of the most commonly seen effects divorce has on children Family Means can help parents manage.[21]

2.5.1. Effects divorce in USA

The effects of divorce in USA are immense. The research shows not only that it permanently weakens the relationship between a child and his or her parents, but also that it leads to destructive ways of handling conflict and a poorer self-image. Children of divorce demonstrate an earlier loss of virginity, more cohabitation, higher expectations of divorce, higher divorce

[20] https://www.lawforfamilies.com/12717015-the-effects-of-divorce-on-society.html
[21] https://www.familymeans.org/effects-of-divorce-on-children.

rates later in life, and less desire to have children. [22]These effects on future family life perpetuate the downward spiral of family breakdown. The effects of divorce on children can range from mild to severe and from short-term to long-term. Though none of the effects necessarily applies to every child of divorced parents, millions of children who see their parents' divorce are nonetheless affected in serious ways by that act of rejection. There is no way to predict how each individual child will be affected or to what extent, but it is possible to demonstrate and predict the numerous and serious effects that divorce is having on society. Thus, the issue for researchers is no longer to determine what divorce's ill effects are, but rather to understand the depth and persistence of these effects on children, their children, and even their grandchildren. Because society still embraces divorce in its laws and popular culture, sending out myriad messages that "It's okay. "It is not. Mounting evidence in the annals of scientific journals details the plight of the children of divorce and clearly indicates not only that divorce has lasting effects, but that these effects spill over into every aspect of life. For example, children whose parents have divorced are increasingly the victims of abuse and neglect. They exhibit more health problems, as well as behavioral and emotional problems, are involved more frequently in crime and drug abuse, and have higher rates of suicide. Children of divorced parents more frequently demonstrate a diminished learning capacity, performing more poorly than their peers from intact two-parent families in reading, spelling, and math. They also are more likely to repeat a grade and to have higher drop-out rates and lower rates of college graduation.[23] Divorce generally reduces the income of the child's primary household and seriously diminishes the potential of every member of the household to.in income can be as much as 50 percent. Moreover, decline in income is intergenerational, since children whose parents divorce are likely to earn less as adults than children raised in intact families. Religious

[22] effects+of+divorce+USA&sca_esv=
[23] marriage-and-family/report/the-effects-divorce-America

worship, which has been linked to health and happiness as well as longer marriages and better family life, is less prevalent in divorced families. Such evidence should give all Americans reason to speak out on this problem. If nothing is done, America will continue the downward spiral into social decay

2.5.2. Effect of divorce in Canada

One of the main concerns during separation or divorce is the children. Divorce and separation can be a traumatic and devastating time for children, in which their lives are changing, and they may not know how to cope. Every child will react differently to the divorce or separation of their parents. In order to protect the child and help them to avoid any problems which may arise from the divorce or separation, parents must ensure that their child does not get trapped in the middle of the divorce, in which they must attempt to continue a close relationship with the child or children, as well as maintain communication.[24]

There are many effects, both short term and long term, which divorce may have on the children present. Short term effects include the child feeling guilty or responsible when they do not understand, becoming aggressive or violent to everyone around them, becoming emotionally needy from fear of being abandoned, becoming depressed, feeling angry and resentful, losing the ability to concentrate, intense feelings of grief or loss, or the occurrence or re-occurrence of bedwetting. Typically the effects of divorce will fade from your child once they have adjusted to the new situation. However, there are some long term effects on children from divorce, which include the children being less likely to be educated, experiencing poverty or socio-economic disadvantages, exhibiting anti-social and behavioral problems,[25] suffering from drug or alcohol problems, getting married or cohabitating earlier, becoming teenage parents, or experiencing a separation or divorce for themselves. In some cases, however, there can be some positive effects.

[24] w.focusonthefamily.ca/content/the-effects-of-divorce?utm_term=&utm_campaign=Focus+on+the+Family+-+Dynamic
[25] sciencedirect.com/science/article

These include situations in which the parent's inability to be together created a hostile environment in which the child was regularly exposed, as well as situations involving abuse of any sort. In cases such as these, divorce or separation would bring the child out of that hostile environment into a more caring, supportive, and stable situation.

2.5.3. of divorce in India Effect

The legal effects of divorce may include: Marriage dissolution: The marriage contract is over, and the parties are no longer subject to its provisions. Property Division: The court may divide the property and assets acquired during the marriage between the parties. One of the main concerns during separation or divorce is the children. Divorce and separation can be a traumatic and devastating time for children, in which their lives are changing, and they may not know how to cope. Every child will react differently to the divorce or separation of their parents. In order to protect the child and help them to avoid any problems which may arise from the divorce or separation, parents must ensure that their child does not get trapped in the middle of the divorce, in which they must attempt to continue a close relationship with the child or children, as well as maintain communication. There are many effects, both short term and long term, which divorce may have on the children present. Short term effects include the child feeling guilty or responsible when they do not understand,[26] becoming aggressive or violent to everyone around them, becoming emotionally needy from fear of being abandoned, becoming depressed, feeling angry and resentful, losing the ability to concentrate, intense feelings of grief or loss, or the occurrence or re-occurrence of bedwetting. Typically the effects of divorce will fade from your child once they have adjusted to the new situation. However, there are some long term effects on children from divorce, which include the children being less likely to be educated, experiencing poverty or socio-economic disadvantages, exhibiting

[26] effects+of+divorce+indian&sc

anti-social and behavioral problems, suffering from drug or alcohol problems, getting married or cohabitating earlier, becoming teenage parents, or experiencing a separation or divorce for themselves.[27] In some cases, however, there can be some positive effects. These include situations in which the parent's inability to be together created a hostile environment in which the child was regularly exposed, as well as situations involving abuse of any sort. In cases such as these, divorce or separation would bring the child out of that hostile environment into a more caring, supportive, and stable situation.

2.6. The effect of divorce in Ethiopian

The Ethiopian family law empowers family courts with the right to discuss with the spouses separately or jointly and counsel them to renounce their intention to divorce. Further the court is entitled to grant a cooling period, not exceeding three months, to the spouses. If the spouses did not change their intention they can reapply to the court for approval of the divorce within six months from the last date of cooling period. But nothing shall prevent the spouses from submitting a new petition for divorce.[28]If the agreement to divorce is the true expression of the intention and free consent of the spouses and is not contrary to law and morality the court shall approve the divorce. When the court approves the divorce it shall also approve the conditions of the divorce agreed between the spouses. In so deciding the interest and wellbeing of a child is strictly considered by the court. If the agreement on the conditions of divorce doesn't sufficiently protect the interest and wellbeing of the children or even where it adversely affects the interest of one of the spouses the court may approve, only the divorce agreement and give decisions it may deem appropriate to correct the defects of the conditions of divorce.

Property acquired by onerous title, by one of the spouses after marriage shall also be personal property where such acquisition has been made by

[27] Social-legal-aspects-divorce-India
[28] egal-articles/divorce-and-its-effects-under-ethiopian-family-law-19591

exchange for property owned personally, or with monies owned personally or derived from sale of property owned personally. But this applies when the court, at the request of one of the spouses, has decided that the property thus acquired shall be owned personally by such spouse. All properties which are not personal shall be common property even if it is an income derived from personal property. The spouse may regulate their personal and common property by their contract of marriage, if any.

If one of the spouses proves that any of his personal property has been alienated and that the price thereof has fallen in the common property he has the right to withdraw, beforehand, money or things of value corresponding to such price, where both spouses have such right, each of them shall take their respective share from the common property in proportion to their contribution.

Pecuniary and personal effects of marriage are founded on effects of Marriage. The property which the spouses possess or own before the Conclusion of marriage or properties which they acquire after that date by succession or donation continue to be personal properties during Marriage.[29] Properties acquired during marriage by exchange of such properties will Also be personal properties of such spouse if the court, up on the request of the concerned spouse, decides the property to be personal. Each spouse is entitled to administer his own separate property and receive the income that arises from the same. Article 59 of the R.F.C conclusion of marriage will have the effect of creating marital properties where the property relates to incomes derived by personal efforts of the spouses and incomes from their common or personal property shall be common property (Article 62 of the R.F.C.).

2.6.1 Effect of Divorce on Children

Dissolution of marriage will have effects on the children. The Ethiopian family law takes the matter of children seriously and tries to protect their

[29] g.com/search?pglt=2083&q=THE+EFFECT+OF+DIVORCE+IN+ETHIOPIA&cvid

best interest. [30]The court when deciding the divorce, also decide, as to which spouses shall have custody of the children, care of their education, health, maintenance and the rights of the parents and the children to visit each other, The court shall take into account the income, age, health and condition of living of the spouses as well as the age and interest of the children. The court can, on application and taking into account the change of circumstances revise or reverse its decision requiring the custody and maintenance of the children.[31]

According to Article 49 of the Revised Family Code, spouse owes each other respect, support and assistance. This is the very essence of marriage. The spouses are expected to respect support and assist each other. This rule is a mandatory provision because it prohibits the Spouses from making an agreement in violation of this rule. According to Article 50 spouses will have equal rights in the management of their family.[32] Management of the family mean, the administration of their common property, rearing their children in a proper manner,[33] etc. However, we must also note that Article 51 rules that if one of the spouses becomes incapable to perform these activities, that is, one of them, is seriously sick, desert the marital house, or jailed, etc…, the other spouse should perform these activities alone. According to Articles 52 if one of the spouses had a child prior to marriage, it is only the parent of the child has exclusive right to decide with regard to matters concerning the upbringing of such child. According to Article 53 spouses bound to live together under the same roof and spouses bound to have sexual relations, which is normal in married life unless it is seriously prejudicial to their health. So, any agreement to the contrary shall be of no effect. (The spouses shall it be jointly determined by their common residence Art 54.) According to Art 55 the spouses can live separately for

[30] By Fikadu Asfaw and Associates Law Office, Ethiopia
Law Firm Website: https://ethiopianlaw.c
[31] ciencepublishinggroup.com/article/10.11648.j.edu
[32] =PERSONAL+EFFECT+OF+DIVORCE+IN+ETHIOPIA&
[33] Revised Family law article 55

definite or indefinite period of time by their mutual agreement, according to art 55(2), may be revoked any time by only any of one of the spouses. Finally, the spouses have the duty of fidelity to each other (Article 56).

2.6.1. Pecuniary Effects of Divorce

It is good to note that the pecuniary effect of divorce is the most sensitive area that usually results in countless court litigation. So here are the pecuniary effects of marriage. If the spouses have an agreement in their contract of marriage the pecuniary relation shall be liquidated according to this agreement. If not, each spouse is entitled to retake his personal property at first and common property shall be divided equally between the spouses.[34]

But here the Reader may raise one question. Which property is personal and which one is the common? That is good question. The property which the spouses acquired on and after the day of their marriage by succession or donation shall remain their personal property. Property acquired by onerous title, by one of the spouses after marriage shall also be personal property where such acquisition has been made by exchange for property owned personally, or with monies owned personally or derived from sale of property owned personally. But this applies when the court, at the request of one of the spouses, has decided that the property thus acquired shall be owned personally by such spouse. All properties which are not personal shall be common property even if it is an income derived from personal property. The spouse may regulate their personal and common property by their contract of marriage, if any.

If one of the spouses proves that any of his personal property has been alienated and that the price thereof has fallen in the common property he has the right to withdraw, beforehand, money or things of value corresponding to such price, where both spouses have such right, each of them shall take their respective share from the common property in

[34] divorce-and-its-effects-under-Ethiopian-family-law

proportion to their contribution. If there is a debt incurred by either soused or both spouses conjointly, and such debt is confirmed by judicial decision, or acknowledged by the spouses, such debt shall be paid before the division of property. Without prejudice to the above statements or/and agreements of the spouses, common property shall be divided equally between the spouses. Each spouse shall receive equal share of the property from the common property. If it is not possible to divide equally the inequality of shares in kind shall be set off by the payment of sums of money. While doing this, utmost care should be taken to give each spouse things which are most useful to him. If certain property is difficult or impossible to be divided and if the spouses do not agree as to who shall have that property in his share, such property shall be sold and the proceeds thereof shall be divided between them. If they do not agree on the condition of sale and if one of them requires, the sale shall be made by auction. If a debt to be paid from the common property becomes due after the dissolution of the marriage and after the partition of the property, each spouse shall be liable in proportion to his hare. But if the debt concerns one of the spouses, only such spouse shall pay it. The common property of the spouses other than the salaries and earnings of the wife were to be administered by the husband under article 656 of the 1960 Civil Code. This has been changed to conjoint administration by the spouses in article 66 of the Revised Family Code. Moreover, the requirement of the agreement of both spouses for the performance of certain acts such as the sale of common immovable has been supplemented with a sanction in the Revised Family Code. To this effect article 69/2/ of Revised Family Code provide that if one of the spouses entered into such obligations without the agreement of the other spouse, the court may revoke the act at the request of the latter. This is a crucial improvement in light of the fact that the previous law incorporated no clear remedy for the victimized spouse. [35]

[35] the+common+property+of+spouse+in+pecuniary+righ

However, the drawback of the Revised Family Code in this relation is the time limitation within which the act can be challenged. Article 69/2/ states that an application for cancellation may not be made six months after the day on which the other spouse came to know the existence of such as obligation or in any case two years after such obligation is entered. A similar provision of limitation within which an action for invalidation of a contract can be instituted is found in the law of contract. But in this case the period of limitation is fair because it is the party to the contract who can apply for the invalidation of the contract and the period starts to run form the time the ground for invalidation has disappeared. The case of one spouse applying for the invalidation of a contract the other spouse concluded with another person is different because there is an ample chance that the innocent spouse will not know of the contract for a very long time. Under pecuniary effects of marriage, the change made as regards which property will be chargeable to the payment of the personal debt of a spouse may be recovered from the common property only if the personal property of the debtor spouse is not sufficient to cover the debt. This is unlike the Civil Code, which did not put any priority between personal and common property for the payment of the personal debt.

Chapter three

3. The right of child in divorce

The children of divorced parents have various rights including the rights to maintenance, custody and visitation. These rights are special rights unique

to such children apart from other civil and political, and socio-economic as well as cultural rights to which they are entitled just like any children. [36]Rights of Children of Divorce States have procedures to guide court officers involved in child custody and visitation considerations. In recent times these guidelines have been based on an evolving view of the "best interests of the child." These are a compilation of theoretically-based assertions and/or "best guesses" about the needs of children from birth through adolescence. They are sometimes, but not always, supported by empirical research and they may or may not be in conflict with the needs and rights of their parents. Officers of the court have been in agreement with the spirit of the "best interests" statutes, but many, if not most, have experienced significant dissatisfaction in their implementation. As one of us (GES) will note in a later article in this journal, the "best interests of the child" may have been replaced by the "least detrimental alternative," and the rights of the children may have become increasingly less central to the divorce processes.[37]Children of divorce have the right to share their perspectives with the people making decisions, and to expect that decision makers will seriously consider their views and opinions. Children in divorce have the right to expect that decisions will be made by persons knowledgeable in child development and divorce dynamic

3.1. right of child in general

Resolution 44/ 25,20 of November 1989 By united nation. Assembly states principles for the Foundation of freedoms, justices and peace of the world and better standard of life is Depends on human rights and in the dignity of the human person. In UDHR everyone is entitled rights and freedoms without distinction of any kind of race, color, sex, language, Religion, political or other rights and opinions and without national and social origin, Property, birth and their status. UDHR. Stats that, "child-hood is entitled to

[36] the+right+of+child+in+divorce+&SC
[37]https://www.researchgate.net/publication/281109160_A_Bill_of_Rights_for_children_in_divorce_Michigan_Family_Law_Journal_Children's_Rights_Family_Law_Section_State_Bar_of_Michigan

special care and assistance. Article 1 states that every human being below of eighteen is chilled".[38] Parties shall respect and assure the rights of each chilled, without discrimination of color Sex, language, and religion, political and other opinion. National, social-origin, property, Disability birth or other status. Children are to all forms of discriminations, and punishment, Must be protected. Article 24 states that, "the rights of children must be recognized in highest engagement, standard of health treatment of illness and rehabilitation of heals. Mothers must be taken to pursue full implementation of rights by stats parties. Medical Assistance and health care should be facilitating on the development of primary care to diminish infant and child mortality". [39] In 1979 the United Nations declared about the right of children. The first draft which is legally binding document has been promulgated. However, this draft is binding, it is constantly dynamic. "Moreover, vis-à-vis the state, parents bear primary education and other basic responsibilities are on the behalf of parents. If parents are not able to fulfill those obligations, it is legitimate for the state or society to intervene[40]". The effect of divorce, custody, and maintenance after divorce is very huge. Courts must pass Decisions based on the law. What are weak and unfair decisions rendered by Ethiopian Courts? These judgment and decisions shall have impacts especially, up on the life of child/ Children and mothers. What the best interests are of shilled/children must be considered by The courts? What are the remedies for those decisions render by court. This senior research Paper shall focus on the cause of divorce, which affects the life of spouses and chilled/children, and the legal practice of the law. Those problems are "economic, social, physiological and other,. But the basic issue must be settled regarding to maintenance and custody" In this case the issue gone be to the Court. Practically in Ethiopian court's decision are unfair, injustice and without uniformity. Mostly courts' have decided regarding to Custody and maintenance based on equity rather Than justice

[38] UN General Assembly Resolution of Article 22, November 1998
[39] 10 UN General Assembly Resolution of Article 22, November 1998
[40] ibid article 44/25

and accordance with stated in deferent provisions. “These circumstances highly Affect the life of children and mothers. And it has also negative consequence upon their life and to the society.[41]

3.2. The right of child Ethiopian laws

Every child has the right: (a) To life; (b) To a name and nationality; (c) To know and be cared for by his or her parents or legal guardians; (d)Not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health and to mentening any harmful practice.[42] The current family law in Ethiopia provides that there must be, inter alia, consent by both spouses to constitute a valid marriage (Article 6); respect and support between spouses (Article 49); equal rights in the management of the family (Article 50); fidelity owed by both husband and wife (Article 56)

The Ethiopian Government has welcomed the global study on violence against children and

is pleased to make its contribution through the submission of this report. The report is

Prepared by way of giving response to the questionnaire designed to obtain information

From governments for the UN Secretary General’s global study on violence against

Children. The report follows the format of the questionnaire and attempts to give a

Comprehensive overview of the existing legal and policy framework in the country as well

As the institutional mechanisms and interventions related to violence against children.

The first part of the report highlights the legal framework related to violence against

Children. The welfare of children is a priority concern for the Ethiopian Government. The

[41] convention on the Rights of children November, 1998 Paragraph 4, Article 44/25
[42]AM9HkKkBwhwG7kfK54PAs_FyE6GdWnjY4w:1698299558584&q=What+are+the+rights+of+children+in+Ethiopia

Ratification of important international and regional instruments like the UN Convention on

The Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child,

And the ILO Convention on the Worst Forms of Labor is an expression of this commitment.

Going beyond the acceptance of international and regional standards, there are ongoing

Efforts by the government to ensure national laws; policies and practices conform to the

International standards.

3.2.1. The right of child under FDRE constitution

Contained deliberately the universal declaration of human right UDHR, International

Covenants on human rights and other International Instruments. Article 34 (3) of UDHR stated that "The family is the natural and fundamental unit of society and is entitled to protect by the society and the state, as stated in this article family is a basic place to build strong and developed society.[43] Some time in different problems family may be broken or dissolution shall happen. FDRE constitution Art 34(1) of the constitution explicitly stated that "laws shall be enacted to insure the protection of right and interests of child/children after divorce.[44]

In addition to this FDRE constitution stated that, in the consistency of the international

Instruments. Article (34)2 clearly stated that "in all actions concerning child/children

[43] 3 convention on the Rights of children November, 1998 Paragraph 4, Article 44/
[44] 5 ibid 34/2

Under taken by public and private institutions; courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interest of child".[45]

3.2.2. The right to child under the civil code of Ethiopia

All children are entitled to a name and a nationality from birth. It is necessary for their best interests or welfare Children are entitled to basic nutrition, shelter, and health services. The Concept of Childhood under Ethiopian Laws The term "child" is not specifically defend under Ethiopian law. Instead, Ethiopian laws make use of such terms as "minors", "infant". "Young workers" or "young persons" of the Revised Family Code deals with minors. The Ethiopian civil Code defines a "minor" as a person of either sex who has not attained the full age of eighteen years old. Based on the Revised Family Code and Family Codes adopted by other Regional States in Ethiopia, it is possible to assert that the general age of majority in the country is 18 years. Pursuant to the provisions of article 1 of the Civil Code of 1960, a child as a human person is entitled to exercise basic freedoms. The right of the child to parental care and legal protection is sufficiently covered by the Civil Code.

2.2.3. The right of child under FDRE family law

The 2000(E.C) Revised Family Code of FDRE (RFC),This FDRE revised family code of 2000 (G.C.) in acted in the preamble stated the notion of: "Giving priority to the wellbeing, up bringing and protection of child/children in accordance with the constitution and other international instruments, which Ethiopia has ratified"[46] Article 13, says to facilitate the

Amendment of the Z-law when disputes arise in families to give fair and justice

Decisions in Ethiopian courts. Custody and maintenance has been addressed that, "the

[45] The 2005 FDRE Criminal Code Article 658/a
[46] 17 The 2000 FDRE G.C Revised Family law Article 13

Court when deciding the dissolution of marriage shall also decide as to which spouse

Shall have custody and care of their child/ children including education, health,

Maintenance and also the rights of the parents is deserved to visit their chilled/

Children each anther, but when giving decisions the court shall take into account the

Income, health condition of living of the spouses and the age and the best/ interest of the child/children.[47]

2.2.4. The right of the child under FDRE criminal code

The 2005(E.C) FDRE Criminal Code Proclamation 414/2004 that has been promulgated in the federal Negarit-Gazeta, May 09, 2005(E.C) stated that, custody and maintenance of chilled/children. The cod explain what punish those who fail fulfilling their obligation. FDRE constitution Article (34)2, clearly explained "In all actions concerning children under taken by public and private well force institutions. Courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interest of a child"[48] This stated in the criminal code of FDRE Article 658(a) accordingly. This punishment is able to start from simple impressments exuding six months. "And also those parents who are not performed their responsibility upbringing their children would be with Punishes"[49]. This punishment can be from simple impressments to or fine. If the case May be very serious of depriving the right of a chilled/children the court can punished According to the very case,

3.3. The right of child regional laws in Ethiopia

Ethiopian constitution established on the based of ethnic group and different regional

[47] ibid Article13
[48] ibid
[49]bid

And sub-divide nations, nationalities and people aggregations. This situation constitutes
Such kind of federal system based on language and ethnic arrangement of federal
System. These circumstances created federal and regional states in Ethiopian
Territories. Federal judicial system has promulgated family code with its collect (RFC).
And also, regional states have their own family codes. The existence of these kinds of
Laws shows that the commitment of the government bodies to worked for the
Protection of marriage. "Women and child/children right also has the activity tries to protect dissolution of marriage and divorce.[50] Based on this concept, I preferred
Some Regional States family laws.

3.3.1. The 2003(G.C) Draft of Oromia Regional State Family Law

This law has included the custody and maintenance provisions. It stated in Article 129
Bought custody. It gives guide line to the courts to interpret and decide on custody of chilled/children. And also this law mentioned the critical custody years of chilled. It
Declares that any chilled/children, who are under the age of five years old, must be
Kept and treated by his mother. However some time conditions that is very essential for the very interest of a chilled must be evaluated and decided by the court. In this code on Article 2 stated that, "The court shall take into account the age and best interest of the chilled "And also this law is obliged the creditor to pay maintenance for the bficiary Art 209" [51]

[50] The 2005 G.C FDRE Criminal cod Article 658
[51] The 2003 G.C The Oromia Regional State Draft Family Law Article 129

3.3.2. THE 20039(G.C) Amhara Regional State Family Law (Zikre-Hig)

In 2003 of June the Amhara regional state family law is promulgated. In proclamation
No 79/2003 Article 124(1) and (2) stated that the best interest of child/children that are
Very similar with the federal revised family code. The federal revised family code has
Extensive consideration of living standards of the parents, health and age. But the 1960
civil code has very essential point that the mother to have custody on the issue of "tender year is circumstance that forces the court to reverse its decision, the court is obliged to entitled the mother to have custody over the child/children who are under the age of five years and must be under her custody until they reach the above mentioned age"[52] Children less than six years of age must be kept by their mother because in this age they need their mother love more than the other age. The revised federal family cod has suspended the 1960 civil cod of that is entitled "Tender years "presumption. The Amhara regional state law has not neglect the 1960 civil code Art 3 which is very significant provision. It is also very important "to protect and keep watch the best interest of the child / children"[53] The 2003 (G.C) the federal revised family cod also stated provision of maintenance Art 209-210 (a) "any responsible person who is liable to give maintenance to the creditor. The provision of maintenance must be use full to the treatment of the creditor, for food Clothing, shelter, education and medication according to the social and customary condition of the society.[54]

3.3.3 The 1991 (E.C.) Regional State of Tigray Family Law

[52] The 2003 G.C Amhara Regional State Family Law Article 124 1,2,
[53] The 1960 G.C. Civil code Article 13
[54] The 20039(d.C)FDRE Revised Family Code Article 209.210/a

Proclamation No33/91“Negarit-Gazeta Tigray” .Proclamation No 33/91 “Negarit-Gazeta Tigray” Family Law. Article, 111 States that “in the best interest of the chilled /children and to create the circumstances of up growing decision of custody is very essential issue”[55] In addition to this the law Mentioned that the provisions of maintenance as the obligation of the creditor. “The Beneficiary has the right to get the basic necessity. The creditor also has the responsibility to give maintenance according to article 111”. According to Article 111[56] “the best interest of a chilled /children to create better circumstances of up growing decision custody is very important issue”[57] Also in this family cod the mother has authorized and entitled in the tender years of her chilled, and she has also the right of custody on her child. Beside to this, the law mentions that

the provision of maintenance is the obligation of the creditor. “The beneficiary has the right to get the basic necessities from the creditor and also, has the responsibility to give maintenance according to the law.[58] This code has similarity with the Federal Revised Family Code. But it has no the tender year presumption that is not included in the Federal Revised Family

[55] The 1991E>C Regional State of Tigrai Law Article 111/a
[56] ibid Article 111/b
[57] ibid Article 112
[58] The 1991 (EC) Regional State of Tigrai Law Proclamation No 33/9

Chapter four

4. Comparing the effect of divorce and the right of child

When we see the effect divorce it is so numerious the first effect of divorce vis- a-vis the right of children under ethiopian law violation of the right of children four general principles recognized under international convention of children right.each child shall enjoy the right set out in the convention without discrimination, the second effect is the right of children under ethiopian law at the time of divorce on children exposal to prostitution ,streetism,jevenice and delanancy. The third effect is has the main serious psychological , economical, social and cultural problem, this means it has its own negative effect up on the child and the spouse in relation to the society - thier children consider them self as inferior to other and they suffer emotional and psychological pain. The fourth effect of divorce on children is it affect on educational achivement . They are not equally participate with other children and not attend the class appropriately, thier moral of education is diminished by the effect of thier family divorce.

Young children may react to divorce by becoming more aggressive and uncooperative or by withdrawing. Older children may feel deep sadness and loss. Their schoolwork may suffer,thier moral affected by family love and behavior problems are common.one out of every two marriages today ends in divorce and many divorcing families include children. Parents who are getting a divorce are frequently worried about the effect of the thier divorce will have effect on their children. During this difficult period, parents may be preoccupied with their own problems, but continue to be the most important people in their children's lives.[59]With care and attention, however, a family's strengths can be mobilized during a divorce, and children can be helped to deal constructively with the resolution of parental conflict. Talking with children about the cause of .a divorce is difficult. The following tips can help both the child and parents with the challenge and stress of these conversations:

Do not keep it a secret or wait until the last minute.

Tell your child together with your spouse if possible.

Keep things simple and straight-forward and don't share more information than your child is asking for.

Parents tell to thier children that the divorce is not their fault.

[59] Families_and_Youth/Facts_for_Families/FFF-Guide/Children-and-Divorce

-Admit that this will be sad and upsetting for everyone.

-Reassure your child that you both still love them and you will always be their parents.

-Do not discuss each other's faults or cause of the divorce with the child, because thier moral will be affect

-Parents should be alert to signs of distress in their child or children. Young children may react to divorce by becoming more aggressive and uncooperative or by withdrawing. Older children may feel deep sadness and loss. T.

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heir schoolwork may suffer and behavior problems are common. As teenagers and adults, children of divorce can have trouble with their own relationships and experience problems with self-esteem.

4.1. Duties of parents toward their children after divorce

It can be interpreted that the Marriage Law does not regulate sanctions that have coercive power regarding living money in divorce decisions, so that they can actually be implemented, because sanctions that have coercive power are in the domain of criminal law.Hereit can be concludedthatLawNumber1of1974 does not regulate criminal sanctions that can be imposed on parents (fathers) who do not carry out the decisions of the Religious Courts. With no such criminal sanctions regulated, there is no mechanism in the Marriage Law, which can be used to ensure that the decision of the Religious Courts that as a father paying a living, is actually implemented. Referring to the fact that the laws and regulations governing parental responsibility for children's rights after a punish and divorce have not fully provided legal protection, [60]This is inconsistent with the purpose of the law itself, as stated by Gustav Redbrick, namely to achieve justice, benefit, and certainty. This objective is closely related to making, both formally and materially, to the conduct of all legal acts, both by the legal entity concerned and by law enforcement officers formally empowered with

[60] https://www.government.nl/topics/family-law/question-and-answer/responsibility-for-my-children-if-i-get-divorced

the legal mandate to ensure its proper functioning. Legal Norms Applicable to Social and National Life. b. Structural Factor Judging from the aspect of the legal structure concerning law enforcement officers, the responsibility of parents after divorce in providing living for children Violations Related to Issues of Realizing Children's Rights. Thus, from the construction of Friedman's legal system, the implementation of parental responsibility for children's rights is not supervised at all by law enforcement, all phenomena and only rely on the awareness and morality of the parents alone. In a legal state system like the Indonesian state,

The vacuum of legal apparatus in supervising and providing certainty of the Court's decision, absolutely must be held, in order to keep the law running normally, Responds to the principle of legal certainty and can satisfy the principle of justice. c. Cultural Factor Cultural factors are also one of the factors that influence the ineffectiveness of Legal protection for children's rights after parents' divorce, because their legal awareness is low, they tend to not obey the rules. Legal culture is the totality of factors that determine how the legal system finds its logical place within the cultural framework of the general public. From the cultural aspect, especially parents as perpetrators of divorce, legal protection for children as victims of their parents' divorce contains values of protecting human dignity and respect for human rights in their implementation, therefore it is necessary to change attitudes and behavior patterns to can apply these values in the practice of parental responsibility to children after divorce in Indonesia. Changes and improvements from the cultural aspect can be done society(divorce actors),also through related institutions such as the Religious Courts, Office of Religious Affairs, Ministry of Women and Children Empowerment,[61] Ministry of Social Affairs and the Indonesian Child ProtectionCommissiontoprovidelegalprotectionforchildrenduetthe

[61] https://www.atlantis-press.com/proceedings/icleh

divorce of their parents. Changes in legal culture also need to be supported by improvements in terms of structure and legal substance

4.2. Duties of government in implementing child right

In the national setting, the issue of violence against children is addressed by various laws, policies and programs. First and foremost, the supreme law of the land, which is the Federal Constitution, provides a sound framework for the protection and promotion of the rights of children. In addition to domesticating international instruments which Ethiopia has ratified, the Constitution contains key articles for the pursuit of the rights of the child. Particularly, article 36 of this Constitution replicates many of the rights in the CRC. There are many subordinate laws that deal with the different aspects of violence against children. The Family law, the Penal law, the Criminal Procedure law and the Labor law are the notable ones.[62] All of these laws have gone through some revision recently, with the principal objective of making them consonant with progressive standards and constitutional principles. The old family law that had been in operation in the country since 1960 is being replace by a new one in many regions (member states) of the Ethiopian Federal Democratic Republic. The family law that was proclaimed in 2000 by the federal parliament to be enforceable in the administrative cities of Addis Ababa and Diredawa has served as a model for the other regional family laws.

The family law contains many provisions, which attempt to ensure that children are not let without guardians and tutors as well as which require guardians and tutors to ensure the wellbeing and physical and intellectual development of children entrusted to them. Similarly, the penal law was revised and the new law that was adopted by the national parliament on July 2nd will come into force after it is officiated through formal publication.

[62] 1Maidin Gultom, Perlindungan Hukum Terhadap Anak dan Perempuan, Refika Aditama, Bandung, 20

The issue of violence against children (VAC) is widely dealt with in this law. One cannot also fail to 2004 mention the labor law that has relevance to the major issue of child labor. Besides these written and modern laws, there are various customary norms operating in the country.[63] Legally, customary norms are allowed to operate in so far as they don't come in conflict with constitutional principles. Article 34(5) of the Constitution recognizes adjudication of disputes relating to personal or family matters in accordance with customary or religious laws on condition that both parties to such disputes have given their consent.

4.3. Children right after divorce

The full list of rights for children and young people under the age of 18 is set out in the United Nations Convention on the Rights of the Child, the most accepted standard on children's rights in the world. Ireland committed to promote children's rights when it signed up to the Convention in 1992.Children's rights include the right to health, education, family life, play and recreation, an adequate standard of living and to be protected from abuse and harm. Children's rights cover their developmental and age-appropriate needs that change over time as a child grows up. On-discrimination means that all children have the same right to develop their potential in all situations and at all times. For example, every child should have equal access to education regardless of the child's gender, race, ethnicity, nationality, religion, disability, parentage, sexual orientation or other status the best interests of the child must be "a primary consideration" in all actions and decisions concerning a child, and must be used to resolve conflicts between different rights. For example, when making national budgetary decisions affecting children, Government must consider how cuts will impact on the best interests of the child the right to survival and development underscores the vital importance of ensuring access to basic and to equality of opportunity for children to achieve their

[63] https://www.unicef.org/child-rights-convention/implementing-monitoring

full development. For example, a child with a disability should have effective access to education and health care to achieve services their full potential the views of the child mean that the voice of the child must be heard and respected in all matter concerning his or her rights. For example, those in power should consult with children before making decisions that will affect them. Read more about how the Children's Rights Alliance improves the lives of all children and young people by ensuring Ireland's laws, policies and services comply with the standards set out in the United Nations Convention on the Rights of the Child rights are fundamental freedoms and the inherent right of all human beings below the age of 18. This right applies to all children, irrespective of the background, race, color, parents/guardian, creed and gender. Children are innocent and of full hope. Children are trustworthy, naïve and hopeful. Their childhood should be filled with joy and love. To some children life is blissful because they live with joy. But for many children, the reality of childhood is altogether different. Children have the same right as adults in the society. Children are neither the property of their parents; they are human being and are the object of their own rights.

4.4. Problems in implementing child right in Ethiopia after divorce

Ethiopia in particular, children in urban areas experience difficulties because cities are generally not built with their "healthy, happy growth and development" in mind. In many developing countries, many urban parents and children bear the additional burdens of absolute poverty, insecurity of tenure, poor or nonexistent infrastructure, as well as inadequate and diminishing social, educational and health services (Blanc, 1994).Compared with the rural sector, the urban sector may appear economically privileged, but it conceals severe problems of resource distribution. Because of rapidly rising populations, the shortcomings of municipal management, and the deterioration of the social and physical environment, urban living is often extremely harsh and exploitative for young people and children. [64]

[64] http://etd.aau.edu.et/handle/123456789/30204

The feelings of marginalization of urban poor families are augmented by the striking contrasts with more affluent urban families. Current demographic indices show that, in Ethiopia, there is fertility level of 7.7 children per woman and the population grows at an estimated rate of 3.1 percent per year despite high infant mortality, maternal morbidity and low life expectancy at birth. [65]The population age structure is usually pyramidal in shape with children occupying the broad base. The proportion of children below the age of 15 has retrospectively been 33% in 1961, 46.5% in 1987, and 48.56% in 1994showing an increase in the trend (Almaz and Gobena, 1994). This is also true for Addis Ababa, which comprises 37.74 percent of the country's total urban inhabitants, children making almost half of its population with an annual growth rate of 4.3 percent (CSA cited in Getachew, 1994).This article is extracted from a research report entitled "Child abuse management and age determination for young offenders in Addis Ababa" (Getnet, 2000). I have also included two case studies (physical abuse) from my previous work on "Family violence aganst children in Addis Ababa" (Getnet et al, 1999) which I conducted along with my colleagues: Danial Tefera and Elias Nasir. I should take this opportunity to express my sincere gratitude to Danial and Elias.2About 60% of the dwellers of Addis Ababa live below poverty line and mother headed families prevail in one third to half of the city's population (UN-EPPG cited in Getachew, 1994). Hence, this preponderance of young population and the widespread poverty as well as disruptions of families could potentially mark the possible existence and high incidence or prevalence of abuses and other child related problems in the count.[66] In most of the time Ethiopia many implementation problems the right children the time of divorce.

As the study shows, negative social construct of children, culturally embedded decisions and practices, poverty and deprivation, gaps in legislative frameworks, lack of resources, coordination, and commitment among responsible actors are identified as major challenges that impede the enforcement of child rights system. The findings from the reviewed studies revealed that attitudinal barriers, skill/knowledge barrier, inflexibility of curriculum, policies barriers, economic barrier, and physical/ infrastructural barriers are the major hindrances to implement inclusive education in Ethiopia. Furthermore, lack of skills, knowledge, negative attitude, and discrimination based on prejudices, ethnocentrism, politics, and religion were the main challenges.

[65] http://www.repository.smuc.edu.et/bitstream/123456789/507/1/ABEBE%20TSEHAY
[66] In Ethiopian law, excessive punishment amounting to abuse is a criminal offense. Article 626 (2) of the penal code of 1957 condemn the act of inflicting on the child "injury whether foreseen or calculated,

Chapter five

5. Conclusion and recommendation

5.1. Conclusion

Divorce, though may have some positive effects especially on the divorcees in particular and other members of human society (especially members of the family) in general, its negative effects on children out numbers the positive effects. The society can be better if divorce can be eradicated or reduced to bearest minimum.

Problems and effects of divorce in Ethiopia have many negative consequences upon the society. Especially Women and children are the victims of divorce to a large extent. In most cases, Ethiopian courts have not been international instruments. The Ethiopian judicial system's current practice especially in the lower courts is not efficient. Usually, judges not render fair decisions and also different regional state laws are very difficult to implement in the daily basis of courts duties. State laws in FDRE constitution, human rights, women rights, child/children's rights are enshrined in international standard. But in Ethiopian courts the implementation is very poor. In addition to this, the FRFC federal revised family code has its own shortcomings.

It opens for spouses to be divorced without any legal restrictions. Whenever one of the spouse claims divorce there is no obligation to give maintenance to the other spouse. The other controversial issue in Ethiopian courts is the claims of custody and maintenance between spouses as well as to their child/children. After the end of their marriage it is also stated in different federal and regional states laws. Besides, it is enshrined in international instruments. The other interesting issue is the law of the best interest of the child. Ethiopia's lower courts are mostly rendering decisions regarding to the best interest of the child and their final decisions are very significant to improve the law in related to family codes and laws. Therefore, there is big professional capability vacuum between the lower and the above courts of Ethiopia. The other problem concerning the best inters of the child in the lower counts is that they don't have reference for different national regional state laws and other international instruments such as human rights, women and child/children's rights. Court decisions in the lower courts depend on Equity rather than based on the written low. Besides, they don't infer many related and essential printed materials that are very significant to fair decision making. To sum up, Judges at any level must be trained especial related to their day to day activities. The Family cases must give more consideration.

The other issue is dutie of parents towareds thier children after divorce, parents shall be respect thier child and vaiolence of children right adderessed by various law ,the first on is the suprime law of the land that protect the right of children from different violence. In addition to domesficating international instrument which Ethiopia has ratified , the constitution contain kay article for the pursuit of the right of child.on the other hand thier is the right of children after divorce, children have the same right as adult in the society. Children are neither the property of parent , they are human being and are the object of thier own right.

5.2. RECOMMENDATION

Based on read in the form of primary and secondary data are suggested to reduce the effect of divorce and protect the right of children.

From my study is that even though divorce have their own effect on children the spouse and the government should give special consideration for this topic, since divorce have effect on children. It may better to conduct research in detail on this topic by using my study as a base or by using my study itself to cause of divorce.

The main causes of divorce are; lack of commitment, financial challenge, and infidelity. If so the spouse should give for the cause the cause stated above to exist with them in order to protect the right of their children and the effect behind that.

In order to reduce the effect of divorce on children in Ethiopia; the spouse should solve the gap between them, share their idea, work together respect each other, and the government should protect the right of children specially the supreme law of the land should protect the right of children by communicated with the spouse.in generally

upset or trauma, but they have the advantage of being from conflict and hostility" (2014:195). 1. Marriage is the center of community to elimination of Divorce: The first recommendation on stopping negative effects of divorce on children is to eradicate divorce in its totality. Parents should learn to stay within the ambit of their marriage bond peacefully and nurture their children within it accordingly.
2. Adequate Provision to carter for children's welfare: Where eradication of divorce is not possible, parents should make adequate plans to take care of the psychological, emotional and economic needs of their children. Plans for the education of the children should be adequately made to avoid the

children from becoming drop-outs in school. This should also include plans for other financial needs of the children.

3. Affirmation of Parental Love: Parents (whether as single parent or not) should constantly affirm their love to their children. It may mean, the children spending quality time with both parents (though both are residing separately).

4. Proper Education on the need for successful marital life: Children from broken homes should be given proper education as to the need of having a proper and successful marriage devoid of divorce. This will help them not to see divorce as an option but an abnormally to be avoided.

References

Abebe, T. (2008). Ethiopian childhoods: A Case study of the lives of orphans and working children, Published PhD Thesis, Norwegian University of sciences and Technology.

Americans Psychological Association (APA) 6th edition of the publication Manual.

Brotherson, S. E. & Duncan, W. C. (2004). Rebinding the ties that bind: Government efforts to preserve and promote marriage, Family relations, 53 (5), 459-468.

Clarke-Stewart, A. & Brentano, C. (2006). Divorce Causes and Consequences. USA: Yale university press.

DeBord, K. (1997). Focus on kids: The Effects of Divorce on Children. North Carolina.

Federal Democratic Republic of Ethiopia Revised Family Code (2000).

Furstenberg, F.F, Kierman & Kierman, E.K (2001). Delay parental Divorce: How much do children benefit? Journal of marriage and Family.

Haugen, Gray Mette D. (2001). Divorced, but still a family? Children's Perspectives. Norway.

SAGE Publications. Joan Littlefield Cook, Child Development 2005, p.483.

Olsen, H.D, Defran, J. (2000) Marriage and the family diversity and strength 3rd edition, my filed publishing company.

Rahel Demeke,(1992). Divorce and its effects on Society unpublished Senior Essay.

Serkalem Bekele, (2006). Divorce: its consequence on women and children MSW thesis,

Sisay Haile, (1997) The Effect of Parental Divorce on psychological and adjustment of Adolescents. Tilson, D., & Larsen, U (2000). Divorce in Ethiopia: the Impact of Early Marriage and childlessness. Journal of biosocial science, 32 (30), 355- 372.

United Nations Convention on the Rights of the Child (1989). General

Assembly Resolution 44/25. United Nations (UN). (1989). the Convention on the Rights of the Child. Wayne Matthews (2011). Long-Term Effects of Divorce on Children. North Carolina State University. Webster’s 3rd International new edition dictionary of the English language (p.2595 G.&C. Merriam company publishers, Massachusetts; U.S.A.
Zenaye Tadesse, (2008).