

COMMENT

Proposed Amendments to the Federal Civil Servants Proclamation No. 1064/2017 from Gender and Child Rights Perspective

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Abstract

The amendment of the Federal Civil Servants Proclamation No.1064/2017 is a good opportunity to address gender equity-related matters between civil service employees. The amendment is expected to contribute to maternal and child health issues through adequate maternity/paternity leave, to keeping workforce safety through mitigating workplace gender-based violence (GBV) in the required manner and towards ensuring that affirmative measure privileges of women are applicable throughout the employment, promotion, and capacity building processes and procedures. Limitations in the Ethiopian Federal Civil Servants Proclamation No.1064/2017 in relation to the duration and the type of maternity/paternity leave during birth and miscarriage of pregnancy, and with regard to adoptive parents/guardians are addressed in this comment. Moreover, the application of childcare facility in public institutions, addressing workplace GBV (gender-based violence) in an inclusive manner, ensuring employment, on-the-job trainings and educational opportunities in public institutions are aligned with affirmative measures (that women are entitled to) are addressed. Thus, bridging these gaps in the process of amending the Proclamation is believed to result in gender and child rights inclusive public serving space.

Keywords

Civil service, affirmative measures, maternity/paternity leave, child rights, Ethiopia

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1. Introduction

Ethiopia's civil service workforce has around three million (3 million) employees. This human resource pool needs to be backed by feasible and conducive policies, legislations, structures, plans and strategies that nurture equity, inclusiveness, efficiency and effectiveness of the public service. When the public serving arena becomes fair, the workforce feels equally treated regardless of their gender, age, ethnic background, health, economic, political and social status. Thus, setting in place gender sensitive and responsive system that would in turn contribute to early childhood development is very essential within the public service space since it has impact on the endeavors towards bringing gender equity.

The Ethiopian Federal Civil Servants Proclamation No.1064/2017 is in the process of amendment to make timely adjustments mainly with the aim of achieving effective, efficient and merit-based public servant selection, recruitment and productivity. This amendment process is expected to properly consider the issue of maintaining the heterogeneity and addressing the inclusivity of the public service pool in terms of ethnic diversity, gender, age category and bringing on board people with disability to the public service space.

The amendment is also believed to result in a fair, responsible, efficient, ethical, and transparent civil service. As the public service space comprises huge pool of workforce, it is very important to ensure its meaningful productivity, to ensure that fair, non-discriminatory and safe playing field, system is availed for the workforce especially for those who are regarded as marginalized such as women, the youth and persons with disability. Hence, this amendment needs to create friendly space relating to gender, youth and

people with disability. It is vital to consider unique needs of these groups of public servants.

Adjusting the duration of maternity/paternity leave, addressing maternal and child health and miscarriage of pregnancy are among the issues that deserve attention. Hence, the extension of the duration of the existing one hundred twenty (120) days paid maternity leave to one hundred eighty (180) days is recommended. This has direct impact on proper breast feeding, early childhood cognitive, physical and emotional wellbeing and long-term impact on the country's development.

Moreover, the inclusion of paid leave for adopting parents/guardians needs due attention in the amendment because they need a legally recognized leave to provide proper nurturing to adopted infant babies. Imposing childcare system in public institutions must be backed by legislation and hence, this amendment should guide the necessity of having childcare system in public institutions. Furthermore, in this amendment, workplace GBV should be addressed in a holistic manner so that public institutions can establish a system through which preventive and response interventions against GBV are made possible and sustained.

2. The Need to Incorporate Comprehensive Definition of Workplace Gender-Based Violence (GBV)

Ethiopia's laws and instruments that are adopted at regional and global level, forbid any form of workplace harassment, sexual exploitation and abuse (SEA) and human trafficking as major human rights violations. Ethiopian Labor Proclamation No. 1156/2019 prohibits sexual harassment or sexual violence, physically abusing anyone in a workplace and coercing a worker in any manner to work or discharge an obligation in a workplace, whether such acts are perpetrated by the employee or the employer.¹

According to this proclamation, an employee who commits sexual harassment or sexual violence at a workplace may be dismissed without notice. In the same manner, an employee who resigned due to sexual

Acronyms:

BoWCSA	Bureau of Women, Children & Social Affairs
GBV	Gender-based violence
FDRE	Federal Democratic Republic of Ethiopia
MoWCY	Ministry of Women, Children & Youth
SEA	Sexual exploitation and abuse

¹ Ethiopian Labor Proclamation No. 1156/2019

harassment or sexual violence committed on the employee by the employer or managerial employee will be entitled to severance payment.² Most importantly, the Federal Democratic Republic of Ethiopia (FDRE) Criminal Code criminalizes any form of harassment, sexual exploitation and abuse (SEA) and human trafficking regardless of the place where they are committed.³

Yet, the two proclamations provide narrow definitions for GBV and their limited scope only covers workplace sexual harassment. On the other hand, even if the Criminal Law of Ethiopia does not provide comprehensive definition of GBV, we can find inclusive definition of it in the regional and international laws which the country has adopted. Furthermore, taking into consideration the gap in the Criminal Law, the Draft Ethiopian Policy for the Prevention of and Response to GBV (2022) includes the following comprehensive definition of GBV: -

‘Gender-based-violence is any act of gender-based-violence that causes or is likely to cause physical, sexual or psychological harm or suffering to women and men, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in peace or wartime and in public or private life.’⁴

In this aspect our laws that govern employer employee relationships should not be different in putting comprehensive definition of GBV. Thus, it is proposed that the amendment of the Federal Civil Servants Proclamation should provide due attention to workplace GBV to protect the workforce especially women against whom GBV is prevalent in their working environment.

Incorporating clear definition of GBV in legislations governing civil servants would also guide public institutions to set in place strong internal policies, systems, structures, plans and strategies that meaningfully prevent and respond to any form of GBV occurring in the work ecosystem. As it is mentioned above, realizing this would highly protect and benefit women public servants, enhances their workplace safety, maintains their physical, emotional, psychological, social and economic health and wellbeing and boost their productivity that in turn contributes to the country’s economic development.

Public serving platforms which embrace a significant number of workforce should provide due attention to GBV and treat it in holistic manner. In this

² Ibid

³ Criminal Code of the Federal Democratic Republic of Ethiopia, May 2005

⁴ Draft Ethiopian Policy for the Prevention of and Response to GBV (2022)

regard, the amendment of the Ethiopian Civil Servants Proclamation No. 1064/2017 needs to go beyond addressing workplace sexual harassment and it can incorporate a comprehensive definition of GBV that aligns with the above-mentioned legislations of the country.

3. Alignment of Employment, Promotion, Trainings and Educational Opportunities with Affirmative Measures

Women have the right to affirmative action under Article 35(3) of the Federal Democratic Republic of Ethiopia (FDRE) Constitution. It provides: “The historical legacy of inequality and discrimination suffered by women in Ethiopia considered, women, in order to remedy this legacy, are entitled to affirmative measures.” The purpose of such measures shall be to provide special attention to women and enable them to compete and participate on the bases of equality with men in political, social and economic life as well as in public and private institutions.”⁵

The provisions of the existing Civil Servants Proclamation which deal with employees’ employment, promotion, on-the-job training and educational opportunities are too general; and should be amended in a manner that clearly expresses the affirmative action rights which are specific to women. This would give clear guidance on how public institutions should align any employment, promotion, on-the-job training and educational opportunities with the specific needs of women and direct them to critically apply gender sensitive and responsive plans and measures in an informed manner. Express (rather than implied) recognition of the rights of women to enjoy affirmative measure in employment, promotion, on-the-job training and educational opportunities availed by public institutions would positively influence institutional policies, directives, regulations, structures, strategies, plans and executions which enhance gender equity and equality.

4. The Need to Increase the Maternity/Paternity Leave Duration

Article 35(a)(b) of the FDRE Constitution ensures the right of women to be provided with maternity leave with full pay. The health of the mother and the wellbeing of the child and family are the justifications considered to provide women with maternity leave. Since the amendment of the Ethiopian Labour Proclamation in 2019, the previous duration of paid maternity leave of 90 (ninety) days has been extended to one hundred twenty (120) days. Article 88

⁵ The Federal Democratic Republic of Ethiopia Constitution Proclamation No 1/1995

of the Labour Proclamation (Proclamation No, 1156/2019 allows 30 consecutive days of pre-natal maternity leave and 90 days of post-natal maternity leave. Moreover, Article 81(2) of the Labour Proclamation deserves appreciation because it grants three (3) days paid *paternity leave* for employees in the private sector and public enterprises (where the Proclamation is applicable).

The length of maternity leave has direct correlation with the health benefits to a breastfeeding mother and to infant babies.⁶ The American Academy of Pediatrics, the World Health Organization (WHO) and the Centers for Disease Control and Prevention propose that breastfeeding should start within the first hour of birth and continue without the introduction of other foods for the first six months of life. These institutions also call for society and workplace supportive policies for breastfeeding mothers so that they can be entitled to adequately-paid parental leave.⁷ The health benefits of breastfeeding to infants and lactating mothers is also well justified under the FDRE Constitution and hence maternity and paternity leave should be given due attention in this regard.

Infants who are duly breastfed for six (6) months will have very low chance of developing infections and any form of chronic illness. Lactating mothers will also have lower rates of cardiovascular illness, certain cancers and postpartum depression.⁸ Health professionals further state that the constructive relationship between increased maternity leave and duration of breastfeeding significantly decreases the risk of breastfeeding cessation prior to the recommended six months. The data depicts that returning to work within six weeks postpartum was associated with a 3.4-fold increased risk of breastfeeding cessation.⁹

In addition to the health benefits of breastfeeding, there are also economic gains in terms of minimizing the number of sick days for breastfeeding mothers and the number of missed workdays due to sick infants.¹⁰ It is also important to note that a country would economically benefit in the long term because well-fed and nurtured infants have higher probability to turn into

⁶ Breastfeeding Duration in U.S. Closely Linked With Length of Maternity Leave, March 15,2024; Available at: <https://consultqd.clevelandclinic.org/breastfeeding-duration-in-us-closely-linked-with-length-of-maternity-leave>

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ Ibid

productive adults who would meaningfully contribute to economic development.

With these justifications, it is proposed that, the 120 days paid maternity leave under the existing Federal Civil Servants Proclamation No.1064/2017 can be increased to one hundred eighty (180) days. This is because, setting in place a legislation and a system that properly recognizes the importance of adequate maternity and paternity leave duration is not only benefiting infants and lactating mothers but is also ultimately beneficial to the society at large.

5. The Need to Grant Adoptive Parents/Guardians Paid Maternity/Paternity Leave

Article 36(5) of the FDRE Constitution provides: “The state shall accord special protection to orphans and encourage the establishment of institution which ensure and promote their adoption and advance their welfare and education.”¹¹ Accordingly, Ethiopia used to implement inter-country adoption as a result of which orphaned children were adopted by legally recognized adoptive parents from different countries.

Significant number of entities working on orphaned children and care centers administered by civil society organizations as well as government had been operating to facilitate the inter-country adoption process. However, the Ethiopian government has banned international adoption in order to safeguard children from potential abuse by foreign adoptive parents who took the children far from their home country thereby making it difficult to follow up and monitor the status of the children.¹²

The Revised Ethiopian Family Code also embodies provisions that guarantee the protection for adopted children and govern the legal requirements of adoption. According to the Revised Family Code, adoption is recognized by the law, and it establishes parent-child legal relationship as a result of which the adopted child is for all intents and purposes, deemed to be the legal child of the adopter.¹³

The Ministry of Women, Children and Youth (MoWCY) has issued Directive No. 48/2020 on Foster Family and Domestic Adoption Services to govern the local adoption process. The Directive includes a legal requirement

¹¹ The Federal Democratic Republic of Ethiopia Constitution Proclamation No 1/1995

¹² Casey Quackenbush (2018), “Ethiopia Has Banned All Foreign Adoptions Amid Concerns Over Abuse”, *Time*, January 2018
Available at: <https://time.com/5098300/ethiopia-foreign-adoption-ban/>

¹³ The Revised Family Code of Ethiopia Proclamation No 213/ 2000

for adopting orphaned children by local citizens.¹⁴ In this aspect, this directive encourages domestic adoption so that orphans and vulnerable children should be provided with the chance to grow in a family environment.

In spite of the laws that encourage domestic adoption, adoptive parents who are working encounter legal challenges relating to accessing maternity and paternity leave from their employers. As a result of legislation gap that recognizes adoptive parents to benefit from paid leave, they are denied paid leave (by their employers). This challenge is an impediment to the proper care and nurturing of the infant babies they've adopted. Such leave will also assist the adopting parents/guardians to strengthen the bondage with the infant.

The local adoption annual reports (from 2019-2022) of the Addis Ababa City Administration Bureau of Women, Children and Social Affairs (BoWCSA) clearly reveals that the number of orphaned children who get adopting parents is rapidly increasing since the Bureau put greater effort to promote the service and made internal procedural improvements to facilitate the process. In the case of Addis Ababa BoWCSA, significant number of adopting parents have (after completing the adopting process), requested supportive letter from the Bureau so that their employers grant them paid leave. The performance of Oromiya region's BoWCSA is commendable in facilitating local adoption.

Adoptive parents should not encounter difficulties in being provided with paid leave for the exemplary decision they have made in adopting children and getting into a life-time commitment. They should rather be encouraged and be backed by legislations same as biological parents. Hence it is proposed that in the amendment of the Federal Civil Servants Proclamation No. 1064/2017, fulfilling the needs of adoptive parents to get paid maternity and paternity leave is very critical. Such entitlement mainly fulfils the best interests of the adopted children since they have the right to get proper protection and physical, emotional and psychological treatment from their adoptive parents.

According to the annual adoption reports of the Addis Ababa BoWCSA, more than ninety percent (90%) of the orphaned children who are transitioning in the orphanage centers of the Bureau namely "Kebebe Tsehay Orphanage Center" are found abandoned on the streets. It is the police who bring the infant babies (mostly days and months old) who are being exposed to insect biting, and other complicated physical injuries. Due to such exceptional situations of these orphaned children, adoptive parents need adequate duration

¹⁴ Foster Family and Domestic Adoption Service Directive 48/2020

to treat the adoptee children whose health conditions are in critical situation as stated above.

In the course of addressing the interests of adoptive parents and adopted children, the amendment of the Federal Civil Servants Proclamation should thus take this important improvement (relating to paid maternity/paternity leave) into account because it has multifaceted benefits in encouraging local adoption and rendering it effective. It is also important to note that due to the recurring war/conflict and displacement in Ethiopia, the number of orphaned children is increasing thereby making this move is very timely.

6. Providing Maternity Leave for Women Employees Who Encounter Miscarriage of Pregnancy

The Federal Civil Servants Proclamation No. 1064/2017 (under Article 42 Sub-articles 7 to 9) provides maternity leave for a civil servant who encounters miscarriage at the second and third trimester of pregnancy. However, this provision does not consider a miscarriage that occurs at the first trimester.

Miscarriage is a traumatic event which affects every woman differently, but can lead to grief, anxiety, depression and even symptoms of post-traumatic stress disorder (PTSD). Globally, about 12 to 15 percent of recognised pregnancies end in miscarriage. Studies suggest that after a miscarriage 30 to 50 % of women experience anxiety; and 10 to 15 % experience depression, typically lasting up to four months.¹⁵

Due to these realities, the Federal Civil Servants Proclamation should have given equal attention to miscarriages that happen at any stage of the pregnancy period. Thus, the amendment of this law is expected to take these issues into account, and provide maternity leave to women employees who encounter miscarriage of pregnancy including the first trimester of pregnancy.

7. Enforcing Child Care System in Public Institutions

According to the International Labor Organization (ILO), globally, women are burdened with accomplishing unpaid domestic chores and care works; and the equivalent estimation of the effort exerted by women globally on unpaid care and domestic work is around US \$ 11 trillion or around 9% of global GDP. This shows that women contribute 6.6 % compared to men which is

¹⁵ The International Federation of Gynecology and Obstetrics (FIGO), 4th International Conference on Gynecology, Obstetrics and Women's Health, 2024

2.4%.¹⁶ The unpaid domestic chores and care works include cleaning, cooking, childcare, caring for other family members, going to the market to purchase household consumption, water and wood fetching, caring for live stocks and so on.

In the Ethiopian context, due to the deep-rooted gender norms and stereotypes, unpaid domestic chores including childcare are mainly left for women. As a result, women in Ethiopia –whether they are employed workers or stay at home– are expected to manage domestic unpaid responsibilities.

Shouldering domestic unpaid responsibilities such as cooking, childcare, family care, cleaning and social responsibilities make women live in a stressed-out situation almost for most of the days. This situation gets even worse for women living in rural areas where there is poor infrastructure and house facilities that aggravate the burden of shouldering domestic chores with regard to women who are employed. These women in the workforce are overburdened to balance work-life situations.

Childcare is among the tasks that are regarded as the sole responsibilities of women in Ethiopia. In effect, working mothers live in a health threatening physical, emotional, psychological, social and economic situation as they have to choose between caring for their children especially infants and earning income from their jobs. This emanates from the innate gendered roles and divisions of labor in the society.

These heavy workloads hinder women from achieving in their education and productivity at work and due to these factors, women mostly miss training /education/ opportunities, employment, and promotion at work. They also drop out from the workforce and their education. This adversely affects women's opportunity for better income and lives, and keeps them financially dependent on men.¹⁷

In spite of these challenges, the Federal Civil Servants Proclamation No. 1064/2017 is silent about the required childcare system that should be available in public institutions. Since the level of payment in the public service is low, especially for women who are mostly in the lower positions, childcare system/day care in workplaces is vital to such women since they cannot afford to hire private nanny or use private day care centers. Making childcare service available at workplace not only has health benefits to infant children but also enhances the productivity of employees (both parents). Accordingly, the

¹⁶ Voices from Ethiopia: Exploring Gendered Experiences of Unpaid Care Work, August 1, 2023

¹⁷ Lessons Learned from the USAID Transform: Primary Health Care Activity May 2022

amendment can enforce the availability of childcare system/ day care in public institutions.

8. Concluding Remarks

Working ecosystems are required to be inclusive, healthy, equitable and protective for the workforce. They should safeguard the safety, dignity, and the human rights of the workforce. A society attains better development in all aspects when both genders are entitled to similar opportunities. Equal rights in decision making, health, politics, infrastructure, profession, etc will surely enhance societal advances in all spheres. Creating safe and protective working space that provides equitable treatment for both genders is thus indispensable. The impact of such working conditions goes beyond women, and is vital in early childhood development which constitutes the critical foundation towards the health, social harmony, competence, productivity and efficiency of the workforce.

Facilitating such working environment will promote gender equality, mitigate workplace gender-based violence (GBV) and gender-based discrimination, creates friendly working environment, and enhances the productivity of employees especially women. This also contributes to the health of mothers and infant children, and fulfills the rights of employees as granted by the relevant laws of Ethiopia.

Ethiopia is striving to achieve gender equality and promote maternal and infant health. To this end, there is the need for a gender sensitive and gender responsive working ecosystem that gives due attention to the working condition of women that is decisive in maternal health and early childhood development. Moreover, the amendment to the Civil Servants Proclamation and its enforcement is expected to facilitate working spaces that have an internal system that effectively and meaningfully prevents and responds to workplace human rights violations such as GBV. _____■

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