

Domestic Violence against Women, a study on Indian and Ethiopian Context:**Raveedran Nair, School of Law, Jimma University, Ethiopia****Sintayehu.Demekem, College of law and Governance, Jimma University, Ethiopia.**

Abstract: Violence against women is a form of gender discrimination prevailed in every country in the world. International treaties protect women's rights and dignity through various conventions and declarations. Even though there is rising awareness concerning women's rights, there is little progress in reducing the violence against women. The roots of violence against women lie in unequal power relations between men and women, leaving millions of them all over the world living in misery and pain. There are different forms of violence such as physical, mental, sexual, psychological etc. They are subjected to wide range of set up such as family, work place, community and in armed conflicts. Disparities of power, cultural norms that exists in each countries and economic inequalities deny women rights. The most common form of violence against women reported is intimate partner violence. In this study an attempt has been made to make a comparative legal analysis of Indian and Ethiopian context.

Methodology: the study draws evidence from available literature and reports. The main data sources are from Case studies of UN, and the case studies of different international organizations like W.H.O, U.N.F.P.A, World Bank Reports, reports of N.G.Os working on women's rights, constitution and statutes of India and Ethiopia.

Introduction***Violence against Women (VAW): Most Pervasive Form of Human Rights Violation***

"Violence against women stands in direct contradiction to the promise of the United Nations Charter to promote social progress and better Standards of life in larger freedom. The consequences go beyond the visible and immediate. Death, injury, medical costs and lost employment are but the tip of the iceberg. The impact on women and girls, their families, their communities and their societies in terms of shattered lives and livelihoods is beyond calculation. Far too often, crimes go unpunished, and perpetrators walk free. No country, no culture, no woman, young or old is immune"

(UN Secretary-General's Message on International Women's Day, 8 March 2009).

For particular purposes different scholars define violence against women in different ways. In this article the authors opted for the definition offered in the U.N. Declaration on the elimination of violence against women which states ``"violence against women" means any act of gender-based

violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”¹.

As can be grasped from the definitional provision in the declaration, violence against women (VAW) is a gender based violence which would result in physical and psychological harm to women. Such violence can happen either in public or private life and hence it follows that domestic violence which is the basic issue of emphasis in this article, is one form of gender based violence which occurs in private life.

Even if international bodies and laws are trying to promote dignity of women and protect their rights, violence against women persisting in all parts of the world irrespective of economic development. These violence amounts to discriminate them and also violate their rights as human beings ,leaving women in endless pain and fear. Worldwide Study conducted by the U.N. Secretary General revealed that violence against women(VAW) is unchanging continued, irrespective of caste and creed and boundaries of the nations². Hence it calls for effort by all nations to eradicate violence against women and advised the States to close the gap between State obligation and international norms, standard and policies and their inadequate and inconsistent implementation at the national levels. However States around the world are failing to meet the requirements of the international legal and policy frame work³. The U .N. Secretary General threw his attention to the fact that violence against women is not the result of random individual act of misconduct but rather is deeply rooted in the structural relationship of inequality between the men and women and hence the U. N. took VAW as a human right issue on the international agenda⁴. International and Regional policy instruments have clarified the objection on States to prevent, and eradicate violence against women and protect their rights as human beings. United Nations General Assembly (UNGA), in resolution 63/143 defines violence against women is “violence that is directed against a woman because she is a woman, or violence that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”⁵. The roots of the violence against women lie in unequal power relations between men and women. Disparities of power, cultural norms that exists in each countries and economic inequalities deny women human rights. Customs and cultural norms in society cause male control over women and subordination of women and sometimes factors of violence. Violence against women is not confined to a specific culture or region or country but it is wide spread. There are different forms of violence against women, physical, sexual, psychological and economic. Women are subjected to violence in a wide range of set up, such as

family, community, work places etc and it includes private and public spheres. As technologies developed new forms of violence generates such as internet and mobile stalking.

The most common form of violence against women reported is intimate partner violence. In addition to it, there are widespread harmful traditional practice including child marriage , female genital mutilation(FGM), trafficking women and girls, rape and sexual assault in armed conflict situations and violence against migrant women and in safe custody .The studies in this field reveals that due to the violence against women has far reaching results for women, their children, and the society as a whole. Women who experiences violence suffers a wide range of health problems and their ability to earn living and participate in public life also diminished, stops them from fulfilling their potential, restricts economic growth and undermines economic welfare⁶. States have clear obligations to address the violence against women .States are accountable to all their citizens and thus to women , and have a duty to prevent violence against women ,have a duty to investigate any such act of violence when they occur ,prosecute and punish the offenders and to provide redress to the victims. The U.N Secretary General in his study report criticizes that States worldwide are failing to implement in full the international standard on violence against women. So the result is when States fail, it encourages the perpetrators further abuses. Intimate partner violence is more prevalent in all countries .Intimate partner violence refers to behavior by an intimate partner or ex-partner that cause physical, sexual, or psychological harm including physical aggression,sexual coercion ,psychological abuse and controlling behavior. Even though the intimate partner violence prevails in all the countries around the world, at present we focus the study only on that of India and Ethiopia. Previous studies reports reveals that violence against women are prevalent in both the countries and the common form of violence is from intimate partner⁷.

Though different forms of violence against women are reported, the article here focuses only on domestic or intimate partner violence . One study conducted in Ethiopia shows that 71% of the women in Ethiopia reported physical or sexual violence by an intimate partner in their life time and most of the incidents are not reported⁸. The study reported that most of the women believe that their husbands have the right to beat or punish them⁹.Ethiopian penal code though incorporated penal provision against domestic violence ,it`s implementation is weak on various reasons and domestic violence still continues .But on the other hand in India specific penal provisions are included in Indian penal code itself for curbing the menace of violence against women generally. One of the main cause for domestic violence in India is dowry or *Sridhan*(money given to bridegroom at the time of marriage). To curtail this evil the Central Government brought an enactment in 1961 prohibiting the payment and reception of dowry and section 4 of

the said Act provided for punishing the perpetrators up to imprisonment of 5 years. The demand of dowry itself is made criminally liable under section 3 of the said Act¹⁰. But still there exist a practice of demanding dowry in the form of gifts. In case a newly wedded bride is harassed for obtaining more money from her family, section 498(A) is incorporated in the penal code of India with long duration of imprisonment¹¹ to book the wrong-doers. In any case the bride within seven years of marriage happened to die in connection with dowry demand, the husband or his relatives are penally liable under 304 (B) of the IPC (Indian Penal Code). Most of the dowry deaths in India are reported to be occurred in their matrimonial homes and nobody yet dared to come forward to adduce evidence against such incidence which helped the perpetrators of the crime to go unpunished. To overcome this hurdle the Indian Evidence Act was amended. The Indian evidence act requires corroboration of evidence, but An amendment is incorporated with section 113 of evidence act and inserted a new section 113(A) to draw presumption in favor of the prosecution¹². But some decades later a review revealed that domestic violence was yet a serious problem in the country and the Parliament came up with new legislation in 2005, the Protection of women from Domestic Violence Act. Now the legal service authority, under the chairmanship of the senior judge of the supreme court of India, is engaged in mass education against all kinds of violence against women¹³. Special women police cells are established in district head quarters all over India, to hear the complaints of women alone.

Historical Background in India

India is reputed world wide as a land of ancient civilization, cultural tradition and land of "ahimsa"(non-violence).The weapon of non-violence was successfully used against the British Colonizers in the struggle of independence. India has a great cultural tradition of respecting all the people including women. The prime religious belief(Hindus) is that the supreme being is *Purusha* and the (supreme power)whole universe or the Nature which is an inseparable part of this *Purusha*, is considered as woman¹⁴.Hence it is understandable that ancient Indian tradition respects women with equal status of men. The another Hindu religious book Manusmrithi says that "women in her childhood shall be protected by father, in youth by husband and old age by her sons, and in no way she shall be allowed to wander in search of food and shelter"¹⁵. Manusmruthi casts a duty on the men to protect the women throughout her life.

But as years passed people's attitude changed and ancient concepts were began to be violated and new practices were replaced. Larger sections of people are ignorant of the religious teachings because they are written in Sanskrit language which is not prominent in modern India .So many new

practices, which are discriminatory, are introduced by the heads of societies which were later interpreted in the name of the religion. New rules and customs were introduced later as the human societies increase in its size and it became imminent to have control over the mass and bring them in order. By the passage of time this became discriminatory and unequal. Ancient concepts were interpreted in a way discriminating the women from men and these interpretations were given the colour of the religion. Those who were ignorant of Religious ideals simply believed the people, who were considered to be the spokespersons of the Religion, and followed. Thus a *rite sati*¹⁶ was developed and observed in India. (It is a ritual, when husband dies, the wife shall immolate herself in the funeral pyre). In the nineteenth century simultaneously with Indian Independent struggle a movement of renaissance was also taken place against this kind of rituals and it caused to the abolishment by the then British Government¹⁷. Another practice that existed in the Indian Society was bigamy (two wives) and polygamy (more than two wives), but it continued for a very long time till the independence, and after Independence of India penal provision is made to tackle this practice. A separate section is incorporated in the penal code of India which made bigamy and polygamy as offences (494 IPC). During the nineteenth and twentieth century Indian women were sidelined to a great extent and they were subjected to discrimination due to social, economical and religious reasons. But we can see some exemptions also. Jhansi Rani, the then ruler of the kingdom Jhansi, took the leadership of the first Freedom Movement of India in 1857, though it was suppressed by the British Colonizers, her strong leadership and courage was admitted by all. India was under the British rule for more than two hundred years and colonization donated much for the discrimination of women in India¹⁸. Before the arrival of the Europeans India witnessed so many external aggressions, Alexandrian Emperor Alexander, Arabs and the Mughals, etc. The Mughals ruled India for seven hundred years and implemented quoranic law. The Muslim reign did not permit the Muslim women to appear in public place and which developed as a custom, and continued till the British East India Company took power.

The British invasion also caused to the development of a new culture in the country. With the western interruption, market became the key to money and business and ancient morals became a subsidiary. This caused to change the attitude towards the women which became one of main cause later for the ill-treatment of women. The Muslim and Christians believe in women subordination and their society treated women inferior to that of men. In the families of Muslim and Christians, priorities were given to men than women. In the case of intestate succession, Christian women were not entitled to rights over property of the deceased father or mother and the male heirs divide the landed property after the death of the Christian ancestors. In case of Indian Muslims, the women

were not completely exempted but equality in share of landed property was not given, and it is still continuing¹⁹. The Muslim woman is entitled only half of the share of the male heir. The Christians in India are governed by the Indian Succession Act, 1925, which provides equal shares for Christian females in their family property, but in practice, none of the Christian family gave shares to their daughters till 1985²⁰. In the year 1985 The Supreme Court of India rendered judgement in a case of an appeal from the State of Kerala, known as Mary Roy's case, that female of a Christian family is also entitled for equal share in intestate property and now it became law of the Land.²¹In Kerala, in erstwhile Travancore Area, there existed a rule that enabled the Hindu women to entitle more shares than that of men from the family property. If the female had children at the time of sharing then each such child was also entitled for an equal share to that of the lineal heir. This law was repealed by Hindu Succession Act²². In ancient India there was no practice of giving dowry, but some rich people began to give some money to their daughters at the time of their marriage as a sign of their proud and prestige. As years passed this became a practice and later as a ritual. When this became a social menace some social reformers and women movements took the issue for public discussion which warranted the attention by political parties and Government.

Hence the Indian Parliament made an amendment incorporating section 498(A) to the Indian Penal Code, which provides for an imprisonment of either description for 3 years and with fine and the offence is made non-bailable also. Some penal provisions are incorporated in the Dowry Prohibition Act also for tackling the perpetrators. Section 3 of the said Act provides for an imprisonment of two years for those who demanding dowry and Section 4 provides for imprisonment up to 5 years against the person who pays or receives dowry from the parents or relative of a bride²³. At the time of independence the country has to address the problem of the caste, untouchability, high rate of illiteracy and unemployment. Liberty, Equality and Freedom, considered being the basic rights of human beings are included in the beginning of the Constitution as Fundamental Rights. The Constitution made provision for reservation of jobs for the backward classes and for women with the object of uplifting them to the frontline of the Indian Society.²⁴ The introduction of the reservation in the Constitution caused the legislation of other enactments which created many new opportunities for women and backward classes in the Government sector which stimulated the growth and development of those section²⁵. Independent Judiciary was set up in India which is one of the main features of Indian Democracy which has even power to review the governmental decisions in case of any violation of law or arbitrariness in decision by the Government officials. Any violations of right or disparity can be called into question by way of writs either in High Courts or Supreme Court. In Independent era, the Democratic Governments made attempts to raise the

education level of all the people especially that of women which found to be in the progressing path. The primary education is made free to attract the poor parents to send their children to schools. There remained a custom of early marriage of the women which is a main hurdle in the way of education of girls and such practice is abolished by child marriage restraint Act. Another revolutionary steps towards the abolishment of child marriage was the enactment of, The Majority Act, which fixes 18 years as the minimum age for woman and 21 years for men for attaining majority and now it is amended as 18 for men for attaining majority for the purpose of adult franchise and for marriage it is 21 for men and 18 for girls, and any marriage entered into by persons below the prescribed age is null and void²⁶. Besides these legislations so many amendments are also brought in the Penal Code in the last few decades to protect women from inequalities and harassments.

All Laws reflects the cultures of the society and the country and the Indian system of laws traced its origin from the Hindu religious books, such as epics, Vedas, smritis. These religious preaching discloses that a man shall not touch the body of a woman with whom he has no marriage bond. Indian law is in tune with this belief. The law says that if a man touches the body of a woman without her consent, he is liable to be punished under section 354 of the Indian Penal Code which provides to undergo imprisonment of either description up to a period of 2years if proved in courts. If a man exposes any of his private parts to a woman who is not his wife, is said to commit an offence under section 509 of Indian Penal Code. For rape, the punishment provided under section 376 IPC was up to Life imprisonment. If a husband commits an act of rape on his wife, he is also liable for punishment. After the Delhi gang rape of a medical student in December 2012, and on the demands from various quarters, section 376 is amended and section 376(A) is incorporated to impose capital punishment to the offenders. The trial court imposed death penalty to four accused in the Delhi gang rape case. To address the domestic grievance of the women, much reformative legislation was made. Since 1973 there was no law to direct men especially father or husband to give maintenance to their wife and children or aged parents. In 1973 when the criminal code was amended and a provision is incorporated in the code to enable the wife and children to seek maintenance from the husband of the woman. The maximum amount claimed can be 500/- for each petitioner. And for changed circumstances more amounts can be claimed u/s 127 Cr.P.C.²⁷

Now the Family Court Act was made into force and the jurisdiction is passed on the Family Courts²⁸ empowering it to allow any amount according to the circumstances of each and every case and there is no ceiling of amount. Even after introducing more stringent provisions in the penal code there are reports of violence against women and also torturing of wives for extorting more dowries. There are reports of deaths due to violence and in such events the perpetrators are liable under

section 304(B). The Indian Evidence Act provides for the evidence of independent witnesses to convict an accused person. In dowry death cases it is difficult to get independent witnesses because most time dowry death occurs at night at the matrimonial home and there will be no chance of getting any independent witness. So to bring the accused to justice, an amendment to the Evidence Act was brought by adding a new Section 113(A) to the said Act, by which the court can draw presumption against the accused (husband and his relatives). Irrespective of all legislations brought to curb the domestic violence reports from all parts of the country reveals that it still existing. Hence in 2005, a comprehensive legislation was enacted as Protection of Women from Domestic Violence Act. This law is quasi-civil in nature and the Magistrate Court (Criminal Court) has given jurisdiction to entertain petitions.

The domestic violence is defined in the said Act as “Any act or omission or any conduct or commission of the respondent constitute domestic violence in case it,

a) Harms or injures or endangers the health, safety, life, limb or well-being whether mental or physical of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse.

b) Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any person related her to meet any unlawful demand for any dowry, or other property, or valuable security

c) Has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause “a” and “b”

d) Otherwise causes any harm to the aggrieved person whether physical or mental”.

This act covers wide ranges of matters such as physical, mental, health, emotional, economic and psychological and sexual for the purpose of domestic violence. Any act causes bodily pain, harm or danger to life or limb or endangers the health constitute domestic violence .Any act or conduct abuses or humiliates or degrades or otherwise degrade the dignity of a woman or insults ,ridicules ,name calling or insults or ridicule especially not having a child or male child are included as domestic violence. The deprivation of any economic or financial to which the aggrieved person is entitled under any law or customs or *sridhan*, joint property or property of her own etc. and disposal of any house-hold or alienation of any assets whether movables or immovable shares, securities or any other property held by the aggrieved jointly or severally ,and prohibition or

restriction continues to the resources or the facilities to which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship.

The Act itself took precaution against misusing of the provisions. Explanations 2 provides that for determining whether any act or omission or conduct or commission constitute domestic violence shall be determined by the overall facts and circumstances of each and every case. This Act empowers woman, who is not legally married and is cohabiting with a man, to seek any remedies provided in the said law. In all other Indian statutes only wives are entitled to claim relief against her husband and where in any Statute, the word 'wife' is mentioned, it is the duty of the petitioner- wife to establish that she is legally wedded with the respondent. Documents and evidence shall be produced to prove it. But in the prevention of domestic violence act any woman cohabiting with a man can seek remedy under the provisions of the said Act and the aggrieved party has to establish before the court that she has been cohabiting with the respondent²⁹. As per the provisions of other laws which are for time being in force, only the aggrieved person alone has the locus standi to approach the authority for seeking redressal in family matters. The Indian Criminal Code says, whoever sees any person committing an offence or has reason to believe that somebody has committed an offence can inform the police regarding the said commission of the offence and on receiving the information the officer in charge of the police station shall register a case and begin investigation.³⁰ But in the case of matters affecting the family can be registered only with the complaints of the aggrieved woman but The Prevention of Domestic Violence Act permits any person for and on behalf of the aggrieved woman to file a petition seeking redressal.

The Prevention of Domestic Violence Act provides various measures to the security of the victim. Section 18 of the Act empowers the Magistrate to issue a protection order prohibiting any act of domestic violence or abetting or aiding any act towards the commission of domestic violence or from entering in the place of employment of the petitioner or the aggrieved person or if the aggrieved person is a child its school or attempting to communicate in any form, whatsoever, with the aggrieved person or alienating any assets, operating any bank account used by both the parties or the respondent, causing any violence with any dependants or relatives of the aggrieved person or from committing any other acts mentioned in the order. Section 19 provides for granting residence order. If the Magistrate is satisfied that a domestic violence has taken place, he is empowered to grant an order restraining the respondent from disposing any property whether the respondent has any right or not or directing the respondent from removing himself from the household, restraining the respondent or his relative from entering into the portion of the household used by the aggrieved person. Section 20 of the said Act empowers the Magistrate to

award monetary reliefs .As per this section the Magistrates may order to the respondent to pay to the aggrieved person any amount towards the expenses incurred and the losses suffered by the aggrieved person and which may include the loss of earning, medical expenses, loss cause to the destruction, damage or removal of property from the control of the aggrieved person and the maintenance of the aggrieved person and the children. The amount granted must be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed with .In additional to other reliefs section 22 of the Act empowers the Magistrate to grant compensation and damages for the mental torture and emotional stress suffered by the aggrieved person by the act of domestic violence committed by the respondent. Section 23 provides to allow interim orders as and when the Magistrate considers it necessary. Any violation of the order under this Act is treated as an offence and is liable to punishment for imprisonment of one year. The offence under this Act is non-bailable and cognizable and is of serious in nature

Another specialty of this Act is that the sole testimony of the aggrieved can be considered by the Magistrate to conclude that the respondent has committed the offence of act of domestic violence. It is a deviation from the general rule from the evidence Act and criminal procedure code. This Act covers a wide range of issues affecting the women such as physical, mental psychological, economic and health etc. This legislation is implemented without repealing the provisions of the other Acts but is supplementing to them³¹. After the introduction of this act so many cases were filed in different Courts in India and women are getting adequate remedies also. The Governments at various levels made enough publicity to this law and it is made mandatory to make wide publicity to this enactment. More over provision is made in the Act to shift the the woman subjected to domestic violence to shelter homes in case of necessity. It is to be done only at the request of the woman subjected to violence. Even after the introduction of this legislation there prevails domestic violence in some forms which can be eradicated only by awareness programmes and proper implementation of the law. The other form of domestic violence is the termination of female foetus from the mother's womb and this causes the fall in the female child ratio. This is considered as act of violence against women and humanity and the Government abolished the termination of pregnancy except on certain special circumstances under medical termination of pregnancy act and through prohibition of sex determination of intrauterine fetus.

ETHIOPIAN BACKGROUND

Women in Africa suffer domestic violence irrespective of class, religion, age, or social status .Population-level surveys based on reports from victims provide the most accurate estimates of the

prevalence of intimate partner violence and sexual violence in non-conflict settings. The first report of the "WHO Multi-country study on women's health and domestic violence against women" (2005) in 10 mainly developing countries found that, among women aged 15-49, about 71% of women in Ethiopia reported to be victims of physical and/or sexual violence by an intimate partner in their lifetime³². In its 2009 submission to the United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW), the Government of Ethiopia acknowledged that domestic violence is a "pervasive problem" in Ethiopia (19 Apr. 2010, Para. 34). Its assessment is corroborated by the United States (US) Department of State, which indicates that women and girls experience gender-based violence "daily" (8 Apr. 2011, 42).

Similarly, the African Rights Monitor, a US-based advocacy organization monitoring human rights violations in Africa, states that rape and domestic violence are "commonplace"³³. Several sources indicate that so many cases are unreported due to different reasons. They include cultural acceptance of domestic violence, shame or fear on the part of the victims and lack of knowledge about the legal protection. It is noticed that women in Village areas are facing more hurdles than women in urban areas in seeking legal protection. The Study reveals that even though the Ethiopian Constitution and Ethiopian Criminal Code prohibit discrimination of all forms, it exists in the Ethiopian community, and is against women. The practice of early marriage is common in northern Ethiopia (in Amhara Region). W.H.O. Multi-Country Study shows that about 48% of the women are married below the age of 15 years and 27% of the women are married below the age of 19 years. Even though polygamy is prohibited, it is also there in rural part of Ethiopia. A Study conducted by the World Bank shows that 88% of the rural women and 69% of the urban women believe that their husbands have the right to beat them. Domestic violence is widely condoned and the court didn't consider domestic violence as a ground for divorce. Criminal Code, article 4, says that all are equal before law irrespective of the colour, sex, or nationalities or religion. Article 564 is enacted to punish to domestic violence. It says - Violence against a Marriage Partner or a Person Cohabiting in an Irregular Union. The relevant provision of this Code (Arts. 555 - 560) shall apply to a person who, by doing violence to a marriage partner or a person cohabiting in an irregular union, causes grave or common injury to his/her Physical or mental health³⁴. This article provides that in case of any violence against woman other general provisions can be applied to the offender. Domestic violence is not defined under the Penal Code or any other law. In Ethiopia there are more than 86 Ethnic groups exist and all these groups have their own culture and language and their own beliefs and they want to keep their heritages as water tight compartments. When we come to the provisions of the criminal code of 2004 of the Federal Democratic Republic of Ethiopia, it incorporates several provisions directly relevant to violence against women. Chapter three of the code contains

provisions which are related to harmful traditional practices. Considering that victims out of harmful traditional practices are usually women, the provisions of the criminal code starting from Art. 561-570 penalize perpetrators who commit such crimes and their accomplices as well. The criminal code considers Violence against a marriage partner or a person cohabiting in an irregular union as one of the crimes which are results of harmful traditional practice.¹ The provision states *“The relevant provision of this Code (Arts. 555 - 560) shall apply to a person who, by doing violence to a marriage partner or a person cohabiting in an irregular union, causes grave or common injury to his /her physical or mental health”*. These relevant legal provisions which are cross referred by Article 564 of the criminal code are elaborated here under.

The relevant provisions of the penal law are as follows.

Article 555. - Grave Willful Injury.

Whoever intentionally: a) wounds a person so as to endanger his life or to permanently jeopardize his physical or mental health; or b) maims his body or one of his essential limbs or organs, or disables them, or gravely and conspicuously disfigures him; or c) in any other way inflicts upon another an injury or disease of a serious nature, is punishable, according to the circumstances of the case and the gravity of the injury, with rigorous imprisonment not exceeding fifteen years, or with simple imprisonment for not less than one year.

Article 556. - Common Willful Injury. (1) Whoever causes another to suffer an injury to body or health other than those specified in Article 555 above, is punishable, upon complaint, with simple imprisonment not exceeding one year, or with fine. (2) The crime is punishable, upon accusation, with simple imprisonment from six months to three years where: a) the criminal has used poison, a lethal weapon or any other instrument capable of inflicting injuries; or b) the criminal has inflicted the injuries in breach of a duty, professional or other; or c) the victim is weak, sick or incapable of defending himself.

Article 557. - Extenuating Circumstances.

(1) Whoever intentionally does injury to the person or health of another: a) by exceeding the limits of necessity (Art. 75), or legitimate defense (Art. 78); or b) following gross provocation, or under the shock or influence of a surprise, an emotion or a passion made understandable and in some degree excusable by the circumstances; or c) at the request or with the consent of the victim who is capable of realizing his action and its consequences, where the injury is forbidden by law or offends public decency, is punishable with simple imprisonment not exceeding two years, or fine not exceeding four thousand Birr. (2) In the case provided for in sub-article (1)(c), simple imprisonment shall not

exceed four years where the victim, due to age, mental or other conditions, was partially or completely incapable of realizing the consequences of his request or consent.

Article, 558. - Consequences not Intended by the Criminal.

Whoever has caused grave injury through criminal negligence, although his intention was to inflict common injury, is punishable with simple imprisonment from six months to three years.

Article, 559. - Injuries Caused by Negligence.

1) Whoever, by criminal negligence, causes another to suffer common injury to person or to health is punishable with simple imprisonment not exceeding six months, or fine not exceeding one thousand Birr. (2) The punishment shall be simple imprisonment for not less than six months, and a fine of not less than one thousand Birr, where the injury inflicted is of the same kind as the one stated in Article 555, or where it was caused by a person like a doctor or driver, who had a special duty to safeguard the body or health of another. (3) The crime is punishable upon accusation, where the injury is grave, and upon complaint, where it is common. The extent of the injury shall be determined in accordance with Articles 555 and 556.

Article 560. - Assaults.

(1) Whoever assaults another or does him violence without causing bodily injury or impairment of health, is punishable, upon complaint, with a fine not exceeding three hundred Birr, or, in serious cases, with simple imprisonment not exceeding three months. Simple bruises, swellings or transient aches and pains are not held to be injuries to person or health. (2) Minor crimes that do not come under sub-article (1) of this Article are punishable in accordance with the provision of Article 840 of the Code of Petty Offences³⁵.

That the above penal provisions are general and commonly applicable to all citizens and section 564 provides that the general provisions can be applied in case of any domestic violence committed towards to women. In section 564 says as when any injury is caused to the marriage partner or to a person cohabiting with her/him the relevant provisions can be applied, and that is to either of the party who causes injury to the other. The physical violence alone is considered as domestic violence and no other forms of violence. The other forms of violence such as mental, economic, health, etc are not included in the purview of the offence. The other forms of violence such as mental, economic and so on are not included in the purview of the offence. Furthermore, the criminal code contains provisions condemning abduction of women under Art. 587 and 588. The former states, Whoever with intent to marry a woman abducts her by violence, or commits such an act after having obtained her consent by intimidation, threat, trickery or deceit, is punishable with rigorous imprisonment from three years to ten years.

(2) Where the act of abduction is accompanied by rape, the perpetrator shall be liable to the punishment prescribed for rape in this Code.

(3) The conclusion of a marriage between the abductor and the abducted subsequent to the abduction shall not preclude criminal liability.

(4) Nothing shall affect the right of the victim to claim compensation under civil law for the moral and material damage she may have sustained as a result of the abduction.

In Ethiopia, there is no provision provided in the statute to grant an injunction against the husband or relative of the husband not to enter in the premises of the victim or to award any compensation to her. And also no rule is enacted to permit her to live in shelter homes if the circumstances arise. There is no machinery to enquire domestic violence other than the police. As of these reason the women subjected to domestic violence may not report the incident to police or other authority because they have to continue to live with the perpetrator. The family issues are considered as private matter and even the police is reluctant to interfere. The reason cited for the violence is mainly lack of education and economic freedom. In all regions women have little access to land. When the husband dies the relatives of the husband claims land over the widow, as a result of non-ownership of property the widows have no access to bank loans and micro financing³⁶. The women often need the permission of the husband for obtaining bank loan also.

The law does not discriminate women in matters of inheritance, but in practice, due to tradition or custom women and girls are excluded from inheriting property. Muslim`s personal laws does not permit equal shares to women to that of men. Even though the Constitution of Ethiopia provides equality for women its Implementation is not properly made so as to render justice to the women. The Government is also aware of the problem in the wake of the decision taken by the U.N. to eradicate all forms of violence against women by 2015. The U.N .General Assembly through its resolution demanded all the nations to take adequate measures to curb the problem of violence of all forms against women as it is a breach of human rights of women. In conformity with the U.N. decision many countries moved in the way of controlling and eradicating the violence against women especially the domestic violence. Many countries made special legislations for dealing with domestic violence against women. Domestic violence against women has effect of different dimensions, such as health, emotional, economical, social and human rights. Most of the them are in less severe forms but certain consists injuries .Studies shows that only 30% sought for treatment³⁷ but it affects the emotional well-being of the women. Many case studies reported that intimate partner violence is associated with depression and tendency to suicide and other forms of anxiety disorders among women. This is also another form of human right violation and also to be addressed.

Comparison of Indian and Ethiopian Laws against Domestic Violence

Indian Constitution guarantees equality to all citizens of India irrespective of any caste or religion or according to regions. All are equal before law and equal protection of law to all. But at the time of independence status of Indian women are inferior to men and they have less access to education. Realizing the ground reality provision is inserted to bringing up the weaker sections of the society to the main stream. Hence reservations are made for women and children, and also for the scheduled castes and tribes. So many reasons are there for the backwardness of the women in the Indian society. They are religious, economic, cultural, educational causes. Majority of Indian population are residing in the villages and have poor access to education. In 2012 the Government of India introduced a new Legislation, guaranteeing compulsory school education as of right³⁸ and the State is duty bound to observe the children who are out of school and should bring them for education.

Ethiopian Constitution guarantees equality for women to that of men irrespective of all castes and creed, Religion, Nationality etc. Article 34 and 35 specifically provides for the rights of women³⁹. But the ground reality and perception is different among the majority and among women themselves. Women are considered inferior to men in the society. The poor rate of education and economy are the major hurdles.

In India there are many religions and castes and they prescribe their own rules of succession. There are so many castes in Hindu Religion and almost all the castes follow equal sharing system in the intestate property of the deceased. The male and female members are entitled to equal shares in the immovable and movable properties. The customary laws are adopted by the Hindus for their marriages and succession. Similarly the Indian Christians are following the Indian Succession Act. Even though the Act does not discriminate the women, they are precluded from giving shares from the ancestral properties and it continued till the decision of the Supreme Court in 1985, which declared equal right to female member of Christian family in the intestate under the provisions of the Indian succession Act and thereafter they are bound by the Supreme Court decision.

Regarding the rights of Hindu wife and Christian wife to their husband's properties are different. The Hindu wife and children are entitled to equal shares in the properties of the deceased husband. But Christian wife is entitled to 1/3 portions of the property of her deceased husband. But as far as a Muslim woman is concerned, she has no equal right of share of her parental property or her husband's property. As per the Muslim law of succession a female member is entitled to one half of the male member. The Muslim wife is entitled only to 1/8 of the property of the deceased husband, and if the deceased has more than one wife, all of them together are entitled to only 1/8 of his

property. The Muslim law permits a Muslim to marry more than one woman at a time. Even though Indian Penal Code prohibits bigamy and polygamy that practice is common in some part of India among the Muslims. Authorities seem to condone of these act as part of their customs.

In Ethiopia, the people belongs to different ethnic groups and all of them have their own customs of marriages and successions. The different studies shows that Ethiopian women did not have equal share in the properties to that of men⁴⁰.The constitution of Ethiopia acknowledges and legalizes Customary laws as part and parcel of the legal system of Ethiopia and in most part of the country follow the customary laws in marriage and succession. As per the customs prevailed in some parts of the country the women have inferior status even against legal provisions which provides equal status to women to that of men. The women are given equal right to property, but they are kept away from that right. The economic backwardness keeps the Muslim womenfolk away from mainstream. In India and Ethiopia there are some common features to be observed .In both the countries women`s access to economy denied is by the social structure. But in India after independence so many new legislations and amendments to existing laws were made to improve the condition of women and it finds result to some extent but still to change a lot. The Government of India and State Governments formulated policy of empowerment of the women as a mean to change their backwardness. The enactment of the Panchayatiraj Act in 1994 was a stepping stone towards the upgradation of the women folk which ensured 33% of seats reserved for women in local administrative bodies. The first election as per said Act was held in 1995 which brought so many women to the forefront of the society⁴¹. Now in all Districts Women police cell are formed to hear the complaints of women and it is helpful for women to make complaints freely, openly and without fear. Even then it is seen that violence against women seems to be excused for the sake of keeping the family relation. Recent years witnesses a sharp increase in the number of cases of divorce in all Family Courts on the ground of cruelty⁴²⁻⁴⁴. Even though so many legal provisions are enacted to combat domestic violence in Ethiopia, it seems that they are not sufficient to address the problem. On the perusal of Article 564 transpires that its applicability is limited to a situation where there is injury. In India, besides the penal provisions, special provisions are enacted only for dealing with the domestic violence⁴⁵⁻⁴⁷.

In Ethiopia available penal provision may not be sufficient to meet the problem of domestic violence because its webs are unable to hold all the perpetrator`s illegal acts. This provision is enabled to meet the domestic violence in a family where both husband and wife are in equal status and not in a family where the woman is treated as inferior considering the actual inferior. A strengthly society means a welfare society where people enjoy good health, happiness, and prosperity⁴⁸⁻⁴⁹.

Conclusion

The causes of violence against women have been investigated from diverse perspectives, including feminism, criminology, development, human rights, public health and sociology. Various explanations have emerged from these empirical and theoretical inquiries. While they differ in the emphasis given to the individual societal factors in explaining violence against women, all have concluded that no single cause adequately accounts for violence against women. Explanations for violence that focus primarily on individual behaviors and personal histories, such as alcohol abuse or history of exposure of violence, overlook the broader impact of systemic gender inequality and women's subordination. Efforts to uncover the factors that are associated with violence against women should therefore be situated within this larger social context of power relations. Domestic Violence is prevalent in everywhere in the world irrespective of the boundaries of the nations and castes and religions. There are forms of violence, economic, mental, physical, and psychological and health etc. UN resolutions accepted violence against women as human right issue. Several women organization raised the issue and takes it as human right violation. The Secretary General's study report says that everywhere in the world there is violence against women and intimate partner violence one of the most common types of violence. Hence UN calls all the member states to take immediate steps, political, legal to address the problem.

Even though not perfect to the case of Ethiopia, both Countries are democratic republics and are guaranteeing equal rights and equal protection for all through their Constitutions. Women are given equal rights to that of men and specially mentioned in the constitutions of both countries. One special provision is laid in the Ethiopian Criminal Procedure Code (564) to deal with domestic violence in Ethiopia. Moreover it is stipulated in article 564 that other penal provisions shall be applied in case of domestic violence in Ethiopia. But the problem is that domestic violence is not defined either in Ethiopian Criminal Code or elsewhere and hence it is difficult to understand what else constitute the act of domestic violence or for what acts the perpetrator is liable. In Ethiopia a comprehensive legislation is needed. But the Indian context contains specific penal provisions for physical and mental harassment with a view to get more dowry, (sec 498 A) and dowry death sec. 304 B. Even though the prevention of Domestic violence Act is a criminal law provision is laid to grant prohibitory injunction, and mandatory direction as in civil law for effectively implementing the law. In Ethiopia also a new legislation is necessary to address the problem of domestic violence. Political leadership has to show a will in this regards.

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