Samara University

SCHOOL OF LAW

Gender and law

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CHAPTER ONE

1. Gender and history

- **1.1 Gender defined**
- Gender is a social attribute ascribing some characteristics or norms and modes of behavior to the female and other to the male sex.
- determined by the society and by its way of up bringing children.
- refers to historically defined identities, roles and behaviors of different groups
- socio-cultural factors are often mistaken for natural differences between the sexes or considered as a God-given phenomena.

- Sex is a natural attribute helping us to identify a person as male or female biologically. we cannot change natural phenomenon.
- Gender roles refer to the expected duties and responsibilities rights and privileges of men-women, girls-boys, etc. that are specified by socio-religious and cultural factors.
- decides on the amount of food necessary for each, the type of work they perform, the time and the type of place they are supposed to be at, the type of grouping they can join, etc

1.2 Global and historical perspective on the legal status of women

1.2.1 Historical Perspective

- *The four global women's conferences 1975-1995*

Four world conferences on women convened by the United Nations

- The struggle for gender equality was still in its early stages at the inception of the United Nations in 1945. Of the original 51 member states, only 30 allowed women equal voting.
- codification of women's legal and civil rights, and the gathering of data on the status of women around the world

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1.2.1.1 The Mexico City conference: Dialogue is open

- 1st world conference on the status of women was convened in Mexico City to coincide with the 1975 International Women's Year.
- discrimination against women continued to be a persistent problem
- UN Decade for Women (1976-1985) proclaimed by the General Assembly.
- launched a new era in global efforts to promote the advancement of women by opening a worldwide dialogue on gender equality.

- to focus international attention on the need to develop future oriented goals, effective strategies and plans of action for the advancement of women.

General Assembly identified three key objectives on behalf of women:

- ✓ Full gender equality and the elimination of gender discrimination;
- ✓ The integration and full participation of women in development;
- ✓ An increased contribution by women in the strengthening of world peace

adopting a World Plan of Action, guidelines for governments & international community next ten years in pursuit of the three key objectives.

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- be met by 1980, that focused on securing equal access to resources such as education, employment opportunities, political participation, health services, housing, nutrition and family planning.
- previously women passive recipients of support and assistance
- now viewed as full and equal partners
- new consensus that development was not possible without the full participation of women.
- 127 Member States had responded by establishing some form of national machinery, institutions

Mexico City Conference led to the establishment of the International Research and Training Institute for the Advancement of Women (INSTRAW) and the United Nations Development Fund for Women (UNIFEM)

to provide the institutional framework for research, training and operational activities in the area of women and development.

women themselves played an instrumental role in shaping the discussion.

Sharp differences emerged among the women

Eastern Block, interested in issues of peace

West & developing world placed priority on

1.2.1.2 The Copenhagen: The Review Process begins

in 1980 2nd world conference on women to review and appraise the 1975 World Plan of Action.

milestone adoption by the General Assembly in December 1979 EDAW

The Convention, which has been termed ”the bill of rights for women", now legally binds 165 States

States parties and obligates them to report within one year of ratification, and subsequently every four years,

An Optional Protocol to the Convention, enabling women victims of sex discrimination to submit complaints to an international treaty body, was opened for signature on Human Rights Day, 10 December 1999.

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- Copenhagen Conference recognized that signs of disparity emerge between rights secured and women's ability to exercise these rights.
- To address this concern broad goals of equality, development and peace, identified by the Mexico City Conference, were to be reached.
- These three areas were *equal access to education, employment opportunities and adequate health care services.*

a variety of factors for the discrepancy between legal rights and women's ability to exercise these rights, including:

- Lack of sufficient involvement of men in improving women's role in society;
- Insufficient political will;
- Lack of recognition of the value of women's contributions to society;
- Lack of attention to the particular needs of women in planning;
- A shortage of women in decision-making positions;
- Insufficient services to support the role of women in national life, such as co-operatives, day-care centers and credit facilities;
- Overall lack of necessary financial resources;
- Lack of awareness among women about the opportunities available to them.

To address these concerns

- measures to ensure women's ownership and control of property
- improvements in women's rights to inheritance
- child custody and loss of nationality.
- Delegates at the Conference also urged an end to stereotyped attitudes towards women.

1.2.1.3 Nairobi: "*The Birth of Global Feminism*"

- The movement for gender equality had gained true global recognition
- Equality, Development and Peace, convened in 1985.
- 15,000 representatives of NGOs attending many referred to the Conference as the "*birth of global feminism*".
- an international force unified under the banner of equality, development and peace.
- A lot of information, knowledge and experience had been gathered through the process of discussion, negotiation and revision.
- to reduce discrimination
- Forward-Looking Strategies to the Year 2000, the strategy developed and adopted by consensus by the 157 participating governments

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- new ground as it declared all issues to be women's issues.
- participation in decision-making
- not only as their legitimate right but as a social and political necessity
- Three basic categories of measures were identified:

❑ Constitutional and legal steps;

❑ Equality in social participation;

❑ Equality in political participation and decision-making.

- the Nairobi Conference urged governments to delegate responsibilities for women's issues to all institutional offices and programs
- introduced a wider approach to the advancement of women.

- early 1990s on various aspects of development such as the environment, human rights, population and social development.
- 4th World Conference held in Beijing in 1995, new chapter in the struggle for gender equality can truly be said to have begun.
- The fundamental transformation that took place in Beijing was the recognition of the need to shift the focus from women to the concept of gender,
- parked a renewed global commitment to the empowerment of women everywhere

adopted *the Beijing Declaration and Platform for Action*

stands as a milestone for the advancement of women in the twenty-first century.

The Action specified 12 critical areas main obstacles to women's advancement and which required concrete action by Governments and civil society:

- Women and poverty
- Education and training of women;
- Women and health;
- Violence against women;
- Women and armed conflict;
- Women and the economy;
- Women in power and decision-making;
- Institutional mechanisms for the advancement of women;
- Human rights of women;
- Women and the media;
- Women and the environment;
- The girl child

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before decisions were to be made or plans to be implemented, an analysis should always be made

Beijing Conference was considered a great success, both in terms of its size and its outcome. NGO representatives 17,000 ,representatives of 189 governments. combined number of participants to over 47,000.

1.2.2 Historical perspectives on the legal status of women in Ethiopia

The Ethiopian society can be regarded as a "traditional, ancient and conservative one. "Horrendous" traditional practices, such as female genital mutilation, abduction, marital rape and early marriages would require an attitudinal change not only on the part of men, but also on the part of women.

The minimum punishment for rape is five years, whereas previously it was the payment of a camel.

UN Charter adopted in 1948 , (UDHR) of 1949, (CEDAW) was adopted in 1981 , 1995 by the FDRE all sex discrimination

Ethiopia has committed itself to take the measures included in the document of Beijing Platform.

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The Millennium Development Goal (MDG): Ethiopia ratified with the aim of reducing poverty. enabling all children, both boys and girls, in the world to complete elementary school and eliminating the gender gap at all levels of education, by the year 2015.

Labor Law & Civil Service Proclamation of January, cover issues of employment, salary, promotion, performance evaluation, training, leave and disciplinary measures.

- Political Participation: a patriarchal society

Male leading society

promotion of gender equality

1.3.1 Policies: ADLI National Policy of Ethiopian Women is among the others. Now transformation plan

The main objectives of the National Policy of Ethiopian Women include, creating and facilitating conditions for equality between men and women, creating conditions to make rural women beneficiaries of social services like

- education and health, and eliminating stereotypes, and discriminatory perception and practices that constrain the equality of women.

Women's Affairs Office (WAO) under the Prime Minister Office and the Regional and Zonal Women's Affairs Sectors

1.4 Impact of globalization on women

Globalization can be defined as “a complex economic, political, cultural, and geographic process in which the mobility of capital, organizations, ideas, discourses, and peoples has taken a global or transnational form.

North America Free Trade Agreement (NAFTA) and GATT, “cheap” female labor, “docile” workers, who are willing to obey production demands at any price.

Therefore, cultural influences in developing nations also impacts employment stratification.

The impact of globalization is different from country to country whether it is positive impact or

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Its positive impacts:

- *Employment opportunities* for women especially in developed countries. It has created economic and job opportunities for women at all levels.
- *Education and knowledge* which constitutes a huge advancement in the empowerment of women especially in terms of sharing information.

How globalization has affected women in Ethiopia?

misused by traffickers and drug dealers when poor women seeking job get information .

three major constraints to women specifically and the society can generally benefit from globalization. These are:

- lack of proper infrastructure or other communication channel
- low level of education and
- language barrier

the free market system, where market controls everything. poor who are going to be affected.

Climatic change, resulting flooding and drought, has affected the production system where women are in turn affected.

Socialization,

- ✓ a process of transmitting culture, has been defined as consisting of
- "complex process of interaction through which the individual learns the habits, beliefs, skills and standards of judgment that are necessary for effective participation in social groups and communities."
- a process, allows the baby to know about the basic norms of the society& helps in the gradual development of one's self.
- Development of 'the self' or the 'the ego' comes with the help of role playing, where a child puts himself/herself in somebody's else's shoe and tries to get his/her self image through others' perception.

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A child learns about his/her *gender* identity by learning what is s/he expected to do by others.

Socialization is a continuous process that helps one to learn the normative behavior, which mostly happens to be stereotypical behavior.

social psychologists **define a stereotype as being a cognitive structure containing the perceiver's knowledge, belief, and expectancies about human social group.**

The process of the stereotypification of gender, has a sort of biological determinism, which starts with the reproductive ability of woman.

for women 'anatomy is destiny'. Women are characterized with lack, the lack of the genital. Thus they are incomplete. They stand inferior to man biologically; submissive position of women.

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According Ruth Hartley socialization takes place through *four* processes, namely:

1. Manipulation refers to how a child is handed. Boys are taken to be strong and girls being pretty. shaping the self-image and personality of boys and girls.
2. canalization involves the familiarization of boys and girls with certain objects, which later shapes their perceptions, aspirations and dreams. pleasurable in the childhood becomes a memory to be cherished through out one's life.
3. "Verbal appellation" likes "strong" for boys and "beautiful" for girls help them construct different identities. It is always strength versus beauty.
4. activity exposure pertains to different kinds activities. Girls for help by their mothers and boys their fathers outside the house.

1.6 Gender construction: a psychoanalytic view

At a very early stage, the little boy develops an object-cathexis of his mother, which is originally related to the mother's breast…, his father by identifying himself with him. father is perceived as an obstacle to them; this gives rise to the Oedipus complex.

"in repressing the erotic feelings towards the mother and accepting the father as superior being,

The father represents an all-powerful protector; the omnipotent lawmaker who yields the rod of punishment.

boy is at war with his father, he is at war with himself. he intends to internalize the voice of the torturer.

1.6.1Cultural construction of masculinity and femininity

The feminine that is associated with woman is characterized as passive. Tenderness consideration and physical weakness are synonymous to the feminine genre.

The masculine is defined as dominant and encouraging male violence against women as virile. Men are supposed to be high on strength and prowess.

Men and women have different moral orientations. Men speak the language of right and women the language of responsibility.

Culture has made them unexpressive for which they suffer from depression and have learnt to keep quite and not to talk about their problems as it is considered feminine.

1.6.2Patriarchy and its structures

Patriarchy refers to

male domination and female's acceptance and internalization of that dominance.

Its literal meaning is the supremacy of the father.

can be replaced with "male rule".

may also be described as a system of social structures and practices in which men dominate, oppress and exploit women.'

1.6.2.1 ***Nature versus culture***

Culture:

male dominated society and subordination the women's. Women were allocated domestic service

nature':

Women with infants and children are tagged together with

1.6.2.2 Private versus public

private sphere popularly known as the domestic has no economic, political or historical significance. It does not contribute to one's social life. It is tagged as the 'personal'

public sphere is a competitive world, which requires being aggressive, reasonable and ambitious with no trace of emotions.

Women traditionally have been doing household works

industrial revolution came a separation between work place and home

Vertical segregation" tendency of women to remain in the second position, whereas men remain in influential position.

"Horizontal segregation" refers to the tendency of men and women to occupy different categories of jobs. Women shouldered the responsibility of taking on household tasks, while men were mostly seen in jobs outside home.

1.7 ***Gender in the Media and Information Technology***

Gender and Media:

Media is one of the most important socializing agents.

Media transmit values and attitudes that highly affect the attitude and behavior of individuals.

The issue of women and media can be looked at from *three* perspectives: women's portrayal, the content, and women as media consumers

Women are usually portrayed doing domestic chores, or appearing as sex objects and sometimes, they are presented to be selfish and cruel.

CHAPTER Two

2. foundation of gender equality theory

2.1Gender equality

- Gender equality refers to equal valuing of the roles of women and men. It works of stereotypes and prejudices so that both sexes are able to equally contribute to any social, cultural and political developments within a society. Gender inequality is the result of social, economic, and political differences not the difference in their sex.
- Some examples are outlined below

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- ***2.1.1 Social inequality***
- Women and men usually have different roles and responsibilities in their daily lives. Women have the main responsibility of taking care of children and the elderly and providing food for the family while men do works outside the house.
- Women have unequal access to education and health services.
- Social customs that encourage or force girls into teenage marriages
- There are a high level of incidence of violence against women in all countries around the world which are accepted as ‘normal’.

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- ***2.1.2 Economic inequality***
- Nearly 70% of the worlds poor are female.
- Women have unequal access to economic resources, such as capital, credit, limited opportunity for employment and career advancement which restricts and affect their economic situation.
- Females have unequal access to education and training opportunities which makes them to concentrate on unskilled and low status jobs.

- ***2.1.3 Political and legal in equality***
- Women are very poorly represented at all levels of formal decision making both at regional and national levels.
- The legal system in many countries discriminates against women especially in the areas of inheritance, property, and land ownership and criminal law

2.2.1 The formal model of equality

- The formal model of equality **regards men and women as being the same** and therefore sets out to treat women the same as men**.** Advocates of such a model will argue for the provision of equal **opportunities for women.** They would be seen as **inferior** to men.
- The problem with this model is that it does not take into **consideration** the **biological** and **gender** differences between women and men. This places a **great pressure on women** who have to perform according to **male standards**. Eg. qual opportunity to employment and this requires doing shift **work at night**,
- Formal equality applies to **sex-based** classifications that discriminate against men, as well as those that discriminate against women. In **formal equality** terms, the **goal** is equal treatment for all, **not just women**. **may result in a de facto discrimination against women.**

2.2.2 The substantive model of equality

- The convention promotes the substantive model of equality and consolidates two central approaches to equality.
- **First** the convention stresses the importance of *equality of* ***opportunity*** in terms of women's access on equal terms with men to the resources of a country. This has to be secured by a framework of **laws** and **policie**s, and supported by institutions and mechanisms for their operation. This is referred to as the **Obligation of means.**

- **Second** Needs to ensure *equality of* ***results***. The state to ensure the **practical realization** of rights. Thus the state is obligated to **show results**, not just stop at frameworks of equality that are strong on paper. This is referred to as the Obligation of results**.**

The convention is **not** concerned so much with **equal treatment** but with **equal access** and **equal benefits**. Hence it recognizes that women and men may have to **be treated differently in order for them to benefit equally**. This may take the form of **providing enabling conditions and/ or affirmative action**.

- Differences between women and men whether based on biological **(sex)** difference or socially created **(gender)** differences results in women's **asymmetrical experience** of:
- Difference
- Disparity
- Disadvantage

Initiatives for the realization of women's rights need to **compensate** for or cater to the **difference, disparity or disadvantage**.

This means taking into account the **ways** in which women are **differen**t from men, and ensuring that these differences are acknowledged and responded to by policy or legal interventions and programs. However, **how** this is done, , it is important to have a conceptually sound understanding of **what** or **why** differences between women and men exist.

adopts the **corrective approach.** unequal position because they face **current discrimination**, or they come bearing the effects of **past discrimination**, or that the environment, at the family and public levels, is **hostile to** women's autonomy.

night work, it safe for women to work at night instead of placing a ban on night work

- corrective approach requires that **socially constructed** differences.
- The corrective or substantive approach recognizes that in order to **redistribute benefits** equally between women and men, approaches to promoting women's rights must transform the unequal power relations between women and men in the process

to happen, policies, laws and programs must aim to provide the following:

enabling conditions, in the form of the basic social, economic and cultural contexts within which women may be able to lead their lives with dignity

affirmative action in the form of temporary special measures.

- In summarizing this approach to equality we can say that the obligation of the state is to ensure a broad approach to equality that includes:
- Equality of opportunity
- Equality of access to the opportunity and
- Equality of results

2.3 Resistance to the substantive approach to equality

The problem is, that employers and others will see that ensuring ***de facto*** **equality** may bring an **extra burden** and as **incurring extra** costs. While it is true there are costs involved, we need to develop arguments to justify these costs.

The ***first*** is on the basis of **human rights principles**. Article 1 of UDHR "All human beings are born free and equal in dignity and rights." And Article 2 states that "Everyone is entitled to all the rights and freedoms set forth in the Declaration without distinction of any kind ….."

The ***second*** argument is based on **long-term benefits** to the country. The **corrective approach** ensures that all citizens will contribute to the **development** of their country productively and to

TOWARDS SUBSTANTIVE EQUALITY

- The principle of equality has been **problematic** because the term equality for women is conventionally understood to mean "**the right to be equal to men**."
- women **faced gross inequalities** in relation to employment opportunities, wages, access to and enjoyment of health, rights within the family, citizenship etc.
- The problem The implication of this is that women must be treated according to **male standards**. This obscures the ways in which **women are different from men.** If rules of procedure, expected behavior, processes by which a task is carried out, institutional arrangements etc. are the same for women and men, then women will be disadvantaged because of the differences between them.

- ***Recognizing difference***

The formal model of equality can also **recognize difference**. women and men are different then they can be treated **differently** even if it means that women and men benefit differentially to the disadvantage of women.

- **Protectionist approach**

This is the **protectionist** approach that would require that women be **barred from doing certain things in their own interest.** Taking the **example** of **night work**, the protectionist policy would prohibit women from doing night work because of the recognition that the social environment is not safe at night. **Protectionist approaches are inherently limiting in that they do not challenge gender discrimination, but reproduce it in the garb of protecting women**.

2.6 Non-essentialism

- **The non-subordination perspective on women and law shifts the focus of attention from gender-based difference to the imbalance of power between women and men**. This perspective, also known as ***dominance theory***, makes the relevant inquiry not whether women are like, or unlike, men, but whether a rule or practice serves to subordinate women to men.
- part of a larger system of categories and concepts designed to make women's subordination seem natural and legitimate.
- Dominance theory offers a way of understanding not just the situations of elite women, who are

3.1 Traditional marriage and its consequence on women

3.1.1 Child marriage

- What is Early / child marriage?
- any marriage of a child younger than 18 years old(Article 1 CRC)
- affects both sexes, girls are majority of the victims
- leaves child brides more vulnerable to poverty, a consequence of child marriage as well as a cause.
- *Tradition, religion and poverty continue to fuel the practice of child marriage, despite its strong association* with adverse reproductive health outcomes and the lack of education of girls.

is mostly common in sub-Saharan Africa and Southeast Asia. It is rampant in Ethiopia

in Ethiopia include promissory marriage, whereby a verbal promise is made at infancy or even childbirth

a violation of the fundamental rights of the child. Article 21 of the 1990 African Charter on the Right and Welfare of the Child states that "**Child marriage and betrothal of girls and boys shall be prohibited and effective action including legislation shall be taken to specify the minimum age of marriage to be 18 years**."

Child and forced marriage

- A forced marriage is defined as a marriage "conducted without the valid consent of one or both parties and is a marriage in which duress - whether physical or emotional - is a factor".
- Child marriages must be viewed within a context of force and coercion, involving pressure and emotional blackmail and children that lack the choice or capacity to give their full consent.

3.2 Causes of early marriage

Resist all opposition of legal works

Reasons are:

desire or need to maintain the family's good name and social standing.

For men success of their children is a measure of manhood and community status,

a daughter's success rests in her making a good marriage and linking her family to another family.

Concern about a girl becoming pregnant out of marriage is also prevalent, though not nearly as significant as the issue of stateside.

are well aware of the negative consequences of early marriage

3.2.1 Poverty and economic transactions

Poverty is a critical factor contributing to child

Where poverty is acute, a young girl may be regarded as an economic burden eg. elderly - man

In communities…regarded as a transaction, often representing a significant economic activity for a family.

They traded and sometimes girls can be used as currency or to settle debts.

A girl's marriage may also take place as a perceived means of creating stability.

In uncertain times family may believe it is necessary to ensure the economic 'safety' of their daughter and family, through marriage.

In Africa the monetary value of bride price, or bride wealth, is linked with marriage

3.2.2 Notions of morality and honor

'family honor' and the high value placed on a girl's virginity.

older husband will be able to act as a guardian against behavior deemed immoral and inappropriate.

strongest reason for early marriage is the desire or need to maintain the family's good name and social standing.

Reasons for getting married (in order of importance):

- 1. It is a tradition
- 2. To strengthen relationships
- 3. For prestige[honour]
- 4. Difficult to get married if older
- 5. The family will be victim of gossip
- 6. To earn dowry
- 7. To protect virginity and avoid premarital sex.

Consequences for health and well-being

- Early marriage has severe consequences for the health and wellbeing of girls and women. In the Ethiopian context, some of these include:
- - *Marital instability –*

✓ not interested' in the marriage

✓ unhappy marriages

✓ sent back by their parents.

- - *Termination of education*
- - *Inability to plan or manage families* -Young mothers exercise less influence
- *Impact on sexual health of women and girls –eg.* obstetric fistula

- *Vulnerability to HIV infection* -A girl as her vagina is not well lined with protective cells and her cervix may be penetrated easily.

The risk of HIV infection

economic inequalities

Married adolescent girls' inability to negotiate safer sex

3.4 Custody and support of children

Federal Constitution provides the umbrella articles for the protection of the rights of the child.

revised Penal Code is the *criminalization of female circumcision and genital stitching.*

the Ombudsman. The Human Rights Commission

3.5 The role of women in the success of their husband

women continue to lag behind men in economic and labor market success. Their role in family has not been considered because of the unnoticed gender-gap.

most decisions are expected to be largely dominated by the husband’s desire and characteristics and this will affect the economic status of women.

The unequal and unfair standards between the sexes are reflected in all spheres of life

4.1 Defining Violence against Women

In 1993, the U.N. General Assembly adopted the non-binding Declaration on the Elimination of Violence against Women (DEVAW).

VAW as “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 private life.”

it is broad, encompassing both physical and psychological harm.

VAW may be used synonymously with “gender-based violence” (GBV), which describes violence perpetrated against an individual, regardless of sex, because of his or her gender.

4.2 Scope and Context

- VAW occurs in all geographic regions, countries, cultures , and economic classes.
- VAW as a symptom of the historically unequal power relationship between men and women

over time this imbalance has led to pervasive cultural stereotypes and attitudes that perpetuate a cycle of violence.

- specific causes of VAW vary on a case-by-case basis, like
- ✓ community and individual risk factors

Community factors may include cultural norms

- ✓ lack of political and legal protection from governments. Individual factors that may lead to a high risk include living in poverty and a previous history of abuse.

4.2.1 Social and Health Consequences

- violence and the social stigma of violence negatively affect their ability to participate fully in and contribute to their communities.

who experience violence are less likely to hold jobs live in poverty than those who do not experience violence.

Violence and the fear of violence may cause to avoid public places

less participate in political activities or development projects harassment and sexual abuse contributes to low female enrollment rates and high dropout rates from 2ry schools.

- health consequences of VAW suffering from severe physical and mental health— both immediate and long-term.

experience violence have an increased risk of poor physical and reproductive health.

physical health impacts of VAW divided into two categories

I. Immediate consequences directly result from acts of violence, and may include fractures, gunshot wounds, bruises and lacerations, and death.

II. Functional consequences also referred to as “functional disorders,” include long-term health consequences. Like physical or sexual abuse

4.2.2 Prevalence and Circumstances

(WHO) multi-country surveys estimate 10% and 69% physically hit or harmed by a male partner

vary by country, developing higher violence than developed

one in five women experiences rape or attempted rape

Asian and sub-Saharan African high female mortality rates due to female infanticide and nutritional neglect of young girls.

not reported because of the shame and fear associated with being a victim.

Rates of sex trafficking, sexual violence in armed In conflict situations.

VAW can occur in the home as well as in public and private institutions

4.3 Types of Violence

Violence against women can include both

- ✓ random acts as well as
- ✓ sustained abuse over time

can be

- ✓ physical,
- ✓ psychological, or
- ✓ sexual in nature.

including authority figures, parents, sons, husbands, and male partners.

most common forms of VAW is intimate partner violence, which can include forced sex, physical violence, and psychological abuse, such as isolation from family and friends

Examples of Violence against Women

- ***Life Stage*** ***Examples***
  - **Infancy** Infanticide; psychological and physical abuse; differential to food and medical care
  - **Childhood** Female genital cutting; incest and sexual psychological abuse; differential access to food, medical care, and education; prostitution; trafficking; school-related gender-based violence
  - **Adolescence** Dating and courtship violence; economically coerced sex; sexual abuse in the workplace; rape; sexual harassment; forced prostitution; trafficking; psychological abuse; forced marriage; dowry abuse

- **Reproductive** Intimate partner abuse; marital rape; dowry abuse; honor killings; partner homicide; psychological abuse; sexual abuse in the workplace; abuse of women with disabilities; forced prostitution; trafficking
- **Old age** Widow abuse; elderly abuse; rape; neglect

different types of violence against women.

Honor killings, eg. stoned, burned, or beaten to death, often by their own family members, in order to preserve the family honor. common in Middle Eastern and South Asian, Latin America and Africa.

Dowry-related violence, victims might be attacked or killed by in-laws for not bringing a large enough dowry to the marriage, in South Asian countries such as Pakistan, India, and Bangladesh.

Female genital cutting (FGC), (FGM) or female circumcision, is common in some African and Middle Eastern countries

4.3.1 Harmful Traditional Practices

Traditional practices are part of local cultures and are generally considered socially acceptable;

encouraged by family members and community.

including FGC, intimate partner violence, and child marriage, perpetuate unbalanced sex stereotypes and a cycle of violence.

a matter of perspective.

4.3.2 Abduction

abduction and rape is a cultural practice used to take a girl as wife by force

Elders ask the family of the girl to agree to the marriage; family often consents because a girl who has lost her virginity socially unacceptable for marriage to another man.

abductor keeps the girl in a hiding place until she is pregnant, family again feels it has no option but to agree to the marriage.

4.3.3 Rape

The word ‘rape’ has different definitions.

Webster’s Dictionary (1975) 'illicit carnal knowledge of a woman without her consent, effected by force, duress, intimidation, or deception as to the nature of the act.‘

Susan Brown Miller ‘’it as a conscious process of intimidation by which all men keep all women in a state of fear.”

Allison Morris, ‘’as motivated by anger (involving an expression of hostility towards women and a desire to humiliate them) and power (involving the assertion of dominance over women).”

4.3.3.1 Causes of rape

causes of rape are varied and controversial, because of personal, cultural beliefs & economic status.

In Ethiopia's contributing factors are:-

❖ *Culture:*

- ✓ men's dominance ,
- ✓ proud of their culture or social system, don't appear to want to change it,
- ✓ belief 'westernized', even by those who are educated,
- ✓ Ethiopian culture tolerates sexual violence against girls and women.
- ✓ acquiring a wife through Abduction and early marriage,
- ✓ , western pornographic videos, films and literatures, which often objectify and devalue women, are proliferating in our society, rapid rise of rape

- *Poverty*: commercial sex and streets, which make them vulnerable to sexual exploitation, abuse and rape.

As early marriage is rampant escaping simply escaping rural poverty, migrate to towns and cities maidservants or join the commercial sex industry.

- *War*: Rape is used in most wars as revenge against certain races, ethnic groups and religious communities eg. UNICEF's Progress of Nations 1997 report over 20,000 Muslim women were raped in Bosnia-Herzegovina war in the Balkans, over 15,000 raped in 1 year in Rwanda.

Ethiopian media reported Eritrean soldiers raped Ethiopian women during Ethio-Eritrean conflict.etc

4.3.3.2Consequences of Rape

4.3.3.2.1 Psychological

some possible psychological consequences which raped women and children face:

- Fear and phobia, repressed anger leading to overwhelming depression and anxiety, feeling of guilt, self-blame, shame, loss of control over oneself, immense shock and disbelief, confusion, difficulty in making decisions, hatred towards men, diminished self-esteem, feelings of worthlessness, fear of being alone, disobedience, aversion to sexual intercourse, thoughts of suicide, desire for revenge, etc.

4.3.3.2.2 Social

Because social stigma, victims lose their dignity and respect in society.

difficult to participate in social activities

abducted and raped, will no longer get a husband unless her rapist marries her

face prostitution, streets and other social problems.

4.3.3.2.3 Economic

very crucial for a sustainable development

developing countries because (1) either girl get abducted and raped on their way to school, or (2)fear of being raped and the anxiety associated with it

exclusion from participating in national development programs.

As lack of education will also leave women unemployed, poor and powerless, violence perpetrated against them will continue unabated.

4.3.3.2.4 Health

transmissions of STDs, including HIV/AIDS torrential bleeding, perforation of the uterus, infertility, etc.

4.3.3.3 The Extent of Rape in Ethiopia

In Ethiopia there is hardly any statistical evidence or data on rape apart from what is occasionally mentioned on the media.

because rape is one of the most unreported crimes due to the prevailing attitude that it is shameful and degrading to the victims.

not be effectively solved, however, as there is no systematic research done yet.

4.3.4 Marital rape

Marital rape is non-consensual sexual assault in which the perpetrator is the victim's spouse. It is also called spousal rape.

Due to popular stereotypes of "real" rape, it is often assumed that because spouses have been sexually intimate, forced sexual intercourse in marriage is not as traumatic as rape by a stranger.

Sexual contact gained through force, coercion, manipulation or fear of harm is rape, a tool to control and overpower another person.

Rape by a stranger can be highly traumatic but is usually a one-time event and is clearly understood as rape. In the case of rape by a spouse or long term sexual partner the history of the relationship affects the victim's reactions.

not fully recognized by all UN member states

In 1997, UNICEF reported that just 17 states criminalized marital rape. *But in not in Ethiopia*,

- *Some societal beliefs and misconceptions contributing to the tolerance of marital rape:*
- Sexism is at the heart of marital rape.
- The widespread idea that a husband has a right to sex, and has a right to use his wife's body for this purpose makes it difficult to recognize sexual coercion in marriage. How can a husband be guilty of taking something that belongs to him? Is she his property?
- Often the marriage vows are seen as giving contractual consent to sex; hence the crude joke "if you can’t rape your wife, who can you rape?"

4.5 sexual harassment

- There are two types of sexual harassment,

1. "quid pro quo" and
2. "Hostile environment". This is the most common form of sexual harassment. It is to occur when it unreasonably interferes with a person's work or academic performance or it creates an intimidating, hostile, abusive or offensive environment. It usually involves a pattern of repeated behavior, such as:
   - behavior that is unwelcome including request for a date
   - behavior that is sexual in nature like a shoulder or back rub
   - comments about the persons appearance.

Quid pro quo is a Latin term meaning “this for that”. It occurs when a supervisor or faculty member, or a person acting with authority, with holds, demands and/or promises a benefit by pressuring an employee or student to submit to unwelcome sexual conduct. For example:

Does labor proclamation recognized this?

4.3.6 Female genital mutilations

It is a very painful operation that deprives a woman of a vital part of her sexual organs.

4.3.7. Forced prostitution

is a violent offence to physical and sexual self-determination

Sexual slavery refers:

to the organized coercion of unwilling people into different sexual practices.

include single-owner sexual slavery, and ritual slavery sometimes associated with traditional religious practices, slavery for primarily non-sexual purposes where sex is common or forced prostitution.

nature of slavery means that the slave is *de facto* available for sex

4.3.8. Forced marriage

a marriage in which one or more of the parties is married without his or her consent or against his or her will.

Forced marriages involve varying degrees of force, coercion or deception, ranging from emotional pressure by family or community members to abduction and imprisonment.

4.3.8.1 Motives prompting forced marriage

Parents who force their children to marry often justify their behavior as protecting their children, building stronger families and preserving cultural or religious traditions.

Some of the key motives that have been identified are:

- Controlling unwanted behavior and sexuality (including perceived promiscuity, or being gay, bisexual or transgender) - particularly the behavior and sexuality of women
- Peer group or family pressure
- Attempting to strengthen family links
- Ensuring land remains within the family
- Protecting perceived cultural ideals which can often be misguided or out of date
- Protecting perceived religious ideals which are misguided
- Preventing "unsuitable" relationships, e.g. outside the ethnic, cultural, religious or caste group
- Assisting claims for residence and citizenship
- Family honor
- Long-standing family commitments

4.3.8.2 Criminal Law and Forced Marriage

Although no specific criminal offence. Perpetrators usually parents or family members have been prosecuted for offences including threatening behavior, harassment, assault, abduction and murder. Sexual intercourse without consent is rape.

4.3.8.3 Forced marriage in relation to the victim

domestic abuse.

feel unable to leave because of the lack of family support, economic pressures and other social circumstances.

Isolation feel they have no one to speak to about their situation.

Whatever an individual's circumstances, there are basic needs that should always be considered, including:

- Personal safety
- Confidentiality, and
- Accurate information about rights and choices

4.3.9. Dowry abuse

“A dowry is the money, goods, or estate that a woman brings to her new husband. Bride price is paid to the bride's parents, and dower which is property settled on the bride herself by the groom at the time of marriage. The same culture may simultaneously practice both dowry and bride price. The dowry is an ancient custom, and its existence may well predate records of it.”

Dowry abuse occurs when the husband's family continues to press the wife's family for more money or other gains after the marriage, and sometimes involves physical threats.

Eg. “bride burning”

4.3.10 Trafficking

Trafficking in persons is an increasing problem that involves both sexual exploitation and labor exploitation of its victims.

- Human trafficking is the recruitment, transportation, harboring, or receipt of people for the purposes of slavery, forced labor (including bonded labor or debt bondage), and servitude.

Chapter Five
5. Women and Education

5. Women and Education

5.1 Education and its importance

- Different definitions of education
- Oxford Word Power Dictionary “The teaching or training of people especially in schools: primary, secondary, higher etc.” others define education based on its aim as “a continuous and creative process that aimed to develop the capacities and progress of society, by equipping members of society with spiritual, moral and material knowledge.”
- based on its role for social change as “a powerful instrument for social transformation.”
- important for individuals’ development. may contribute their share to an ever-advancing civilization.

education is important for individual growth and societal change

5.2.1The importance of education for individual growth of girls

- have more life choice and opportunities to participate in community life and decision-making;
- tend to marry later and have fewer, healthier and better-nourished children
- yield the highest return in economic terms and
- have more exposure to information;
- resist domestic violence more likely than those illiterates
- have greater wage earning opportunity

important factors that positively affect the life of people who have got access to it and the life of the society and the group they belongs to.

Minimize harsh consequence of illiteracy.

contribution of education fundamental structural changes it brings in society that gave rise to the

recognition of right to education in different international, regional and national laws.

There is gender disparity in both enrollment and school completion rate.

report of World Bank world wide the primary school completion rate in the year 2005 was 66% for female students and 76% for male students.

education is important for individual growth and societal change

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5.2.2Importance of women education for the society at large

- Education reduce women’s fertility rates:
- Education of women lowers infant and child mortality rate:
- Girls’ education lowers maternal morality rates:
- Girls’ education increases women labor force participation rates and earning
- Girls’ education creates intergenerational education benefits. Mothers’ education is a significant variable affecting children’s education attainment and opportunities.

5.3 Education and Ethiopian women

The gender gap between girls and boys in primary and secondary school remained constant at 20%.

a higher dropout and repetition rate among girls than boys.

The committee on elimination of discrimination against women in its concluding observation of January 2004 indicated :

the high level of women illiteracy and high rate of dropout and repetition among Ethiopia girls.

The level of girls' primary school enrollment was 19% in the academic year 1991/92 though it increased to 53.8 %, 50.1%, and 71.1 % in the academic year 2002/2003, 2003/04, 2004/05 respectively.

Contd.

the reasons for gender disparity in school enrollment and completion in Ethiopia are:

Cultural, social, political and economic factors contribute to under participation and under achievement of women in education. Factors are:

- Strong bias against investment in female education in rural Ethiopia
- cultural factors. valued girls' household tasks
- the distance of the nearest school from the homestead especially in the rural areas.
- Forced and early marriage
- Rape and abduction
- teen age pregnancy, child labor, parental sex preference, harassment, discrimination rate

5.4 Education as a Human Right

Education is recognized in international, regional and national constitutions as a human right is de rived from the indispensability of education to the preservation and enhancement of the in herent dignity of the human person.

5.4.1 International standards

– The UDHR

- under Article20, "*Everyone has the right to education*." it shall be free, at least in the elementary and fundamental stages.
- should be directed towards the full development of the human personality and

- it acknowledges that parents have a prior right to choose the kind of education that shall be given to their children.

The ICESCR

Articles 13 and 14 of the ICESCR set out detailed formulations of the right to education.

Article 13 contains a general statement that everyone has the right to education and that education should contribute to the full development of the human personality. It also specifically stipulates that:

- Primary education shall be compulsory and available free to all.
- Secondary education, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, in particular by the progressive introduction of free education.

Contd.

- Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, in particular by the progressive introduction of free education.
- Fundamental education shall be intensified for those persons who have not received or completed the whole period of their primary education
- Systems of schools shall be established and the material condition of teaching staff shall be continuously improved.
- The liberty of parents or guardians to choose their children schools other than those established by the public authorities which conform to minimum educational standards shall be respected.

Article 14 requires each state party that has not been able to secure compulsory primary education free of charge, to undertake, "within two years, to work out and adopt a detailed plan of action for the progressive implementation of compulsory primary education free of charge for all.”

CRC

- Articles 28 and 29 of the CRC deal with the right of the child to education. Article 28 is similar to the provisions contained in ICESCR. In addition, it states that school discipline should be administered in a manner consistent with a child's human dignity.
- Article 29 stipulates that the education of the child shall be directed towards the development of the child's personality, talents, and mental and physical abilities to their fullest potential.

UNESCO Convention against Discrimination in Education

states parties must undertake to formulate, develop and apply a

- **national policy** which will tend to **promote equality of opportunity and treatment,** and, in particular, to make primary education free and compulsory.
- recognizes parents' right to freely choose their children's educational institutions and to ensure the religious and moral education of

Art. 10 of CEDAW also contains provisions dealing with the right to education. It provides, for example, for equal access to career and vocational guidance and to studies at all educational levels; access to the same curriculam and examinations; elimination of stereotyping in the roles of women and men; and the same opportunities to benefit from academic scholarships.

5.5.2 Regional instruments

The right to education is recognized and guaranteed under several regional human rights instruments. ACHPR (Art. 17), PACHPRWA (Art.13), SDGEA (Art. 8), ACRWC and in human rights documents of other regions

Article 41(3) of FDRE Constitution guarantees the right of Ethiopian nationals to have access to publicly funded social service which among others includes access to education. Article 41(5) imposes obligation on the Ethiopian government to provide public education by allocating ever increasing resource for this purpose.

5.6 Content of the Right to Education and State Obligations c

four components of the right to education can be gleaned from various legal provisions on the right to education:

- Equal enjoyment of, and equal access to, educational opportunities and facilities;
- Compulsory and free primary education;
- Generally available and accessible secondary education and equally accessible higher education and
- Freedom of choice in education, and freedom to establish private institutions

The CESCR, in its General Comment 13 identifies four elements of the state's obligations with respect to the right to education.

1. **Availability** duty to provide compulsory and free primary education is undoubtedly a prerequisite for the realization of the right to education. The CESCR in its General Comment 11 on article 14 of the ICESCR considers states have a clear and unequivocal obligation to draw up a plan of action for ensuring compulsory and free primary education.
2. **Accessibility** At a minimum, governments are obligated to ensure the enjoyment of the right to education through guaranteeing access to existing educational institutions by all on the basis of equality and nondiscrimination. For example, as provided for in article 10 of the CEDAW

- Discrimination on the basis of gender is defined in Art.1 defines discrimination against women as “any *distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field.*
- showing the cause and effect of the discrimination. caused when distinction, exclusion or restriction is made on the basis of sex- the fact of being female or male; and the distinction, exclusion or restriction should have the effect of impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms.

Contd.

the low level of women enrollment in education and school completion rate mainly relate to the distinction made on the basis of sex and this has hazardous effect on the enjoyment of one of the human rights, right to education, by women.

5.8Addressing Discrimination in Education with Temporary Special Measures

CEDAW clearly endorses the implementation by state party of “temporary special measures” for women. These refer to programs, politics, and laws that place them in a situation of comparative advantage to men for a limited period, with the aim of achieving substantive equality between the two sexes in the long term.”

temporary special measures are typically aimed at leveling the playing field since the field is tilted in favor of groups that have historically benefited from preference and privilege.

- ✓ attempt to create a fair base line
- ✓ enabling mechanism which support the achievement of substantive equality

Justification for temporary special measures

A. On the ground of compensatory justice

to make up for past harms and disadvantages women suffered as a group or, can be based on forward-looking principles

aim at future equality for them as a group.

the present generation finds ways of pacifying its aggrieved and tormented victims." Past discrimination against women, particularly those who face multiple barriers, lays the groundwork for their continued patterns of structural discrimination. Temporary special measures are therefore justified to remedy the lingering effects of discrimination.

B. On the ground of distributive justice

Distributive justice is a forward-looking justification, oriented towards correcting current imbalances between women and men with respect to their access to the elements of a ‘humane life. Eg. All women conferences reduced, and before women in all countries can hold 30 percent or more of decision-making positions in the economic field.

C. On the ground of Social utility

emphasizes their positive effects in terms of

(i) mobilizing the economic and social potential of women for the common good of society, and

(ii) encouraging and facilitating the social transformation and the promotion of diversity.

Eg. supporting them with maternal income and therefore add utility to society as a whole.

contd.

D. On the ground of access to rights

how temporary measures allow women to fully claim and realize their human rights. Because human rights are interdependent, the adoption of temporary special measures that assist women achieve one set of rights will likely help them achieve other rights.

For example, given the interlocking nature ofCPRs & ESCRs gender equality measures in the employment context may promote women's enjoyment of economic rights, such as the right to work or the right to enjoy an adequate standard of living.

temporary special measures in the form policies of poverty alleviation, education and skill-building facilitate women's access to civil and political rights, such as reproductive rights and access to legal redress.

Some Temporary Special Measures Taken by the Ethiopian Government to Address Gender based Discrimination in Education:

Ethiopia signed CEDAW on 8, July 1980; target area of discrimination that temporary special measure aimed to address is discrimination in education.

- women education by ensuring policy reform.
- in the report, 3% of the total number of seats has been reserved for female student universities.
- introduction of girl's scholarship program is a major step forward
- classes near their localities.
- The arrangement of tutorial class for female students

The specific actions that ate being taken to influence policy are the following:

- Development of girls education policy
- Development of policy implementing strategy
- Incorporating the concept of gender mainstreaming in, *inter-alia,* curriculum development and parent's counseling
- Capacity building of head teachers in high schools and gender focal points in the regions to deal with gender matters
- Conducting research in the area in order to devise mechanisms for increased girls participation in primary, secondary and tertiary education

Chapter Six

6. Women and Employment

6.1 General overview

family responsibility (women devote 70% of their time providing care for their families and communities.

contributing factor for the existing gender based discrimination in employment. Women also often suffer employment discrimination because they need to take time off for maternity leave or when a child is sick.

lower grade and lower paid jobs.

Contd.

Gender Based Discrimination in Employment

According to the 1958 Discrimination (Employment and Occupation) Convention, discrimination in employment is any distinction, exclusion or preference based on designated criteria such as race, color, sex, religion, political opinion, national extraction, social origin or other designated criteria which have the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

The discrimination may be de facto or de jure.

- ✓ A de facto discrimination shows the existence of discrimination in fact (in reality or in practice)
- ✓ de jure discrimination refers to the existence of discrimination in law.

Right to Employment, a Human right of women

The right of women to equal employment opportunity with that of men is enshrined in a very large number of international and regional human rights documents and constitutional texts which provide either for equality of rights without discrimination on the basis of sex, or prohibit discrimination based on such grounds

International standards

UDHR

Art. 23(1) right of every one, women as well as men, to work. prevent women from participating in labor market amount to violation of human rights of wome

ICESCR

Art.6 right of every one, both men and women, to work and to get the opportunity to gain his/ her living by work.

Regional standard

ACHPR

Art. 15 guarantee to every one the right to work and as per Article 2 no distinction of any kind including sex.

PACHPRWA

Art. 13 obligation on the state parties to adopt measures to guarantee women, among others, equal opportunity to work. to promote equality of access to employment

Contd.

National laws

Art. 34 of the FDRE con. expressly has recognized the right of women to equality in employment

Labour proc. Also recognized

Women Right to Equal remuneration

International standards

HDHR Art. 23(2) equal pay for equal work

ICESCR Art.7 equal remuneration for work of equal value without distinction of any kind.

- **Equal Remuneration Convention, 1951**

Art.1,2workers for jobs of equal value or rate of remuneration established without discrimination

Regional standard

- **ACPHR** 15 guarantee to every one a right to equal pay to equal work
- **PACH PRWA** Art. 13(b) imposed obligation on state parties to adopt and promote the right to equal remuneration for jobs of equal value.
  - **Maternity protection**
- Motherhood and childhood are protected by diffe

rent international regional and national laws.

include the right to health protection, the right to maternity leave, the right to leave in case of illness and complication and the right to employment protection and non-discrimination.

Maternity leave is leave in relation to child birth.

period of maternity leave varies from jurisdiction to jurisdiction.

Maternity leave includes prenatal and post natal leave

Art. 4(4) the ILO Convention Revision of Maternity protection postnatal leave shall not be less than 6 weeks

Art. 4(5) of the ILO Convention child is born certain days after the presumed date of birth, the prenatal portion of maternity leave shall be extended the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory postnatal leave.

employer can not legally terminate the employment relationship during her pregnancy or absence on maternity leave or leave in case of absence unless the ground for termination is unrelated to pregnancy, birth of the child and its consequence or nursing.

Sexual harassment in work place

Sexual harassment is a form of gender – specific violence against women. It results from a misuse of power – not from sexual attraction.

victims of sexual harassment are women while the perpetrators are men. Do u believe?

They encompass acts ranging from sexual assault., display or distribution of pornography, suggestive gestures, physical contact, repeated proposition for daters or sexual favors, comments on appearance or comments of sexual nature relating to the victim to a third party and so on , all of which are unwelcome by the victim .

Studies on sexual harassment cases and experiences of women have shown two dominant categories:

1. **Quid pro quo Harassment**

This refers to situations where an employer or superior at work makes tangible job- related consequences conditional upon obtaining sexual favors form an employee. This form of sexual harassment involves making conditions of employment (hiring, firing, promotion, retention etc.) contingent on the victim providing sexual favors. Such an action must prove that:

2. Hostile Working Environment Harassment

Sexual harassment whether verbal, physical or visual, has been acknowledged as affecting and unreasonably interfering with an individual's job performance or creating an intimidating, hostile or offensive working environment.

International Human Rights Standards

- Art. 1 of the CEDAW *distinction, exclusion or restriction made on the basis of sex*
- ICESCR Art. 7 acknowledges the right to " fair wages and equal remuneration for work
- Art. ICCPR 26, right to equal protection.
- UDHRArt. 23(1) favorable conditions or work