

Domestic Violence from the View of the Documents of United Nations

Houshang Shambayati, Salameh Abolhasani*

Department of Rights, Islamic Azad University, Central Tehran Branch, Tehran, Iran

Received: September 17 2013

Accepted: February 18 2014

ABSTRACT

Domestic violence as a major issue has always been at the center of attention of the world community and has allocated a large number of international and regional documents of the United Nations to itself. Since this nasty phenomenon happens in the most important institution of the society- the origin of growth, development, breeding and socialization of the individuals, the recognition of the violence and finding its causes and factors and also achieving strategies to fight against and controlling it and to present preventive solutions and methods for treatment of victims and rehabilitation of its offenders are necessary.

One of the important issues is the ways to deal with offenders. It is important whether to deal with the offenders using criminal tools and punishments or employing other possible methods. Paying attention and giving priority to each aspect -strengthening of the family or punishment of offenders - make different countries use different strategies. Some countries are in favor of strengthening of the family, so try to keep the integrity of it and some others are in favor of compensation for damages imposed on the victims and the punishment of the offenders. Therefore, in practice, we will encounter different strategies, particularly in dealing with legislative systems and criminal justice of countries toward this phenomenon.

KEYWORDS: violence, domestic violence, criminalization, gender sensitivity, due diligence, treatment, rehabilitation

INTRODUCTION

Literally violence means roughness and anger* and improper, illegal and violent use of power†. It is one of the most complex and difficult social sciences concepts. The world history shows violence in various societies at different times. In other words, violence is a historical phenomenon existing in the past as violent social life, plunder and dominance on others led into forcing others to obey the other one and they made violence a part of routine life.‡ Some people considered violence as abnormal and the others considered it individual and collective behavior being manifested under special conditions. Some people believed that violence is any physical invasion against people to suffer others. Others believe that violence is including a wide spectrum of critical behaviors to include negative reactions as indifference. Also, violence is defined as a behavior of humanistic features defined as unjust actions of power with taking energy and more attempts and more aggression to stabilize the dominance and provide individual or group benefits and in such condition, power, facilities and opportunities are used against the common rights, freedom and social rules.§

It seems that each of the definitions has some problems as some of the definitions refer to physical violence and mental violence is ignored. Some of them emphasis on the behaviors and they didn't consider leaving the action and not doing it.

The researchers considered the features of violence including the global prevalence of violence and its latent nature.** The prevalence of violence means that violence is everywhere in small and big issues at national and international level. Thus, violence is classified as non-political and political groups. The non-political violence is observed in friendly social spaces such as family, school or street and public areas against women and children as violent crimes with the different kinds ranging purposeful and accidental assassin to the structured crimes and different kinds of political violence are terrorism and terror, prosecution and torture. The ruthless acts occur in all over the world. There is no society, region or culture without violence.†† However, violence namely violence against

* Amid, Hassan, Amid Dictionary. Amirkabir publication. Third edition. 1981. Vol. 1, p. 560.

† Henry Campbell Black, Black's Law Dictionary, 4th edition by The Publisher's Editorial Staff- 1968, p.1742.

‡ Ezazi, Shahla, The structure of the society and violence against women, Scientific study journal of social welfare, year four, No. 14, p. 50

§ Daryapour, Zahra, violence propagation in media and its adverse effect on family, the articles of educational workshop of fighting for violence against women. Tir 2000. P. 480.

** Kar, Mehrangiz, A review of violence against women in Iran. Roshangaran publication and women studies. Fourth edition. 2008. p.20.

†† A/ RES/60/140-7 Feb 2006- Rights of child- General Assembly.

*Corresponding Author: Salameh Abolhasani, Department of Rights, Islamic Azad University, Central Tehran Branch, Tehran, Iran.

women is latent. Due to various reasons including fear of hard punishment, shame or the lack of legal supports, women try to be silent. This is serious when it is related to private field of women as the concept of family holiness and holding the information of family inside are the basis of the theory of privacy and are the other reasons of continuance of violence against women * because women by hiding violence accept it as the reality of their life and this is one of the reasons of the lack of legal statistics in Iran.

In international documents and regulations of United Nations as the framework of the current study, violence is also reviewed. Fifth article of the Universal declaration of human rights approved in 1948 stated that † nobody is tortured or punished against humanity or dignity.

In important documents of human rights of United nations, this term is applied dependent upon the application of document and based on the audience and it can refer to Treaty Body, child rights convention (article 19), civil and political rights treaty, economical, social and cultural rights treaty, torture ban convention and other aggressive behaviors and race discrimination convention (articles 4,5) and other important documents including the ratifications of global conferences. The World Health Organization (WHO)‡ as the main institution in global health presented wide definition of violence as:

“Purposeful use of physical power, threat or any action against self or the other or against a group or society leading into the injury, death, mental injury and deprivation and all the adverse effects are possible.§ The world health convention in resolution 1996 introduced violence as the most important issue of public health and requested a good classification of violence from WHO.**

Child rights committee in the general theory 13 stated: ††To meet the aims of the general recommendation, the term “violence” means:” All forms of physical, mental violence, injury or abuse or negligence, bad behavior or abuse as they are referred in article 19, first paragraph of child rights convention”. Here, the term violence is applied for all forms of children injury as it is stated in article 19 of the convention and it is also used in terminology of “the study of United Nation about violence against children in 2006. The mentioned committee emphasized on the fact that the term violence shouldn’t be interpreted as to make the effect of purposeful or accidental forms as minimum (e.g. mental abuse and negligence).

Different kinds of violence

By reviewing the various definitions of the experts, different kinds of violence are inferred. Indeed, violence the collective priority of some people to others as they are occurred in which field or to which people or what time and by whom are defined and they are classified into different kinds.

WHO classified violence based on the relation between the victim and offender into three types:

1. Self-directed violence: It is suicide behavior
2. Interpersonal violence: It is including the violence imposed against a person from another person or small group of people. This is classified into two types:
 - a. Domestic violence: It is including the violence among family members and intimate partners including children and elderly abuse. This type of violence is occurred in the family.
3. Community violence: It is including the violence occurred by a great group such as the governments, organized political groups, military groups or terroristic organizations††.

Domestic violence or other terms referring to this meaning including domestic violence, family violence, violence among the intimate people, smacking wife, wedlock violence and hurting wife or the partner§§ are special kinds of violence each with independent definition as an example of violence. Although violence is not an exceptional phenomenon and it is occurred in all historical periods among all nations, it has unique characteristics.

* Molaverdi, Shahindokht, The review of violence against women, Tehran, law maker with the collaboration of Daneshnegar, First edition.2006.p.53

† Universal Declaration of Human Rights, 1948- www.un.org

‡ World Health Organization was established in 1948 and its aim was the providing the highest quality of health for all people in the world. This organization is administered by global health convention. All the countries member of the United Nations is the member of WHO. The convention is held annually to review the activities, policy and budget. The health of the mother and child as family control is one of the aspects of 8 main requirements of global strategies of the organization to achieve the aim of “health for all”. Mirsaeed Qazi, Ali. (Translator) information center of United Nations in Tehran, information guidance of United Nation, First edition. 1997. p.86.

§ It can be said that in this definition based on the term “purposeful”, it doesn’t include accidental acts. Based on the term “power” beside the physical force, it can be said that except the violent activities that are defined by doing an “action”, some acts are occurred as “leaving an action or negligence and they can be used in the mentioned definition.

** WHO Global Consultation on Violence and Health. Violence a Public Health Priority-Geneva. EHA/SPLPOA,20 (www.who.org).

†† CRC/C/GC/13-13 April 2011- General Comment NO 13- The Right of the Child to Freedom from all Forms of Violence.

‡‡ www.who.org

§§ Mohammad Khani, Parvane et. al, The prevalence of family violence model, its experience among men and women, Scientific research journal of social welfare, Year 5, No. 21, p. 205.

The domestic violence is defined as a model of abuse behaviors that is occurred by a person against another one in Intimate Partners Violence such as marriage, engagement and co-habitation. Indeed, men and women as the important elements of stability in the family and they family is continued based on their role, in some cases by violence, the family is facing with problems as the family members instead of experiencing positive concepts as affection, empathy and sacrifice, experience anger and hurt by the family members, by people who are related with due to intimacy, legal or blood relation.

Indeed, the domestic violence in 70s showed that after a long time that democracy concepts, freedom and equality were discussed in general field, the private field is required and it is the family. This issue created some movements in various societies and the important requirements is giving the equal social and civil rights to the weaker people in the family. The people against the domestic violence talked about the punishment of the offenders in the family and supporting the victim and they stated that none of the family members should deprive the other member by various violent acts from the main and civil rights in the society and control the freedom of choice. On the other hand, some people considered the gender difference in presenting the definition of violence as including the discrimination behaviors based on belonging to two various genders. It can be said that gender refers to the physiological differences among men and women and the term gender emphasizes on behavioral, psychological, social and cultural differences being determined by the society for women and men*. This group believes that violence against women is done to supervise their behavior, the behavior that is allowable in public field for all people in the society but men by using it beside showing their power try to deprive women of their freedom†. Thus, the reaction against domestic violence that is mixed with the important social values shouldn't be neglected and it is of great importance compared to other violence.

In addition, there are theoretical views on domestic violence. Most of them considered the effective factors in violence at individualistic or "family" level and all the factors are effective in identification of this phenomenon. The Feminist theorists didn't consider individualistic or family determinations on violence as adequate. But they believe that these factors can act as exacerbating the violent behavior and they emphasized on the unequal structure of the power relations between women and men in the society and related societies. The considered the patriarchal structure in the society that let men to dominate the women. Thus, violence is not individualistic act of a man against a woman being reviewed by individualistic features and violence is the behavior that is done from the men of the society to the women of the society. Violence is the important supervising tool reflecting the unequal power relations in the society and helps the power unequal relations‡.

Secretary-General of the United Nations in his report regarding domestic violence being published in 1990 considered that "The global community considered the domestic violence" and in a different article considered "the nature and scope of domestic violence"§: at first the public concern was mostly based on violence against children and it mostly emphasized on smacked women by punishing the offenders and violence against elderly and disabled. Considering the violence among other groups including the violence against adolescents, violence by adolescents against the parents or violence among homosexual parents are neglected. Also, the increasing violence regarding the domestic violence reflected the emphasis on human rights and individual welfare, removing the border between individual and general aspects of life and the success of the attempts to improve the awareness of the experts and activists for presenting good response to the subject. Indeed, domestic violence is away from penal justice system due to the emphasis on supporting the family, the dependence between the victims and offenders and the lack of inclination of people to resort to the defensive actions in family disputes. This concern about domestic violence is evident in the decisions, obligations and ratifications of United Nations as the congresses of prevention for crime and criminal justice of United Nation, global conference of United Nations on women, global assembly of elderly, the global actions plans about disabled and children rights convention**. The ratification of the ratification of United Nations dates back to 1985 that the first resolution of general assembly on domestic violence was approved. The UN Congress on Crime Prevention and Treatment of Offenders are held each five years in all over the world. In 1985, in the seventh congress, a session was held to review the offence victims as one of the topics of congress †† discussing special kinds of women offence victims, interpersonal violence‡‡ and sexual harassment and domestic violence and

* Gidens, Antony, Pishin, p. 154.

† Ezazi, Shahla, Pishin, p. 200.

‡ Ezazi, Shahla, Pishin, p.212.

§ The report of the secretary general following the general convention resolution No. 40/36 on 29 Nov 1985 and ECOSOC resolution No. 1989/67 was formulated and the secretary general was asked to do research regarding the domestic violence as comparative. The report was done to state the policy of the organization and eight UN congress on prevention of crime and treatment of offenders.

A/CONF. 144/17-2 July 1990 -Eight UN Congress on Prevention of Crime and the Treatment of Offenders.

** A/CINF.144/17-20July 1990.

†† Taha, Faride, the review of UN Congress on Crime Prevention and Criminal Justice (1), Tehran. Mizan publications. First edition. 2011.p.63.

‡‡ Interpersonal (including domestic and community violence kinds. See page 9).

it was emphasize that “women are faced with unjust behavior and implicit abuse as it was occurred in domestic violence and the considerable reduction of domestic violence reduced violence against women”.

Following the request of the seventh congress, domestic violence in eighth congress (1990) is reviewed again. Indeed, in 1990, women rights and daughters and elimination of violence against women were recognized as the international human rights and the UN member states approved various resolutions to prevent and eliminate gender-based violence. The international community in the agreements in 1990 emphasized on the fact that violence against women is not only one of the most systematic cases of human rights violation, it is effective on women health and their ability and capacity to take action.

In the late 20th century, numerous conventions, resolutions on violence against women namely domestic violence were approved from UN and affiliated specialized institutions as WHO and The United Nations Children's Fund --UNICEF-- and it shouldn't be treated as “private issue” of women or as “family affairs”, but based on the documents of UN, the international community is responsible and they should respond to this issue with legal policies and effective measurements.* It should be said that although various UN documents on violence and responding to violence against women including domestic violence are symbolic, it seems that these documents should be identified by NGOs and other state or private organizations to create effective changes in the life of women under domestic violence.

In a historical review with an introduction to the changes of UN on violence against women by emphasis on domestic violence, it can be said that domestic violence is changed from “private” issue to the “general” issue and then the “human rights issue”.

More than one decade, the formulation of “Model Strategies/ Guidelines” are presented for the governments with the aim of effective law making and execution of the law and multiple measures on domestic violence presented by UN. Following the research in the first and second stages, various theoretical, executional and law making experiences were obtained beside the effective state reactions on domestic violence. Numerous member states adopted new law making and various measures. Base on this experience, the special reporter of violence against women, economical, social council of UN in 1996 and general assembly presented these models and documents via Economic and Social Council (ECOSOC) in 1997.† UN mechanisms for “supervision on the governments and their effective encouragement” improved their activities with emphasis on elimination of violence against women or domestic violence. One of the mechanisms was the request of the committee to ban all forms of discrimination against women and it was based on the fact that the governments cover violence against women in accordance with the general recommendations of No. 12, 19 in periodical reports. Other examples are effective measurements of the special report of UN on violence against women and General assembly resolution on crime prevention and criminal justice measures to eliminate violence against women‡ and complaints mechanism to the committee of elimination of women discrimination by additional protocol of the mentioned convention (Sida)§. By this protocol, if the women rights are violated in the convention, they can complaint against their governments to this committee**. The general assembly in 2004 presented a ratification of the in-depth study on all forms of violence against women and asked for the introduction of the best general examples in law making, policies and plans and effective solutions and asked for their efficiency to eliminate the violence against women.†† In a general review of the set of UN documents namely since 2000, some issues as law making, criminology of violence and some measures for prevention, the significance of the family and supporting it were formulated and the offenders were punished and the gender approach in various general assembly institutions, social economical council, human rights council and human rights commission, women position commission and the committees supervising the human rights documents were considered.

Domestic violence is the violence of the family members against each other in the house and it should be considered that the extensive definition of this term is including all members including children, parents and spouse and grandparents. This classification has other subsets as adopted children, the children of the previous marriage and the legal wives, intimate partners in wedlock and co-habitation and also the vulnerable groups as disabled are raised. Some group believes that this wide scope makes authorities away from the main aim.‡‡ By presenting the definition and law making with the aim of supporting the people against domestic violence, we should consider that in the researches, even in the studies on domestic violence, family, violence against women and the girls were more and by

* E/C 12/2002/8-26- March 2002-Economic and Social Council.

† A Framework for Model Legislation on Domestic Violence- E/CN.4/1996/53/Add2.

‡ General Assembly Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women .1997.

§ Resolution 54/4 – 1999.

** www. unhchr.ch.

†† A/RES/58/185- 18 March 2004- In-depth Study on all forms of Violence against Women. General Assembly.

‡‡ Molaverdi, Shahindokht, Pishin,p.20.

emphasis on gender-based domestic violence, by defining this term, wide definition should be presented regarding the violent measurements and different kinds including all forms of sexual, physical, mental and negligence.* For example, the law of elimination of domestic violence of Malaysia in a wide definition of violence stated that violence is any illegal act leading into injury.† In other words, in formulating the law one of the important issues considered by the governments is the definition of violence and the scope of people supported by law. It means that the law of domestic violence is applied to the people involved in the intimate relations of marriage and the law making view is changed for a long time and other survivors of domestic violence including the intimate partners who have not been married yet or they are in co-habitation relation, the people in family relations and one-family members including the domestic workers are included.

Law making the domestic violence

UN in more obligation or guidance documents at international level discussed about the important issue of “law making” in domestic violence and encouraged some countries for this important issue. The new approach of the UN is the formulation of the law making examples in various documents and encouraged some countries to use these models in their domestic law system. This facilitated the law making issue and helped the monotonous trend of the rules in various countries and it is of great importance.

The human rights-based approach emphasized on the fact that the law should consider that domestic violence is the manifestation of unequal power among men and women and the subject of human rights is women and girls. The equality of all women against the law, taking some measurements to emphasize on the ban on double discrimination, gender-based law making, the relation between the custom and culture with the justice formal system and modification of the challenging legal rules are the points that should be considered in the law making of all the countries.

Criminology of domestic violence

In UN documents, it is emphasized on domestic violence as specifically and domestic violence is recognized as violence against women and it was asked from the member states to take the required measurements in its criminology.

Woman position commission of UN formulated some reports in special meeting of UN general assembly in 1999, 2000 and emphasized on various activities of some countries on fighting against domestic violence and stated that: The member states took important measurements to emphasize on various forms of violence against women and some of them emphasized on elimination of violence against women as its identification as a priority issue in national strategy of crime prevention. Other member states ratified regional conventions regarding violence against women and took the required measurements on domestic violence (violence against women) and criminology of sexual violence in marital relations. Most of the member states recognized domestic violence as criminal act and the offender should be responsive.‡ The declaration of elimination of violence against women approved by general assembly in 1993 (fourth article), condemnation of violence against women and punishment of the offenders of violence against women were requested by domestic law from the countries. Criminal, civil, labor and administrative law making and the required guarantee and compensation of damage are other recommendations of the authorities approving this document.

UN documents emphasized on criminology of various forms of physical, mental, sexual, etc violence have some rules about the violent behaviors against women.

UN general assembly § in 1994 stated explicitly the “violent methods and custom” as violent forms against women and asked the member states to apply the guarantee of criminal, civil, job, administrative issues in the rules to ban domestic violence with the aim of imposing punishment and compensation of the damage for the offense victims, the facility of their access to justice mechanisms and condemnation of violence against women and the lack of resort to the traditional, custom or religious justifications for the lack of meeting their commitments.

The executional plan of international conference on population and development approved in 1994 encouraged the member states to the ban of Genital Mutilation in some countries.**

Beijing Declaration and Platform for Action being approved in the fourth global conference of women in 1995 requested the ratification of the rules against the offenders of these behaviors against women as genital mutation, female infanticide, prenatal sex selection and dowry-relate violence. In 1998, the general assembly in a resolution on the effective traditional procedures and methods on women and girls health” emphasized on the need to national law

* See the report of the special reporter of UN violence in 1996.

† Domestic Violence, legislation and its implementation. www.un.org. woman watch

‡ E/CN.9/1999/PC/4- 19 Feb 1999-Progress in the Implementation of the Platform Action based on the review of reports to the Commission on the Status Elimination of Discrimination against Women. A/S-23//2/Add.2(part II).2 June 2000.

§ Resolution 48/104.

** Programme of Action of International Conference on Population.

making or some measurements to ban the traditional strategies and taking these measurements via the appropriate mechanism against the responsible people*. In 2002, general assembly in another resolution titled as mentioned requested the ban of damaging traditional methods as obligatory and early marriage and female genital mutilation as violating the women and children rights.[†]

In 2006, the improvement of the legal measurements for full enjoyment of women of all examples of human rights and elimination of all forms of violence against women and girls including the damaging methods was requested[‡]. Regarding the violence against women committed in the name of honour', UN in a resolution [§] in 2003 emphasized on the necessity of identification of all forms of violence against women and girls as the crimes committed in the name of honour as punished criminal crime. In 2000, 2002, 2004, other resolutions titled “crimes committed in the name of honour” were approved to emphasize on the attempts to prevent the crimes against women committed in the name of honour as via law making measurements that were recommended by the member states.

In 2007, woman status commission in a resolution banned women genital mutilation and emphasized on the importance of law approving by emphasis on the prevention of women genital mutilation. The mentioned commission encouraged the member states to take the necessary measurements to protect the girls and women against genital mutilation via approving to ban this form of violence and finishing the protection of the offenders. The commission requested the member states to review and modify or cancel or the damaging rules and policies namely genital mutilation as women discrimination or all the issues with discriminatory effect to girls and women and guaranteeing the adaptation of the rules of multiple legal systems (as they exist), with international human rights commitments. The Committee of Elimination of Racial Discrimination (CERD) expressed their concern about the continuance of the habits as child marriage and dowry **. Thus, Human Rights Committee (HRC) recommended supervision principle on the good performance of the content of civil and political rights treaty and recommended about the ratification of the rules with emphasis on the ban of female genital mutilation and guaranteeing the punishment of the offenders and elimination of discriminatory rules. Committee Against Torture CAT requested the member states to approve the rules banning the female genital mutilation and take the required measurements to prevent the traditional acts including holding the campaigns and improving the public awareness and taking the measurements to punish the offenders.^{††}

Regarding some examples of damaging behaviors that were mentioned before, some important points are of great importance in criminology.

a. So – called “Honour” Crimes, the rights system of countries should present wide definition of this crime as it is including wide scope of discriminations and violence committed against women and girls in the name of honour to control and traffic, sexual behaviors and the choice of their life.^{‡‡}

The law should define special crime to punish the offender, the people who help the offense and ignoring the So – called “Honour” Crimes. It is important to say that in some cases, formulating special rules in the name of “honour” can have negative consequences. For example, in cases of formulating special law, it is possible that the offenders to escape from the legal punishment or lightening their punishment achieve their aim or encourage women for suicide. Thus, the law should be formulated as the offenders can not escape from the offenders. Thus, all who encourage the children to the criminal acts are responsible. Also, encouraging women for suicide or self-burning is crime.

b. Dowry, in some countries, the bride family should pay money for dowry to the bridegroom family and its price is determined by the two parties' agreement. If the dowry is not paid on any reason or it is very small, the bride is faced with different violence. In some countries, the bride is burnt by bridegroom or his family or acid assault^{§§}. The law should formulate special rules in “deaths of dowry violence” where the death is occurred by some factors other than burning or physical injury and special rules are formulated by which the offense victim is died due to the violence and its suffering (dowry) ^{***}. The condition of the gifts being given in marriage should be determined.

c. Acid assault is another crime in damaging tradition and behaviors against women in domestic violence. Acid assault is one of the serious kinds of violence against women and it leads into the death of victim. The major reason of the violent acts is refraining from marriage, love or sexual desires, revenge or dowry issues. In most of the countries in the South of Asia, this act was common and some reports are published in some African and European regions.

* Resolution 52/99, Para 2 (b).

† Resolution S-27/2-A World fit for Children- General Assembly

‡ 60/262/Political Declaration on HIV/AIDS- General Assembly.

§ A/RES/57/179 – 30 Jan 2003.

** CERD/IND/CO/19 Para.18.

†† CAT/C/KEN/CI/I/Para 27.

§§ Saeed Nouri et al. (Translators), Pishin, p.644.

*** Indian Protection of Women from Demestic Violence Act (2005)

The unallowable sale of any acid should be considered as crime. Selling any kind of acid should be controlled and the medical personnel should report the case to the police. The accomplice or any other person who provides the acid for the offender is guilty.

D. Forced marriage and children marriage, the legal system of the countries should define suitable definition regarding the obligatory marriage as any marriage that is done without the satisfaction of two parties. This definition should be wide to include any force in marriage. In various countries in the world, there are different types of forced marriages and law making should be considered based on each of them. For example, kidnapping with the purpose of marriage, Bedel, obligatory marriage of woman with the man who raped him, bater marriages, etc.

Europe parliament assembly in resolution 1468 titled “forced marriage and children marriage” approved in 2005 registered the marriage in forced marriage on condition of talking with the marriage parties. Also, special age should be determined as the minimum age and the marriage of people below that age is forbidden by law and it is introduced as “children marriage”. Regarding the marriage age, although the international documents don’t refer to the minimum age, the second note of article 16 of the convention of prevention of the discrimination against women stated that “engagement and children marriage has not legal effect and all the acts including the law to determine the minimum marriage age and obligatory marriage registration in marriage offices is necessary”. The committee on human rights in interpretation of article 22 of civil and political law treaty stated that “this article didn’t define the definite marriage age but the age should be as the couples can express their free satisfaction”.*

In reviewing the reports of observing the contents of the mentioned document in various countries, criminology proposed this issue in special law to the countries. The legal parents of children have important role in establishing these types of marriages. The rules should be explicitly referred to the criminal responsibility of people who participate in providing the arrangements of these types of marriages.

Polygamy is another type of the marriages in contradiction with the principle “equal behavior with women and men” in marriage right and women human dignity and causes unacceptable discrimination against them and it is in contradiction with part a. of article five of the convention on banning discrimination against women.

e. Shirkah (the money paid to the bride family) it is the goods or money that is given from the bride groom family to the bride family before marriage. It is another type of domestic violence being common in some parts of Asia, Pacific and Africa and created violence against women and girls. It means that if Shirkah is a factor to tolerate violence in an unhealthy marital relation, the law should explicitly define that receiving Shirkah is not a barrier for requesting divorce” it means that requesting divorce shouldn’t depend on paying Shirkah. In some cases sexual violence offenders in marital relation refer to paying Shirkah to justify their action and consider it a reason to enjoy children custody. In some regions, men pay Shirkah and consider themselves as the owner of women and condemnation of these acts is of great importance.

Good performance of the rules of domestic violence ban

Based on the international documents of UN, the governments are required for appropriate action. The committee on discrimination against women in General Recommendation 19[†] believed that the governments are responsible for the measurements of the people violating the others rights and by resorting to “good attempt” prevented the human rights violation or punishing them. It means that the governments should consider the administrative, labor and criminal performance guarantee in their domestic law for punishment and compensation of the offenses against women. Thus, a country has not only negative commitment to ban the violent acts, it has positive duties to prevent and support women, punish the offenders and compensate the damage of the offense victims.

Based on the third note of article four of the declaration of prevention on violence against women approved in 1993, the governments should attempt to research and punish violence against women being done by the government or people in accordance with the rules of the country. To fulfill the aims of punishment acts, the punishment should have some features in accordance with the required aims. In domestic violence based on the close relation of the offender and offense victim, this issue is more sensitive. The stability of the family and the attempt to avoid its dissolution and considering the rights of offense victim and fulfilling his effective rights increased the commitment of the authorities to determine the appropriate punishment in accordance with the current condition.

The relevance of punishment with the severity of the crime committed, elimination of the reduction of punishment, increasing the punishment for repeating the crime or applying domestic violence as collective, the lack of considering fine to the domestic violence offenders, compensation and paying money to the victim or violence survivor, establishing intervention plans for violence offenders and applying alternative punishment should be considered.

* General Comment No19-(Art.13).

† CEDAW General Recommendation 19, UN Doc.A/47/38 (1992).

By virtue of law, all people who participated in damaging behaviors should be considered responsive. As in recent years the medical personnel committed some cases of human rights violation namely female genital mutilation*, It seems that the law should have effective good performance, it means that all people including the leaders of the tribes and health centers specialists and providers of medicine, health services and the personnel of the departments and education system are considered.

It is important that the law making of the countries creates supervising mechanism and criminal execution guarantee against this crime.

Another important point is that satisfaction as defense against the crime committed shouldn't be accepted.† The law should oblige all the experts including the agents and staffs of daily care, wellbeing of children, social and health services, schools care services and outside the schools and associations and religious communities in case of being aware of such measurements should report to the qualified authorities. It should be considered that women and girls by some various reasons such as the lack of awareness of the rules or not relying on the police (or open verification of the problem from the police) don't report. Today reporting is legal in most of the law systems all over the world.

Conclusion

As it was considered in the study of the changes of international documents of UN on domestic violence, the current approach of UN documents to coordinate the law making system in various countries and their adaptation with the important rules of human rights were related as all law systems were including the recognized legal principles and fair procedures.

The law should have comprehensive definition of domestic violence as all the offense victims are considered in this field. The law in some countries developed the scope definition as it included the female workers working at home. It means that the common home between the violence factor and offense victim woman or the women faced with violence is not the condition by which the domestic violence is occurred and committing violence from men against women at home even without blood or marriage relation, is considered under domestic violence law. Criminology is another important issue that the governments took by one of the intervening approaches against domestic violence. By international documents of UN, domestic violence should be considered by special law as crime. This is more obvious when the statistics authorities review the quality of the issue. It means that in case of the lack of special law, it is not possible to separate the violence against women cases in family under the title of domestic violence with other violence cases against women and presenting definite statistics of the event that is prosecuted in justice system is not possible.

In determining the guarantee of execution of the crimes of domestic crime, the special features of these crimes should be considered. The punishment of the domestic violence and treatment of the offenders, compensation of the damage of the victim and comforting them are two important factors in this field. In these special conditions the stability of the family is important from the view of the planners and policy makers.

It seems that as considering the international changes and using the successful experiences of other countries are useful, we should consider the cultural, social and custom of the society and as it was stated in UN international documents, at first we should adapt to the recommendations of UN and then they should be used for useful application.

Acknowledgment

The authors declare that they have no conflicts of interest in the research.

REFERENCES

1. Ezazi, Shahla, Society structure and violence against women, scientific research journal of social wellbeing, year 4, No. 14.
2. Daryapour, Zahra, propagation of violence in media and its adverse effect on family. The articles of educational workshop of elimination of violence against women. Tir 2000.
3. Saeed Nuri et al. Human rights in legal system. Defense organization publication of violence victims. First edition. 2009.
4. Kar, Mehrangiz, A review of violence against women in Iran. Tehran. Roshangaran and women studies publication. Fourth edition. 2008.
5. Gidns, Antony. Sociology. Translated by Hassan Chavoshian. Tehran. Ney publication. First edition. 2007.

* www.who.org.

† In modification of criminal law

6. Taha, Faride. The review of the congresses of prevention of criminal justice and crime of UN (1). Tehran. Mizan publication. First edition. 2011.
7. Amid, Hassan. Amid dictionary. Tehran. Amirkabir publication. Third edition. 1981.
8. Mohammad Khani, Parvane et al. The prevalence of domestic violence model. Its experience by men and women, scientific research journal of social welfare. Year 5. No. 21.
9. Molaverdi, Shahindokht, Review of violence against women. Tehran. Hoquqdan with the collaboration of Danesh Negar. First edition. 2006.
10. A/CINF.144/17-20 July 1990.
11. A Framework for Model Legislation on Domestic Violence- E/CN.4/1996/53/Add2.
12. A/RES/58/185- 18 March 2004- Indepth Study on all forms of Violence against Women. General Assembly.
13. A/RES/57/179 – 30 Jan 2003.
14. A/ RES/60/140-7 Feb 2006- Rights of child- General Assembly.
15. Benin's law 3 of 2003 on Repression of the Practice of Female Genital Mutilation in the Republic of Benin.
16. CEDAW General Recommendation 19, UN Doc.A/47/38 (1992).
17. CRC/C/GC/13-13 April 2011- General Comment NO 13- The Right of the Child to Freedom from all Forms of Violence.
18. CONF. 144/17-2 July 1990- Eight UN Congress on Prevention of Crime and the Treatment of Offenders.
19. Domestic Violence, legislation and its implementation. www.un.org. woman watch.
20. E/CN.9/1999/PC/4- 19 Feb 1999-Progress in the Implementation of the Platform Action based on the review of reports to the Commission on the Status Elimination of Discrimination against Women. A/S-23/2/Add.2(part II).2 june 2000.
21. E/C 12/2002/8-26- March 2002-Economic and Social Council.
22. Henry Campbell Black, Black's Law Dictionary,4th edition by The Publisher's Editorial Staff– 1968.p.1742.
23. Resolution 54/4 – 1999.
24. Resolution 48/104.
25. Resolution 52/99, Para 2 (b).
26. Resolution S-27/2-A World fit for Children- General Assembly.
27. WHO Global Consultation on Violence and Health. Violence a Public Health Priority-Geneva. EHA/SPI.POA,20 (www.who.org).
28. www.unhchr.ch.
29. www.who.org
30. 60/262/Political Declaration on HIV/AIDS- General Assembly.