RETHINKING THE PENALTY OF HARMFUL TRADITIONAL PRACTICES COMMITTED ON PREGNANT WOMEN AND CHILDREN UNDER THE ETHIOPIAN CRIMINAL CODE*

Abstract

The offences that endanger the life, body, and health of a pregnant woman and children through harmful traditional practices (htps) are proscribed under the 2004 Ethiopian Criminal Code. Those provisions are designed to serve as a guiding rule to dissociate the society from harmful practices. In view of that, the law should be enacted where the person commits a crime intentionally and who has more dangerous disposition than the person who commits the crime negligently, and his/her punishment also greater than the later. Also, the person who commits a grave crime should be punished more than one who commits a lesser crime. This article examines whether the provisions of the Code conform to the above criminal penalty principle. The article found that the penalty provided for crimes committed against the life, body, and health of pregnant women and children through htps are designed in a manner in which the person who commits the crime intentionally has the chance to be less punished than the person who commits the same crime negligently. In effect, those provisions are not only inconsistent with the purpose of criminal law and major sentencing principles, but they also infringe on the accused and victim's rights in addition to degenerating public confidence in the justice system. Hence, the Ethiopian Federal Parliament should amend and redesign the provisions with the appropriate penalty.

Keywords: *Harmful Traditional Practices, Sentencing Principles, Ethiopian Criminal Code, Pregnant Women and Children.*

1. Introduction

Traditional cultural practices reflect values and beliefs held by members of a community for periods often spanning generations. Every social grouping in the world has its own cultural practices and beliefs which guide its members on how they should live or behave. Hence, 'Culture is a social heritage which includes all knowledge, beliefs, customs and skills that are available to members of a social group'.[1] It is also a source of individual and group identity. Within such social grouping, some

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[1] N Wadesango *et. al*., 'Violation of Women's Rights by Harmful Traditional Practices' (2011) 13 *Anthropologist*. <http://krepublishers.com/02-Journals/T-Anth/Anth-13-0-000-11-Web/Anth-13-2-000-11-

of the cultural practices and beliefs are beneficial to all members, while others are harmful to a specific group such as women and children. Beneficial cultural practices contribute to the development of legal pluralism across different countries particularly in the case of Alternative Dispute Resolutions. Apart from this, some practices are harmful and directly affront the dignity of members of the society when measured against modern acceptable standards of behavior and civility. In effect, different human rights instruments expressly proscribed htps and mandated state parties to eliminate those practices.[2] Harmful practices differ from place to place based on the belief and customs of the group of society observes such act.[3] Despite their harmful nature and violation of

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[2] International and Regional Human Rights Instruments proscribe htps includes Vienna Declaration and Program Action (Para. II. 38), Convention on the Elimination of Discrimination against Women (art.2 (f) and 5(a), CRC (art.24), Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (art.2, 4(d), and 5), African Charter on the Rights and Welfare of the Child (art. 21), UN Declaration on the Elimination of Violence Against Women (art. 2(a)), Beijing Declaration and Platform of Action (para. 114(a), 119, 125(a) and Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (art. 6B)). Besides, several Treaty Monitoring Committees' provide Statements on Traditional Values/ Practices. For instance, Committee on the Elimination of Discrimination against Women (General Recommendation No. 14 (preface) and No. 19 (para. 11)), Committee on the Rights of the Child General comment No. 4 (para. 39(9), and No. 7 para. 11(bi), Human Rights Committee (General Comment No. 28, para. 5), and Committee on Economic, Social and Cultural Rights (General Comment No. 14 (para. 21 and 22) deals issues related with htps and mandates state parties to ensure the elimination of harmful practices. <http://arc-international.net/wp-content/uploads/2011/09/Traditional-Values-International-References.pdf> accessed on 23 July 2018

[3] The commonly known Harmful traditional practices practiced in different parts of the world includes female genital mutilation, child/early marriage, marriage by abduction (forced marriage), Polygamy, payment of bride price/*lobola* (Southern African countries), honour killings, dowry death (some Asian countries), Female infanticide before or after birth (China, India, and Bangladesh), Naka (forcing women to marry several times for the family to get money in India), *Devadasi* (temple prostitution), *Trokosi* (obligates families to render their daughters to the gods in fetish shrines, where they are forced to serve as sexual slaves), nutritional taboos, child delivery related practices, and Female inheritance issues/widowhood, forced feeding of women, and dowry price. (N Wadesango, (n.1) p. 121; Third Report on the Situation Regarding the Elimination of Traditional Practices Affecting the Health of Women and the Girl Child, produced by the Special Rapporteur on Traditional Practices Affecting the Health of Women and the Girl Child [E/CN.4/Sub.2/1999/14] <http://daccessdds.un.org/doc/UNDOC/GEN/ G99/139/90/ PDF/G9913990.pdf?OpenElement)>, accessed on 12 June 2018;____ 'Measures Against Harmful Traditional Practices', EU-Conference Joint Action of Member States Against Harmful Traditional Practices, 25 January, 2006, p.27-29; B Ras-Work, 'The impact of Harmful Traditional Practices on the Girl Child', United Nations Division for the Advancement of Women (DAW) in collaboration with UNICEF, Expert Group Meeting, Elimination of all forms of discrimination and violence against the girl child, UNICEF Innocenti Research Centre, Florence, Italy, 25-28 September, 2006, p. 2-4.

international human rights, such traditions persist because they are not questioned and take on an aura of morality in the eyes of those practicing them.

In Ethiopia, Harmful practices that affect certain specific population groups such as women and newly born children are very rampant. It is said that there are around one hundred forty (140) htps affecting mothers and children occurring in almost all ethnic groups of the country.[4] The Myths/beliefs behind to do such act are intended to prevent/cure different disease, and in some circumstance serves as a tribal marker.[5] However, in reality, those practices lead to adverse health consequences including death, especially infant and maternal mortality, disability, and transmission of diseases. The previous 1957 Ethiopian Penal Code fails to expressly acknowledge the grave injuries and sufferings by reason of htps. However, the 2004 Federal Democratic Republic of Ethiopia (FDRE) Criminal Code comprehensively proscribed several htps which are inimical and prejudicial to human rights. Among those acts, the offence of htps endangers the life, body, and health of a pregnant woman and children are among crimes recognized under the criminal code. They are practiced within different social groups due to deeply entrenched discriminatory views, patriarchal dominations and irrational beliefs and attitudes.[6] For each offence, the code provides the respective penalties based on the gravity of the crime, degree of individual guilt, and other circumstances of its commission.

This paper intended to examine the rationality and appropriateness of the penalty provided for offences committed against the life, body, and health of a pregnant woman or a child through harmful traditional practices particularly from article (art.) 561-563 of the Criminal Code. In order to do so, the paper organized into four sections. Following this introductory section, section two discusses about

[4] D Assefa et. al., 'Harmful Traditional Practices Module', Awassa College, 2005, <https://www.cartercenter.org/resources/pdfs/health/ephti/library/modules/degree/mod_htp_final.pdf> accessed on 25 June 2018; UNICEF Ethiopia, 'Harmful Traditional Practices', Briefing note, 2015; A National Report on Progress made in the Implementation of the Beijing Platform for Action (Beijing + 10), Ethiopia, Prime Minister Office/Women's Affairs Sub Sector, 2004, p. 9. <https://www.uneca.org/sites/default/ files/Publication Files/15yearreviewofbpfa.pdf> accessed on 25 June 2018

[5] Dawit, *Id*, p.12-37

[6] G Alemu and Y Birmeta, 'Handbook on the Rights of the Child in Ethiopia', Center for Human Rights College of Law and Governance Studies, Addis Ababa University In Collaboration with Save the Children Norway- Ethiopia, p. 145 <https://resourcecentre.savethechildren.net/sites/default/files/documents/6630.pdf> accessed on 05 July 2018; N Wadesango, (n.1) p. 121; B. E. Bartelink *et. al.,* 'Harmful Traditional Practices in the Context of Faith: a Literature Review', Part of the UK Government-funded Working effectively with faith leaders to challenge harmful traditional practices, Research report, p.31 <https://jliflc.com/wp/wp-content/uploads/2017/11/Literature-Review-DFID-.pdf> accessed on 17 August 2018; CEDAW, Committee on the Elimination of Discrimination against Women, Forty-ninth session, 11-29 July 2011, para. 18. <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ETH-CO-7.pdf> accessed on 12 August 2018

the offense of htps committed against pregnant women and children recognized under the FDRE Criminal Code. Section three examines the penalties of htps committed on pregnant women and children and explores the problem of its design. Finally, section four concludes the article.

2. The Offences of Htps Committed Against Pregnant Women and Children under the FDRE Criminal Code

The FDRE constitution provides several guarantees and limitations towards enjoyment and exercise of cultural rights. Accordingly, non- discrimination based on culture, indigenous culture as source of our proud, the right to conclude marriage and resolve family and personal disputes in accordance with customary laws, the rights of nations, nationalities and peoples to develop and to promote their culture, having common culture as one parameter to define the concept of nations, nationalities, and peoples are among the guarantees.[7] Moreover, the constitution imposes duty on the government to protect and preserve cultural legacies, to support the growth and enrichment of cultures and traditions that are compatible with fundamental rights and democratic norms.[8] Apart from this, the constitution also affords limitations towards customary practices. Yet, the defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity. No one may invoke cultural diversity to infringe upon human rights guaranteed by law, nor to limit their scope.[9] The FDRE constitution stipulates the limitations of compatibility of customary practices with the constitution, the right of women to eliminate and, to be protected, from the influences of harmful customs, and harm arising from pregnancy and childbirth as well as provision of education in a manner free from cultural prejudices.[10] These restrictions ensure the respect and protection of fundamental human rights and freedoms. This emphasizes that, the FDRE Constitution guarantees respect for the cultures of peoples, but it does not buttress up those practices scientifically proven to be harmful.

In view of the government's obligation to eliminate htps, the Criminal Code included several provisions that forbid htps. Those crimes are separately incorporated under the code from art. 561-570. According to the catalogue of offenses in the code, those crimes committed through htps are among crimes committed against the right to life, mental and bodily security and health of the

[7] Federal Democratic Republic of Ethiopian (FDRE) Constitution 1995 Preamble para. 2 and 3, art. 34(4), 39(2 and 5)
[8] *Id*, art. 41(9) & 91(1)
[9] UNESCO Universal Declaration on Cultural Diversity 2001 Art. 4, Human Rights Council Resolution 10/23 on the Independent Expert in the field of cultural rights, 43rd Meeting, March 2009, para. 4, <https://www.ohchr.org/en/issues/cultural rights/pages/srculturalrightsindex.aspx HRC ESOLUTIO 10/23> accessed on 12 June 2018
[10] FDRE Constitution, (n. 7), art. 9(1), 35(4), 35(9), 90(2)

person.[11] The provisions serve as a guiding principle to dissociate the society from htps.[12] Among these offences, the crimes committed against pregnant women and children through htps are recognized under art. 561-563[13]. The offence can be committed either by action or omission. Accordingly, massaging the abdomen of a pregnant woman, shaking a woman in a prolonged labor, soiling the umbilical cord of a newly-born child with dung or other similar substances, excising the uvula of a child, taking out milk teeth or feeding it with butter are crimes committed through action, whereas keeping a newly-born child out of the sun or preventing the child from being vaccinated and nutritional taboos are among crimes committed through omission. Acts of htps listed under art. 561-562 are enacted in an illustrative manner. As a result, if any htps has proven to be harmful by the medical profession they are punishable. In effect, the acts of htps not included under the criminal code, but commonly practiced in different parts of the country are punishable. For instance, harmful practices committed on pregnant women includes, isolation during delivery and after delivery, suturing the vagina after delivery, drastic measures to hasten the expulsion of the placenta, giving *Kosso* (bitter herbal medicine) to pregnant women, and nutritional taboos. Similarly, the commonly practiced htps that affect children include inducing sneezing to force out after birth, and food taboos are punishable under the criminal code.[14] Moreover, art. 568-570 governs the issues related to the crime which is applicable to all htps including crimes endangers the life and body of pregnant women and children. Art 568 deals with the applicability of concurrent crimes where the victim has contracted a communicable disease as a result of htps.[15] Art. 569 regulate criminal responsibility in case of participation in htps offences and Art. 570 govern the criminal liability in case of incitement against

[11] Crimes Committed against life and Health of persons through Harmful traditional Practices are categorized under chapter three of Book V (Crime against individuals and Family), Title I-(Crimes against Life, Person, and Health). Moreover, other crimes like abduction (art. 587), Bigamy (art. 650), Duels (art. 578) and early marriage (art. 648) found in other parts of the criminal code are also committed through htps.

[12] FDRE Criminal Code 2004 Preamble, para. 3; D Girma, *A Handbook on the Criminal Code of Ethiopia* (Printed by Far East P.L.C 2012) p.18.

[13] Art. 561(1A) and 562(1B) proscribes htps committed on pregnant women, while Art. 561(1b) and art. 562(1b) governs htps committed on newly born child and art. 561(1C), 561(2), 562(2C) and 562(2), 568-570 applicable for both pregnant women and children. However, the law neglects the criminality of death or bodily injury on the pregnant child as a result of htps, unlike abortion.

[14] Dawit, (n. 4), p. 1-2

[15] Accordingly, art. 568 cross-refer to the applicability of Art. 514 (Spreading of Human Disease), concurrently. Art. 568 stipulates, in case the crime is committed intentionally, a punishment from rigorous imprisonment up to death penalty, depending on circumstances of the commission of the crime and gravity of the offense, while if the crime is committed negligently, the punishment shall be simple imprisonment or fine.

enforcement of provisions prohibiting htps.[16] The later provision is a limitation to freedom of expression as it encourages disobedience of the laws designed to dissociate society from htps.

3. Penalties of Crimes Committed Against Pregnant Women and Children through Htps and its Problems

Overview of the Penalties of Htps Crimes Committed on Pregnant Women and Children

The FDRE criminal code embarks punishment as one of the mechanisms to achieve the purpose of criminal law to preserve the peace and security of society along with giving due notice and measures.[17] Punishment, among other things, aims at achieving the goals of deterrence and rehabilitation.[18] The Code adopts the determinate sentencing statute which is a model of criminal punishment in which an offender is given a fixed term that may be reduced by good time or earned time.[19] Currently, the Federal Supreme Court issued Sentencing guideline with the view to reduce sentencing disparity, ensure uniformity and correctness of sentencing among offenders of the crime.[20] Depending on the gravity of the crime, the criminal code provides principal and secondary kinds of penalties including for crimes endanger the life, body, and health of pregnant women and children.[21] Accordingly, in the case of art 561(1), causing death of pregnant women and children as a result of

[16] Accordingly, the provision states "Any person who publicly or otherwise incites or provokes another to disregard the provisions of this Code prohibiting harmful traditional practices, or organizes a movement to promote such end, or takes part in such a movement, or subscribes to its schemes, is punishable with simple imprisonment for not less than three months, or fine not less than five hundred Birr, or both."

[17] FDRE Criminal Code, (n. 12) art. 1; 'FDRE criminal Code Explanatory note' 2007 p. 2; D Girma, (n. 12) p.5.

[18] Ibid.

[19] In determinate sentencing statute model, the offender after receiving determinate sentence knows how much time they will spend in prison. It has the advantage of certainty by avoiding the tension from the offenders on how much time they will have to be confined in prison, unlike indeterminate statute. In contrast, it also, characterized by sentencing disparity as judges pick and choose the number within the imprisonment range defined by the legislature. (D Girma & M Feleke, 'Sentencing and Execution Teaching Material' Sponsored by the Federal Justice and Legal System Research Institute 2009, p. 31-33; A Lawrence & D Lyons, 'Principles of Effective State Sentencing and Corrections Policy', A Report of the National Conference of State Legislatures, Sentencing and Corrections Work Group, August 2011, p.31 <http://www.ncsl.org/documents/cj/ pew/wgprinciplesreport.pdf> accessed on 29 July 2018)

[20] The FDRE Criminal Code, (n. 12) Art. 88(4); Federal Supreme Court Amended Sentencing Guideline 2014 art. 3

[21] The FDRE Criminal Code classified punishments into Principal and secondary punishments. Principal punishment consists pecuniary penalties (fine, confiscation and sequestration), compulsory labour, imprisonment (Simple, Rigorous, and life sentence) and Death penalty, whereas secondary penalties include caution, reprimand, apology and deprivation of rights. In case of crimes committed against the life and health of persons the code guarantees to impose the pecuniary penalty of fine, loss of liberty of imprisonment and warning among secondary penalties. (FDRE Criminal Code, (n.120 art. 90-128).

htps, intentionally, will be punishable by fine or simple imprisonment from one year up to three years.[22] And if the crime is committed, negligently, art. 561(2) cross-refer to the punishment of negligent homicide.

If the victim injured bodily harm or mental impairment, intentionally, art. 562(1) impose penalty of simple imprisonment up to six months or fine up to one thousand (1000) birr and in case of negligent crime art. 562(2) cross-refer its punishment to art 559 (negligent bodily injury). Besides, art. 563 stipulate the possibility of the offender may be released by warning in the above cases up on court discretion.[23] Apart from this, art. 567 cross-referred the applicability of the penalty of art. 561 and 562 in case of htps inflicts the life, body, and health of person other than those htps recognized as a crime under the criminal code.

Comparatively, the law intentionally makes the penalties of htps are less severe than other ordinary crimes committed on the life and body of persons. Because, htps are usually committed not with the intent of injury/wrongdoing, rather due to deep belief within the society as it's good. This indicates that, as society became aware about the risk of each act/s they relieve themselves from the practice.[24] Hence, the purpose of punishment of htps crime more focused on deterrence and reformation rather than other theories of sentencing such as incapacitation. The calculation of the penalty of htps crime is based on the formula set out for unlabelled crimes under the operational Federal Supreme Court Sentencing guideline No. 2/2014 due to the crime of htps has not been cataloged into labels.[25]

The problem of Penalties of Htps Crime Committed Against Pregnant Women and Children

The legislature in fixing the range of punishment, the judiciary in fixing exact penalty and executive organs in executing imposed penalty should not exercise their power arbitrarily.[26] Rather they are required to consider the principles and policies of sentencing. These include principle of legality, equality, consistency, proportionality, predictability, respect for human dignity, accountability, and transparency.[27] At this juncture, this paper tries to examine the penalty of htps committed on the life and bodies of pregnant women and children, particularly from art. 561-563 as follow; One of the

[22] The code doesn't specify the minimum and maximum amount of fine. In such a case, if the special part of the criminal code is silent, the court should determine within the minimum and maximum ranges of fine (10-10,000 birr for physical person) provided in general part of the Criminal code (art. 90 (1)).

[23] According to art. 563 of the Criminal code, the Court, taking into account the age, education, experience or social status of the criminal may give 'only warning', instead of principal punishments of the code. This provision is an exception to art. 121, which provides secondary punishments shall not be applied except together with and subject to a principal punishment.

[24] FDRE Criminal code Explanatory note (n. 17) p. 267

[25] Sentencing Guideline, (n. 20) art. 26(2).

[26] A Lawrence & D Lyons (n. 19) p. 4; D Girma & M Feleke, (n. 19) p. 24-29.

[27] Id, p.15-20; Federal Judicial Professionals Training Center, 'Manual on Sentencing Guideline' 2011, p.5

principles of the law is a person should not be benefited from his own fault. [28] In the context of criminal law, the punishments should consider the degree of individual guilty, dangerous disposition of criminal, antecedents, motive and purpose, his personal situation as well as the gravity of the crime and the circumstances of its commission.[29] In other words, the law should be enacted where the person commits a crime intentionally has more dangerous disposition than the person commits the crime negligently, and his/her punishment also greater than the negligently committed crimes. Also, the person commits a grave crime should be punished more penalty than who commits a lesser crime.[30] In contrast, the penalty provided for crimes endanger the life, body, and health of pregnant women and children through htps has been the reverse of the principle. In view of that, art 561(1) stipulates the person causes death of pregnant and children through htps, intentionally, will be punished by fine or simple imprisonment up to three years while the person commits the same crime negligently has been punished under art 543, which imposes more severe penalty than intentional crimes. The sentence provided under the later provision has been simple imprisonment from six months up to rigorous imprisonment of fifteen (15) years. Moreover, the penalty of fine from range from 2000(two thousand) up to 15000 (fifteen thousand) birr cumulatively with imprisonment.[31] Similarly, according to art 562(1), a person intentionally causes bodily injury or mental impairment to pregnant women or to a newly-born child as a result of htps will be punished with fine or simple imprisonment not more than six months, whereas the person commits the crime negligently should be punished under art. 559. The circumstances of art. 559(2) demonstrates that, for instance, if the crime has a grave injury the offender is punishable by simple imprisonment of not less than six months and fine not less than one thousand birrs.[32]

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[28] In Latin this is called "Commodum Ex Injuria sua non habere debet"(The wrongdoer) should not derive any benefit from his own wrong) (B A. Garner, *Black's Law Dictionary* (8th Ed., Westgroup-St Paul Publisher, USA, 2004) p. 5270.

[29] See art. 88(2) of the Criminal Code; M Hough et. al., 'Public attitudes to principles of Sentencing', Sentencing Advisory Panel Research Report 2009, p. 23 <https://www.google.com/search?q=Mike+Hough +Public+attitudes+to+principles+of+Sentencing%2C+Sentencing+Advisory+Panel+Research+Report+&ie =utf-8&oe=utf-8&client=firefox-b-ab> accessed on 17 August 2018.

[30] R L. Lubitz & T W. Ross, 'Sentencing Guidelines: Reflections on the Future', U.S. Department of Justice Office of Justice Programs National Institute of Justice, Papers From the Executive Sessions on Sentencing and Corrections, No. 10, June 2001, *p. 4,* <https://catalogue.nla.gov.au/Record/3847057> last visited 13 July 2018; D Girma, (n. 12) p. 156.

[31] The punishment of art. 543 (negligent homicide); in case of art. 543(1) it ranges from six months up to three years of Simple Imprisonment or with fine 2000-4000 birr. In circumstances of art. 543(2) the criminal liable for a penalty of simple imprisonment from one up to five years and from 3000-6000 birr fine, cumulatively. Moreover, in the aggravated circumstance of art. 543(3) the sentencing range run from five to fifteen years of rigorous imprisonment and fine from 10,000-15,000 birr.

[32] The penalty range of art. 559 in case of injuries caused by negligence, in case of art. 559(1) the law impose Simple imprisonment up to six months or fine up to 1000 birr, alternatively, while in circumstances

The punishment range of above provisions demonstrates that the person commits crime intentionally has the chance to be punished less than the person commits the same crime negligently. If negligently committed crime is more punishable than intentionally committed crimes, the justice system among other things subject to the following troubles. Firstly, the purpose and goal of criminal law to ensure order, peace, and security of the state and its inhabitants for public good became endangered as the system encourages dangerous disposition of the criminal. This makes the law as an instrument of oppression rather than apparatus of rule of law. In effect, the law fails to achieve the deterrence rationales of sentencing. Moreover, the act makes justice system to lose public confidence and leads to disobedience of the laws. Secondly, such kind of penalty system violates the right of accused starting from investigation up to judgment and execution of sentencing. This includes, comparatively, the person suspected/ accused by negligent crime subject to more duration of period of limitation, more possibility fail to get bail rights or requested to produce more sufficient surety (during investigation), subject to more imposition of severe penalty (during judgment), and during execution of sentencing subject to more strict confinement in case of rigorous imprisonment, as well as less chance to be released on parole than the person accused for the same intentional crimes.[33] By doing so, the penalty of above provisions contradicts the sentencing principles of consistency, proportionality, predictability, and equality before the law. Thirdly, making the punishment of negligent crime more severe penalty than intentional one deteriorates the interest of victims particularly women and children. Accordingly, as the provision of the law encourages the offender to be benefited from his/her dangerous disposition it makes the victims more vulnerable to intentional crimes. The act is also against the feminist theory which propagates to consider the interest of women (gender sensitive) in a legislative measure. Similarly, the provision furthermore not only infringes the best interest of child, but also put the right to life, bodily security and health of them at risk. Besides, the penalty provided in circumstances stipulated under art. 563 has been contrary to principle proportionality of sentencing. The provision stipulates 'In respect of the crimes specified under art. 561(death) and 562(bodily injury or mental impairment), the Court…. may give him only a 'warning' instead of fine or a penalty entailing loss of liberty'. Here, the law allows death and injury of the victim to be relieved only by warning. In other words, the law treats death and bodily injury equally irrespective of the difference of level of injury happened on the victim. Moreover, permission of the law to impose warning in the event of death of the victim is irrational and may discourage the societies to dissociate themselves from harmful practices. In general, the provisions barraged above are inconsistent with the purpose of criminal law and major sentencing principles. Moreover, such provision infringes accused and

of art. 559(2) the penalty will be Simple Imprisonment of not less than six months and a minimum fine of 1000 birr, cumulatively.

[33] See art. 217, 108, 202 cum 561 and 562 of Criminal code and art. 69 (2a) of 1965 Ethiopian Criminal Procedure Code.

victim's rights and may deteriorate public confidence on the justice system as a whole. In this regard, House of Peoples Representatives has the responsibility to amend above provisions with the appropriate penalty in case of negligent crimes and art 563 of the Criminal Code. In order to do so, House of Federation, the speaker of the house, Federal Supreme Court, Committees of the house and other governmental institutions directly accountable to the house have the power to initiate the draft bill, in addition to the government (the principal body to initiate draft law).[34]

4. Concluding Remarks

With the view to eradicating harmful practices, the 2004 FDRE Criminal code criminalizes several harmful practices in separate chapter including the crimes committed against the life, body, and health of pregnant women and children through htps from art. 561-563. However, the penalties of each provision entitle the wrongdoer to benefit from his own wrong by making the punishment of negligent crimes less severe than the individuals commit the same crime intentionally, one hand and allows the courts to release the offender causes death of victim through htps with the warning only upon his discretion. Designing the law in such manner daunt the purpose and goal of criminal law to ensure order, peace, and security of the state and its inhabitants for the public good and jeopardize the victims more vulnerable to intentional crimes instead of dissociating society from harmful practices. Thus, the House of people representative should repeal the existing penalty of art. 561 (2), art. 562 (2) and art. 563 and replace with the fitting penalty.

[34] FDRE House of Peoples' Representatives Working Procedure and Members' Code of Conduct (Amendment) 2005 Art. 6.