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# Domestic Violence against Woman in India: Legal Framework and Challenges

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**ABSTRACT**

**Domestic violence is on the rise in most countries around the world. It is a pattern of on-going hurtful controlling activities, including physical, sexual, emotional and verbal abuse. Domestic violence is perpetrated against women in most cases. Women are often the soft targets. In Indian society, the situation is really gruesome. This paper highlights the domestic violence in India involves physical, emotional and economic abuse. This paper also enhances the various forms of violence on women in India are: child prostitution; human trafficking; violation of modesty and rape; and dowry deaths. Gender-based violence is a serious problem in India, affecting countless women and girls.**

**Keywords: Domestic, violence, gender, abuse, death, sexual and harassment**

## INTRODUCTION

It is really ironic in the particular case of India where the images of woman are worshipped in various forms such as goddess Kali, Durga, Saraswati, Lakshmi, Parvati, etc. In fact, there is the dual concept of female in Hindu philosophy. On the one hand she is considered fertile, benevolent, bestower of prosperity, symbol of strength; on the other hand she is beaten, tortured, assaulted and victimized. She has to bear the brunt of violence-domestic as well as public, physical as well as emotional and mental. In short, the value structure by presenting the dual characters of woman seems to have been successful in creating a myth that Indian woman possesses power, which may not be visible in terms, and this is not surprising since in patriarchal culture women have lost the power of naming, of explaining and defining for themselves the realities of their own experiences.

The story of woman's harassment, torture and violence is very old dating back to ancient India when Manu laid down the Hindu Social Code. The laws insist that a woman must constantly worship her husband as a god even if he is not a man of good moral character. She should be kept as dependent to her husband, because by nature she is passionate and disloyal. She is the ideal woman who does not strive to break these bonds of control. The salvation and happiness of a woman revolve round virtue and chastity as a daughter, a wife and a mother.

In the Vedic period, women enjoyed relatively respectable position in society. There are instances of women priestesses. Gradually, the position of women began to deteriorate. Violence against them began rampant. They were deprived of society, political, educational, economic and cultural opportunities. Even their personal freedom was curtailed. They were expected to be meek and docile. They were treated as slaves. They were even pushed to prostitution. Their condition was very much like cattle. They were treated as commodities which could be bought or sold. Different kinds of restrictions, obligations and regulations were imposed on them strict punishments or penalties were prescribed for those who dared to violate them. In way violence against women received social sanction.

During the medieval age when Islam along with Hinduism spread in Indian, the incidence and violence increased manifold and form of violence changed and became more complex. The practice of purdah system became popular and it deprived women of freedom and opportunities needed for the development of their personality. Girls were married off at an early age and in certain communities the new born baby girls began to be killed by the parents themselves. Polygamy became rampant in society. Forced marriages of girls were common. "Domestic violence in India includes any form of violence suffered by a person from a biological relative but typically is the violence suffered by a woman by male members of her

family or relatives" ( Ellsberg, Mary 2008):165). Domestic violence is present in almost every society of the world. The term 'violence' can be classified on various bases. Violence against spouse, children or elderly is few of some commonly encountered cases. Domestic violence is a reflection of our pseudo-civilized society.

The contributing factors could be the desire to gain control over another family members, the desire to exploit someone for personal benefits,, the flare to be in a commanding position all the time showcasing one's supremacy so on and so forth. On various occasions, psychological problems and social influence also add to the vehemence. It is present almost everywhere and nowhere is this eruption more intense than right behind the doors of our homes. Behind closed doors of homes all across our country, people are being tortured, beaten and killed. It is happening in rural areas, towns, cities and in metropolitans as well. It is crossing all social classes, genders, racial lines and age groups. It is becoming a legacy being passed on from one generation to another. "Domestic violence, or intimate partner violence (IPV) as it is sometimes called, is a worldwide problem. Domestic abuse includes physical, emotional and sexual violence of any form. In India, the PWDVA also includes economic abuse under the definition of domestic violence. A 1999 study examined the prevalence and characteristics of domestic abuse in five districts of northern India during 1995–1996" (Rosenthal, Elizabeth 2006)

A significant number of deaths are taking place on daily basis, as a result of domestic violence only. Illiteracy, economical dependency on men folk and the otherwise male dominated society are some of the attributing factors to the problem. Dowry is one of the leading causes that results in violence against the newly-wed bride. Physically assaulting of women, making horrendous remarks and depriving them of basic humanly rights. Are often show cased in many parts of the country?

The domestic violence against men is also increasing gradually in India. The supremacy of men in the society makes one believe that they are not vulnerable to domestic violence. Battering of men by their spouse and family members has become a concerned issue and is another form of domestic violence under purview of judiciary. In India, as compared to violence against women, violence against men is less frequent but it has already taken a deadly shape in many of the western countries by now.

In 1977, the Supreme Court of India ruled that the rape of a social worker in a village in Rajasthan reveals the hazards to which working women may be exposed, and the deplorable levels at which sexual harassment can occur. It was of the opinion that such an incident was a violation of fundamental rights of gender equality and the right of life and liberty. It also stated that it was clear violation of the constitutional guarantee to practice any profession or carry out any occupation, trade or business. It was held that in the absence of a domestic law formulating effective measures to check the evils of sexual harassment of working women, the contents of international conventions and norms are to be used. By this interpretation, gender equality, right to work with human dignity and the safeguards against sexual harassment become essential to the judgment.

Children and teenagers in our society are not spared from the evil of domestic violence. In fact, this form of violence is second in terms of the number of reported cases after the 'violence against women'. There is a lot of variation in the form of its occurrence in urban and rural areas and in upper, middle, and lower class families in India. In urban regions, it is more private and concealed within the four walls of homes. The possible reasons could be disobeying parental advices and orders, poor performance in academics or not being at par with other children in neighborhood, debating with parents and other family members etc. in addition to this, factors like not being socially intelligent or as active as the parents expect them to be, abusing the parents or speaking ill about other family members, not returning home on time are some other factor.

There are some more possible forms of domestic violence prevalent in India other than the ones listed above. On a serious note, family wars or clan wars are deadly forms of domestic violence across the country. The reason of such type of violence include dispute over property, physically or emotionally abusing any member of other family or clan, any religious cause or conflict arising during a religious ceremony, jealousy because of progress and financial status of other family, inter-caste marriage etc. this form of violence is common in many states like Haryana, Punjab, etc.

In 1995, before the Supreme Court of India, the issue was the alleged gang rape of a woman and the state was asked to investigate the complaint of gang rape. A writ was lodged was with the Supreme Court requesting it to frame guidelines for the prevention of sexual harassment. The incidents of sexual harassment of the working place are the major problem today. Recently, the Supreme Court of India undertook the mission to formulate the law on sexual harassment of women at workplace, fulfilling a felt need of working women.

Government has made and enforced Domestic Violence Act. The rules and regulations have been introduced in section 498-A of Indian Penal Code. Law gives an effective shelter and deals strictly with the culprits. But making a law is not sufficient. People will have to awake and arise. They have to be told about their rights and duties. Every human being deserves the basic honour and respect. No one is entitled to take law in his hands. Besides the law enforcement, domestic violence has deeper roots. It is the mentality of the society that covets an overhauling Society is in-turn nothing but the constitution of individuals. Every individual should make the necessary amendments and the society will change. It is the high time to raise voice against the injustice happening to self and others. Domestic violence has no place in the modern society and should be strongly dealt with.

In 2001, the National Policy for Empowerment of Women was formulated as the blueprint for the future, with the express of goal of bringing about the advancement, development and empowerment of women. The NPEW laid down detailed prescriptions to address discrimination against women, strengthen existing institutions which includes the legal system, provides better access to health care and other services, equal opportunities for women's participation in decision-making and mainstreaming gender concerns in the development process etc. the policies / programmes of the Government are directed towards achieving inclusive growth with special focus on women in line with the objective of national policy for Empowerment of Women

Prevention of domestic violence requires a lot of patience, but is can be abolished if societies work together. First of all, the authorities should present to prevent these humiliating assaults. The authorities, which consist of the police department, the hospital, and the social workers; should work in unity so that they can be efficient and the problems are easier to solve. There is another possible solution available, which can be more secretive. Some victims are scared to take any actions against their spouses, because they think that one day their spouse will be free from the jail and would definitely take revenge. For these kinds of situations, the society should offer a free service of a 'Hotlines. The victims can talk to qualified people working in the 'Hotline'. Who can advise them?

Our next generation should be educated to fight against such domestic odds. In fact, the children should be instructed that if they are assaulted by an adult, they should firstly inform their family and if the victim doesn't have a family, the authorities should be informed. "The PWDVA, which came into force in 2006, outlaws marital rape. However, it offers only a civil remedy for the offence" (Kalpana Sharm 2010).

The varying causes which can spark the violence within the four walls of homes need to be analyzed carefully and a wise study of the factors causing the violence may prevent a family to suffer from the menace of domestic violence. The domestic violence may have a far wider and deeper impact in real life than what has been covered in this essay. What is required is to see closely the association of the factors provoking a particular form of violence. If these factors can be controlled, then more one form of violence can be prevented from harming an individual or our society and India would be a much better place to live in.

Women have been subject to violence and torture for centuries. This is not a new phenomenon. They have been victimized all through the ages in every society, regions and cultures irrespective of castes, communities, creeds and colours. It is not simply borne out of exigencies of biology and social situations. It is deeply rooted in myths, legends and cultures. "Domestic violence was often not handled as a legitimate crime or complaint, but more of a private or family matter while negating the rights of women as citizens"( Shalu Nigam 2017)

However, the situation almost remained unchanged during the British regime. The British Government was indifferent towards the atrocities on women. Though a few legislations like Sati Abolition Act were passed and enacted in the British rule, yet the situation did not change much. In the independent India, the position of women remained the same. The violence against women has only grown in all the dimensions. Indeed, a few more forms of violence like female foeticide have developed because of the progress in the field of science and technology. Dowry system has been rampant in Indian society for a long time. Despite anti-dowry acts, the practice of dowry has been on the rise and its severity which results in a great number of bride-killings every year is on the increase as well. The atrocities on women in India have not reduced. In fact, they have assumed an alarming proportion today. According to one estimate, there are about thirty specific forms of violence being committed against women from the pre-natal stage to their death. These include foeticide, infanticide, insufficient supply of nutritious food, social and medical neglect, deprivation from educational opportunities, child marriage, sexual abuse of girl child, physical assault, forced marriages, rapes, prostitution, wife-battering, bride burning, witch-hunting, etc of these , wife-beating is the most common form of violence. Reports of violence against women are frequent features of national dailies and news bulletin.

Most of this violence against women has their roots in their social position. A female foetus is destroyed due to the supposition that the girl child is unwanted because she is seen as social burden. This is to some extent borne out of the evil practice of dowry in Indian society. A wife is beaten for she is seen as property of their husband who treats them they wish to. It is, to some extent, due to the fact that women is perceived as the "weaker", sex—weaker physically, mentally and emotionally dependent on man, for her security and other thing. Her low literacy and economic dependency add to her woes and a woman of such lot seldom has any choice but to bear all the atrocities meted out to her at the hand of her husband and in-laws.

Apart from domestic violence, women are soft targets of public violence, frequently heaped on her at work place, during travelling, often at the hands of her colleagues or boss, etc. The violence is physical, psychological and emotional. Rape is the worst form of violence against women. It is often committed as a vengeance or as an instrument to suppress the voice of women raised against injustice or malpractice done by the male-dominated society. Sometimes it is a manifestation of psychological aberration. In personal or family feuds or in wars, rape of the women folk has always been for humiliating the adversary. The social activist, who dared to create social awareness in Rajasthan against child marriage, is the best example of it. Often women are met with physical violence as a threat. Atrocities against women are perceived to help in keeping women in a state of subjugation.

Furthermore, the situation becomes all the more complicated in case of multi-faceted, multi-cultural and multi-ethnic society like India. Communal, caste, class and religious factors play prominent role in the violence against women. Class struggle results in rape or molestation against women in naxalite-torn areas. Same is the case with caste wars and communal riots. Women are the first target of religious fundamentalism and they are the ones penalized for trying to break out of the codes of conduct and behaviours laid down by them. The violence directly or indirectly not only affects the family of the victims but the society itself.

The violence seems to continue unabated due to lack of social action. Society appears to be inactive and insensitive in this regard. Though there are sufficient constitutional and legal provisions, yet due to lack of sincere implementation, they shrink to the category of unkept promises. These are not enough to counter the prevailing plight of women. The situation becomes all the more tragic when the very person's in charge of providing security and protection to women assault them and humiliate them.

However, the Prohibition of Violence against Women Act, 2007 is a milestone in this regard. It lays down ample provision to check violence against women. It will undoubtedly help immensely in controlling domestic violence which most of the time goes unheard and unreported. "Caste, class, religious bias and race also determine whether action is taken or not" (Mahapatro, Meerambika; 2014:461).Apart from legal and constitutional provision, women themselves need to be made aware against the violence. Besides, they have to be trained to tackle the situation and take precautionary measures. This is particularly important for the women belonging to the lower strata of the society who are helpless. Women should organize themselves in groups and raise a collective voice against a system that turns a blind eye towards them. Moreover, law enforcing machinery should be made prompt, responsible and sensitive to the issue. Other voluntary organizations need to be involved in fighting this social vice. Above all, the, mindset of the society needs to be changed. Definitely, these would change the lot of women which will have a positive impact on society as a whole.

Family Counseling Centre ( FCC), through the Centres, counseling , referral and rehabilitative service are provided to the women who are victims of atrocities, Family maladjustment and social ostracism and services are also provided for crisis intervention and trauma counseling in case of natural and manmade disasters. The Centres also create awareness and mobilize public opinion on social issues affecting status of women. The Family Counseling Centre's work in close collaboration with the local administration, police, courts, legal aid cells, medical and psychiatric institutions, vocational training centres., short stay homes etc. to provide referral and rehabilitative service. "For example, poor or lower-caste females do not have the same access to legal enforcement or education and often have trouble getting help from law enforcement" (Rehan Abeyratne, Dipika Jain 2012:133)

## CONCLUSION

To realize the goal of gender equality, the government has undertaken several initiatives that seek to achieve the holistic empowerment of women. In keeping with this goal, the focus of planning process has evolved from a purely welfare oriented approach to recognize women's centrally in the development plan, cutting across all sectors. The United Nations defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

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