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Legal Implications of the Domestic Violence in Indian Society

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ABSTRACT

Domestic violence is an infringement of right to liberty and flagrant violation of human rights. In our civilized society house is considered most suitable and safest place to live with dignity and without fear. However, the reality is different and there are evidences of violation in the domestic sphere. Initially the issue of domestic violence was ignored on the ground of private matters but slowly and gradually law has intruded into the domestic relations to do corrective justice. Consequently, provisions in penal laws and family laws have been incorporated to combat the challenges of domestic violence. However, there is a gap in theory pertaining to dignified life to individuals in domestic relations and in actual family equations. There are multiple reasons for such situations i.e., patriarchal set up, lack of sensitivity, economic dependence etc.

This paper explores the issue of domestic violence in a comprehensive manner and includes Domestic Violence Act, 2005 in detail along with analysis of the decisions. Additionally, it also highlights the issue of gender-biased application of the said statutes.

Keywords: Domestic Violence, liberty, human rights, justice, domestic relation.

I. INTRODUCTION

It has been observed that "The concept of human rights is one moral visions ascribed to internationally."² Domestic violence principles that lie at the heart of this moral vision: the inherent worth of all members of the human family, the inalienable right from fear and want, and the equal rights of men and women³. A significant proportion of reports of domestic violence against women involve multiple perpetrators. Although the number of perpetrators is identified as a measure of abuse severity, only a minority of studies of domestic violence examine the role of multiple offenders.⁴

This paper intends to look at the legal implications and occurrence of domestic violence in

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² Charlotte Bunch, quoted in Violence against Women is a Violation of Human Rights, 2 WILDAF (Women in Law and Development in Africa) News, 4 (March 1992).

³ Preamble to the Universal Declaration of Human Rights, signed 10 Dec. 1948, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (1948).

⁴ Michael Salter (2014) Multi-Perpetrator Domestic Violence: Trauma, Violence & Abuse, Vol. 15, No. 2, p. 102

India. Domestic violence is an infringement of right to liberty and flagrant violation of human rights. This paper firstly articulates the meaning of domestic violence then evaluates domestic and international legal measures to combat the problems and challenges of domestic violence in India. Domestic violence pertains to a disgraceful occurrence, conditional or unconditional, of violence, of physical or psychological nature, within a household, by an individual over another individual, of either sex or a transgender, or of any age, related to each other as family members, or bound in any other legal institution, such as live-in relation or individuals under homosexual relation.

Domestic Violence is a peril instilled deep inside the very foundations of human race. The phenomenon morphed as a process, with the advent of mutual disagreements and failures of the established notions of the concept of family and kinship. It has become more of a domesticated violence, than domestic violence as a means to vent out the frustration caused by the skewed effects of socio-cultural nuances. Domestic violence is sadly a reality in Indian society. In the Indian patriarchal system, it has become a practice to abuse or humiliate women. There may be several reasons for the occurrence of domestic violence. From a feminist standpoint, it could be said that the occurrence of domestic violence against women arises out of the patriarchal setup, the stereotyping of gender roles and the distribution of power, real or perceived, in society. Following such ideology, men are believed to be stronger than women are and more powerful. They control women and their lives and because of this power play, they may hurt women without any remorse. The role of the women is to accept the violence employed against her meekly. In the framework of state-citizen relations, women's issues have been dealt in the context of family and are, therefore, considered private⁵.

Women understand, hardworking, full of compassion holding high level of initiative and a trendsetter for progeny. However, most families do not treat them with respect. Her position is always subservient to men. After having all these qualities, she has faced and is facing ill treatment from her intimate partners and his family. They have always been badly treated and deprived of their right to life and personal liberty as provided under the Constitution of India. Women are physically and emotionally weaker than the males as per general perception. Women are not only the victims of domestic violence but children also come under the same purview because they are the easily targetable and the vulnerable groups on which a man can

⁵ 'Sawmya Ray, Legal Construction of Domestic Violence' Sage Publication, p. 427, Sociological Bulletin, 55(3) September-December 2006 available on https://elibrary.ddn.upes.ac.in:2068/stable/pdf/23620755.pdf?ab_segments=0%2FSYC-6168%2Fcontrol&refreqid=fastly-default%3A8a5e30852a0418a2962b6418e2f606f1 (23 December 2021).

show his power and dominate them very easily.

The term domestic violence implies the incidents of familiar or intimate battering having reference to an idealized family unit functioning in a protected and secluded manner, appropriately shielded from the public. In other words, violence that is committed on a woman by her married partner or his relatives is the major cause of domestic violence. This notion carries with it, the demolition of the assumption that home is a secured place for the protection of an individual. The women are made hostages at home in a way and their life becomes a prey to the whims and fancies of the people committing violence. In fact, the horror present is even more formidable since law is hesitant to enter into the private sphere to address the wrongs committed against women.

According to a report issued by the World Health Organization (WHO), “result of a series of studies showed that being assaulted by a partner was the most common form of domestic violence suffered by women. In many cases, such violence resulted in death. Nearly 40 percent of women killed worldwide were victims of intimate partners’, researchers said that violence against women is a global health problem of epidemic proportions. Globally as many as 38% of all murders of women are committed by intimate partners. In addition to intimate partner violence, globally 6% of women reported having been sexually assaulted by someone other than a partner, although data for non-partner sexual violence are more limited.

Lockdowns during the COVID-19 pandemic and its social and economic impacts have increased the exposure of women to abusive partners and known risk factors, while limiting their access to services. Situations of humanitarian crises and displacement may exacerbate existing violence, such as by intimate partners, as well as non-partner sexual violence, and may lead to new forms of violence against women⁶.

What is domestic violence? This question varies from society to society but the common point between all is the group, which is the ultimate victim. It is a global issue reaching across national boundaries as well as socio-economic, cultural, racial, and class distinctions. Not only its area is wide enough but the target areas are also getting wider than before. Now not only women but also children and cases of battered husbands are in focus. However, the instances of violence against women are more than other said groups.

For the purpose of protection of women from domestic violence, the Protection of Women from Domestic Violence Act 2005 (PWDVA) came into being. However, before this, there

⁶ Violence against Women, available at <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> visited on 23/12/2021.

was no definition of domestic violence in Indian law. This does not mean the acts of domestic violence were not punishable in India. There were some laws that prohibit violence against women such as in Dowry Prohibition Act, 1961, provisions of Indian Penal code and personal laws.

II. MEANING OF DOMESTIC VIOLENCE

Merriam Webster dictionary defines domestic violence as the inflicting of physical injury by one family or household member on another also a repeated or habitual pattern of such behaviour.⁷ The Protection of Women from Domestic Violence Act 2005⁸ defines domestic violence and provides civil remedies for women facing domestic violence in the form of protection orders; residence orders, custody orders, monetary reliefs or compensation orders.

One can understand domestic violence in terms of three distinct elements: violence, domesticity, and structured inequality. It is not necessary that it must be physical violence but it may also cover sexual abuse, emotional abuse, physical intimidation and also psychological abuse.

Section 3 of the PWDVA defines the term “Domestic Violence⁹” as any act, omission or commission or any conduct, in case it:-

- (a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- (d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

The Section 3 further provides for the meaning of physical abuse, sexual abuse, verbal and emotional abuse, economic abuse for the purposes of this section.

Domestic violence is defined as a “pattern of abusive behaviour in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.” Social

⁷ www.merriam-webster.com

⁸ The act came into force with effect from October 26th, 2006.

⁹ Bare Act THE PROTECTION OF WOMEN AGAINST DOMESTIC VIOLENCE ACT,2005

problem occurs in nearly every corner of the world. It is not culture specific. It occurs in all cultures with people of all races, ethnicities, religions and classes. It is violence within the private sphere generally between individuals who are related through intimacy, blood or law. Domestic violence may be by men or women but women are more commonly victimized. More frequently it is aimed at woman by a family member who attempts to physically or psychologically overpower another. It often refers to violence between spouses.¹⁰

India is a signatory to the the UN Declaration on Elimination of Violence against Women 1993. It defined “violence against women” as any act of gender-based violence that results in, or is likely to result in, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.¹¹

III. STATUTORY PROVISION

There were very few provisions available, which could be used to address the issue of domestic violence. The section **498-A** in the IPC in 1983 was important in bringing domestic violence out of the four walls of homes, but this section only highlights offences as result of dowry and ignored the other factors of violence. Other offences are also often used against the executors of violence namely of hurt, grievous hurt; assault, dowry death, rape, murder etc.

The substantive provision embodied in Section 498-A was accompanied by the inclusion of Section **113-A** of the Evidence Act. This raised a presumption of guilt of the husband or his relatives for the offence of abetting suicide where a woman commits suicide within 7 years of her marriage and it is proved that her husband or his relatives subjected her to cruelty.

In 1986, there was another amendment to the Indian Penal Code in the form of Section 304-B¹² by which an entirely new offence, which, until then been unknown to criminal jurisprudence, was recognized: 'dowry death'. The provision of punishment is 7 years (which may extend to life imprisonment),¹³ where the death of a woman is caused. Further, the death is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage; and it is shown that soon before her death her husband or his relative for or in connection with any demand for dowry subjected her to cruelty or

¹⁰ G Chandana, *Domestic Violence: Some Legal Issues*, (1st ed.)(ed.), Hyderabad: The ICFAI University Press, 2008, p. i

¹¹ Indira jaising, *Law of Domestic Violence*, (2nd ed.) Universal law publication co., p.2

¹² Inserted by the Dowry Prohibition (Amendment) Act, 1986 (43 of 1986), Section 10.

¹³ Section 304-B (2).

harassment¹⁴. This offence was made cognizable" and non-bailable.

However, these offences are not enough still to deal with the difficulties of domestic violence since the violence perpetrated is not by an unknown person but by a close partner or family member of the victim. The PWDVA is a laudable piece of legislation that was enacted in 2005 to tackle this problem. The Act in theory goes a long way towards protection of women in the domestic setup.

IV. IMPLEMENTATION MECHANISM

The key position created by the Act, which is in essence the pivot on which the entire machinery of the Act hinges, is that of the 'protection officer'.¹⁵ The protection officers, who will predominantly be women, will act as a link between the judicial machinery and the society and shall perform a variety of important tasks necessary to bring the relief available under the Act to the women for whose benefit it was intended. Any woman who has been the victim of domestic violence may initiate proceedings before a magistrate, or the protection officer may initiate such proceedings¹⁶ who may be informed of such domestic violence by any person who has reason to believe that it has occurred.¹⁷

V. INTERNATIONAL MEASURES: CONVENTIONS OR PROTOCOL

It establishes that violence against women violates, impairs or nullifies women's human rights and their exercise of fundamental freedoms. Therefore, some measures have been taken on international level to tackle and protect the rights of women.

(A) The UN Fourth World Conference on Women 1995 (Beijing Platform for Action)

For equality, development and peace this conference was held in Beijing, China in September 1995 and it resolved that different stakeholders take action to achieve the objectives set by it. It diagnosed violence against women¹⁸:

Strategic objective D.1. Take integrated measures to prevent and eliminate violence against women. Actions to be taken.

Strategic objective D.2. Study the causes and consequences of violence against women and the effectiveness of preventive measures. Actions to be taken.

¹⁴ Section 304-B (1).

¹⁵ Section 8 provides for the appointment of protection officers by the state government, which will appoint for any district, as many protection officers as are required for each district.

¹⁶ Section 12 (1); *Milan Kumar Singh v. State of Uttar Pradesh* 2007 CriLJ 4742.

¹⁷ Tahira Karanjawala & Shivani Chugh, *The Legal Battle against Domestic Violence in India: Evolution and Analysis*, 23 INT'L J.L. POL'Y & FAM. 289 (2009) p. 297.

¹⁸ Accessed on <https://www.un.org/womenwatch/daw/beijing/platform/violence.htm> (21 December 2021).

Strategic objective D.3. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking. Actions to be taken.

Under the platform for action, it was incumbent upon governments, local governments and civil society organization to take suggested action to end domestic violence against women.

(B) The Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)

It entered into force in 1981. It does not explicitly include language on violence against women or domestic violence but guarantees the human rights. The CEDAW is the treaty established to monitor the 1979 Convention on the Elimination of All Forms of Discrimination against Women. The Convention makes no explicit reference to violence against women, but does address trafficking in women, the exploitation of prostitution and sexual harassment in the workplace.

In a number of recommendations, the Committee made clear that gender-based violence falls within the meaning of discrimination against women. In 1989, the Committee adopted general recommendation 12 on violence against women, which recommended that States include information in their reports to the Committee on the incidence of violence against women. In 1990, general recommendation 14 addressed female circumcision and other traditional practices harmful to the health of women¹⁹.

(C) United Nations Conference Documents

Various documents emanating from conferences held under the auspices of the UN address the issue of domestic violence. They are widely recognized as consensus documents though they are not legally enforceable.²⁰

(D) Vienna Declaration and Programme of Action 1993

In particular, the World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in the public and private life . . . the elimination of gender bias in the administration of justice and the eradication of any conflicts that may arise between the rights of women and the harmful effects of certain traditional or customary practices.

(E) The Copenhagen Declaration on Social Development

¹⁹ Accessed on <https://www.un.org/womenwatch/daw/news/unwvaw.html> (21 December 2021).

²⁰ A document that reflects an international consensus on the state of international law

The 1995 World Summit for Social Development in Copenhagen also called on governments to take effective measures to combat and eliminate all forms of violence against women.

(F) The Durban Declaration and Program of Action 2001

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, recognized that the intersection of gender and race, ethnicity or other status could make women particularly vulnerable to certain kinds of violence and calls on governments.²¹

VI. EFFECTIVENESS OF LEGISLATIONS AND CONVENTIONS

Conventions and legislations that have been enacted for the purpose of protection of women and other weaker section of the society from domestic violence are undoubtedly helpful in prevention of women from domestic violence. At least because of the term domestic violence has been recognized and been given the status of crime. Previously, there were no such term in existence as domestic violence but there were some laws which were been enacted for the purpose of protection of women from all kinds of violence.

These acts and conventions could play a stellar role in protection of women's rights in the household and in guarding them from domestic violence. In the very first instance, a recognition of domestic violence as something unacceptable, where it has become yet another social practice, is necessary and indeed, commendable in a patriarchal society. Having recognised the rights of women and the violation of these rights, the next step taken is providing innovative and efficacious remedies to enforce the same. The conceptualization of these legislations and conventions thus far is admirable.

However, as far as its effectiveness is concerned, these acts and conventions lack in some aspects of its motive. For example: The Protection of Women from Domestic Violence Act has been in place for over many years, yet the machinery required to effectively implement the Act is not in place.²² It also does take up for consideration child sexual abuse, though in a limited sense (male children being excluded from its purview), at a time when the practice has become rampant.

Therefore, it is opined that it is difficult to predict the usefulness of these legislations to its target beneficiaries and the society as a whole. It needs to be seen whether the practicality of

²¹ *Stop violence against women*, (oct 6, 2013, 8:30 pm), <http://www1.umn.edu/humanrts/svaw/domestic/laws/international.htm>

²² Divya Jyoti Jaipuriar and Monika Joshi, *Making DVA Work For Women*, Domestic Violence Act : Successes, Challenges & Beyond, Combat Law, 22 July (2010)

these have been ensured by the legislature and also the responsibility of implementation lies in the hands of the executive which will be the actual scale for measuring the effectiveness of these legislations. Despite the shortcomings and lacunae, it depends on the authorities who are having the ultimate responsibilities to implement the laws laid down in these acts. If they fail on their part, obviously, it will affect the legislations as a whole and it will not render the benefits for which it stood for.

VII. JUDICIAL PRONOUNCEMENT ON DOMESTIC VIOLENCE

Some leading judgements pertaining to domestic violence are helpful to combat the persistent practice of domestic violence throughout the country. These are as under:

Aruna Parmod Shah v UOI WP (Crl.) 425/2008, High Court of Delhi

This judgment of the Delhi High Court was delivered on a writ petition filed by a mother-in-law seeking to quash proceedings under the PWDVA (2005) initiated against her in a lower court. In this case, petitioner on two grounds challenged the constitutionality of PWDVA 2005:

(i) The gender-specific nature of the Act, by excluding men, is arbitrary and, hence, violates Article 14 of the Constitution

(ii) The definition of “domestic relationship” contained in Section 2(f) of the Act is objectionable. The petitioner contended that the placing of “near or like marriage” status (relationships in the nature of marriage) at par with ‘married’ status leads to the derogation of the rights of the legally wedded wife.

The Court dismissed the first contention because, “there is a difference between class legislation and reasonable classification”. The gender-specific nature of the PWDVA (2005) was held to be a reasonable classification in view of the object that the Act seeks to achieve and, hence, was held to be constitutionally valid. Again, court said that why treatment equal should not be accorded to a wife as well as a woman who has been living with a man as his “common law”²³ wife or even as a mistress. This judgment sets an important precedent as the first case to address the issue of constitutionality of the law.

Suresh Khullar v. Vijay Kumar Khullar²⁴ (Decided by: A.K. Sikri and Aruna Suresh, JJ.) AIR 2008 Delhi

²³ “Common law” marriages refer to individuals who have lived together for a substantial period and who represent to the world that they are married. Some of the factors taken into account to determine a common law marriage are whether the parties reside in the same household, have children from the relationship, share names, etc. Such marriages are recognised as valid in law.

²⁴ AIR 2008 Delhi 1, 148 (2008) DLT 685, available at: <https://indiankanoon.org/doc/1982063/>

In this case, the parties got married after the husband obtained an *ex-parte* divorce from his first wife. After a few years, the parties filed separate proceedings, the husband for a divorce and the wife for maintenance under Section 18 of the Hindu Adoptions and Maintenance Act, 1956 (HAMA). Under Section 18, a “Hindu wife” can only claim maintenance. During the course of the proceedings under HAMA, it became known that the *ex-parte* divorce granted to the husband for his first marriage had been set aside. The second wife’s petition for maintenance under HAMA was, therefore, dismissed because the marriage between the parties was not legally valid as the husband had an earlier subsisting marriage. The dismissal of this petition was appealed before the Delhi High Court by relying upon the provisions of PWDVA (2005).

The Court held that while existing case law under HAMA excluded the granting of maintenance to the second wife where there is a subsisting legally valid first marriage. The trial court had, in this case, failed to recognise the fact that the decree of divorce was in operation on the day that the second marriage was solemnised, making this second marriage legally valid. Referring to the “mischief rule”, the Court stated that if a liberal interpretation were not given in this case, it would amount to giving immunity to the husband for defrauding the appellant-wife. Therefore, the appellant-wife, at least for the purposes of claiming maintenance under Section 18 of HAMA, is to be treated as legally wedded. In arriving at its decision, the Court also placed reliance upon Sections 2(a), 18, 20 and 26 of the PWDVA (2005). This judgment marks an important step in recognizing the legitimate entitlements of a woman who has, in good faith, entered into a relationship in the nature of marriage. It must be emphasized that the PWDVA (2005), in including “relationships in the nature of marriage” within its purview, sought to ensure protection to women in similar situations. This judgment of the Delhi High Court reiterates the fact that no woman is denied the protection of laws when facing domestic violence.

VIII. THE EFFECTS OF GENDER IN PROSECUTING VIOLENCE AGAINST WOMEN

Although the role of women is changing in India over time, many women are still forced into roles of inferiority and submission. Gender roles are clearly demarcated between male and female obligations. Women are often expected to fulfill the role of wife and mother." Although India is not exceptional in its expectation of childbearing, "women continue to be constrained by pronatalism-the ideology of compulsory motherhood". Women are often stigmatized when they cannot or choose not to become mothers.

Lorber. J. (1991) in his book, '*The Social Construction of Gender*'²⁵ explained that gender is a social construction and many factors influence it. People often misunderstand the term gender and sex. They are quite different. In the book, sex refers to what we inherit, such as male or female and gender is what we learn. Gender is nothing but a device which society uses to control its members.

IX. ROLE OF CASTE AND CLASS ON VIOLENCE AGAINST WOMEN

Caste mobility has been increasing in recent years, particularly in North India. However, even when the class mobility of *dalits* increases, this mixing of classes results in increased gender violence. In one particularly popularized case, an entire community of *dalits* in Haryana was blamed for the "abduction" of two *Jat* (landholding caste) women, resulting in threats of rape, violence against the *dalit* community, and suicide. After an investigation, it became clear that there was no abduction but rather an elopement between a *Jat* woman and a *dalit* man, accompanied by another *Jat* woman who was their friend. Similarly, as increased development and rising standards of living make economic mobility increasingly possible in Uttar Pradesh and Haryana, *khap panchayats* (gangs of men who use violence to enforce existing caste lines) are increasingly in operation because of the rise of inter-caste marriage. *Khap panchayats* consider it imperative to commit "honour killings" in order to deter inter-caste marriage and to prevent marriage-by-choice.

Because of the flood of cases caused by *khap panchayat* violence, the ability of the courts to intervene and prevent the violence is limited.²⁶

X. GENDER NEUTRAL LAWS – NEED OF THE HOUR

Human rights and gender equality belongs to both men and women. In today's times where men are falsely accused of rapes, domestic violence, and sexual assault, gender-neutral laws are needed for the hour. Domestic violence, this term nowhere indicates that only women can be the victim of domestic violence, men can also be the victim and not the only perpetrator. Domestic violence should be considered as spousal violence as it is not only restricted to women. Kimmel M. (2001) in his book on '*Male Victims of Domestic Violence*'²⁷ said that domestic violence is one of the major problems and men also suffer from domestic violence at the hands of their wives or intimate partners.

²⁵ <https://sites.oxy.edu/ron/msi/05/texts/Lorber-socialconstructionofgender.pdf> (22 December 2021).

²⁶ Sujata Gadkar-Wilcox, Intersectionality and the under-Enforcement of Domestic Violence Laws in India, 15 U. PA. J.L. & Soc. CHANGE 455 (2012), p.473.

²⁷ http://www.ncdsv.org/images/male_dv_victims1.pdf (22 December 2021).

In India, Domestic violence laws only protect women and not men. It gives a false presumption that men can only be the perpetrator and not the victim. Domestic Violence against men is gradually increasing day by day. Hence, special provisions and amendments are required to make gender-neutral laws that will help the victims in getting remedy and punishment for the culprit irrespective of gender. “Specific laws and amendments are needed to protect both of the spouses from domestic violence that is still prevalent in our society”²⁸.

XI. MISUSE OF THE DOMESTIC VIOLENCE ACT

“An unjust law is itself a species of violence. Arrest for its breach is more so.”
Mahatma Gandhi

The provision in law makes the law easily vulnerable to misuse. Statistics have shown that only 2% of all the cases have resulted in conviction and 98% of the cases are deemed fake and there is no provision in the act if a fake case is lodged then there is no provision for punishment for the women. For the name of protection of women, the prosecution of innocent men is against the rule of law. A woman can misuse the law very easily as for example a man can be booked under the act if she feels that she has been insulted. “Insult is a relative term, which is totally left to her discretion”²⁹.

Interestingly, if she insults and abuses him verbally or even physically, he does not have any legal recourse in this law. Even the minor differences in matrimonial ties could invoke the provisions of the act. Moreover, the procedure of law is governed by CrPC that means a man even making a very light insult to a women is treated like a criminal. If the case is false, the reputation of man and his family is tainted and there are no steps or legal protection available to men to protect his reputation. In other words, this law treats men like sitting ducks.

XII. SUGGESTION AND RECOMMENDATION

Inadequate understanding of the root causes of all forms of violence against women and girls hinders efforts to eliminate violence against women and girls. There is a lack of comprehensive programs dealing with the perpetrators, including programs, where appropriate, which would enable them to solve problems without violence. Inadequate data on violence further impedes informed policy-making and analysis. Socio-cultural attitudes that are discriminatory and economic inequalities reinforce women’s subordinate place in society.

This makes women and girls vulnerable to many forms of violence, such as physical, sexual

²⁸ Accessed on <https://blog.iplayers.in/domestic-violence-men-india/> (22 December 2021).

²⁹ Accessed on <https://lexspeak.in/2013/06/misuse-of-domestic-violence-act/> (22 December 2021).

and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation. Apart from this, for effective implementation of the laws, some law enforcement agencies under section 5 of the PWDVA should be constituted so that it will help in smooth functioning of those laws and there should be no misuse of it. Some duties that have been laid down by PWDVA (sec 9 of the act), should be without any breach executed by the officers appointed for the very purpose.

There should be improvement in legal and legislative measures, especially in the criminal justice area, to eliminate different forms of violence against women and children, including domestic violence. Again, prevention strategies also remain fragmented and reactive and there is a lack of programs on these issues. Some suggestions are as follows:

- i. As a matter of priority, review and revise legislation, where appropriate, with a view to introducing effective legislation, including on violence against women, and take other necessary measures to ensure that all women and girls are protected against all forms of physical, psychological and sexual violence, and are provided recourse to justice;
- ii. Prosecute the perpetrators of all forms of violence against women and girls and sentence them appropriately, and introduce actions aimed at helping and motivating perpetrators to break the cycle of violence and take measures to provide avenues for redress to victims;
- iii. Treat all forms of domestic violence against women and girls as criminal offence including all forms of discrimination.
- iv. Establish effective legislation and mechanism for this purpose.
- v. Promote or encourage campaign for the awareness regarding domestic violence and rights of women in rural as well as urban areas.
- vi. Last, but not the least...make a gender-neutral laws, meaning thereby the same should be the punishment if a woman who tries to harass any of the family members. It is so unfortunate that our laws are always biased to one side.

XIII. CONCLUSIONS

Domestic violence is problem, which is deeply rooted in the Indian society. Domestic violence is such an evil, which drags the Indian society to an age of obscurity. In this category of offences, some groups of the society are born to be violated not for any other reason except belonging to one particular gender and age gradations of the society. Now we are living in the

era of human rights, where each one have certain guaranteed basic rights to live a dignified life for being treated as human beings and the practice of domestic violence is violation of their basic human rights. The process to bring the Indian society from this sort of dark shadow to a liberal state has a long journey to travel. Women, children girls who are the victims of it have to take stand to eliminate this social evil from the society and the government and people have to contribute in it with their resolve.

There is notion in society that men are also the victim of domestic violence but instances of this are less common and poorly documented. Marital discord often leads to legally wedded wife to stay with her parents in the name of their care in old age and leaving husbands alone to fend by himself. While at the same time, they derive all pecuniary benefits and status in society from husbands. The concept known as gender symmetry is very uncommon in society. It is a common notion nowadays that people have sometimes misused the Domestic Violence Act. However, a generalization cannot be made in this regard. This act was designed for the purpose protection of women from domestic violence and thus the chances of its misuse are less than its use.
