



PROBLEM OF DOMESTIC VIOLENCE AGAINST WOMEN: AN UNVOICED PANDEMIC

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ABSTRACT

During lockdown there is no lockdown crime against women. As per National Commission for Women, domestic violence against women had increased manifold during the lockdown. Domestic violence is one of the most common crimes against women in India. If the women are not safe within the four wall of the house then where she is safe? Domestic Violence also known as violence against women is a phenomenon that cuts across boundaries of society and age. Even though it happens frequently in India, domestic violence hasn't been made public. Woman always is subjected to harsh treatment by her husband or his family. It is offence, section 498 A of the Indian Penal Code. In order to provide relief in the civil law for the protection of women from domestic abuse, the Indian Parliament passed the Protection of Women from Domestic Violence Act 2005 in the year 2005. This new act appears as light for many aggrieved women in our nation, there is still a long way to go in respect of proper implementation of the act, the biggest challenge being to unwrap the silence that covers domestic violence. It is important to make women aware of their rights and make them understand that once violence begins, it will continue to rise, if not stopped and tolerating it meekly and hoping that violent behaviors ends. The family is a basic unit of the social order. The dignity safety and security of women are more in danger within the four walls of their house. Domestic violence that is any act of physical, sexual, or psychological abuse, or the threat of such abuse, inflicted against a woman by a person intimately connected to her through marriage, family relation is universal and has its root in the socio-cultural set up of the society.

INTRODUCTION

Violence needs to stop. All of us - men and women - need to speak up and teach our children that violence is never the solution. Together we can all make a difference. The best place to start is with yourself.

-Will Young

A women who has been foundation of family and society in general who gives birth to life, nurtures life, shapes it, and strengthen it, who is transmitter of tradition and an instrument through which culture is preserved and transmitted from generation to generation, the furthestmost tragedy in our country is that grave injustice is done to her. During lockdown there is no lockdown crime against women. According to National Commission for Women, domestic violence against women had increased manifold during the lockdown Domestic violence is one of the most common crimes against women in India. If the women are not safe within the four wall of the house then where she is safe?

Domestic Violence also known as violence against women is a phenomenon that cuts across boundaries of society and age. Even though it happens frequently in India, domestic violence hasn't been made public. Woman always is subjected to harsh treatment by her husband or his family. it is offence, section 498 A of the Indian Penal Code. In order to provide relief in the civil law for the protection of women from domestic abuse, the Indian Parliament passed the Protection of Women from Domestic Violence Act 2005 in 2005.

Domestic Violence Act, 2005 is the result of decade-long campaign by women groups, social and legal bodies and NGOs for a civil law against domestic violence. This act not only recognizes an old position- that violence, actual or threatened is not just physical maltreatment, but can be sexual, verbal or psychological abuse. It covers women in marriages and live-in relationships, and those living in a shared household related by consanguinity or adoption. The new law also gives a victim the right to residence and access to a protection officer, who is answerable to the courts.

People in opposition to domestic violence see the act as a major move forward. All these years, law ignored the issue of domestic violence which meant that victim had three options to pursue. They could go in for a divorce, file criminal proceedings, or put up with violence.

From a feminist point of view, it is argued that the occurrence of domestic violence against women is influenced by the patriarchal system, gender stereotypes, and the distribution of power in society, whether it is actual or perceived. The expectation is that men will be more powerful and in charge than women. Because of their authority over women and their lives, they may cause harm to women. It is the woman's responsibility to submit to the violence used on her and accept her "fate."

For a very long time, women had to deal with their husbands' physical, sexual, psychological, and neglect abuse. Women have suffered at the hands of men who have treated them like animal pushovers and, if I may, prefer male kid producing machines. One of the worst and most pervasive violations of human rights is domestic violence. Women have been resigned to their destiny for far too long or have just given up on their right to speak up, perhaps as a result of the legal system or lack thereof, their vulnerability, or their fear of rejection by their own because domestic abuse still exists.

A woman who is the victim of domestic violence will have the right to the services of the police, shelter homes and Medical establishments. She also has the right to simultaneously file her own complaint under Section 498A of the Indian Penal Code.

MEANING OF VIOLENCE

The term violence refers to any physical force for or any damage or injury to person or property.

- Oxford Dictionary Defines: “Violence as behavior involving physical force intended to hurt, damage or kill someone or something”.
- WHO defines Violence: purposeful use of physical force or power, whether threatened or used, against oneself, another person, a group, or a community, Incidences of depression, anxiety, stress disorders, and suicide are on the rise, and there is a higher risk of cardiovascular disease and early mortality as a result.
- Domestic Abuse, Domestic violence is physical, economical, sexual or psychological abuse directed toward one's spouse, partner or other family members within the family. The term domestic violence is gender neutral; it may refer to abuse of either husband or wife. It gives the impression that men are as likely as women to be victim of such an abuse. Since the police and hospital records indicate that majority of victims of domestic violence are women, therefore, this term is generally used for violence toward women.

Domestic violence in India include any type of violence suffered by a person from a biological relative, but usually is the violence suffered by a woman by male members of her family or relatives. Domestic violence that is any act of physical, sexual, or psychological abuse, or the threat of such abuse, inflicted against a woman by a person intimately connected to her through marriage, family relation, or acquaintanceship is universal and has its root in the socio-cultural set up of the society.

TYPES OF DOMESTIC VIOLENCE

- a) Physical Abuse the use of force.
- b) Verbal aggression (including hate speech)
- c) Psychological abuse.
- d) Sexual assault
- e) Economic and social violence.

f) Individual based Violence: It is found that aged women and girl child particularly vulnerable to domestic violence. The situation of women in the families is undoubtedly still to a certain extent precarious. Unmarried girls, unwanted in their father's homes may perhaps also experience violence. a) Violence against Girl Child, (Unmarried Women) b) Violence Against Married Women c) Violence Against Aged Women.

CONSTITUTIONAL PERSPECTIVE

In order to implement the recommendations of the UN Committee on the CEDAW, the Domestic Violence Act was passed. Article 253 of the Constitution, which grants the Parliament the authority to enact laws in accordance with international treaties and conventions, was consulted by the Parliament in order to approve this legislation, Etc.

- Protection of fundamental rights and Women's rights

The Act was passed with concern for the fundamental rights safeguarded by Articles 14, 15, and 21 according to the Statement of Objects and Reasons. Article 21 guarantees the right to life and liberty in the negative sense that it cannot be curtailed except by a legal procedure that has been adjudged to be fair, just, and reasonable by a court of law.

1. The Right to be Free of Violence: In *Francis Coralie Mullin v. Union Territory Delhi*, the Hon'ble Supreme Court held that Article 21's ban applies to any act that permanently or even temporarily hinders a person's ability to use a limb or other talent. This right is covered under the Act's definition of physical abuse, which also covers domestic violence. Acts or behaviors that affect the victim's well-being or development or jeopardize their life, limb, or health are considered physical abuse..

In addition, some physical acts that are prohibited by the Indian Penal Code are included in the Act's definition of domestic abuse. The Act's use of such a broad phrase protects a woman's right against assault.

2. The Right to Dignity:

The Supreme Court emphasized that the right to life included the right to live with dignity in *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan*, basing its conclusion on a number of cases that had been decided in favor of this notion. The right to dignity would include the prohibition on being the subject of degrading sexual acts.. Article 14 provides for an equal rights provision. This exemplifies equality before the law and treatment as an equal before the law.

Article 15 forbids discrimination on the basis of race, religion, caste, gender, and other characteristics, but it also gives the State the right to impose particular laws for particular demographics, including women and children. Domestic violence is one of the things that keeps women from advancing. Article 15 forbids discrimination on the grounds of race, age, religion, and other characteristics, but it also gives the State the right to impose special rules on some groups of people, such as women and children.

The Domestic Abuse Act recognizes women's rights under Sections 14 and 15. Domestic violence is one of the things that prevent women from advancing. It should be noted that domestic violence typically targets women rather than men. At this point, it's also critical to keep in mind Article 15(3), which gives the State the power to pass laws that favor women and make an exception to the application of Article 15.(1).

PROTECTIVE MEASURES FOR WOMEN UNDER PWDVA 2005

Indian Parliament passed “Protection of Women from Domestic Violence the Act 2005”, in September 2005, which was came into force in October 2006. This law does classify men and women, protecting only women from domestic violence, but it does so on the basis of an understandable distinction namely, gender and also has a logical connection to the Act's intended purpose.

The Act is objective in that it represents a carefully thought-out effort to lessen and ultimately abolish domestic abuse. It's crucial to remember that domestic violence primarily impacts women rather than men. It's crucial to keep in mind Article 15(3) at this point, which grants the State the power to enact measures like these to support women and grant an exception to the application of Article 15 in their favor .

The Silent Key Elements of the Protection from Domestic Violence Act of 2005

- This act's goal is to safeguard women who are or have been in relationships with abusers in which both parties shared a residence and were related by consanguinity, marriage, partnerships that resembled marriage, or adoption, as well as connections with other family members who live together. All women are entitled to legal protection under this Act, including sisters, widows, mothers, single women, and cohabiting partners. According to proposed Act 14.

- This encompasses any behavior that terrifies, intimidates, manipulates, causes pain, degrades, or assigns blame to another individual. Domestic violence may affect everyone, regardless of race, age, sexual preference, or religion. One of the most important aspects of this Act is the woman's right to find housing.
- The Act ensures a woman's right to live in a married or joint household regardless of whether she has any rights within the family. A court-issued residency order safeguards this privilege. Anyone who is a woman cannot be subjected to these residency requirements.
- The Act also provides for the supremacy of the court to issue protection orders that prohibit the abuser from participating in or carrying out an act of domestic violence or any other specific act, from going to the victim's workplace or any other place she frequents, from attempting to contact her, from seizing any property used by both parties, and from harming the victim, her family, or anyone else who helps her escape the abuse.
- The Act stipulates the establishment of protection officers and NGOs to assist the lady in obtaining safe sanctuary, legal representation, and medical care. etc.
- According to the Act, disobeying a protection order or temporary protection order by the responder is a cognizable, non-bailable offence that carries a maximum one year in jail, a maximum 20,000 rupee fine, or both possible penalties. If a Protection Officer violates the Act's requirements or performs their duties in an unsatisfactory manner, the same sanctions are sought.
- The Act's Section 8, The State Government shall give notice of the district or a district within which a Protection Officer shall exercise the powers and perform the duties entrusted to him by or pursuant to this Act, and of the number of Protection Officers to be appointed in each district as it thinks necessary. On behalf of the victimized female and/or child, the PO will assist the court in filing a Domestic Incident Report or an application for a protective order. POs will make sure that harmed people receive the necessary support, including legal representation, medical care, safe housing, and other resources. POs will make sure that the harmed lady receives the relevant information about service providers and that instruction for financial relief is carried out. The PO can be punished for neglecting or refusing to carry out his duties, but only with the prior approval of the state government. Service Providers are recognized as private organizations under the Societies Registration Act and the Companies Act. They must register as a service provider with the state authorities in order to file the Domestic Incident Report and make arrangements for the injured person to receive medical care. Among other things, the service providers will ensure that the resentful person has access to accommodation in a shelter home if necessary. A Service Provider is safeguarded for all actions performed in accordance with their legal power under this Act and in good faith to stop domestic violence from being committed. As a result, they are immune from suit for performing their legal obligations and are so protected from liability. To address the issue of domestic violence, this

- According to Section 17, in a domestic relationship every woman has the right to dwell in the common residence, regardless of whether she has any rights, titles, or beneficial interests therein. The aggrieved person cannot be removed from the shared household or any part of it by the respondent unless it is required by law to do so.
- Section 18-23 of the act provides a large number of avenues to an abused woman to get relief. She can get through the court protection orders, residence order monetary relief, and ex parte and interim orders, as well as a payment judgment and custody of her kids. It will be illegal to do so. If a woman's spouse transgresses any of the aforementioned rights. The magistrate may also construct charges under section 498A in addition to those made under this Act. Thus an accused person will be liable to have charges framed under both the old law and the new one. The offences are cognizable and non-bailable.

Section 498 A of the Indian Penal Code, 1860

A crime that is neither bailable nor compoundable is a cognizable offence under section 498A of the Indian Penal Code, 1860.

CONCLUSION & SUGGESTIONS

This new act appears as light for many aggrieved women in our nation, there is still a long way to go in respect of proper implementation of the act, the biggest challenge being to unwrap the silence that covers domestic violence. It is important to make women aware of their rights and make them understand that once violence begins, it will continue to rise, if not stopped and tolerating it meekly and hoping that violent behaviors end. The family is a basic unit of the social order. The dignity safety and security of women are more in danger within the four walls of their house. .

Positive aspects include the fact that the Act deals with domestic violence regardless of the parties' religious convictions, which avoids abuses of women's rights that typically use the protection offered by personal laws. It leans toward the secular. In a limited sense, it also takes into account child sexual abuse, a subject that is currently very strongly debated.

- To understand the reason behind why women develop into vulnerable and positioned themselves to be exploited. Most of the women's are ignorant and face a silent hostility and they are also under the pressure of tradition in society.
- There is unequal distribution of power relationship is the root cause of violent attacks. Change in the attitudes between men and women should also be required to overcome the victimization of violence.
- Internalization of Legal Norms with Public Consensus Domestic violence in our country is yet held to be "interfamilial affair" and disallow the intervention of the close relatives and outsiders and the state.

• The proper implementation of any legislation has to undergo a security of strong public consensus and approval in democratic society.

• The strong legal command prescribed for officers and stake holders; the officers and institution is responsible for the more effective implementation of Act. In traditional relation of patriarchal system and male dominance society gender discrimination needed to wipe out.

• Gender perspective training should be mandatory by the law and is crucial for changing the critical mind set of patriarchal society, police, service providers, medical practioners, protection officers, and especially of magistrates.

• Counseling by Expert At the pre litigation stage, counseling to the aggrieved person for the restoring self-esteem, providing emotional support and assist her in making decision as to the initiation of legal procedures

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