

“Domestic Violence”

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One of the serious problem India is facing for the past few decades is violence against women. Female infanticide, the custom of genital mutilation, domestic violence and abuse of elders, all are different forms of violence faced by women in different stages of her life. There is no specific condition which describes the reason for such behaviour towards them. Many times people give justification in the name of rituals and customs for such practices against women overlooking the anguish they had to undergo.

Domestic violence is considered as a massive and common problem which is present and most erupted inside ones own domain. After so much efforts made with the help of law as well as through spreading awareness among people, the number of cases of domestic violence is still accumulating every year, many cases being reported and many still being kept within the four walls. The meaning of the term ‘domestic violence’ lies within the two terms domestic and violence. Domestic is the area or land where a person resides and violence means the use of physical force to hurt, kill or cause harm to another. Thus, domestic violence means the intense use of physical force by a person inside the four walls of one’s residence which is destructive in nature and causes harm to another. The place which is considered to be the safest and people who are present to safeguard us at the time of danger, domestic violence starts from the same place which is our home and by our own family members. Apart from physical violence, there is also mental or psychological violence, sexual violence or sexual abuse, financial abuse, and most common verbal abuse. Violence can take place between people where one party is in dominant position controlling the other, such as between husband and wife, parents and children, and between same as well as opposite sex. Domestic violence against women is the most common and is greater in number where a woman is harassed and humiliated by her own spouse and his family members. The Protection of Women from Domestic Violence Act, 2005¹ was passed to provide safety and security of women against the violence of the spouse or his family members. Section 3 defines domestic violence as-

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence 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 tends to or 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

¹ The Protection of Women from Domestic Violence Act, enacted by the Parliament of India, assented to:13 September 2005, Commenced on 26 October 2006.

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. This definition gives domestic violence a wider scope and put it in a category of a criminal activity. It provides protection of women's right which is guaranteed by the Indian Constitution who have suffered violence by their spouse or his family members.

The mindset of the offender could be the desire to gain control over the other, to exploit for personal gain, to show supremacy and dominance over another especially in a male dominating society where a male child is given extra privileges since birth and he grows up in a society where a woman is always subjugated by men. He follows the same behaviour patten when he ties a knot with a women. This forms one aspect for the violence another aspect could be the offender himself is suffering from some abuse or going through some trouble, they may have low self-esteem or are unemployed and the only way they see to combat their frustrating is by inserting pain on someone whom they could easily suppress. However these conditions will not give justification for their violent behavior.

Since the abuse takes place within the four walls the abuser shows alternate behaviour within public and private dominance. The abuser forms friendly ties with outside world capable of deceiving other and believing that the abuser in incapable of committing any violence. Sometime the abuser blames the victim herself for provocation or the circumstances like alcohol or stress for the violence. Due to difference in parenting style children too face domestic violence. Not all parents show responsible and kind behaviour towards their children as some can also neglect and harm their child. Many a time parents had high expectation from their children and when such expectation does not convert into reality, parents show anger and their frustration is shown toward the children either physically or through by disgracing words. Sometimes parents are not able to enjoy their own life and considerer them hindrance and show hatred towards their children. In all these circumstances the feeling of safety and love is altered towards parents.

Violence against women is most common and a serious problem in India. One-third women group between the age of 15-49 have experienced some form of physical violence and 35% have experienced sexual or physical violence. National Family Health Survey² collected information from age 15-49 about their experience of domestic violence from both married and unmarried women. It was concluded that married women are more likely to experience sexual or physical violence not by anyone else than their husband. Slapping is the most common act of violence. 34% of women have experienced this form of physical violence. Two out of five women experienced some form of sexual or physical violence and reported having injuries like cuts, bruises or ache. 9% have severe injuries like eye injury, sprain, dislocation or burns and 7%

² NFHS-3 (2005-2006) ; NFHS-4 (2015-2016) ; NFHS-5 (2019-2020)

suffered deep wounds, broken teeth, broken bones or other injuries. Women in the poor household (49%) has more number of women suffering from domestic violence than in the wealthier household (18%) . More cases of domestic violence can be seen where either of the spouse lack education. Women who are married to a drunken man more often suffer from domestic violence. 16% of girls till the age of 15 years experience domestic violence either by their parents, teachers or siblings. Among girls who had experienced sexual violence 27% says that the perpetrator committing violence was a known one or a relative. There are several causes due to which women suffers domestic violence. One of the common cause is dissatisfaction with the dowry or forcing women to get more of it. Refusing to have sex, arguing, neglecting children, not cooking properly, indulging in extra marital affairs, not looking after in laws, desire for male child, alcoholic husband, all these leads to violence. The causes vary from situation to another. In urban areas reason like more wage of working women than her spouse, late night work, being more socially forward etc. can be seen for committing violence. Cases which come in front of court shows how women are ill-treated by their own family members. In some cases women are brutally beaten and thrown out of the house. A case was observed where the husband and in-laws had thrown the women in a hot tandoor³ and was killed. Once a woman was pushed by her husband from the three-storey building and got severe hurt.

At present, the entire world is under lockdown due to COVID-19⁴. There has been increase in the cases of domestic violence. Victims of domestic violence are more at a risk to a horrifying new degree of violence. In India, the National Commission for Women (NCW) had raised the report showing an intense rise of domestic violence since the beginning of the Nation's lockdown. Psychological, sexual, physical, emotional, and financial emotional abuse has started. The connection with the outside world has broken, and we are confined within the four walls. There is little or no hope of getting social support, safety or help for the victims. Job insecurity, financial problems, increase in stress levels, anxiety and other similar emotions can lead the offender committing the crime of domestic violence. To provide help to the victims various helplines numbers have been provided which includes a counselling services or immediate help from police. In serious cases women are separated from the abuser and sent to a safe place. This is for those women who report about the violence, there are still many women who come up don't come up with their issues because they considered it as part of their destiny. Many a time the victim consider herself responsible for the abuse, being unaware of the fact that violence in no ways can be justified. Many victims don't even acknowledge about their conditions. Since most of the women are married they do not want to speak against their husband or in-laws due to social cultural pressure.

³ Tandoor Murder Case : Sushil Sharma found guilty.

⁴ 2019 novel coronavirus

To provide relief from the suffering of the victims different sections of Indian Penal Code⁵ provides criminal and legal remedy. Some of the important provisions are Section 498A and 304B in the IPC. Sec 498A provides punishment of imprisonment for a term of three years which may exceed, as well as with the fine to be paid by the husband or the relatives of a woman subjecting her to cruelty. This section is non- compoundable, non-bailable and cognizable. It could be used only by the wives, daughter in-laws or her relatives. Section 304 B- talks about dowry death where it's execution within 7 years of marriage shall be punished for not less than seven years which may exceed to life imprisonment. The Protection of Women from Domestic Violence Act, 2005 was passed by the NDA government in the Lok Sabha in 2002 and came into force on 13th September 2005. This Act provided 37 Sections and 5 chapters with the aim to bring essential changes in the legal protection granted to women by the law. It also aids the victims with legal help, support, medical assistance and counselling. The Constitution of India is considered as the primary law of the land. The preamble which is the part of Indian Constitution talks about equal right for both men and women in opportunity and status. The Fundamental rights provides for certain specific provisions for the uplifting of the status of the women. The right to life includes right to be freed from violence. In Francis Coralie v. Union Territory Delhi⁶, Administration the Supreme Court stated that an act which injures or damage the use of limbs or faculty of a person either permanently or temporarily would violate Article 21 which provides for right to life and liberty. Many a time women, and their relatives are not aware of the law of the land due to their ignorance or they are illiterate. For such cases various NGOs are established to provide help and sustain aids to the people. These NGOs spread awareness regarding legal remedies that are available to the women undergoing violence. They encourage women to come up and report about violence so that the culprit is punished. The police officers need to be sensitized and take the matter seriously.

In India where in one women are treated as Goddess and Devis on the other place the same women has to go through violence in different forms. From sati to widow remarriage, from domestic violence to rape, every time the society has come up with so many challenges for the women which degrades the status and questions the identity of women. The mindset of people regarding male domination and patriarchal society need to be change. Unless or until women are treated equally and given respect in the society, no law will be helpful in changing the condition of the women. Various newspaper and data is conforming the situation of women in the society where a mild or severe harassment has been faced by majority of women in her own home. The time has come where we need to stand for ourselves. We stand by each other, tall, proud, and brave. This is the time to build violence free India. We will achieve what we deserve for ourselves and transform our country into a place where every woman is safe and none of them dies at the hands of her husband.

⁵ Enacted by- Imperial Legislative Council ;Enacted on-6 October 1860; Commenced-1 January.

⁶ 1981 AIR 746, 1981 SCR (2) 516