

“Domestic Violence: Another Pain by another Stain in the Society”

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“Domestic violence is a burden on numerous sectors of the social system and quietly, yet dramatically, affects the development of a nation... batterers cost nations fortunes in terms of law enforcement, health care, lost labour and general progress in development. These costs do not only affect the present generation; what begins as an assault by one person on another, reverberates through the family and the community into the future”.

-Zimmerman

INTRODUCTION

Domestic Violence includes physical, sexual or psychological abuse against a woman by someone who is directly connected through marriage, family relation or acquaintanceship. It has its roots in the patriarchal set up of the society. Women have always been meant to be the weaker sex. Right from the later Vedic age to the 21st century, Indian women have never experienced the freedom that men have. They have always been subjected to inequality. The subordinate status of women combined with patriarchal ideologies is a major cause of domestic violence.

According to ‘United Nation Population Fund Report’, around two-third of married Indian women are victims of violence attacks. To protect women against Domestic Violence, the Parliament passed ‘The Protection of Women from Violence Act, 2005’. The Protection of Women from Domestic Violence Act, 2005 says that any act, conduct, omission or commission that harms or injures or has the potential to harm or injure are going to be considered domestic violence by the law. Even one act of omission or commission may constitute violence or, women don't need to suffer a protracted period of abuse before taking recourse to law. The law covers children also. In today's society Domestic violence is perpetrated by, and on, both men and women. However, most ordinarily, the victims are women, especially in our country.

TYPES OF ABUSES

Many types of abuse can be included in the definition of domestic violence:

- *Physical abuse* – Physical abuse means hitting, biting, slapping, battering, shoving, punching, pulling hair, burning, cutting, pinching, etc. It's includes denying someone medical treatment and forcing to consume drug or alcohol.

- *Sexual abuse* occurs when the abuser coerces or attempts to coerce the victim into having sexual contact or sexual behaviour without the victim's consent. This often takes the form of marital rape, attacking sexual body parts, physical violence that's followed by forcing sex, sexually demeaning the victim, or maybe telling sexual jokes at the victim's expense.
- *Emotional abuse* involves humiliating the victim's sense of self-worth or self-esteem. It takes place when the abuser makes or tries to make the victim financially reliant. It often seeks to take care of total control over financial resources, withhold the victims' access to funds, or prohibit the victim from getting to school or work.
- *Psychological abuse* involves the abuser to make the victim in fear of or threatening to physically hurt, the victim, children, the victim's family or friends, or the pets; destruction of property; injuring the pets; isolating the victim from loved ones; and prohibiting the victim from getting to school or work.
- *Threats* to hit, injure, or use a weapon are also one of the forms of psychological abuse.
- *Stalking* is a kind of abuse which includes following the victim, spying, watching, harassing, showing up at the victim's home or work, sending gifts, collecting information, making phone calls.
- *Cyberstalking* refers to online action or repeated emailing that inflicts substantial emotional distress in the recipient through online media.

DOMESTIC VIOLENCE IN INDIA

“Bride tortured to death for dowry”, “School going kid succumbs to his injuries after beaten by father”, “A seventy-year-old man killed over property dispute”, “Harassment of men in Chandigarh...”

All these and what not, address any newspaper randomly and you'd find the reports of such quite violence everywhere the country. These are all what we come to understand through different types of media. There are more such cases which go unreported every day. In fact, include the cases which we self-indulge in, or those which we witness within the neighbourhood but are hesitant in taking even one step to scale back their occurrences.

It is present almost everywhere and nowhere is that this eruption more intense than right behind the doors of our homes. It is happening in almost all social classes, genders, racial lines and age groups. Behind closed doors of homes all across our country, people are being brutally tortured, beaten and killed. It is happening in rural areas, towns, cities and in metropolitans also. It is becoming a legacy being passed on from one generation to a different.

The term wants to describe this exploding problem of violence within our homes is violence. This violence is towards someone who we are during a relationship with, be it a wife, husband, son, daughter, mother, father, grandparent or the other loved one. It's a male's or female's atrocities towards another male or a female. Anyone can be a victim

and a victimizer. This violence features a tendency to explode in various forms like physical, sexual or emotional.

Since times immemorial, violence has been an intrinsic a part of the society we live in. The contributing factors might be the will to realize control over another loved one, the will to take advantage of someone for their own benefits, the flare to be during a commanding position all the time showcasing one's supremacy so on and so forth. On various occasions, psychological problems and social influence also increase the vehemence.

DOMESTIC VIOLENCE – GENDER NEUTRAL VIOLENCE

At home or at the workplace to avoid punishments or to get some rewards, men too can be involved in sexual activity by force. In many states of India, a young man with good qualifications and income is abducted and forced to marry without his consent. False rape and other charges such as molestation are also common. Since law and society always traditionally favour females as the weaker sex, many a time, false complaints of sexual abuse/rape are lodged against men. This is true regarding cases against men under 498A (domestic violence) and false dowry cases, and the same was expressed by various courts during their proceedings.

It will be noticed that the definition of “domestic relationship” contained in section 2 (f) of the 2005 Act is a very wide one. It is a relationship between persons who live or have lived together in a shared household and are related in any one of the four ways – blood, marriage or a relationship in the sort of marriage, adoption, or family members of a joint family. A study of these definitions makes it crystal-clear that domestic relationships include persons belonging to both genders and related by blood or marriage. This automatically brings within such domestic relationships’ both male and female in-laws, quite apart from male as well as female members of a family connected by blood. Equally, a shared household includes which belongs to a joint family of which the respondent is a member.

Section 17(2) of the 2005 Act makes it clear that the aggrieved person cannot be evicted or excluded from a shared household or any part of it by the “respondent” save in accordance with the procedure authenticated by law. If “respondent” is to be read as only an adult male person, it is clear that women who expel or exclude the distressed person are not within its ambit, and if that is so, the focus of the Act can very easily be vanquished by an adult male person not being in the forefront, but placing forward female persons who can therefore expel or exclude the distressed person from the shared household. This again is an important pointer that the focus of the Act will not be promoted by reading “adult male person” as “respondent”.¹

¹*Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 SCC 165

This point becomes even sharper from certain other provisions of the Act. Under Section 18 (b), for example, when, a protection order is given to the aggrieved person, the “respondent” is prohibited from aiding or abetting the commission of acts of domestic violence. This again would not take within its ken females who may be aiding or abetting the commission of domestic violence, such as daughters-in-law and sisters-in-law, and would again stultify the reach of such protection orders.²

In cases where men are falsely accused of violence or dowry, a law which can address these false allegations is the need of the hour. Human rights and gender equality should include both men and women. Domestic violence should be considered as spousal violence and must not be differentiated due to gender.

In India, domestic violence act revolves around women only. Studies show that men are also the victims of violence at the hand of women. Hence, necessary amendments addressing violence against men are suggested.³

RECOMMENDATIONS

- # The oppressed or the victims have to break the stigmas and have to report the cases.
- # The media has to give some aid and has to sensitize the public.
- # NGOs have to spread awareness on gender equality and have to teach the consequences of domestic violence.
- # The law should have to make severe rules.
- # Right to be free of violence should be given.
- # The Right to Dignity should include the right against being subjected to humiliating acts.

CONCLUSION

On the whole, the Act, is a treasured part of legislation. Its shortcomings do not, on final analysis, blot out the immense benefit the Act could be to women. A plus point about the Act is the fact that it revolves around domestic violence irrespective of the religion of the parties, as a lot of time wrongs are executed abusing the protection provided by personal laws. It is thus secular in outlook in protecting women’s rights. It also takes into consideration child sexual abuse but in a limited sense, excluding the male children from its purview. The authors further believe it to be anticipatable to extend the Act and allow its application to male children also who are distressed by domestic violence, taking into consideration the kind of the practice, and recommend such an extension. While mentioning that the Act is protected by Article 15(3) from being considered discriminatory, it would help to reminisce that this provision makes an exception in accord of women and children, and thus could be used to substantiate the extension of the Act to male children as well. Indeed, it would seem to be rational to do so.

²*Vaishali Abhimanyu Joshi v. Nanasaheb Gopal Joshi*, (2017) 14 SCC 373

³ Malik, JS, Nadda, A. A cross-sectional study of gender-based violence against men in the rural area of Haryana, India. *Indian J Commu Med.* 2019;44(1):35.

It is, however, opined that it is too early to predict the usefulness of this legislations to its target beneficiaries and the society as a whole. It is required to take into account whether the realism of the Act has been warranted by the legislature and also the accountability of implementation is in the ambit of the executive which in turn is the actual scale of measuring the effectiveness of this Act.

To conclude, the authors would like to quote *Justice Hima Kohli*,

“In our society, we haven’t reached the point where men have needed protection from women. If there comes a time that women have an upper hand, then we will come to amending the laws. I am not saying that there is no misuse. But this cannot be a ground to throw out the law. We can do as much as we can to nip the misuse at the bud. However, there is no denying that the favour of men.”