



DOMESTIC VIOLENCE: AN INSIGHT

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INTRODUCTION

LIU Zhongxin of China¹ said " women were movers of history, creators of wealth and participators in progress. However their equal rights with men remained to be guaranteed."

Crimes against women- wife beating and intimidation, rape sexual harassment, honour killings ; have always been on a rise. Of these wife beating and intimidation are the most endemic and wide spread forms of crime. The report of National Crime Record Bureau (NCRB) on crime against women in 2006 leads to conclude that out of total crimes reported against women 38.6% related to domestic violence, 4.6 % dowry related deaths , 2.7 % related to dowry acts. That is 46% crimes take place within the four walls of pious homes.

Violence against women can take many forms depending often on the particular socio-cultural context, but manifested nonetheless through a continuum of multiple and often inter-related factors. It can vary from the most public and organized form of violence to the most private ,in spaces of domestic and matrimonial relationships, considered distinctly sacred. Domestic violence is the manifestation of this violence in private space.² The United Nations framework for a model law on domestic violence contains this definition " All acts of gender-based violence i.e. physical, psychological and sexual abuse by a family member against women in the family, ranging from simple assaults to aggravated physical battery, kidnapping, threats, intimidation, coercion, stalking, humiliating, verbal abuse, forcible or unlawful entry, arson, destruction of property , sexual violence, marital rape, dowry related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts shall be termed " domestic violence".³

DOMESTIC VIOLENCE: A CONDUCT

There is no exact prototype of domestic violence; it differs with households, individuals and situations. Domestic violence could result in anything from death to debilitating physical injuries. Such violence can also cause devastating psychological impairment leading to mental injury. It is important to note , at this stage that domestic violence constitutes a wide range of conduct and affects an array of relationships. Domestic violence may be physical, emotional and verbal , sexual and economic in nature.

- i. PHYSICAL VIOLENCE : It may include hitting, biting, punching, kicking, pushing, shoving, slapping, using any kind of external forces
- ii. EMOTIONAL AND VERBAL FORMS : This form of violence may include dowry demands, threats , forcing to leave a job or not allowing to work, forcing to leave house, not letting one meet the kids, preventing to meet someone, forcefully getting married , insulting for not giving birth to a baby boy, threat to commit suicide , not letting one marry a person of choice etc.
- iii. SEXUAL VIOLENCE : This includes forceful sex, indulging in pornography , unwelcome sexual conduct etc.
- iv. ECONOMIC AND FINANCIAL VIOLENCE :This includes failures to fulfil ones needs, not providing basic necessities of food clothing shelter, not paying rent, taking away ones salary or wages, not letting one workout etc.

Domestic violence includes both acts of omissions and commissions.

- Acts of omission include the failure to maintain, denial of food and money, neglect and failure to take proper care.
- Acts of commission include physical acts of beating, desertion , coerced sex, ridicules and insults.

A single act of commission and omission of any of the above is considered domestic violence. Further, women have often complained of abuse , which is a combination of different types of violence, commissions and omissions.⁴



Domestic violence occurs in millions of houses, across the globe everyday and a huge number of them are not reported, even. Violence in houses affects each and every member of the house, even if a family member is not a victim of it. Not only the ladies of the family suffer the trauma of domestic violence but it shatters the life of the young children of the family as well.

SCHOLARS ON DOMESTIC VIOLENCE

Shenoy⁵ has rightly pointed out " Violence within families is as old as the institution itself. It seems that it occurs in almost all cultures and countries across all known divisions of wealth, race, religions, castes and social class. There may never have been a time when it did not exist, and it certainly stretches back deep into history. Centuries indeed millennia are filled with millions of assaults, attacks, rapes, violations, psychological abuses, maimings, killings of women in their own homes by men. "⁶ There are a lot many evidences which proves that domestic violence leads to breakdown of family, couples drifting apart, deteriorating mental health of females and their death, suicides.

Ranjana Kumari⁷ has mentioned that one out of every four women is murdered or lead to commit suicide and more than 60% of wives are asked to leave their marital homes after a long period of harassment and torture.

Ganatra, Coyaz and Rao⁸ conducted a study of 400 villages and 7 hospitals of rural India in which it was found that 16% of the deaths of females during pregnancy is due to the violence of intimate partner. They also observed that domestic violence is related to development of wide range of psychiatric problems including post-traumatic stress disorders and other anxiety related disorders, depression, suicidal attempts, substance abuse and eating disorders among women. In India itself if we check the numbers of dowry deaths, it is definitely eyebrow-raising in 1985 there were 999 dowry deaths, in 1987 the no. was 1789 and in 1991 it was 5157. These statistics are based on National Crime Statistics and Police records.

SHOBNA SANPAR AND RAVI KAPOOR⁹ has shown serious concerns about dowry deaths resulting from domestic violence. Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage, and if it is established that the wife had been subject to cruelty for dowry by her husband or her relatives soon before her death, the death is termed as "Dowry Death"¹⁰. Even in cases of lack of valid marriage, person cohabiting with women, would be held responsible for dowry death.¹¹

MEHTA AND DIGHE¹² has given a figure of 2000 women committing suicide due to domestic violence in Gujarat in 1989-90.

Many other research work done in different parts of India by various scholars like Banerjee in West Bengal¹³ Shukla in U.P.¹⁴ identify domestic strife and violence as the main reason for female suicides. Shireen J. Jejeebhoy¹⁵ has remarked that even though the curse and pain of domestic violence has been inherent in the society for a very long time now, but it has recently been brought to public attention by outstanding efforts done by women's organisations. All we know about domestic violence is by the news or the reports that we see on television or read in newspapers or by underreported crime data. There's a lot more to add to these updates as most of the time crime goes unreported or is curbed down, by the system itself.

Domestic violence is widespread in India but it has its roots around the globe. But same as in India, most of it goes unreported. At the international levels, the United Nations Decade for women encouraged to publicise and do research about the reasons, causes, impacts and all the related issues about domestic violence in various countries of the world. United Nations adopted the Historic Declarations on the Elimination of Violence Against Women in 1993, which states that domestic violence is a violation of human rights. Also appointment of a UN special Rapporteur in 1994 was done on violence against women. Also there have been many conferences on this issue like World Conference on Women at Beijing in 1995, a conference in Brighton in Noveshker in 1996 which shows that violence against women is being handled with full zeal.

WOMEN'S MOVEMENT IN INDIA

Women's movement in India have always been concerned with multitude of issues affecting women. They have been addressing issues like poverty, employment, health, education, rape, sati, dowry and so on and so forth.¹⁶ However it was in 1970s that the focus shifted to dowry related violence and in 1990's the eyebrows were raised towards the issue of wife-beating. Indian women's movement has adopted an ideology of radical pragmatism. As a result in many communities where battering was understood to be an inherent part of a married life, are now developing awareness and prevention strategies. Due to various pressure from international agencies and



growing demands by Women Organisations Indian government enacted the PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 and framed the protection of women from domestic violence RULES, 2006 ..This is a law specifically meant to address the issue of domestic violence by providing for civil relieves with a view to ensure immediate and emergency relieves to women facing violence in intimate relationship .¹⁷ The effectiveness of this act in protecting women can be seen in the cases decided since the act has been passed. Also the contemporary discourse on domestic violence can best be examined by looking at the range of studies that investigate the responses of institutions to domestic violence.

LITERATURE OF DOMESTIC VIOLENCE IN INDIA

Crimes against women have roots in the male dominated socio- economic legal and political order.¹⁸ All the assaults done on women are mostly connected to their social status, their communal, ethnic and caste identities. Women are treated to be personal properties which are to be protected by the males to whom they belong due to the traditional value placed upon their virginity and chastity. This has influenced the legal treatment of women both in the provisions of Indian Penal Code and Civil Procedures.¹⁹ Literature on domestic violence in India can be studied under three headings

- i. Domestic violence as behavioural and structural problem
- ii. Physical and mental health consequences of Domestic violence
- iii. The role of volunteer and state agencies in dealing with domestic violence

DOMESTIC VIOLENCE AS A BEHAVIOURAL AND STRUCTURAL PROBLEM

This is more related to sociological perspective. It identifies about the causes and structure responsible for it. Domestic violence against women is a phenomena which has continued from centuries. Women have always been considered as weak, vulnerable and in a position to be exploited. Domestic violence has been accepted by women as a part of married life since the beginning. Cultural practices, religion, economic and political conditions of the times have always open the doors for the women to be abused by the hands of men. The greatest part that plays in the act of domestic violence is the fact that women are physically weaker than men. Across the globe the societies are patriarchal and in which women do not find themselves fully capable to protect themselves when a partner gets violent. A man find itself worthy of harming their wives physically to maintain their status of head of the family and to maintain good order in the family by punishing their wives.

PHYSICAL AND MENTAL HEALTH CONSEQUENCES OF DOMESTIC VIOLENCE

Violence not only causes physical injury, it also undermines the social, economic, psychological, spiritual and emotional well being of the victim, the perpetrator and the society as a whole. Domestic violence is a major contributor to the ill health of women. Battering causes emotional and physical disability including blindness, deafness, paralysis, even death. In as many as half of all the abusive relationships, Rape is a part of abuse. The abuse like slapping or pushing which looks normal in the beginning and the danger and intensity of abuse increases . It is seen that many pregnant women also face domestic violence for the mere causes like- it would add to the couple's financial burden or due to complication in pregnancy a woman cannot work anymore. This might result in abortions or stressful deliveries. Many studies show that higher reproductive morbidity is seen among women experiencing domestic violence. The trauma of domestic violence can be lifelong for a woman and it may lead to many hazardous results like depression, irritability, insomnia, decreased concentration, nightmares, loss of sense of future happiness, little or no memories, chronic headaches, loss of sense of " Who I Am", self destructive behaviour etc...

ROLE OF VOLUNTEER AND STATE AGENCIES IN DEALING WITH DOMESTIC VIOLENCE

In India, and across the world, other than the legal aid there are many voluntary organizations that are there for the help of domestic violence victims. If one wants access to options that do not involve the law and the courts, one may approach an organization working on women's rights or a NGO (non- governmental organisation) working in the area.

Statutory Bodies and Institutions : If a woman does not want to go to court directly she can opt for the following options -

- i. **The National Commission for Women(NCW)** : It is an autonomous body set up by the parliament through law by The National Commission for Women Act, 1990. NCW has powers of a civil court in summoning witnesses and enforcing production of document. An application seeking assistance of NCW can be filed and if the application is found genuine, NCW can issue a notice and call the abuser to



investigate the matter. NCW has constituted a Complaints and Prelitigation Cell which would investigate the woman's case. It uses its offices to bring about conciliation or a settlement, but has no powers of enforcement, the NCW cannot be a suitable for a legal option..

- ii. State Women's Commissions : Like NCW most states have State Commission which perform similar functions. They provide assistance to women of the concerned state. The Kerala State Women's Commission can also institute criminal prosecution. Most State Commission have constituted ' Complaints Cells' to deal with complaints.
- iii. The National Human Rights Commission (NHRC) : Protection of Human Rights Act, 1993 provides for the constitution of the NHRC. The commission is expected to inquire and investigate into the violation of human rights. Functions include review of existing laws, intervention in any court proceeding on violation of rights, human rights literacy and encouraging the work of voluntary organizations working on the issue.²⁰ Domestic violence is a human rights violation and will fall under the purview of the NHRC, among its other functions.

Police : Women can also take help of police. She has the right to register a First Information Report (FIR)²¹ . If a woman does not wish to initiate any criminal action, she would always give a written complaint to a Crime Against Women Cell (CAC) or register a Non-Cognizable Report (NCR)²² in the police station. This is important as this would serve as an important proof of domestic violence in future, if anything happens police protection can also be asked for by the victim.

- i. Crime Against Women's Cell (CAW) : Certain states have set up CAW cells which take up all kinds of cases related to crimes against women. Here women police officials and professional counsellors help in operating CAW . The main work of CAW is to try and bring about a conciliation or an amicable settlement before proceeding with a criminal case. It is very helpful if stridhan is to be recovered. But the major drawback is these cells can't be approached if one wants a speedy prosecution. Another shortcoming is that these cells don't have a power to register an FIR. If suitable settlement is not reached then CAW refers the cases to police station.
- ii. Special Cells For Women and Children : Many of these are established by the local police of the city for example in Mumbai - which gives many services to the abused women and their children like emotional support, counselling and crisis intervention ,interaction with police etc. Trained counsellors work in these special cells and try to bring about a settlement between the abuser and the abused. They also take the help of police and legal aid.

Non Government Organizations (NGO) : As we all know today NGOs are an inherent part of the society and their selfless help has done wonders in the lives of many people. In the case of domestic abuse, the services provided by NGOs are Shelter, Medical Assistance , Legal Aid, Conciliation, Counselling, Financial or entrepreneurial assistance, skill training, Retrieving one's property, after leaving the house occupied by the abuser.

- i. **Counselling** : It helps the domestic abuse victims in the sense that it makes sure that domestic abuse is stopped and the victim is rescued from the abuser. Counselling may include Reconciliation , if there are possibilities of the same or the victims herself desires of it.
- ii. **Mediation** : This is an attempt to arrive at a solution to the problem. In this a third party which is not involved in the dispute, helps in arriving of a settlement . Mediator can be formal or informal. Mediation can also be done with the authority of court where the mediator is appointed by the court to announce the terms of settlement after listening to both the parties.
- iii. **Medical Aid** : When the abuse is at its highest degree of physical danger , the first thing that any woman needs is medical assistance. In most cases, it is seen abuser has harmed his lady by trying to strangulate her, beating ferociously, smashing her head against the wall, making cuts with knife, burning her etc. so before anything else , Doctor's aid is needed to overcome serious injuries.
- iv. **Short Stay Homes** : They are run by state as well as voluntary organisations. These homes provide shelter and food free of cost (usually for 6 months) to a woman and her minor children. Abused women can live in these houses until they find a job for themselves. These homes also provide vocational training required and also IN-house Counselling and also aid woman in approaching lawyers, police, doctors etc.



CONCLUSION

All the above mentioned facilities provided to the domestic abuse , all the legislations ,acts ,rules etc passed in favour of women indicates that there has been a remarkable support which has been provided to women of today and that the entire system stands up with them against any atrocity.

In spite of all these convention women are still a neglected lot. Still Today, lot many women are victims of exploitation of feudal and religious fundamentalists and cultural relativist. The peculiar feature of domestic violence is that all such legislation, like The Dowry Prohibition Act etc. are rendered ineffective due to inability of the victim to access the law. This is evident in Dowry cases which result in wife battering, child abuse, bride burning and dowry death. The amending act introduced section 498-A in the penal code to fight violence against women in the relationship of husband and wife. The criminal law (second amendment) act, 1983 brought a significant change in the presumptive theory of proof to give a better protection to the battered women, section 113-A of the evidence act was inserted so that the court could draw an inference of abetment of suicide under section 306 of the Indian Penal Code. The criminal law (second amendment) act, 1973 also amended section 174 of the code of criminal procedure (1973) making a post-mortem compulsory on the body of women who died within seven years of her marriage.

Our colonial legal system can also be blamed for the oppression of women. The personal laws have been a considerable disappointment to feminist who are divided along religious affiliation rather than state territorial jurisdiction. Even after so many years of independence no serious effort was made to introduce uniform civil code despite the constitutional promises that stressed the necessity for such a code. The absence of uniform civil code many women are not protected equally.

Domestic violence in all its forms has been recognized nationally and internationally as a serious problem. Traditionally, it has been ignored or condoned because it occurs between close relations in the privacy of their homes. The fight for gender equality is not a fight against men. It is a fight against tradition that has chained them, a fight against attitude that are engraved in the society. It is a fight against the system , a fight against proverbial Lakshman Rekha which is different for men and different for women. The society must rise to the occasion. It must recognize and accept the fact that men and women are equal partners in life. They are individuals who have their own identity. Today we are fighting a battle to reclaim the right to life, for woman.

Krishna Iyer J. known as the 'Bhishma Pitamah' of the Indian judiciary on an occasion in a national seminar said that : "All resolutions and declarations and platforms of action, such as in the great Beijing , U.N. meet, express in high rhetoric notwithstanding, the victimization of the sister sector of Indian Humanity, is chronic. Sex determination to Sati leaping into fumes still suffer from the male domination syndrome . Welfare legislation, dowry and rape laws and other's of their like slumber in the statute books and one man is more than one woman in value or power."²³

In this regard George Bernard Shaw said that " Liberty is responsibility ! it is not only responsibility , it is joint responsibility when we are talking of human rights , this must be enjoyed by everyone, man and woman alike."

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