



DOMESTIC VIOLENCE AND LEGAL AWARENESS: AN OVERVIEW

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Abstract:

The study is about domestic violence and its effects on women; but it covers several areas such as changing status of women, the causes and nature and domestic violence, its implications on several areas, stress and domestic violence, the coping methods used by victims, awareness of victims about rules and regulations, their help seeking behaviour etc. The study will prove helpful to law enforcing officials to make necessary changes in the existing policies in order to bring down domestic violence. The suggestions can be taken into consideration by nongovernment organisations, counsellors, activists, health care institutions, police, media etc. The Domestic Violence Act of 2005 has reached common men to a great extent and has the merit of putting in place a norm that violence against women is unacceptable, and such a norm is backed by State laws. But having a norm will not by itself end violence. It takes more than judges, protection officers, police and social workers to protect women from violence. Even though domestic violence has now become a legally recognised category, violence against women in homes still persists. Law can easily help women in work places and in public; but that is not the case with violence at home as home cannot be policed all the time.

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Introduction

Violence against women is the harsh reality of today which exists everywhere. Even in India where women are thought to be highly esteemed, we found many examples of violence against women. Broadly speaking, „violence“ lies in the power dynamics of social conditions, „violence“ is not merely aggression or injury committed by one person (man) against another (women); it is simply the abuse of power. Violence is a behavior in which a more powerful person takes advantages of a less powerful one. This relationship of power differential is very clear in sexual violence against women, in kidnapping and, in physical battering of wives, as well as in dowry deaths and murder of women. Few scholars have also defined violence as “injurious and destructive behavior which damages the victim physically, mentally and financially.”

The term violence is used for extreme forms of aggressive behavior which cause significant injuries to the victim. Though violence usually refers to physical aggression, it can also be applied to psychological stress that causes suffering. There is hardly any woman who has not suffered from harassment, humiliation, exploitation and violence in her life. In the matter of social legislation Indian women are way ahead of their counterparts. But the implementation of these laws granting rights to women has been so slow and disorganized that socially, economically and politically women are kept far behind men. Some scholars relates this situation of women with existing social conditions in the society like illiteracy, poverty, social customs, ignorance and lack of awareness



of rights, while others relate this with women's personality characteristics like feeling of helplessness, inferiority complex, and poor self-image, lack of self-confidence, selfreliance. The causes of violence against women is a complex mixture of social, economic, cultural, biological and legal factors that accounts for the rising violence against women in the country (Jain & Singh; 2001).

Domestic violence refers to violent abuse of women, "within the boundaries of her family; usually by men and his family to whom they are married. In Indian social system is characterized by dominance of man over women. In the context of family, it is a system originating in the household wherein the father dominates". This structure is reproduced all over the society. In this structure male dominate over female (both as an individual and as group) in all spheres of life. Patriarchal society manifests subordination of women by sexual division of labour. The patriarchy has two main elements; structure and ideology. The structural exist in the hierarchical organization of social institution and social relation. It thus relegates power to certain individuals, groups or class and some form of subservience to others. This hierarchical structure and authority needs acceptance by many. The patriarchal ideology reinforces this acceptance. It rationalizes the inequality and subordination. Quite often this is legitimized through religion and formal legislations (Roy; 2003).

Domestic Violence in India

During ancient India, women enjoyed a significant role not only at home but in society as a whole, but nowadays, violence against women and girls has become a significant concern and has spread into a global epidemic. Domestic violence includes any form of violence where another person suffers a person from a biological relative. The Universal Declaration of Human Rights and Convention on the Elimination of All Forms of Discrimination against Women states that women should give equal rights as men have and they should not be subjected to any discrimination'

As per NCRB 2019, the crime rose from 3793 per million in 2016 to 3886 per million in 2017. This data suggests that number of crimes against women has increased 100 per million people in 2017 compared to the previous year, although crimes such as murders & rapes have come down. According to the National Crime Records Bureau, 2017 data, crimes against women have more than doubled over the past ten years. 2.24 million cases were reported against crimes related to women over the past decade, and every hour 26 cases of crimes against women are reported, or one complaint is reported every two minutes reveals in India spend analysis based on the last decade's data.

The National Crime Records Bureau (NCRB), 2015, shows that since the incrimination of PWDVA Act over 1,000,000 cases have filed across the country under sections pertaining to "cruelty by husband" and "dowry" in last 18 years. Every day, in dowry-related cases, 88,467 women or an average of 22 died in a decade from 2005 to 2015. The data show that in 2015 alone, 7,634 women were killed for dowry by their husbands and family members.

According to the survey, 27 percent of women have experienced physical violence since the age of 15 in India. This experience of physical violence among women is more common in rural areas than among women in urban areas. Domestic violence cases, where women reported physical abuse in rural and urban areas, were at 29 percent and 23 percent, respectively. Most of the time, perpetrators of this violence have been the husbands. 31



percent of married women experienced physical, sexual, or emotional violence by their spouses. The most prevailing type of spousal violence is physical violence (27%), followed by emotional violence (13%) by News 18 (8 February 2018).

As per a study in "Dowry, 'Dowry Autonomy' And Domestic Violence Among Young Married Women in India" (2018), about three-quarters of the women reported receiving a dowry at their marriage, and about 66 percent reported having the ability to exercise autonomy over the use of it – 'dowry autonomy.' Dowry is given without 'dowry autonomy' was found to have had no protective value against young women experiencing physical domestic violence in India. [11]

The UN report stated that as much as 70 percent of women had experienced physical or sexual violence in their life from their intimate partner, according to a few nationwide violence reports. 65 percent of Indian men believe that women should tolerate abuses for keeping the family together and for maintaining the healthy relationship among family members, and sometimes they deserve to be beaten because it helps in maintaining control over them.

Babu et al. surveyed both genders (male & female) on domestic violence in the eastern region of India and he found that 16 percent of women had reported experiencing the physical forms of domestic violence, 25 percent sexual, 52 percent psychological, and 56 percent reported any other form of domestic violence. Men are reported being perpetrators of domestic violence with 59 percent psychological, 22 percent with some sort of physical, 17 percent sexual, and 59.5 percent any other forms of domestic abuse. Men revealed that they are facing a higher incidence of all forms of violence but reported the lowest rates of sexual abuse compared to other types of abuse. In the majority of cases, the perpetrator of domestic violence (physical or sexual or psychological) was typically the husband and, in some instances, husbands' parents. The report also shows that low income and low education are the leading causes of domestic violence

Maximum women know their attackers. The truth that 38 percent of all murders of women worldwide are devoted to the aid of intimate companions. Most violence in opposition to women international, whether sexual or no longer, is committed by their intimate companions.

Forms of Domestic Violence

Domestic violence has many forms, including physical violence, sexual abuse, emotional abuse, intimidation, economic deprivation or threats of violence. It can include physical attacks, such as hitting, pushing, punching, as well as threatening with a weapon, psychological abuse, or forced sexual activity. Indirect physical violence may include destruction of objects, striking or throwing objects near the victim, or harm to pets. In addition to physical violence, spousal abuse often includes mental or emotional abuse, including verbal threats of physical violence to the victim, the self, or others including children, ranging from explicit, detailed and impending to implicit and vague as to both content and time frame, and verbal violence, including threats, insults, put-downs, and attacks. Nonverbal threats may include gestures, facial expressions, and body postures. Psychological abuse may also involve economic and/or social control, such as controlling victim's money and other economic resources, preventing victim from seeing friends and relatives, actively sabotaging victim's social relationships and isolating victim from social contacts. Spiritual abuse is another form of abuse that may occur. There are a



number of dimensions including mode - physical, psychological, sexual and/or social; frequency - on/off, occasional, chronic; and severity – in terms of both psychological or physical harm and the need for treatment – transitory or permanent injury – mild, moderate, severe up to homicide. The pattern of abusive behaviours rather than isolated incidents of violence are what battered women describe as the most painful and long-lasting torment. When abuse occurs repeatedly in the same relationship, the phenomenon is often referred to as "battering"(WHO)

Physical violence Physical

violence is the intentional use of physical force with the potential for causing injury, harm, disability, or death, for example, hitting, shoving, biting, restraint, kicking, or use of a weapon. The various forms of physical violence include the following:(i) Female foeticide and female infanticide;(ii) Incest rape within marriage, connivance and collusion of family members for sexual abuse of women in the household; (iii) Physical torture like slapping, punching, grabbing, and killing; (iv) Burdening of women with drudgery; (v) Neglect of women's health problems.

Verbal Abuse

Verbal abuse is described as a negative statement told to the victim or about the victim or by withholding any response, thereby defining the target as non-existent. Verbal abuse means name calling, cursing, criticizing, ridiculing and insulting the wife which results in mental pain. Typically in family relationships, verbal abuse increases in intensity and frequency over time. Verbal abuse include blaming, discounting, minimisation, withholding, accusing, threatening, undermining, name calling, ordering, criticizing etc.,

Emotional abuse

Psychological or emotional abuse can include, humiliating the victim, controlling what the victim can and cannot do, withholding information from the victim, deliberately doing something to make the victim feel diminished or embarrassed, isolating the victim from friends and family, and denying the victim access to money or other basic resources. Psychological violence takes different forms: (i) Curbing the freedom to associate with the natal family, neighbours, and friends; (ii) Curtailment of right to self-expression; (iii) Promiscuity of the husband; (iv) Accusing the women in the household of unchaste behaviour; (v) Irresponsible behaviour and alcoholism of the husband; (vi) Humiliating and victimising women; (vii) Fleecing women and their parents of their money and assets by compulsion, coercion, threat and squandering of money for non-household purposes.

Sexual violence

Sexual violence and incest are divided into three categories: (i) use of physical force to compel a person to engage in a sexual act against their will, whether or not the act is completed; (ii) attempted or completed sex act involving a person who is unable to understand the nature or condition of the act, unable to decline participation, or unable to communicate unwillingness to engage in the sexual act, e.g., because of underage immaturity, illness, disability, or the influence of alcohol or other drugs, because of intimidation or pressure, or because of seduction and submission (as in female forms of sexual aggression); and (iii) abusive sexual contact.

Economic abuse

Economic abuse is when the abuser has complete control over the victim's money and other economic resources.



Usually, this involves putting the victim on a strict 'allowance', withholding money at will and forcing the victim to beg for the money until the abuser gives them some money. It is common for the victim to receive less money as the abuse continues. This also includes (but is not limited to) preventing the victim from finishing education or obtaining employment.

Effects Of Domestic Violence

According to the Contemporary Women's Issues Database (January 1996), "the most common victims (of domestic violence) are women and children". Battered women have tendency to remain quiet, agonized and emotionally disturbed after the occurrence of the torment. A psychological set back and trauma because of domestic violence affects women's productivity in all forms of life. The suicide case of such victimized women is also a deadly consequence and the number of such cases is increasing. The varied consequences of domestic violence are studied under the following heads: Women who have experienced physical, psychological and sexual violence are at higher risk of unwanted pregnancy, high risk pregnancy, and adverse pregnancy outcomes and of contracting sexually transmitted diseases including HIV/AIDS (Maman S, 2000; Martin et al., 1999a). Physical violence leads to injuries, fatal outcomes (less common) and functional disorders (most common) such as chronic pain syndrome, gastro-intestinal disorders etc. Domestic violence leads to stress and stress-related mental illnesses among women such as post-traumatic stress syndrome, depression and low self-esteem. These mental health problems have a higher risk for suicide and suicide attempts (Astbury, 2000, INCLIN 2000). Violence during pregnancy is an important cause of maternal deaths in India (Ganatra B.R, 1998). Recent evidence from Nicaragua and India suggests that violence may also directly or indirectly affect child mortality (Asling Monemi et al, 2003; Jejeebhoy, 1998a).

Domestic Violence and Mental Health

Sexual assault, molestation, rape, sexual harassment, forced sexual abuse by partner etc cause psychological disturbance among women. The trauma of sexual violence sparks off tension and anxiety at a dangerous level. Their mental health problems are manifested in anxiety, fear, avoidance, guilt, loss of efficiency, lack of coordination, depression, sexual dysfunction, substance abuse, reliving the traumatic incidents through memory, suicidal attempts, eating disorders, disturbed sleep patterns, fear of encountering such situations once again etc. (Patel 2004). It is found that "women who undergo extreme sexual violence experience a loss of self and self esteem, following the shock inflicted on them. When there is a continuous period of traumatic stress, it becomes chronic, lessening the individual's ability to do any kind of constructive work." (Nair and Nair, 2002)

Domestic Violence and Education It is not surprising to argue that if women are routinely being harassed by their husbands, they cannot properly look after themselves and their children, including attending to children's education and care. Domestic violence is a factor in limiting the realization of right to education for young girls and boys. This is absolutely critical as education is also a protective factor for domestic violence. Increased education of men and women leads to less likelihood of perpetrating and experiencing violence. (Panda 2004)

Domestic Violence and Participation

Living in violent relationships affects a women's sense of self-esteem and her ability to participate in the decision-making processes, both within the households and outside in informal (family and neighbour) and



formal social networks (community organization, women's self-help groups or affiliation with political parties) (Heise et al., 1999; Sen, 1998). Violence against women also inhibits political participation (Heise et al., 1994). Violence or the threat of violence often hinders women's ability to use contraception, to answer personal interview questions directly or honestly, or to leave the house long enough to participate in community projects (Rao, Geeta and Weiss, 1998).

Women's participation in formal and informal social networks has been identified as critical factor in lessening their vulnerability to violence and in their ability to resolve domestic conflicts (Sen, 1998). Overall, domestic violence impacts self-esteem of women and limits their ability to be conscious agents of change.

Domestic Violence and Employment

Domestic violence increases women's risk of unemployment, affects job performance, and reduces earnings (Morrison et al., 1999); . It may also prohibit women to be engaged in gainful outside employment . There is some evidence that abused women are more likely to seek work because of the need to secure resources and independent networks. While women's limited economic independence may inhibit them to escape from an abusive relationship, it is also true that women's economic activities and independence may be a threat to increased domestic violence. (Panda, 2004). A working woman may drop out from work place because of the ill-treatment at home or office, she may lose her efficiency in work. Her health may deteriorate if she is not well physically and mentally. Some women leave their home immediately after first few atrocious attacks and try to become self-dependent. Their survival becomes difficult and painful when they have to work hard for earning two meals a day.

Consequences on Children Domestic violence seriously threatens the health and emotional wellbeing of children. (Chalk and King, 1998) Estimates are that more than 3.3 million children see or hear the actual abuse or deal with the aftermath of physical and verbal spousal abuse each year. Exposure to domestic violence can include watching or hearing the violent events, direct involvement (for example, trying to intervene or calling the police), or experiencing the aftermath (for example, seeing bruises or observing maternal depression). Children's responses to their experiences with domestic violence vary. Children may reveal any of a range of adjustment problems and psychopathology, or may emerge from their experiences relatively unscathed. (Holden, Geffner and Jouriles, 1998).

Factors that appear to affect these responses include the child's proximity to the violence (that is what the child actually saw or heard), the child's temperament, the age of the child at the time(s) of exposure, the severity of the violence, and the availability of adults who can emotionally protect or sustain the child. Literature reveals that some of the symptoms these children may display include aggressive behavior, reduced social competencies, depression, fears, anxiety, sleep disturbances, and learning problems. Underlying many of those problems are the children's emotional responses to the violence, such as intense terror, fear of death, and fear of loss of a parent. In addition, children may harbor rage, feelings of guilt, and a sense of responsibility for the violence. Children who witness traumatic events, such as incidents of domestic violence, may feel helpless and see the world as unpredictable, hostile, and threatening. Overall, data indicate that children who live in households affected by domestic violence may suffer extensively and are vulnerable to developing a host of short- and long-



term problems. (Jaffe, Wolfe and Wilson, 1990).

Legal Rights for Women in India

To uphold the Constitutional order, the State has passed various legislative measures for ensuring equal rights, for reducing social discrimination and various forms of violence and atrocities, and to provide support services, especially to working women. The legal rights for women are given below

The Dowry Prohibition Act(1961) This Act prohibits giving/ demanding or taking dowry from the bride family by bridegroom family to bride family at the time of marriage. However, the gifts or money envelop which are given to the bride or bridegroom at the time of a marriage without any demand is not considered as dowry. This act states that a person who demands dowry directly or indirectly will be punished with imprisonment of a minimum of five years, and a fine more than Rs 15000 or the value of the dowry received whichever is higher.

The ImmoralTraffic (Prevention) Act(1956) The act identifies the illegality of prostitution and the punishment for owning or running a brothel or a similar establishment near any residential or commercial area. It further adds that a person who is above 18 years is living on the earnings of prostitution is liable for the punishment or imprisonment of two years.

The Medical Termination of the Pregnancy Act (1971)

This act prohibits the illegal termination of pregnancy, and the terminations of pregnancies are done by registered medical practitioners only in matters like if it harms to mother or child. The Medical Termination of the Pregnancy Act violation is a punishable which can send a medical practitioner to imprisonment for more than 2 years. It also states that if an abortion is carried after knowing the fetus (female), it is a punishable which can imprisonment for 3 years or depending on the stage of the pregnancy.

The Commission of Sati (Prevention) Act(1987) The Act tries to avert Sati practice or forced burning or burying alive of widows. If anyone forced a widow for performing, the sati practice is liable for punishment with death or imprisonment for life.

The Prohibition of Child Marriage Act(2006) The act describes child marriage as marriage in which either the girl is below 18 years or the boy is below the age of 21 years is a crime. This act states that the person who performs, supports or helps any child marriage will have to face imprisonment of two years and have to pay a fine of one lakh rupees.

The Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act(1994) The objective behind passing the Act is to prohibit the use of sex-selective abortions after conception and to stop the misuse of prenatal diagnostic techniques. Any person, the organization, clinic, or laboratory doing any misappropriation of a prenatal diagnostic method for sex-selective abortion is liable for fine or punishment.

Constitutional Provisions for Women The Constitution of India not only provides equality to women but also empowers the state to neutralize the socio-economic condition, education, and political advantages for women without any discrimination. Fundamental Rights ensures balance and protection before the law by prohibiting discrimination against any citizen on the basis of religion, race, caste, sex or place of birth, and assure equal opportunity for all citizens in matters related to employment.



Protection of Women from Domestic Violence Act, 2005

One of the vital Act among several acts is the Protection of Women from Domestic Violence, 2005, which provides help to women regarding domestic issues. According to this Act of 2005 in India, Domestic violence is As per Section 3 of the Act, any harms, injures that endanger the health, safety, life, or well-being, of the aggrieved person, whether mental or physical. It includes causing physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse, or any force or unlawful demand for any dowry or other property or valuable by the accused to the bride or her family will be considered as dowry which can be punishable.

This is one of the vital Act among all Acts related to women for their protection. This act was brought into force by the Indian Government from 26 October 2006. The Act defines domestic violence for the first time in Indian law. According to this definition, domestic violence includes not only physical violence, but also other forms of violence like emotional/verbal, sexual, and economic abuse or violence. It is a civil law intended mainly for providing Protection Order to women and not intended to penalize criminally. The Act is applicable all over India except for the state of Jammu and Kashmir, which has its own laws. In Jammu & Kashmir, the Jammu and Kashmir Protection of Women from Domestic Violence Act, 2010, was enacted.

Primarily, this Act was made to protect women from Domestic Violence from her husband or his relatives, but later, the law also extends its protection to other females living under one roof. Harassment for dowry demands or other abuses to the woman or her relatives would also cover under the definition of this Act. The most important feature of the Act is that women get the right to secure housing. The Act provides the right to woman to live in the husband's house or any shared household where the husband or his family resides, and this right is secured by a residence order passed by a court. The residence orders cannot be passed against any woman. Another relief included under the Act is that magistrate can issue different kinds of orders like protection orders, residence order, monetary assistance, custody orders, and compensation orders.

The Dowry Prohibition Act of 1961

The Dowry Prohibition Act 1961 prohibits giving or taking of dowry. This law extends to the whole of the country, excluding the State of Jammu and Kashmir. But abrogation of Article 370 and 35A law applicable in the newly formed Union Territories J & K and Ladakh. Under this Act, "dowry" means any gift, property, or valuable given or agreed or forcefully asked to be presented either directly or indirectly by one party to the other party at the time of marriage, but it does not include dower or Mahr (gift given by the groom to the bride after the solemnization of the marriage ceremony as a responsibility towards his wife in fulfilling her everyday needs) in the case of Muslim Personal Law (Shariat). Dowry is for the benefit of the wife or her heirs, so any dowry or gifts received by any person or relatives at the time of marriage, then it shall transfer to the woman. According to section 498A of the Indian Penal Code, the bridegroom and his family are automatically arrested if a female files a complaint of dowry harassment. However, the law was widely abused, and in 2014, the Supreme Court made a change in the rule that a person can be arrested only after the approval by the magistrate. The Act prohibits the request, payment or acceptance of a dowry for the marriage. Gifts given without any condition or demand are not considered as dowry and are legal. Any person who asks or gives dowry can be punished for imprisonment for up to six months or a fine. Under the (PWDVA) 2005, a woman can ask for help against dowry



harassment by approaching a domestic violence protection officer.

Conclusion

The Domestic Violence Act of 2005 has reached common men to a great extent and has the merit of putting in place a norm that violence against women is unacceptable, and such a norm is backed by State laws. But having a norm will not by itself end violence. It takes more than judges, protection officers, police and social workers to protect women from violence.

With the new laws and regulations born to help the women, now the publicity is that women “misuse” the law. Decoded, this means that women are actually using the law. When the disadvantaged use the law after centuries of exclusion from the legal system, they are charged with “misusing” the law, as there was never meant to be a law for them at all. What the backlash tells us is that society has not accepted the fact that women’s rights are human rights, that women have equal rights in the home and that the “man’s home” may not always be his dominating area. In that sense, the battle may not have been won, but a major beginning has definitely been made. Gender violence in any one domain is linked to and enables violence in others. Therefore, violence within the so called ‘private’ domain of the household should be recognised for its societal, political nature and not dismissed as private. It means this question of domestic or familial violence has to be dealt with as a political one, thus having a definite scope for analysis or reform.

Domestic violence may have a far wider and deeper impact in real life than what has been covered in the thesis. If these factors can be controlled, the suggestions from the respondents and the professionals be taken into consideration, then more than one form of violence can be prevented from harming an individual or our society and India would be a much better place to live in.

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Cite This Article:

Dr. Mallikarjun J. Akki, (2022). *Domestic Violence and Legal Awareness: An Overview, Educreator Research Journal, Volume-IX, Issue- III, May – June 2022, 102-111.*