

DOMESTIC VIOLENCE –REASON AND REMEDY

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ABSTRACT

The domestic violence against women is rampant in Indian condition. Apart from deep rooted patriarchy and retrograde customs like dowry, various psychological conditions aggravate the insecurity of woman. The Parliament legislated the Protection of Women from DV Act, 2005 to provide legal support to the victims. But, the low rate of conviction under the Act raises calls for much stringent law and revamp within judiciary so that the law acts as preventive deterrent and provide succour to millions of suffering woman victims.

Keywords: Domestic Violence Act, patriarchy, torture

Introduction

According to the United Population Fund Report, “as many as 70 per cent of married women in India between age of 15 and 49 are victims of beating, rape or coerced sex”.¹

According to the National Family Health Survey-III, over 40 per cent of the Women surveyed reported being beaten by their husband at some point of time. Over 51 per cent of men didn't find anything wrong with assaulting their wives. More shockingly, around 54 per cent of women and men surveyed thought that such violence was justified on some ground or other.”²

It is interesting to note at this juncture that above said facts have come into light in a society where women are worshiped as goddess. We feel proud to sing paeans in honour of Rani Jhansi. The economic centre of the country is named after Mumba Devi. Country's pride is lifted by likes of P.T.Usha, Anju George, Karnam Malleshwari, Sania Mirza, Saina Nehwal. However in spite of all these , we do not hesitate to burn someone's else daughter , if she is not financially beneficial and kill our daughter in the name of honour and give second class treatment in education and other life enhancing opportunities to a daughter comparing to the son.

Keeping in mind the treatment being met to the girl or women in the society, it always clicks our mind to think that what has failed -society as a whole or the law made by it to curb such type of crime?

Domestic Violence

Basically, Domestic Violence is a “*pattern of coercive and assaultive behaviours that include physical, sexual, verbal and psychological attacks and economic coercion that adults or adolescents use against their partner*”³.

It is violence towards someone who we are in a relationship with, be it wife, husband, son, daughter, father, grandfather or any other family member. It can be a male's or female's atrocities towards another male or a female. Anybody can be a victim and victimizer. This violence has tendency to explode in various manner such as physical, sexual or emotional.

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In particular, Domestic Violence also includes harms or injuries which endanger women's health, safety, life, limb or well-being, whether mental or physical. It may also be caused through physical, sexual, verbal, emotional and economic abuse.

Domestic Violence Tactics

In general, the types of Domestic violence actions perpetrated by abusers include physical, sexual, verbal, emotional and psychological tactics. For example:

Physical Tactics: - Pushing and Shoving, Restraining, Pinching and Pulling hair, Slapping, Biting, Kicking, etc.

Sexual Tactics: Raping or forcing the victim into unwanted sexual practices, objectifying or treating the victim like a sexual object, forcing the victim to have an abortion or sabotaging birth control methods.

Verbal, Emotional, and Psychological Tactics: Using degrading language, insults, criticism, screaming, harassing, refusing to talk, humiliating the victim privately or in the presence of other people, controlling where the victims goes, who he or she talks to, and what he or she does.

Threats and Intimidation: Breaking and smashing objects or destroying the victim's personal property, glaring or staring at the victim to force compliance, intimidating the victim with certain physical behaviours or gestures, displaying or making implied threats with weapons.

Economic Coercion: Preventing the victim from obtaining employment or an education, withholding money , prohibiting access to family income, forcing the victim to hand over any income etc.

Cause of Domestic Violence

Some People believe domestic violence occurs because the victim provokes the abuser to violent action while others believe the abuser simply has a problem managing anger. In fact, "*the roots of domestic violence can be attributed to a variety of cultural, economic and psychological factor.*"⁴

Deep rooted problem of dowry is also contributing to domestic violence towards women to a great extent. Apart from all these, psychopathology, substance abuse, poverty, cultural factors, anger, stress, and depression are often thought to cause domestic violence, however there is little empirical evidence that suggests these factors patriarchy, torture as direct causes of domestic violence. Though, research suggests that such causes can affect its severity, frequency and the nature of perpetrator's abuse.

Further , the most common causes for women stalking and battering include, inter alia, exploitation of women for demanding more dowry, discrimination of women, alienation of women's self-acquired property fraudulently , torture by husband and in-laws of the husband, arguing with partner, refusing to have sex, going out of home without telling partner, indulging in extra marital affairs, insulting and using vulgar language.

Remedy

As a remedial measure, the Parliament of India has passed legislation called, "*The Protection of Women from Domestic Violence Act, 2005.*" Under this Act, several provisions have been made to protect the women from domestic violence. Now every women who have been deprived of their right to life by the act of husband or relatives of the husband, can file a complaint to the protection officer, police officer or magistrate in the form of '*Domestic Incident Report*' and a complaint can also be filed by the relative of the victim and it is considered as a prima facie evidence of the offence. Under this Act, the Protection Officer is empowered to pass certain orders like protection of the women and order of monetary relief to the victim etc.

Path Ahead

According to 2000 study by the National Law School of India University, it was observed that there were an extremely low number of convictions in a large sample of domestic violence cases in various Indian courts. The study cites the need for more systematic and thorough record keeping throughout all levels of the Indian court system, as well as the imperative need for more clarity in current legislation that provides a very unclear definition of what domestic violence even is. This allows for cultural biases, social (patriarchal) structures, institutional structures and gender disparities to cloud the nature of many of these cases, and is a major reason why the vast majority of husbands charged with any form of domestic abuse tend to be acquitted⁵.

In view of the above said facts, the solution of domestic violence lie, firstly in understanding of mutual and human relation which we inherits from our culture and in particular, respect towards human values and the women in more practical way and secondly, the Indian Parliament must come out with a more stringent laws to protect the rights of women who are victims of violence of any kind occurring within the family, so that it would work as preventive measure to eradicate the crime.

It would not out of place to mention here that an awareness program for protection of women should be launched by the Government because domestic violence in one or another way, affects the national productivity and lesson to protect and respect the women should be given from basic education level as men and women both participate equally in national growth.

Finally, last but not least, prosecution shortcoming in handling of domestic violence case must be addressed and conviction rate should be increased in cases like domestic violence to create fear in the mind of violator or abuser.

References

1. PTI(2005). *Two-third married Indian women victims of domestic violence*: UN, October 13,2005 . See following link <http://www.expressindia.com/news/fullstory.php?newsid=56501>
2. National Family Health Survey. (NFHS-3)(2005-06). *Domestic Violence, Full report* available at <http://www.measuredhs.com/pubs/pdf/FRIND3/15Chapter15.pdf>
3. Ganley, A.L., and Schecter, S. (1996). *Domestic violence: A national curriculum for children's protective services*. San Francisco: Family Violence Prevention Fund.)
4. National Centre for victims of Crime. "*Domestic Violence*" www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32347
5. Elizabeth, V. (2000). *Patterns and Trends of Domestic Violence in India: An Examination of Court Records*, National Law School of India University ,2000.