

DOMESTIC VIOLENCE IN INDIA

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ABSTRACT

Domestic violence is one of the most common crimes against women which is inextricably linked to the perpetuation of patriarchy. Domestic violence refers to violence against women not only in matrimonial homes but also in live-in relationship. Domestic violence is recognized as the significant barrier in the path of women empowerment and also skews the democratic set up of the polity. India has specifically legislated Domestic Violence Act in 2005 to reduce the violence against women but the same has bore mixed result as of now. The paper examines the domestic violence in multi-dimensional perspective.

Keywords: cognizable crimes, domestic violence, human rights, NCRB, patriarchy

Introduction

In ancient India, women enjoyed a significant role not only at home but in the society as whole. Many a Vedic hymns are attributed to the woman sages. The dialogue between Gargi and Yajnavalkya in the Brihadaranyaka Upanishad reflects the position that women held in the public sphere. The woman was the apostle of the Mattri-shakti. The kings and the priests always held and propagated that the prosperity depends upon the respect that a household shows towards the women and the Kingdom would be visited by inauspicious events in case the woman was harassed by the subject. The Turkish and Afghan invaders changed the gender equation in the sub-continent. The locals having lost the battle into subjection were coerced to hand over their women. The invaders always came single on horse back without accompanied by their families and they sought subjection rules to be written over the body of the women in the conquered territory. To protect the honour and chastity of the women became a major societal aim for the local population. The purdah system became in vogue for Indian women. A series of superstition and oppressive customs were manufactured that confined women within the four walls of their house. The status of women was reduced to the status of a maid, and merely a source of progeny. The patriarchy dominance was total. The male dominant society would not give women due regard and respect and the system continues to linger in the twenty first century. Every day we hear and read about atrocities inflicted upon women by their own husbands for whom they live and die.

Women have inherent ability for compassionate understanding. She is hardworking and many anthropologists argue that it were women who discovered the art of agriculture as well as culture. Women are bold to take initiative and she produce and nurture the progeny. In spite of multifarious qualities, the women have rarely been treated at par with the men in the patriarchal system. Women face discrimination, exploitation and violence. Violence against women and girls has spread into a global epidemic. This has debilitating effect over the performance of the women. She is harassed physically, psychologically, sexually and economically. It is one of the most pervasive of human rights violations, denying women and girls, equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms at par with men.

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Violence against women is present across the world cutting across boundaries of culture, class, education, income, ethnicity and age. When the violence occurs within home, the abuse is effectively condoned by the tacit silence and the indifference by the instruments of the state and the law-enforcing machinery. Internationally, one in three women have been beaten, coerced into sex or abused in their lifetime by a member of her own family (*Heise et al.* 1999). Domestic violence is the most prevalent yet relatively hidden and ignored form of violence against women and girls. While reliable statistics are hard to come by, studies estimate that, from country to country, between 20 and 50 per cent of women have experienced physical violence at the hands of an intimate partner or family member. Wife beating is not only rampant, but male justify it with plethora of contexts.

Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power – husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives. But, many of the victims of domestic violence has either refused to name the perpetrator of the assault or attributed the injuries to other reasons (*Daga et al.*, 1999). In fact, many a victims also justify the wife-beating. *Harihar Sahoo & Manas Ranjan Pradhan* conducted a study upon 90,303 ever married women and discovered widespread prevalence of domestic violence (21 percent, since age 15) in India but also the acceptance of majority of ever-married women (57 percent) to at least one reason for justifying a husband beating his wife. (*Sahoo et al.*, 2007)

The World Conference on Human Rights in Vienna (1993) accepted that the rights of women and girls are “an inalienable, integral and indivisible part of universal human rights.” The United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women, in December 1993. It is the first international human rights instrument to deal exclusively with violence against women and kindling a string of enactments against the abuse of women at home world across.

National Crime Records Bureau Report of 1991 reveals that in every 33 minutes one Indian woman is being abused by her husband. It also reveals that in 1989 one dowry death occurred in every 125th minute. In 1990, 91, 92 and 93 the figures were 109th, 102nd, 106th and 90th minute respectively. India’s National Family Health Survey-III, carried out in 29 states during 2005-06, has found that a substantial proportion of married women have been physically or sexually abused by their husbands at some time in their lives. The survey indicated that nationwide 37.2% of women experienced violence after marriage. Bihar was found to be the most violent, with the abuse rate against married women being as high as 59%. It was followed by Madhya Pradesh (45.8%), Rajasthan (46.3%), Manipur (43.9%), Uttar Pradesh (42.4%), Tamil Nadu (41.9%) and West Bengal (40.3%). The National Crime Records Bureau has recorded an increase of 40% in the case of social harassment, and 15.2% in cases of dowry deaths. The NCRB statistics reveal altogether different picture of prevalence among Indian states. West Bengal now tops in the recorded domestic violence, followed by Andhra Pradesh and Rajasthan. The rate of incidence of the domestic violence too is very high in West Bengal with figure of 21.6% among all cognizable crime.

The National Crime Records Bureau(NCRB) Report for the year 2011 further highlights some staggering statistics about the domestic violence against women. The percentage share of domestic violence against women in the cognizable crime has grown from 3.8% in 2007 to 4.3% in 2011. The cruelty by husband and relatives under IPC 498A comes at number four in the maximum incidences of cognizable crimes. Only theft under IPC sec. 379-382, Hurt under the IPC Section 323-333 and sec 335-338; and causing death by negligence under IPC Section 304A are more frequent than the domestic violence.

Table:1
State-wise Cruelty by Husbands and Relatives During 2011

S.No.	State/UT	Cruelty by Husband and Relatives	
		Incidence	Rate of Cognizable Crime
1.	ANDHRA PRADESH	13376	15.8
2.	ARUNACHAL PRADESH	18	1.3
3	ASSAM	5246	16.8
4	BIHAR	2607	2.5
5	CHHATISGARH	834	3.3
6	GOA	18	1.2
7	GUJARAT	6052	10.0
8	HARYANA	2740	10.8
9	HIMACHAL PRADESH	239	3.5
10	JAMMU & KASHMIR	286	2.3
11	JHARKHAND	659	2.0
12	KARNATKA	3712	6.1
13	KERALA	5377	16.1
14	MADHYA PRADESH	3732	5.1
15	MAHARASHTRA	7136	6.4
16	MANIPUR	39	1.4
17	MEGHALAYA	21	0.7
1	MIZORAM	9	0.8
8	NAGALAND	1	0.1
	ODISHA	2320	5.5
1	PUNJAB	1136	4.1
9	RAJASTHAN	12218	17.8
20	SIKKIM	4	0.7
21	TAMIL NADU	1812	2.5
22	TRIPURA	702	19.1
23	UTTAR PRADESH	7121	3.6
24	UTTARAKHAND	307	3.0
25	WEST BENGAL	19772	21.6
	TOTAL(STATES)	97494	8.2

S.No.	State/UT	Cruelty by Husband and Relatives	
		Incidence	Rate of Cognizable Crime
1.	A &N ISLANDS	5	1.3
2.	CHANDIGARH	46	4.4
3	D &N HAVELI	3	0.9
4	DAMAN &DIU	2	0.8
5	DELHI	1575	9.4
6	LAKSHADWEEP	0	0.0
7	PUDUCHERRY	10	0.8
	TOTAL(UT)	1641	8.2
	TOTAL(ALL INDIA)	99135	8.2

Source: Crime in India, 2011 Statistics,NCRB, p. 218

Table:2
Percentage Distribution of Cognizable Crimes(IPC) (2007-2011)

S. No.	Crime Head	2007	2008	2009	2010	2011
1	Theft	14.3	15.1	15.3	14.8	14.7
2	Hurt	13.7	13.6	13.2	13.0	13.0
3	Causing Death by Negligence	4.4	4.4	4.6	4.8	4.7
4	Cruelty by Husband and relatives	3.8	3.9	4.2	4.2	4.3

Source: Crime in India, 2011 Statistics, NCRB, p.197

According to the Declaration on the Elimination of Violence Against Women, adopted by the UN General Assembly, violence against women is any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm, or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty; whether occurring in public or private life.

In the context of India there was no such law, like the British Matrimonial Homes Act, 1967. It was desirable to enact a stringent law to checkmate the rise in domestic violence against women. Protection of Women from Domestic Violence Act, 2005 (DVA, 2005) was passed. The law came into force on the 26th October, 2006.

Forms of domestic violence

Violence against women can be physical, sexual, psychological, and threat of physical or sexual violence. Physical violence includes acts of physical aggression such as slapping, hitting, kicking and beating. The common sexual abuses women endure are forced intercourse, and other forms of sexual coercion. Psychological abuse includes acts like intimidation, constant belittling, humiliating, nagging and various controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance. When abuse occurs repeatedly in the same relationship, it reduces into an act of "battering".

Causes of domestic violence

There is no one single factor to account for violence perpetrated against women. Increasingly, research has focused on the inter-relatedness of various factors that should improve our understanding of the problem within different cultural contexts. *Murthy et al.* (2004) posited in their empirical study that numbers of family members, type of marriage and husband's education besides menstrual problems have significant influence on domestic violence. Many have pointed out that marriage at a younger age makes women vulnerable to domestic violence (*Mishra, 2000*)

Factors That Perpetuate Domestic Violence

The various factors which have been discovered by the researchers can be put in a tabular form at (Table:3)

Table:3
Factors That perpetuate domestic violence

<p>Cultural</p> <ul style="list-style-type: none"> • Gender-specific socialization • Cultural definitions of appropriate sex roles • Expectations of roles within relationships • Belief in the inherent superiority of males • Values that give men proprietary rights over women and girls • Notion of the family as the private sphere and under male control • Customs of marriage (bride price/dowry) • Acceptability of violence as a means to resolve conflict 	<p>Political</p> <ul style="list-style-type: none"> • Under-representation of women in power, politics, the media and in the legal and medical professions • Domestic violence not taken seriously • Notions of family being private and beyond control of the state • Risk of challenge to status quo/religious laws • Limited organization of women as a political force • Limited participation of women in organized political system
<p>Economic</p> <ul style="list-style-type: none"> • Women's economic dependence on men • Limited access to cash and credit • Discriminatory laws regarding inheritance, property rights, Use of Communal lands • maintenance after divorce or widowhood • Limited access to employment in formal and informal sectors • Limited access to education and training for women 	<p>Legal</p> <ul style="list-style-type: none"> • Lesser legal status of women either by written law and/or by practice • Laws regarding divorce, child custody, maintenance and inheritance • Legal definitions of rape and domestic abuse • Low levels of legal literacy among women • Insensitive treatment of women and girls by police and judiciary

Source: Heise et al.,1994

There are varied consequences of domestic violence depending on the victim, their age group, the intensity of the violence and frequency of the torment they are subjected to. Living under a constant fear, threat and humiliation are some of the feelings developed in the minds of the victims as a consequence of an atrocious violence.

According to the DVA, 2005; Domestic Violence includes-

- (I) Any harm or injury that endangers health, safety, limb or well being either mental or physical abuse, sexual abuse, verbal and emotional abuse or economic abuse;
- (II) If one 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 valuable security;

(III) If one injures or causes harm, whether physical or mental to the aggrieved person;

Any person who believes that an act of domestic violence has been or is being committed may give information about it to the concerned protection officer. This makes the Act socially embedded. The Act exempts such persons from any liability, civil or criminal.

The Supreme Court has interpreted the rights under the DVA, 2005 as the rights which may be available prior to the coming into force of the PWD Act on 26th October, 2006. After considering the constitutional safeguards under Article 21 of the Constitution, vis--vis, the provisions of Sections 31 and 33 of the PWD Act, 2005, and after examining the statement of objects and reasons for the enactment of the PWD Act, 2005, the Supreme Court held in *V.D. Bhanot vs. Savita Bhanot* (Special Leave petition(Crl.) No. 3916 of 2010, decided on 7.2.2012,) that it was with the view of protecting the rights of women under Articles 14, 15 and 21 of the Constitution that the Parliament enacted the PWD Act, 2005, in order to provide for some effective protection of rights guaranteed under the Constitution to women, who are victims of any kind of violence occurring within the family and matters connected therewith and incidental thereto, and to provide an efficient and expeditious civil remedy to them and therefore the rights are available even prior to the enactment.

The DV Act, 2005 ensures the reporting of cases of domestic violence against women to a 'Protection Officer' who then prepares a Domestic Incident Report to the Magistrate "and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction."

But, efficacy of the DV Act. has yet not been documented. Initial trend suggest significant rise in the cases of domestic violence registered under Protection of Women from Domestic Violence Act 2005

As per information provided by the National Crime records Bureau (NCRB), a total number of 7,803, 11,718 and 9,431 cases of domestic violence cases under Domestic Violence Act 2005 were registered during year 2009, 2010 & 2011 respectively, thereby indicating a mixed trend. The State-wise details of cases are given in the below Table No. 4. Now, Domestic Violence Act covers all kinds of abuse, and not only a married woman, any woman cohabitating with others in the same place can lodge the complaint under the Act. The Union Home Ministry had issued advisory to the State Governments/UT Administrations to explore the possibility of associating NGOs working in the area of combating crimes against women and also advises that all Police stations may be advised to display the name and other details of Protection Officers of the area appointed under the Domestic Violence Act, 2005. The conviction rate is still insignificant and that makes it an ineffective tool to handle menace of growing domestic violence.

Table:4

All India figure for status of cases under Domestic Violence Act, 2005

Year	Cases registered	Cases charge-sheeted	Cases convicted	Persons arrested	Persons charge-sheeted	Persons convicted
2009	7803	1641	236	641	695	9
2010	11718	4330	415	182	323	5
2011	9431	4499	17	695	713	3

Source: MHA, Lok Sabha Unstarred Question No. 283, 26th February, 2013

Conclusion

The varying causes which can spark the violence within the four walls of homes need to be analysed carefully and a wise study of the factors causing the violence may prevent a family to suffer from the menace of domestic violence. The domestic violence may have a wider and deeper impact in life of the victims. A proper societal-legal environment has to be built to make the houses safe and secure for the woman. India cannot prosper by keeping half of its population under duress.

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