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WOMEN EMPOWERMENT AND DOMESTIC VIOLENCE*

ABSTRACT

It is one of the most pervasive of human rights violation which is an intentional and extreme form of aggression such as use of physical force or power, psychological and emotional harm, rape, torture and deprivation or death.

The objective of the paper is an attempt to analyse the status of women empowerment in all over the country using various indicators like acceptance of unequal gender role, access to education, women's household decision making power, experience of domestic violence etc.

The study reveals that women of our country are relatively disempowered and they enjoyed somewhat lower status than that of men. It cuts across cultural and religious barriers and takes a variety of forms. Rural women are more prone to domestic violence than that of urban women. More than half of the women believe wife beating to be justified for one reason or other. It is found that acceptance of unequal gender norms by women are still prevailing in the society.

The present paper tries to find out the various forms of domestic violence, its causes and consequences and to study the effect of domestic violence on women empowerment.

The study concludes by an observation that access to education and employment are only the enabling factors to empowerment, achievement towards the goal, however depends largely on the attitude of the people towards gender equality.

Keywords : *women empowerment, domestic violence, education, gender equality*

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Introduction

In India, a woman is believed to be Goddess Laxmi and treated with respect in both home and in-laws home. In Ancient India, women were considered to be an important member of the family, in some families a woman is the most important member of the family. They were educated, had a right to make decisions in important family decisions as well as in the decision of their life, they were free to choose their future husband (swayamvar) and there are no records of child marriage in ancient India.

But in Modern India, many families treat that same woman who we treated like a Goddess becomes a victim of many crimes like physical and mental abuse, harassment at work place or public place, rape but above them all is domestic violence. Domestic violence can be defined as any violent, threatening and/or abusive behavior in the home. It does not only cover the abuses against women but covers children or male member of the family too. But in India, in most of the cases the victim of the domestic violence is a woman, either a wife or a girl child. Position of women in India is at its lowest point since ancient time. Domestic violence can be mental and physical. Physical abuse can be easily identifiable, but mental abuses can't be easily identified. Both the type of domestic abuses is very harmful for the victim's mental health. In the past 3-4 decades domestic abuses increased drastically. It has many forms like physical and verbal abuse, sexual abuse, marital rape etc. Some forms of domestic abuses like acid throwing, stoning, bride burning, honor killing etc. can cause grievous hurt and death. There are many laws related to these crimes in the Indian Penal Code, 1860, but are inadequate to remove the problem of domestic abuse or other crimes against the women from the society. The safety of women, both inside and outside home is a major concern. Crime against women is a severe problem in India. In a survey conducted by Thomson Reuters Foundation in 2012 ranks India as the worst country for women among the G-20 Nations. (Mathur)¹

A decade ago, the status of women in India was inferior to men in the practical life. Their condition remains unchanged even in 2000's, women were given the right of liberty and equality but the law was never taken seriously. Men treated them in a humiliated manner. There were rights for their liberty and education but were suppressed in the backward areas of India like villages of Nagaland, Madhya Pradesh etc. They were also supposed to eat after their husbands or even sometimes to eat their husband's leftovers. Women were prohibited from taking external matters as well as domestic matters.

Because of this worst situation of women safety in India, there is a need to empower women to stand against these heinous crimes against themselves. Women empowerment means allowing women to accomplish anything that they were previously denied to achieve and empowerment

¹ <https://www.ideasforindia.in/topics/social-identity/womens-economic-empowerment-and-domestic-violence.html>

includes the action of raising the status of women through education, raising awareness, literacy, and training. It is only the basic meaning of women empowerment. The meaning of women empowerment is much wider than that, it includes the empowerment of a woman in social, political, legal sector and to provide them gender equality. Women empowerment allows women to take their own decisions for their life, freedom to do work or to choose any job according to their education. There are 2 methods for empowering women.

1. *Economic Empowerment*

Through economic empowerment women can contribute and gain benefits from the growth processes in way that recognizes the value of their contribution. Through economic empowerment women can now have access to all the economic resources like properties, jobs, financial services etc. now women can be independent and take care of themselves.

2. *Political Empowerment*

Women can vote and run for public office in nearly every country. India also reserves some percentage of seats in the State Legislature and Parliament. Government promotes women to take part in political matters.

Government of India took major steps to empower the women in social, economic and political sector.

Women empowerment practically focuses on women's equality and empowerment. Gender equality requires an action to eliminate the root causes of discrimination that still curtail women's rights. While more women have entered political positions, including through the use of special quotas. It promotes the women to take stand in political matters. Women empowerment also focuses on the literacy of a girl or a woman, so that they can become equal to the literacy rate and in future no girl or women left uneducated. The most important reason for women empowerment is to reduce the crimes against them by making them aware about the laws against those crimes.

Women empowerment is a step towards restoring the position of women as an equally important member of the family as well as the society, to reduce the crimes against them and if there is a crime they can fight back.

This paper shows about the bad condition of women in the Indian families, the various forms of domestic abuse and the effects of domestic abuse on the women. This paper also deals with women empowerment and various positive effects of the women empowerment and why there is a need for women empowerment in India. the paper also links the importance of women empowerment in relation to reduce and at the later stage completely eradicate the domestic abuses in the family.

Although domestic violence is done against both men and women, women are suffering from it the most, as they do not have as much physical strength as compared to men. "Some historians believe that the history of violence against women is tied to the history of women being viewed as

property and a gender role assigned to be subservient to men and also other women.”² There are many causes of domestic violence and the main cause is when a person grows up in a society, where domestic violence happens all the time and domestic violence is seen as a normal thing and then the person eventually thinks that domestic violence is nothing serious and it is normal to physically violate anyone. And in future he adapts the tradition of beating intimate partners and might as well physically violate his partner himself. Growing in an abusive and unhealthy environment is what makes a person find the sight of a suspect being beaten or burnt to death, entertaining and enjoyable. Some of the reasons why one person harms the other person are as follows:-

- Provocation
- Behavior of victim or problems in the relationship
- Stress
- Drugs or alcohol
- Testosterone
- Genetic factors
- Loss of control
- Anger
- Communication problems
- Illness or mental health issues
- Culture
- Poverty

There are certain feminist theory as to why domestic violence done by men is more than those done by the female partner

Feminist theory sees men’s violence against women as a result of a patriarchal structure. “Patriarchal means of control are often subtle and deeply entrenched, with the most violent forms not emerging until patriarchal control is threatened—as when individual women leave or threaten to leave relationships or groups of women assert their rights.”³ Men consider themselves to be the superior and if anything is not done according to them, they lose control. This theory basically targets on the patriarchal or the male dominated society that ultimately leads to domestic violence.

Exchange or “choice” theory As in any exchange relationship, partners in an intimate relationship provide each other with services and/or benefits. Each partner continues to provide the other with desired affection, money, love, sex, and so forth, as long as the partner reciprocates with something that is as desirable e.g. appreciation, love, praise. Over the time one partner may use force to get what he wants from the other. If he suffers no legal or other negative

² Funmilola bosede alokan, DOMESTIC VIOLENCE AGAINST WOMEN: A FAMILY MENACE, 2nd ed. June 2013

³ Gelles, INTIMATE VIOLENCE IN FAMILIES (1997)

consequences, the violent partner perceives violence as a beneficial and effective tactics to get whatever he desires from his partner.⁴ This theory is build on the feminist model, suggesting that men choose to behave abusively toward their female partners because they can get away with it and because doing so gets them what they want in the form of power and control. Ultimately, men abuse women because they can.

Survivor theory this theory is applied when the men knows that the women cannot survive without him and his support. The survivor theory also takes cognizance of the multiple help seeking behaviour of women in the face of increased violence. Further, it also lauds the ‘Female Survivor Instinct’ which focuses on nurturing rather than destruction, the willingness to adopt and to efforts directed at furthering of self growth”⁵.

Stress theory according to this theory domestic violence is the result of stress caused to an individual by the pressure of the society whether it be a work pressure, social pressure or any other family problem. Some people cannot handle stress and behave socially awkward when they are in stress which leads to crimes like domestic violence. According to this theory power differentials may or may not causes stress, depending on the members' view point and adaptability. But social isolation involves the privatization of the family, effect on victims and abuser because the family as an institution is isolated from the large society and family members are not obligated to explain negative situation such as abuse. Thus, when family violence occurs, it is often within the confines of the family and individual family members need not to explain to anyone what goes on inside the walls of the home. In addition to this, social isolation also prevents victims of abuse from getting the help they need. Their limited or total lack of contact with resources outside the family makes it difficult to ask for help.

Frustration-Aggression Theory in this theory frustration is linked through aggression. People became frustrated, when they are unable to reach their goal, when frustrated; they tend to strike out at others, in ways that range from tongue lashing to overt violence. Aggression includes both physical and verbal behaviour which intended to hurt someone. It is closely related to increased tension and restless movements or feelings of anger that may lead to destructiveness and hostile attacks. when people perceive that they are being prevented from achieving a goal, their frustration is likely to turn to aggression. Aggression, then, is seen as an instinctual response to frustration. When applied to intimate partner violence, marital/dating relationships can trigger anger (justified frustration) or aggression (unjustified frustration).

Social Learning Theory The Social Learning Theory is a popular way to explain violent behavior. Social learning theorists reject the idea of instinct, and instead believe that “human aggression is learned conduct that, like other forms of social behavior, is under stimulus, reinforcement, and cognitive control.” According to social learning theory, family violence arises

⁴ Exchange or “choice” theory of domestic violenceh

⁵ http://shodhganga.inflibnet.ac.in/bitstream/10603/128502/15/12_chapter%203.pdf

due to many contextual and situational factors. Examples of contextual factors include individual/couple characteristics, stress, or an aggressive personality. Situational factors include substance abuse and financial difficulties. Social learning theory also extends these factors onto the influence of children growing up in families in which these external forces exist (Domestic Violence Group Action Project).

Domestic legal remedies

Domestic violence act, 2005

This commentary is on The Protection of Women from Domestic Violence Act, 2005. This Act being one of the first in this sphere has concretely dealt with the problem of domestic violence taking into consideration all the related laws and has attempted to reduce the numerous ancillary problems generally faced by such legislations.

The Protection of Women from Domestic Violence Act (or the Domestic Violence Act) is a laudable piece of legislation that was enacted in 2005 to tackle this problem. The Act in theory goes a long way towards protection of women in the domestic setup. It is the first substantial step in the direction of vanquishing the questionable public/private distinction traditionally maintained in the law, which has been challenged by feminists time and again. Admittedly, women could earlier approach the Courts under the Indian Penal Code (IPC) in cases of domestic violence. However, the kinds of domestic violence contemplated by this Act, and the victims recognized by it, make it more expansive in scope than the IPC. The IPC never used the term domestic violence to refer to this objectionable practice. In fact, the only similar class of offences addressed by the IPC dealt with cruelty to married women. All other instances of domestic violence within the household had to be dealt with under the offences that the respective acts of violence constituted under the IPC without any regard to the gender of the victim.⁶

This posed a problem especially where the victims were children or women who were dependant on the assailant. In fact, even where the victim was the wife of the assailant and could approach the Courts under S.498A of the IPC, she would presumably have to move out of her matrimonial home to ensure her safety or face further violence as retaliation. There was no measure in place to allow her to continue staying in her matrimonial home and yet raise her voice against the violence perpetrated against her. This, together with many other problems faced by women in the household, prompted this enactment.

Dowry Prohibition Act, 1961

According to this act, taking or giving of dowry at the time of the marriage to the bride or the bridegroom and their family is to be penalised. Dowry system, giving and taking of dowry, is a norm in India. Dowry is often asked of the bride and her family by the groom and his family. The

⁶ P.K das, Domestic violence act, 2005, 5th ed.

system has taken strong roots because women after marriage move in with their spouse and in-laws. Also, over the centuries, the lack for economic independence of women and the taboo towards divorce has resulted in bride burning. When demands for dowry even after marriage are not met by the girl's families, many women are tortured, beaten and even burnt.⁷

It is one of the major challenges that our society is grappling with.

The Constitution of India: Article 14 is on equality.

Difference in treatment between men and women by the state is totally prohibited on grounds of religion race, caste, sex or place of birth. Article 21 is on right to live; right to live with human dignity.⁸

2. The right to dignity: In *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, the Supreme Court emphasised the fact that the right to life included in its ambit the right to live with human dignity, basing its opinion on a host of cases that had been decided in favour of this proposition. The right to dignity would include the right against being subjected to humiliating sexual acts. It would also include the right against being insulted. These two facets of the right to life find mention under the definitions of sexual abuse and emotional abuse, respectively. A praiseworthy aspect of the legislation is the very conception of emotional abuse as a form of domestic violence. The recognition of sexual abuse of the wife by the husband as a form of violation to the person is creditable, especially as such sexual abuse is not recognised by the IPC as an offence. These acts would fall within the confines of domestic violence as envisaged by the Act, though the definition would not be limited to it.

Article 15 disallows discrimination on the grounds of religion, caste, sex, race, etc., but permits the State to make special provisions for certain classes of persons, including women and children.

The Domestic Violence Act promotes the rights of women guaranteed under Articles 14 and 15. Domestic violence is one among several factors that hinder women in their progress, and this Act seeks to protect them from this evil. It indeed effects a classification between women and men, protecting only women from domestic violence, but this classification is founded on an intelligible differential, namely, gender, and also has a rational nexus with the object of the Act. Further, the Act is far from arbitrary, in that it is a well-thought and necessary attempt to curtail domestic violence and eventually vanquish it. It is to be remembered that it is generally women who are the victims of domestic violence, and not men. At this stage, it is also essential to keep in mind.

⁷ Universal law publication, the dowry prohibition act, 1961

⁸ J.n pandey, constitutional law of india, 55th ed., 2018

IPC and CrPC⁹ Provisions on Domestic Violence

Till 1983 there were no specific legal provisions pertaining to violence within home. Husbands could be convicted under the general provisions of murder, abetment to suicide, causing hurt and wrongful confinement.

In Section 304B, IPC, where the death of a woman is caused by burns or bodily injuries or occurs due to reasons other than normal circumstances within seven years of her marriage and if it is established that the wife is subjected to cruelty by her husband or his relatives, the death is termed as 'dowry death'. The husband or relatives who subject the wife to cruelty is/are presumed to have caused the dowry death and will have to prove that the death was not a result of the cruelty.¹⁰

Sections 313-316, IPC—female infanticide, or forcing the wife to terminate her pregnancy—are also forms of domestic violence recognised as offences under the IPC.

According to Section 305, IPC, often victims of domestic violence, especially brides harassed for dowry, are driven to commit suicide. Abetment of suicide of a delirious person is an offence punishable with death or life imprisonment. Abetment of suicide is also an offence punishable with ten years imprisonment (Section 306).

Under Section 319, causing bodily hurt is a common form of domestic violence. The IPC defines hurt as causing "bodily pain, disease, pain or infirmity to any person". A hurt may be 'grievous' if it results in serious injury such as a fracture, loss of hearing or sight, damage to any member or joint, etc. (Section 320).

Under section 321, The IPC makes it an offence to voluntarily cause hurt or grievous hurt (Section 322 read with Section 323, IPC). Also criminalised is voluntarily causing of grievous hurt by dangerous weapons (Section 326, IPC) and voluntarily causing hurt to extort property (Section 327, IPC).

Another common form of domestic violence is in the form of the wrongful restraint (Section 349) or confinement (Section 340) of the spouse within her matrimonial home. Use of force⁶ and assault⁷ on the spouse, other common forms of domestic violence, are also punishable under the IPC.

In 1983, matrimonial cruelty was introduced as an offence in the IPC (Section 498A, IPC). Cruelty was defined as "any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or

⁹ S.n Mishra, the code of criminal procedure, 1973,

¹⁰ Ratanlal dheerajlal, indian penal code 1860,

physical) of the woman”. It includes harassment of the woman in connection with demands for property and the like.

The Dowry Prohibition (Amendment) Act, 1986

Dowry death or related harassment is a unique kind of crime practised in the Indian subcontinent. A legal ban was put on the practice of dowry way back in 1961 (Dowry Prohibition Act, 1961). The Act was amended 1984 and then in 1986 to make it more stringent.

The Commission of Sati Prevention Act, 1987

‘Sati’ means the burning or burying alive of a widow along with the body of her deceased husband or any other relative, or with any article, object or thing associated with the husband or relative.⁹ The practice of ‘sati’ was declared unlawful during the colonial period itself. No Act, however, was drafted in post-colonial India to prohibit the occurrence of sati. It was only after the shocking incidence of sati in Rajasthan in 1987 that a law was enacted in 1987; that Act declares the observance, support, justification or propagation of sati as criminal activity.

Cases regarding domestic violence act:-

Eremia v. Moldova: In 2013 the European Court of Human Rights ruled that Moldovan authorities failed to prevent a police officer from repeatedly beating his wife in front of their two daughters. The court awarded the complainant/survivor and her daughters more than €17,000. The court held that even though authorities had knowledge of the abuse they failed to take effective measures against the offender and to protect the complainant/survivor from future violence. It also found that despite detrimental psychological effects of her daughters witnessing the violence, authorities took little or no action to prevent its recurrence.

A.T v. Hungary: In 2005, the CEDAW Committee, found that the complainant, although she sought help from Hungarian civil and criminal courts and child protection authorities, did not receive any assistance or protection from the Hungarian government. The case involved allegations of severe domestic violence. The Committee found that Hungary had violated the rights of A.T. under the Convention, and made recommendations to Hungary that it act to protect the safety of the author and act more generally to effect the rights granted under the Convention.

Bevacqua and S. v. Bulgaria: In 2008, The European Court of Human Rights found that Bulgaria had violated its obligations under Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms by requiring the domestic violence victim to prosecute the case. The

Court awarded costs and damages to the applicants. The case is significant as the first domestic violence case to be decided in the European Court of Human Rights.

Opuz v. turkey: In 2009, the European Court of Human Rights found that Turkey had failed to use due diligence to protect the plaintiff from domestic violence, as it was required to do under the European Convention on Human Rights and CEDAW, and awarded the plaintiff damages.

Conclusion

This problem can be solved if the women are educated properly. if the women is educated and independent then she will be aware of all the laws against domestic violence and will stand for herself when she is domestically violated. And even if someone does, she can go out of that suffocating relationship and start her life in her own new way and will not be dependent on anyone else. There should be strict laws against domestic violence and those laws should be effective as well so that anyone seeking for help by law should get help. Also, there might be counselling sessions on how to respect their partners and make a marriage work out rather than domestic violence on top of that hospitals should admit a domestically violated person immediately and not make a more difficult situation for a victim by refusing treatment.

we do not need act like domestic violence but not in the current form, we need it with some amendment like it will not only contain the provision for women but also for male, gay's lesbian etc., all should come under the ambit of such legislation. The present form of this act wholly biased towards women and men are discriminate there fundamental and legal rights are being violated. Now there is need that the media must play an active role to remove this discriminatory and biased law and only then society will overcome from this evil.

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