

DOMESTIC VIOLENCE IN INDIA AND ITS IMPACT ON INDIAN SOCIETY: A SOCIO LEGAL STUDY

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Domestic violence is a social phenomenon that has caught the attention of all and sundry in the recent times. The term domestic includes violence by an intimate partner wherever this violence takes place and by whatever forms. Violence against women constitutes any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women. This study sought to evaluate and examine the problem of domestic violence in general and specifically detail its effect on women in the Oforikrom Sub metro of the Ashanti region of Ghana. Methods: A sampling population of 60 mostly of females and few males was used in conducting the research. In addition, key informants in the furniture industry were interviewed using a semi-structured interview guide. The questionnaires containing open and closed questions on domestic violence abuse, nature, its forms causes and remedial mechanisms were developed and administered.

INTRODUCTION

The Concept of Domestic Violence

Domestic violence is one of the most difficult types of situation to talk about and to escape from. Sadly, it can be happen to anyone- women, men, children, between spouses and even friends. No one is immune from domestic violence. Domestic violence affects both men and women of all ages, races, religions and incomes. Domestic violence occurs in all countries, rich or poor, developed or developing, with no regard to caste, creed, colour, social status, wealth, urban or rural residence, or the ages of victim. The available data reveals that there has been an increase in reports relating to wife battering over the past few years.

The high number of battered women as indicated by the data shows the seriousness of the problem. Initially women led rather insecure lives altogether societies of the planet as all the traditional legal systems approved the proper of husbands to discipline their wives even forcibly. Women were entirely hooked into men and their lives were connected with the male members of their families. They didn't have any political rights because they were kept and confined within their households having fixed roles.

Domestic Violence against Women

Domestic violence against women is an old phenomenon; it is the most common form of violence against women. It has serious consequences on women's mental and physical health. One out of three women experience some form of physical or sexual violence in their lifetime. Women and girls face more prominent degrees of weakness, under estimation and coming about brutality, particularly for the individuals who experience numerous and meeting types of separation, similar to widows, old individuals, just as ladies whose sexual direction somebody chooses isn't worthy. Savagery against ladies and young ladies is both a reason and outcome of sexual orientation imbalance.

HISTORICAL BACKGROUND OF DOMESTIC VIOLENCE

Violence against women may be a right which was exercised by men with impunity for hundreds of years. This right of men has been expressed within the precepts of faith, philosophy and law throughout the World. Physical violence against wives was deemed necessary for the "well-being" of women. It had been trained in terms of corrective discipline and correcting an erring wives¹. A Medieval Christian scholar propagated Rules of Marriage within the earlier 15th Century. These clearly say: When husband see his wife was commit an offence then don't rush at her with insults and violent blows. Firstly, scold her sharply, bully and to frighten her and if this doesn't work then take up a stick and beat her. Adequately, for it's smarter to rebuff the body and right the spirit than to harm the spirit and additionally the body. Then readily beat her,

1 Davis, 1972

not in rage but out of charity and concern for her soul, in order that the beating will contribute greatly to your merit and her good².

“The Rig Veda is additionally a crucial phase due to the super projection of the very best religious truth of thoughts, which dawned on the saints and seers as a result of their contemplation during a lifetime of complete self-denial and penance and it also shows evidences pointing to the facts that women are completely to the equals of men as regards access to and capacity for the high level knowledge of Brahma. The standing position and status of Indian women, we need to possess a glance in Vedic age which was much above than in other ancient society like that of Greece and Rome. The overall status or position of women or wife was of high dignity and a special place was given to them with all types of respect and that they can enjoy a peaceful life with all type of happiness and prosperity within the family along with all the opposite relations.

SOCIAL PARAMETERS

Freedom from violence is an earliest dimension of women’s capability for survival and empowerment but violence against them is omnipresent. Women in homes are made to suffer in different ways starting from simple repression to exploitation and subjugation from birth to death. All ancient systems grant the right of husbands to chastise their wives even forcibly. Women are totally based upon men, a task model was fixed for them and even slight deviation attracted infliction of violence. There are various factors liable for it including social, cultural, political, economic, and legal created by family, community and also State. Various social scientists have developed many theories regarding it. There are many consequences of such violence on victims and society. Various national and international surveys show high incidence of such cases everywhere the planet. Therefore, at the international and national levels, many initiatives are taken regarding it but more social actions and reforms are required for eradication of this evil.

Violence and Domestic Violence Regarding International Perspective

Earlier, Violence against women was perceived as a personal or family matter and women had to suffer silently but now it’s regarded both as major public ill health problem and human rights

2 Davidson, 1978

violation. The Declaration on the Elimination of Violence against Women explained it as, "Any demonstration of sex based brutality that outcomes in, or is probably going to bring about, physical, sexual or mental damage or enduring to women, including dangers of such acts, intimidation or subjective hardship of freedom, in the case of happening openly or in private life"³. It expressly made a distinction between violence committed in personal sphere i.e. domestic violence and violence committed publicly sphere. It further detailed that "violence against women shall be understood to surround, but not be limited to, the following:

The Family:

The family which may be a place of encourage, care and love also can be violent and discriminatory for its female members. At the time of socialization of its members at natal stages, the concept of gender discrimination is ingrained in their minds either patently or latently. There are separate norms for boys and girls within the family like boys can go outside the house even at late hours but a girl cannot follow an inexpensive time within the evening. After marriage, in marital home more restrictions are imposed on brides even within the matters of her sexuality and reproduction and she or he is subjected to all or any exploitation leading to administer of domestic violence.

The Community:

Different rules and role models are decided for boys and girls in the community that indicated in social, cultural and religious practices. The male members are seen as bread winners in order that they must be dominating and females need to be seen as house wives only in order that they are subordinate to them. Her role as house wife continues albeit she is earning considerable amount of money but she has got to abide by that role and if she ever tries to deviate even slightly it'll produce to administer of domestic violence on her. Thus she is accepted within the society as an obedient daughter, subservient wife and self-sacrificing mother only.

The State:

It's the duty of the welfare State to supply and safeguard the human rights of all its citizens. The State has got to create such environment during which everyone, male or female can realize

3 Article-1, UN, "Declaration on the Elimination of Violence against Women

one's rights and luxuriate in them. But the State and its functionaries have completely failed in executing the fundamental right of equality of women. Rather than of protecting rights of females they themselves practice discrimination against them by enacting and upholding discriminatory personal laws and within the name of family as personal sphere they are doing not want to see administer of domestic violence due to their extreme gender insensitivity. They rather believe that women misuse the provisions of law for her motives e.g. the cases suited by women under Section 498A of the Indian Penal Code, 1860 are considered to be filed for the purpose of getting money or to urge easy divorce.

ECONOMIC DIMENSIONS

Relational violence is characterized to incorporate violence between relatives and cosy accomplices and brutality among colleagues and outsiders that is not expected to assist the points of any officially characterized gathering or cause. Self-coordinated savagery, war, state-supported viciousness and other aggregate brutality are explicitly rejected from these definitions⁴. This report, in light of a broad audit of friend surveyed articles and distributed and unpublished reports, treats the accompanying subjects:

- i) The economic effects of interpersonal violence in a variety of socioeconomic and cultural settings.
- ii) The economic effects of interventions intended to reduce interpersonal violence.
- iii) The effects of economic situations and plans on interpersonal violence - with specific recommendation to poverty, structural adjustment, income equality and social investment.

Economic violence is the point at which the victimizer has unlimited authority over the casualty's cash and other financial assets or exercises. Economic brutality toward ladies happens when a male victimizer keeps up control of the family funds, choosing regardless of women how the cash is to be spent or spared, accordingly diminishing women to finish reliance for cash to meet their own needs. It might include putting women on exacting stipend or constraining them to ask for cash⁵. Although women may live comfortably and their children live in luxury, they have no control over monies in the family or on decisions on how it should be spent. The women receive less money as the abuse continues. Men may use the fact that they have more money to dominate

4 Economic Dimensions of Interpersonal Violence: WHO, 2004

5 United Nations Fund for Women UNIFEM, 1999

women. Economic violence may also include withholding or restricting funds needed for necessities such as food and clothing, taking women's money, denying independent access to money, excluding women from financial decision making, and damaging their property⁶. It likewise incorporates acts, for example, declining to contribute monetarily, disavowal of food and essential needs, keeping ladies from initiating or completing training or from acquiring casual or formal business, and controlling admittance to medical care and farming assets. It might show as restricting admittance to money and credit offices; inconsistent remuneration for work that is equivalent in incentive to that of men; and oppressive laws with respect to legacy, property rights, utilization of shared land, and upkeep after separation or widowhood. Poverty is both a reason and result of monetary violence. Unfortunately there is higher incidence of poverty among women. Of the world's 1.5 billion poor, 70% are women⁷. Thus, economic violence is a form of discrimination against women. Guaranteeing that women and men have equivalent chances to create and oversee salary is a significant advance toward understanding women's privileges under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This would also enhance their development, self-esteem, and influence both within the household and in society.

Causes of Violence Against Women

Violence and Crimes against women are increasing day by day despite the development of economic and social conditions of the people in the society and the women empowerment in modern times. It has been observed that most of the violence and crimes takes place among the poorer section of the society and are also caused by the men of this section of the society. Some of the major causes of violence against women have been identified as lack of educational facilities, poor economic conditions, economic dependence of women on the male member of the family, lack of leadership qualities and lack of awareness of their rights.

Lack of Educational Facilities and Illiteracy:

Women have always been subjected to discrimination within the society and within the family. They have been always need to looked down upon as inferior in the society and therefore male

6 Prince Edward Island Women Abuse Protocols, 2000

7 Chen, 2005, WHO, 2002

dominating society laid down some rules for the women to suppress them and their voices. Due to such kind of attitude of men towards the women in the society, the women have not been provided any opportunity to educate themselves and hence are barren of education facilities. The parents, mostly due to poor economic conditions, and also because of their preference and love for the male child, have always restricted the girl child at home and did not give access to any kind of educational facilities. This poor literacy rate of women and also in cases among men has resulted in the increase of various forms of violence and crimes against women⁸. The men are not apprised of the benefits of education and thus indulge into different types of unsocial activities and crimes which result to such violence against women. Women are also deprived from her complete education facilities due to the conservative attitude of the society and hence it's been seen that they're not permitted to raise her voices and fight for her right to education. The significance of such attitude has mostly resulted within the increases of the crime rate and violence against women.

Lack of Leadership Qualities:

Since the women are completely dependent on the male members of their family and are suppressed within the society, they're often seen to lack leadership qualities. The patriarchal system of the society has led to the suppression of women and their rights and voices in the society. The voices of women are often unheard and their problems are neglected. They're not given any type of facilities and opportunities for development through education, awareness of rights etc. This is often mostly due to the inequality status prevailing among men and women within the society and thus their leadership qualities aren't developed. This is often one among the causes which have helped within the increase in the violence against women.

STATUTORY AND CONSTITUTIONAL DIMENSIONS

Laws Dealing Provisions Regarding Domestic Violence: Legislative Framework

Women irrespective of age, ethnicity and marital status, length of marriage, education, employment, family structure, income level and geographic location have been victims of domestic violence. Although domestic violence takes place within households, it affects women

8 United Nations Department of Public Information, 'Women and Violence', <http://www.un.org/rights/dpi1772e.htm>

in all the spheres of their life. It affects their autonomy, their productivity, their capacity to care for themselves, their children and their quality of life. It incorporates physical injury, just as wilfully or purposely setting or endeavouring to put a companion forcibly or danger to participate in any direct or act, sexual or in any case from which the life partner has an option to avoid and keeping or confining the mate without wanting to⁹. Domestic violence against women is often a cycle of abuse that manifests itself in many forms throughout their life. Even at the very beginning of her life, a girl may be the target of sex-selective abortions or female infanticide in cultures (like Indian) where son preference is prevalent. During her adolescence, viciousness against the girl child may incorporate constrained unhealthiest, absence of admittance to clinical consideration and instruction, inbreeding, female genital mutilation, early marriage, and constrained prostitution or fortified work. Some go on to suffer throughout their adult lives battered, raped and even murdered at the hands of their intimate partners. Different sorts of violence against women incorporate constrained pregnancy, foetus removal or sterilization and destructive conventional practices, for example, endowment related brutality, sati, and murdering for the sake of honour. And in later life widows and elderly women are forced to commit suicide or homicide of widow for economic reasons; sexual, physical and psychological abuse¹⁰.

JUDICIAL TRENDS

It is the judiciary which interprets or makes a correct and realistic evaluation of law and finds out authoritatively the difficulties in implementation of or lacunas in legislation. Likewise Indian judiciary has devised new strategies, forged new tools and broadly interpreted the letter of the law to ensure the protection of human rights to the people. It has applied the principles of social engineering and distributive justice in dealing with various forms of domestic violence like female foeticide, female infanticide, sati, dowry death, cruelty and has also appreciated the protective discrimination in favour of women. Indian judiciary interpreted the various legal provisions meant for the protection of women in such a way as to be the most beneficial to our women. Whenever necessary, the Supreme Court has not failed to warn the government as well as the state governments of their responsibility towards women's rights which must not be trampled upon. In this chapter, various judgements of the Supreme Court and tries to analyse the

9 Saravan Sheela, Violence against Women in India, Institute of Social Studies Trust

10 Domestic Violence against Women and Girls, June 2000

manner in which the court has dealt with the case of domestic violence. These judgements are discussed under different heads.

Supreme Court on Female Foeticide and Infanticides

The violence against women starts from the womb and ends up in the tomb. In society where a higher value is placed on the son, discrimination towards female children can take extreme forms such as sex selective abortions and female infanticide. These are the worst forms of violence against women where a woman is denied her most basic and fundamental right - the right to life enshrined in Article 21 of the Constitution of India. With a dramatic advancement of technology the sex determination of the foetus is done at mass scale not for diagnosis of sex linked genetic disorder of the foetus but for the abortion of selective female foetus. Recognising that domestic violence is also perpetrated in the form of forced termination of female foetuses, the Prenatal Diagnostic Technique (Regulation and Prevention of Misuse) Act regulates the use of pre-natal diagnosis. This Act was passed on 20th September, 1994 and amended and replaced in 2002. The Act forbids the communication of the sex of the foetus during the pre- natal diagnosis. The Act is both prohibitive and regulatory and prohibits the couples from using technical means to determine the sex of a foetus.

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005- AN ANALYSIS

Domestic violence at home can be depicted as when one grown-up seeing someone capacity to control another. It is the foundation of control and dread in a relationship through savagery and different types of misuse. The violence may include physical maltreatment, rape and dangers. Now and again it's more unobtrusive, such as causing somebody to feel useless, not letting them have any cash, or not permitting them to leave the home. Social disconnection and psychological mistreatment can have enduring impacts just as physical violence.

Domestic violence at home isn't simply hitting, or battling, or a periodic contention. It's a maltreatment of intensity. The victimizer torments and controls the casualty by determined dangers, terrorizing, and physical violence. Although both men and women can be abused, in most cases, the victims are women. In houses where there is cases of domestic violence then children are also abused or neglected. Despite the fact that the woman is generally the essential objective, viciousness is in some cases coordinated toward youngsters, and some of the time

toward relatives and companions. It is one of the crimes against women which is linked to their advantageous position in the society. Domestic violence at home alludes to violence against women particularly in wedding homes. Accordingly aggressive behaviour at home is perceived as the noteworthy hindrances of the strengthening of women, with results of women wellbeing, their wellbeing looking for conduct and their reception of little family standard.¹¹

Sexual Abuse

Sexual maltreatment is basic in damaging connections. The National Coalition against Domestic Violence reports that between 33% and one-portion of all battered women are assaulted by their accomplices at any rate once during their relationship. Any circumstance where power is utilized to acquire support in undesirable, risky, or corrupting sexual movement comprises sexual maltreatment. Constrained sex, even by a mate or personal join forces with whom consensual sex has happened, is a demonstration of hostility and viciousness. Besides, ladies whose accomplices misuse them genuinely and explicitly are at a higher danger of being truly harmed or murdered.

CONCLUSION

Domestic Violence is not something new or not something which is emerging with modernization or it is not like a new technology coming in society. The thing is that as we are developing, it is also developing and coming out with new forms, types, magnitudes etc. Domestic Violence is a word which disturbs the peace of the family caused by misunderstanding between the family members. It is a conflict between couples in which women lose their dignity or in other words we can say that she is losing it from time immemorial. Violence against women is a world phenomenon and it operates as a means to maintain women's subordination. Therefore, remove this evil from everywhere the planet leading the awareness about the right issues and therefore the International community especially the United Nation to require many initiatives in this regard. These International communities give special importance on those people who suffered from domestic violence also got to enjoy a life free from violence in public and personal spheres, especially women. All the State also take immediate steps to regulate and eradicate such sort of violence either by modifying the existing laws or enact new laws.

¹¹ www.google.co.in