

LAWS RELATING TO DOMESTIC VIOLENCE IN INDIA – A SOCIOLOGICAL ANALYSIS

Written by Vaibhav Bhardwaj

2nd Year, BA LLB Student at Himachal Pradesh National Law University, Shimla, India

DOI: doi.org/10.55662/SALRJ.2023.901

ABSTRACT

This paper main objectives are to identify and evaluate What exactly is domestic abuse ? What triggers domestic abuse ? What are the contributing variables that result in domestic violence ? What legislations have been passed so far to limit domestic violence incidents ? Why is domestic violence such a problem in today's society ? Does domestic violence in society simply affect women ? Why is domestic violence not considered as a serious criminal act in Indian society ? We will also consider reports from various survey which were conducted by different international organizations to analyse the impact of domestic violence in the modern day society ? How does domestic violence pose a serious risk to upsetting family dynamics in today's society ? Indian domestic violence laws are contrasted with those in western nations . What action is society taking to lessen domestic violence incidents ? What actions are taken by the government to lessen the incidents of domestic violence in the modern day society ? What role has judiciary played in reducing domestic violence incidents ? Has the COVID pandemic contributed to a rise in domestic violence cases in Indian society ? Last but not least , here is what I think about this , the most divisive issue in our culture .

Keywords: Domestic violence , laws on domestic violence , comparison between India and Western countries , major threat , steps taken , COVID pandemic .

EXECUTIVE SUMMARY

Prior to examining the different laws that society has created or is considering to manage the effects of domestic abuse . Understanding domestic violence's significance , which is significant in today's culture , is crucial . Domestic violence is defined as violent acts carried out by one family member or household member against another . The idea of domestic violence encompasses mistreating spouses , kids and inflicting bodily harm on them as well as making threats and abusing them verbally , psychologically , and sexually . Because Indian society subscribes to the patriarchal attitude , it is assumed that women are the majority of domestic abuse victims in India . However , as domestic violence cases increases , it is now posing a threat to both developing nations and the entire world . The laws , rules , and regulations that are know in place to prevent domestic abuse will be covered in the pages that follow .ⁱ

WHAT LEADS TO DOMESTIC VIOLENCE?

The issue of domestic violence is not new or recent . It is an incidence that primarily affects families and targets women in particular . Since ancient times , women have been consistently exploited in society and are viewed as one of its weaker members . The main causes of domestic violence include cultural norms , religious practises , and societal economic and political conditions . One of the most pervasive practises used in contemporary communities is gender discrimination . Because all members of the society are required to abide by the rules and regulations that are set forth according to the will and preferences of the male members of the society , the choices and freedom of women are neglected in the modern day society , which favours those who subscribe to patriarchal ideologies and mentalities . They are viewed as being weaker than men . Because of this , there are more instances of domestic violence in contemporary society . Due to the fact that women are dependant on males , for instance most couples have wives who are dependant on their husbands , who have complete control and authority over the household . As a result , they repress their wives autonomy and preferences and pressure them to fulfil their own requirements . These are a few of the customs that persist in today's communities and contribute it to the rise in domestic violence incidents .ⁱⁱ



FACTORS THAT LEAD TO DOMESTIC VIOLENCE

We are aware that domestic violence occurrences are becoming more prevalent world wide on a daily basis , Numerous cases contribute to the rise in domestic violence incidences in contemporary culture . As follows are these elements :-

- **Socio cultural factor :-**

One of the key causes of the various types of violence against women is socio – cultural elements that contribute to domestic violence is gender discrimination in society . One of the most frequent causes of domestic violence against women is race and ethnicity . Women who break core cultural norms , ethical codes , social norms , and family rules are thought to suffer negatively in society . As a result , they can have a domestic violence episode .

- **Socio – Structural Risk Factors :-**

Two key factors are used to determine the socio – structural factors . These are the communal factor and the economic framework . Domestic violence occurs in households of all income levels , although some researchers think that families with low incomes or lower salaries are particularly susceptible to it . Domestic violence is primarily caused by unemployment . Economic status can increase the risk of domestic violence in two different ways . These two ways are as follows . First , domestic violence might result from a lack of income . Second , some researchers believe that family strain brought on by poverty or financial dependence on others might lead to domestic violence episodes .

- **Family Risk Factor :-**

Different kinds of families or groups of families make up modern society . This act might be regarded as a significant contributor to domestic violence incidents . The majority of the time , women are the primary targets of domestic abuse in families . In today's society , the majority of families are concerned with society and social life before taking any action and are constantly worried about what others would think of them . Because of this , the family's elders put pressure on younger family members to labour in accordance with societal expectations and aspirations which they do not enjoy . As a result , each and every individual has developed a unique mentality which results in domestic violence . It is thought that most families require their female

members to sacrifice their expectations and preferences , which makes them vulnerable to these situations . In the modern society , there are a few more significant elements that contribute to an increase in domestic violence incidents . As follows are these elements :-

- Low Income
- Urban residence
- Relationship status (unmarried or separated)
- Relationship conflict
- Emotional Abuse
- Young age
- Substance abuse

These are a few of the most significant causes of domestic violence in contemporary countries .ⁱⁱⁱ

HOW DOMESTIC VIOLENCE IMPACTS FAMILY RELATIONSHIP?

A family is defined as a group of a particular number of individuals who develop a bond in order to shield one another from the negative aspect of the outside world , to show one another support , love , and affection , and to meet the fundamental needs in order to have more fulfilling lives . However , in some cases now a days , the family has turned into a place where people battle with one another over the ideologies . Domestic violence occurrences are fairly widespread in many household in today's culture . Education , society's precedence over individual , family members , elder family members interfering with younger family members job , the lack of freedom granted to women , and other factors are the main causes of the rise in domestic violence events in families . In a family , the older members always want the younger members to work in accordance with the necessities of society , to adhere to culture and customs that are widely observed in society , and to refrain from any actions that can damage their reputation in society . As a result , the other family members are growing irritable and engaging in arguments with the elders about the restrictions put in place for them . The joint family system of the society , where individuals used to live together in love and harmony

and took better care of each other's interests , has been steadily eliminated as a result of domestic violence events . In the current era , nuclear families have rapidly evolved into a system in which children even live apart from their parents in order to pursue their own interests and live comfortably and independently . Many families around the world have less faith , belief , love , and affection as a result of the domestic violence incidences , which has also adversely affected their relationships to a greater level . So , in a nutshell , we can argue that domestic violence has mostly destroyed family culture around the world .

CONSEQUENCES OF DOMESTIC VIOLENCE

Since women are the target of domestic violence in families more often than men , not only women but also the rest of the family must deal with its effects . The following are these effects.

- **Injuries :-**

Violence always results in physical harm to the victim . Similar to men , women who experience domestic abuse often sustain significant or minor physical wounds . According to the National Violence Against women survey , of the 42 percent of assault victims who reported injuries , 31 percent sought medical attention . Knife wounds and lacerations are experienced by 9 to 15 percent of women , according to research , and scratches , bruises , and welts are the most frequent injuries they sustain . However , between 6 and 11 percent of women experience shattered bones . The majority of women have either significant or mild injuries during domestic violence , based on the aforementioned findings .

- **Economic Impact :-**

Domestic abuse places a heavy financial burden on the victim's family . because domestic violence significantly affects the victim's health . According to a national survey on crime victims done between 1992 and 1996 , domestic violence costs women in the United States or the US \$ 1.50 million annually . Domestic violence causes loss , property damage , and medical costs . So , in a nutshell , we can state that domestic violence puts a strain on the family's finances .

- **Mental Health Effect :-**

Domestic abuse , which includes physical assault , can have a significant negative impact on a women's mental health . According to some academics , domestic violence can lead to mental health conditions like despair , suicidal thoughts and attempts , posttraumatic stress disorder , other types of anxiety , drug misuse , disorders , and economic dependence , among others . In summary , we can state that domestic abuse can have a terrible impact on someone's health , whether it lasts for a short time or a long period .

These are some of the most significant effects of domestic violence , and based on the discussion above , we may conclude that it has the potential to completely destroy a person's life .

ARE WOMEN THE ONLY VICTIMS OF DOMESTIC VIOLENCE IN THE MODERN DAY SOCIETY?

In Indian society , it is usually accepted that domestic violence primarily affects women . However , other academics argue that this is untrue given how quickly society has changed in recent years and has both male and female members of society can now be regarded to be victims of domestic abuse . Even in the present day , many women , particularly wives , report experiencing domestic violence . Because of family pressure , the idea that women can not engage in these activities , a fear of losing respect and dignity in society , and the fact that modern laws largely favour women over men , domestic abuse occurrences are unreported by men in male dominated society . It was discovered via personal interactions with many male members of the society that men are also physically abused by their wives . But they prefer to keep quiet in order to maintain a good home environment , good ties with their spouses and her family , and because they care about their children's well – being . Men are also impacted by socio – cultural and psychological issues as a result of domestic abuse . For instance , in a household where both the husband and the wife are employed , if the husband's income is lower than that of his wife , he may experience abuse from his wife , including beatings and taunts , which may escalate to domestic violence . Many short – tempered or overworked women become aggressive , which leads to them being violent toward their husbands and beginning to threaten them . In an effort to obtain a divorce , some women will file a bogus

complaint or FIR (First Information Report) against their spouses . We can therefore conclude from the explanation above that domestic violence does not simply affect women . This act has significantly harmed both male and female members of the society today .

DOMESTIC VIOLENCE DURING COVID – 19 PANDEMIC

In March 2020 , India experienced a sharp increase in COVID – 19 (Coronavirus) cases . As a result on March 24 , 2020 at 8 PM , the Indian Prime Minister imposed the first lockdown , which lasted 21 days . People were therefore given less time to obtain and combine all the required goods or commodities of their choice . The initial lockdown had a significant negative impact on low – income and migrant employees . These people had to walk more than a thousand kilometres on road to get to their homes . The majority of these marginalised workers were women , who suffered greatly from the lockdown and even encountered resistance from the police . During the lockdown , domestic violence cases significantly increased . Domestic abuse primarily affected women . Husbands beat up their wives harshly if they served their husbands cold food , did not adequately care for the kids , or disagreed in front of their husbands . Women and girls are severely trapped during a lockdown in the absence of checks and balances . Domestic violence cases have increased dramatically , by up to 94 percent , according to the National Commission for Women or NCW . Women were in grave danger during the lockdown since they were unable to access all the necessary helplines and find transportation to their parents house , where they could feel safe and protected . According to National Family Health Survey or NFHS , domestic abuse is not viewed as a serious crime in India . According to this survey , 52 percent of women and 42 percent of men said it was acceptable for a husband to physically abuse his wife . Women experienced prejudice during the COVID (coronavirus pandemic) based on their employment , social – cultural practises , and gender . From the discussion above , it is clear that during the COVID (coronavirus) pandemic , women’s conditions changed from deplorable to vulnerable , and India experienced a sharp increase in domestic violence incidents .

STEPS TAKEN BY JUDICIARY TO REDUCE DOMESTIC VIOLENCE (ESPECIALLY DURING COVID – 19 PANDEMIC)

The most divisive and severe issue facing the entire country is domestic violence. However, the government has not yet made any significant efforts to stop domestic violence. To stop the rising number of domestic abuse events, several human rights commissions and NGOs (Non – Governmental Organizations) have taken various actions. The Jammu and Kashmir or J & K High Court took suo moto cognizance in this matter on April, 18, 2020, and on that day it issued new regulations, allotted funds, and established informal spaces for women, like grocery stores, where they could report domestic violence incidents without disclosing their perpetrators' identities. The state government responded by stating that the helplines, counsellors, shelter homes, and police officers are working continuously to provide support and aid to the victims of domestic violence. The Karnataka High Court had ordered the state government to submit a report on the measures taken to prevent domestic violence. Similar to this, protection officers are established in Tamil Nadu under the Domestic Violence Act of 2005, and they are permitted to save women who are in danger and transport them to a shelter. These are some of the key measures the judiciary implements during a pandemic to curtail the rising incidences of domestic violence in contemporary culture.^{iv}

RESEARCH METHODOLOGY

The primary source of information for this project are various articles, journals which have been thoroughly analysed and understood to facilitate an objective understanding of the research topic. The project has also been done by consulting secondary sources. Research papers published in various journals are referred to which contained detailed analysis about the topic. Further more, reports and various surveys were consulted to understand the problem affecting the society. Data from Nation Commission for Women, National Crime Victimization survey and National Crime Against Women Survey have been collected. This is an empirical research methodology used to collect and analyse the data.

LAWS MADE TO COUNTER THE GROWING INCIDENTS OF DOMESTIC VIOLENCE

It is very regrettable to know that there are now no laws in India created by the government or parliament that can entirely eradicate the obnoxious act of domestic violence from the entire society. However, in order to protect women from becoming victims of domestic violence in society, the parliament passed the Domestic Violence Act, 2005, also known as The Protection of Women from Domestic Violence Act, in 2005. In accordance with amendments made to the Indian Penal Code of 1860 (IPC, 1860). Section 498 A is being added to the code. Under this section, a woman may file a complain against her husband for wrong doing her. If a husband or a relative of a husband subject to the woman treats the woman cruelly, they may be subject to a sentence of up to three years in prison, a fine, or both. The state government of Uttar Pradesh has launched a helpline for victims of domestic violence called “Supress Corona not your voice”. As a result of this initiative, a complaint will be filed against the abusers right away, and women will be taken to safer locations where they will be given food and other necessities so they can live there peacefully. However, only these insufficient measures have been used up to this point to prevent domestic violence. There is a need to create distinct, stringent legislation on this rapidly expending issue for a varied nation like India. The Prevention of Women from Domestic Violence Act, also know as the Domestic Violence Act of 2005, has to be expanded and applied across the entire country. In summary, we can argue that there are currently no consistent laws in India designed to stop domestic abuse. However, the moment has come when such legislation is more necessary than ever before in order to entirely eradicate domestic abuse across the board.

DIFFERENT TYPES OF DOMESTIC VIOLENCE COMMITTED IN INDIA

More than 60 million Indian women are adversely affected by domestic abuse, according to a number of reports and survey that the Indian government and UNICEF (United Nations Children’s Emergency Fund) performed. Domestic violence against women is broken down into several categories in India. Here is a list of these behaviours :-

- Feticide :-

Different types of violence have proliferated across the country as a result of the advancement and evolution of technology . Female feticide is one instance of this type of violence . Since the majority of modern society still adheres to a patriarchal mentality . the number of abortion cases has increased . Out of 8000 abortion cases , 7999 of them involved females . As a result , the sex ratio across the bard has been steadily declining . Even the judicial system , the executive branch , and political leaders were powerless to halt this conduct .

- **Infanticide :-**

Before birth , thousand of girls are killed or aborted , and even after an abortion , if a girl child is born , she is either dumped into a river or placed in a trash can . According to some statistics , females mortality rates are 10 percent greater than boys . The majority of girls discuss issues with anaemia , malnutrition , etc. In their early years .

- **Physical assault / Rape / Gang Rape :-**

According to some sources , a rape case is reported in India every 54 minutes , while an act of cruelty is reported every 30 minutes . Data from the National Crime Records Bureau show that in India , a woman is raped every 20 minutes , and that over the past 10 years , the number of child rape cases has surged by 336 percent . According to various government agencies , the number of rape , kidnapping , and crime against children climbed from 48.7 % to 66.5 % between 2002 and 2012 .

- **Dowry Deaths :-**

The rate of dowry deaths in India is rising at an alarming rate . In states like Maharashtra , Rajasthan , Madhya Pradesh , and Andhra Pradesh , dowry death incidents are frequently recorded .

- **Female literacy – rate :-**

Even in today's society , women have lower levels of education than men . Even if they work an additional hour or an equal amount of time as men , females are paid less . They are consistently viewed as inferiors to men , and it is thought that they need men to help them run society . In India , 82 .14 percent of the male population is educated and capable , according to the census from 2011 . In contrast , 82 .14 per cent of the male members of the group are highly educated and independent . Men and women work very differently in society , as evidenced by the employment ratio in both the organised and unorganised sectors .

These are the five main categories of violence against women in India .^v

COMPAIRING SITUATION OF DOMESTIC VIOLENCE IN INDIA WITH OTHER NATIONS

Domestic violence is governed by distinct and strict regulations in nations like The United States of America (The USA) , the United Kingdom (The UK) , and Canada . Because of this , there aren't many domestic violence incidents documented in these countries . The main cause of this is education ; people in these countries are well – educated and aware of the negative effects of domestic abuse . Numerous human rights organisations in these countries have consistently urged the government to address the rising incidence of domestic abuse . Because of this , these countries only have about 20 per cent or 19.3 per cent of domestic violence cases . These countries started working on enacting domestic violence laws quite early on . However , 51.5 % of domestic abuse instances in India are recorded , and the main cause of this include poverty , illiteracy , and lack of public knowledge of the dangers of the domestic violence . By adding clause A to section 498 of the Indian Penal Code , domestic abuse in India became a crime in 1983 . This was the comparison of India's domestic violence conditions to that of other countries .

WHAT ELSE CAN BE DONE FURTHER TO REDUCE DOMESTIC VIOLENCE IN INDIA

India should take more extensive measures to lessen the threat of domestic violence in contemporary society . The following actions , in my opinion , can be performed to lessen or eradicate domestic violence through out the entire country . The following stages are involved.

- Awareness programs should be introduced :-

The government should start a number of initiatives and programmes to raise public awareness of domestic abuse , which is on the rise . Government should encourage social media platforms and electronic media in their efforts to inform the public about the negative impacts and repercussions of domestic abuse .

- Creation of fast track courts :-

These courts should be created on a very broad scale in order to give victims and sufferers of domestic violence quick and efficient justice .

- Implementation of stricter laws :-

Currently , the 2005 Protection of Women Against Domestic Violence Act , also known as the DV Act , needs to be amended . There is a need to greatly broaden the application of this regulation , and those who violate it should face more sever penalties .

- Women should have equal access to employment opportunities in both the public and private sectors . They should receive the appropriate education so they may learn about their rights and defend themselves against the crime of domestic abuse .
- Men and women are the two most significant cogs in society . The smooth operation of the entire civilization will be affected if one wheel is broken . Both of them are currently becoming victims of domestic abuse , so they both need to be educated on its negative impacts . In today's households , counselling is necessary so that the husband and wife may comprehend one another's interests and values and live a happy , peaceful life together in the society .

These are some of the most important actions that the government should do to stop the growing problem of domestic violence in today's society . In my judgement , it will take some time for these measures to have an influence on domestic violence . but will produce favourable outcomes that will contribute to the improvement , continued development , and expansion of contemporary civilisation .

CONCLUSION

We may infer from the discussion above that domestic violence events have significantly increased in India even after the Protection of Women from Domestic Violence Act or DV Act of 2005 was put into effect . At the moment , husbands and wives engages in this dangerous practise that puts their lives in danger . To regulate these behaviours , stricter regulations or laws are required . There is a need of gender neutral laws on domestic violence in the modern day society .

REFERENCES

Sanjay Deshpande , Sociocultural and Legal Aspect of Violence Against Men , 3-3 JPH 246-249,246 (2019) .

Ravneet Kaur , Suneela Garg , Addressing Domestic Violence against Women , An Unfinished Agenda , 33 IJCM 1-4 , 2 (2008) .

Bonnie E . Carlson , Alissa Politz Worden , Michelle van Ryn , Ronet Bachman , Violence Against Women : Synthesis of Research for Practitioner , 98-WT-VX-K001NCJRS 1-37 , 13-18 (2003) .

Shalu Nigam , COVID – 19 India’s Response To Domestic Violence Needs Rethinking , 1-10 , 5 (2020) .

Dr. S. Prescila Sharon , Domestic Violence Against Women In India – A Family Menace, 4 IJAR 1-3 , 1 (2014) .

ENDNOTES

ⁱ Sanjay Deshpande , Sociocultural and Legal Aspects of Violence against Men , 3-4 JPH 246-249, 246 (2019)

ⁱⁱ Ravneet Kaur , Suneela Garg , Addressing Domestic Violence Against Women , An Unfinished Agenda , 33 IJCM 1-4 , 2 (2008) .

ⁱⁱⁱ Bonnie E. Carlson , Alissa Politz Worden , Michelle van Ryn , Ronet Bachman , Violence Against Women : Synthesis of Research for Practitioners , 98-WT-VX-K001NCJRS 1-37,13-18 (2003) .

^{iv} Shalu Nigam , COVID – 19 : India’s Response To Domestic Violence Needs Rethinking , 1-10 ,5 (2020) .

^v Dr. S.Prescila Sharon , Domestic Violence Against Women In India – A Family Menace , 4 IJAR 1-3, 1 (2014) .