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## DOMESTIC VIOLENCE A HEINOUS CRIME AGAINST WOMEN; ROLE OF WOMEN EMPOWERMENT AND LAWS: ISSUES AND CHALLENGES

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### **ABSTRACT**

*Women empowerment is one of the basic weapons to curb the menace of domestic violence against women. Domestic violence may be in the form of physical, verbal or emotional. There are so many reasons behind the domestic violence but in major cases it has been seen that due to low income of family and high expenses of living hood results frustration between members of family and some where it results in domestic violence against women, girls or children. Sometime in laws do ill-treat to the bride and demand dowry for the sake of money. If bride is strong and are empowered then she may earn money for her livelihood; cannot suffer in comparison to unempowered women. Psychologic disorder in men also reflect in the form of domestic violence against women or girl or children. Therefore, it is important to curb the menace of domestic violence to save the life of all. Domestic Violence Act, 2005, Indian Constitution, Directive Principles of Policy, Women laws protect the rights and condition of women in society. Women empowerment may improve the economic, social, cultural, psychological and physical status of women. If women are economically strong then in adverse condition she may not be ill-treated in family and she can bear the expenses for her children and herself. Sensitization in society for women rights and respect the women should be cultivated to prevent domestic violence against women.*

**Keywords:** *Women, Rights, Domestic Violence.*

## INTRODUCTION

Domestic violence is a heinous crime which not only affect the body, mind or soul of any person or women whereas; if affect the entire life of her. When domestic violence is committed against women; the generation of human being are affected; because women care, nurture and protects the whole members of family and children. If she is not well then whole family will disturb and mostly children's physical, mental, social and emotional development is hampered. Indian Constitution, Domestic Violence Act, 2005 and Universal Declaration of Human Rights, CEDAW at international level are protecting the status of women to ensure their rights across the globe.

## MEANING AND TYPES OF DOMSETIC VIOLENCE

Domestic violence is prevailing in society from ancient time. It is not limited to women, it includes violence against old age people, child, transgender etc. It is found in all group of society irrespective of the age, social or economic standard. It is an evil which is found all across the globe. It includes two words first is domestic and second is violence; so, the violence which is committed in home or by known, relative, family member is known as domestic violence. The offender and victim are known and have a relationship with each other. Various social scientist has defined the term in following words: -

1. "The various forms of domestic violence include senior abuse, child abuse, honour-based abuse such as honour killing, female genital mutilation, and all forms of abuse by an intimate partner."<sup>60</sup>
2. "Domestic abuse, also called "domestic violence" or "intimate partner violence", can be defined as a pattern of behaviour in any relationship that is used to gain or maintain power and control over an intimate partner. Abuse is physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. This includes any behaviours that frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure, or wound someone. Domestic abuse can happen to anyone of any race, age, sexual orientation, religion, or gender. It can occur within a range of relationships including couples who are married, living together or dating. Domestic violence affects people of all socioeconomic backgrounds and education levels."<sup>61</sup>

### Types of Domestic Violence

1. **"Physical Abuse:** it is the most visible form of domestic violence. When anyone causes bodily pain, harm or danger to life, limb or health of the person or harms the health or development of the person, it would be physical abuse. Physical abuse include: -Hitting, Beating, Kicking, Biting, slapping, battering, shoving, punching, pulling hair, burning, cutting, pinching."<sup>62</sup>
2. **"Sexual Abuse:** when the abuser or wrongdoer coerces or attempts to coerce the victim into having sexual contact or sexual behaviour without the victim's consent. It is attempted to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion."<sup>63</sup>For example-
  - "When you force the aggrieved women to have sexual intercourse
  - When you force the aggrieved women to look at pornography.
  - When you indulge in sexual abuse of child.

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<sup>60</sup>Retrieved from <https://blog.ipleaders.in/the-protection-of-women-from-domestic-violence-act-2005/> visited on 16 May 2023.

<sup>61</sup> Retrieved from <https://www.un.org/en/coronavirus/what-is-domestic-abuse> visited on 16 May 2023.

<sup>62</sup>Retrieved from <https://www.lawjure.com/laws-against-domestic-violence-in-india/> visited on 17 May 2023.

<sup>63</sup>Retrieved from <https://www.lawjure.com/laws-against-domestic-violence-in-india/> visited on 17 May 2023.

- Sexually demeaning the victim.”<sup>64</sup>
- 3. **“Verbal and Emotional Abuse:** It means psychological abuse. Some acts may amount to verbal and emotional abuse for example-Insults, accusations on character, insults for not having male child, dowry demand, forcing the women to leave their job, forcing the women for sexual intercourse, forcing the women to get undue advantage, forcing the women to get marry where as she is not willing, forcing the women to get marry the person to whom she does not like. Emotional abuse includes not having good life style, eating habits are changed, suicide, alcohol consumption types psychological disorders are developing and victim is no longer want to live and enjoy life.”<sup>65</sup>
- 4. **“Economic Abuse or financial abuse:** It affects the economic status of women. It includes the condition when and her children are denied to give proper food, clothes, medicine and daily requirements for essential things. Some other incidence also include such as; If working women is force to leave her job or give salary to him, degrade the image of women in their employment and to employer etc., not allowing the women to use her salary, taking clothes, jewellery and other household from women.”<sup>66</sup>

## REASONS OF DOMESTIC VIOLENCE

1. **Psychological disorder:** People who don't have understanding about the importance of dignity and privacy of his wife, girl or old age people or human being in their life they may commit domestic violence against their female or old age family members due this psychological disorder.
2. **Male dominated society:** Male is thought to be the head of family and whatever he thinks and do will be an order to follow by all female members irrespective of their choice. In case if female members do not follow their wish, they can commit domestic violence against female family members.
3. **Patriarchal mindset of Family member and society:** In this type of mindset people think that if any domestic violence has been committed against female members it is needed and they can be corrected by this technique also. Sometimes they do favour of culprit because female member does not oppose it strongly and tolerate it easily.
4. **Low Economic status of family:** If male member of family is earning and female members are not earning then he can be frustrated and due to frustration, he may commit domestic violence against female members of family.
5. **Greed of dowry:** If during the ceremony of marriage, the dowry demand is not fulfil by bride side; in laws of bride may do domestic violence against her.
6. **Lack of Women Empowerment:** If women are not empowered, they will depend on family member where as if they can earn money and enjoy lifestyle along with her family members.
7. **Lack of implementation of Laws:** Laws are not implementing in proper to punish culprits and very few deterrence provisions are they're in Domestic Violence Act, 2005 to prevent domestic violence.
8. Lack of awareness of laws to women, girls and old age people.
9. Lack of co-operation of NGOs to victim who have suffered domestic violence. People are not aware about the role and help of NGOs.

<sup>64</sup>Id.

<sup>65</sup>Id.

<sup>66</sup>Retrieved from <https://www.lawjure.com/laws-against-domestic-violence-in-india/> visited on 17 May 2023.

10. **Female Foeticide:** If People do not have girl child; they commit domestic violence against their wife and to girl child also.
11. Lack of muscle power of women and biologically women are weak to resist physical and emotional abuse.
12. **Emotional and sacrificing nature of women towards their family member:** Due to this nature women tolerate the domestic violence.
13. **Some women do not report complaint of domestic violence to Police quickly:** Due to fear of defamation or social stigma women are tolerating the domestic violence.

## **ROLE OF LEGISLATURE TO PREVENT DOMESTIC VIOLENCE**

Indian Constitution has the following various provisions for the protection of women which are as:-

1. **"Article- 15(1):**-The state shall not discriminate against any citizen of India on the ground of sex."<sup>67</sup>
2. **"Article 15(3):**-The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women."<sup>68</sup>
3. **"Article 16(2):**-No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex."<sup>69</sup>
4. **"Article 23(1):**-Traffic in human beings and forced labour is prohibited."<sup>70</sup>
5. **"Article 39(a):**- The state to secure for men and women equally the right to an adequate means of livelihood."<sup>71</sup>
6. **"Article 39(d):**-The state to secure equal pay for equal work for both Indian men and women."<sup>72</sup>
7. **"Article 39(e):**- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength."<sup>73</sup>
8. **"Article 42:**-The state shall make provision for securing just and humane conditions of work and maternity relief."<sup>74</sup>
9. **"Article 51-A(e):**-It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women."<sup>75</sup>
10. **"Article 243-D(3):**-One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women."<sup>76</sup>
11. **"Article 243-D(4):**-One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women."<sup>77</sup>

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<sup>67</sup>Crime against women And law relating to welfare and protection of women, Vijendra kumar, Bharti Publications, New Delhi, 2020, p 2-8 and Women Rights in India: Constitutional Rights and Legal Rights, retrieved from <https://edugeneral.org/blog/polity/women-rights-in-india/> visited on March 2018.

<sup>68</sup> Id.  
<sup>69</sup> Id.  
<sup>70</sup> Id.  
<sup>71</sup> Id.  
<sup>72</sup> Id.  
<sup>73</sup> Id.  
<sup>74</sup> Id.  
<sup>75</sup> Id.  
<sup>76</sup> Id.

12. "Article 243-T(3):-One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women."<sup>78</sup>
13. "Article 243-T(4):-The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide."<sup>79</sup>

### Essential Provisions of Domestic Violence Act, 2005

#### 1. Appointment of Protection Officer

"Protection Officers are appointed by the State Government. The number of Protection Officers may vary from district to district depending on the size and necessity. The powers and duties which are to be exercised by the Protection Officers are laid down in confirmation with the Act. The Protection Officers must be women as far as possible and shall possess requisite qualifications and experience as may be prescribed under the Act."<sup>80</sup>

#### 2. Application to Magistrate

"The aggrieved person, the Protection Officer of that locality or any other person on behalf of the aggrieved person shall make an application to the Magistrate claiming one or more reliefs under this Protection of Women from Domestic Violence Act, 2005. The application must contain all the necessary details as prescribed by the Act."<sup>81</sup>

"The Magistrate will fix the date of hearing which shall not extend more than three days from the date of receiving the application. Furthermore, the Magistrate must also aim to dispose of all the applications made under Section 12 of the Act within a period of sixty days from the date of its first hearing. Moreover, the Protection of Women from Domestic Violence Act, 2005 authorises the Magistrate to grant the following orders and reliefs."<sup>82</sup>

"The legislative intent of enacting the Protection of Women from Domestic Violence Act, 2005 has been meticulously discussed in the case *Indra Sarma v. V.K.V.Sarma*. It was stated that the reason for the legislation to enact such an Act is to provide protection of rights of women who are victims of violence of any type occurring in the family. This Act safeguards women from facing violence within the four walls of their home."<sup>83</sup>

"The Madras High Court in the case, *Vandhana v. T. Srikanth* further stated the Protection of Women from Domestic Violence Act, 2005 "is an Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto."<sup>84</sup>

### PREVENTIVE MEASURES TO PROTECT STATUS OF WOMEN AND DOMESTIC VIOLENCE IN SOCIETY

1. Women Empowerment: Women should be empowered to get earning and do not depend on family members.
2. Save Girl Child: Girl child should be saved to maintain the male to female ratio in a society.
3. Crimes against women should be checked: If crime against will be checked then problem of domestic violence will sort out automatically.

<sup>77</sup>Id.

<sup>78</sup>Id.

<sup>79</sup>Women Rights in India: Constitutional Rights and Legal Rights, retrieved from <https://edugeneral.org/blog/polity/women-rights-in-india/> visited on March 2018.

<sup>80</sup>Retrieved from <https://blog.ipleaders.in/the-protection-of-women-from-domestic-violence-act-2005/> visited on 16 May 2023.

<sup>81</sup>Id.

<sup>82</sup>Id.

<sup>83</sup>Id.

<sup>84</sup>Id.

4. Girl should be educated and develop self-protecting skills and arts such judo karate, taiquando, martial arts etc.
5. Patriarchal mind set of people should be changed and gender sensitization should be spread among society.
6. Law should be implemented in proper manner
7. Women should report to police in case of domestic violence and do not tolerate it for the sake of name and due to social stigma.
8. Awareness of laws and role of NGOs should be spread to the people in case of help required to victim.
9. Female member should be strong enough psychologically to redress victim of domestic violence.

## **CONCLUSION**

It is the responsibility of each and everyone to remove an evil of domestic violence from the society. People should enjoy a good meaningful life along with happiness and protecting dignity of women. Laws should be implemented in proper manner. Domestic violence Act, 2005 should be implemented in proper manner. Women should be empowered and educated to overcome or face the challenges of life easily. Girls should be protected and patriarchal nature of society should be changed to give equal importance to female in family, society and at working place.

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