

INDIAN PERSPECTIVE OF DOMESTIC VIOLENCE OF WOMEN

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Abstract

A victim of domestic violence faces a variety of complex legal and personal issues that can be further exacerbated by the pressures of immigration and culture concerns. Women often feel isolated from their communities, both domestically and internationally. Domestic violence occurs in all socioeconomic and cultural population subgroups; and in many societies, including India, women are socialized to accept, tolerate, and even rationalize domestic violence and to remain silent about such experiences. Violence of any kind has a detrimental impact on the economy of a country through increased disability, medical costs, and loss of labour hours; however, because women bear the brunt of domestic violence, they disproportionately bear the health and psychological burdens as well. Victims of domestic violence are abused inside what should be the most secure environment—their own homes—and usually by the persons they trust most. Domestic violence was recognized as a criminal offence in India in 1983. The offence chargeable under section 498-A of the Indian Penal Code that relates to domestic violence is any act of cruelty by a husband (or his family) towards his wife. In this paper I am trying to explain all the violence and the effects on women. India is the one of the country, where in every day more than 2 girl or women is assaulted.

Keywords

Sufferer, Cruelty, Violence, Assaulted, Offenders, Conviction, Physical Fatigue, Chronic Headache. Inmate Partner, Murder.

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Introduction

The vision that all people-women, children and men are entitled to at least a minimum respect for their human dignity and rights emerged out of the slaughter and genocide of the Second World War and, since that time, the United Nations has worked to define and refine the rights of all human beings. Women are more likely to be victimized by someone that they are intimate with, commonly called "Intimate Partner Violence". The impact of domestic violence in the sphere of total violence against women can be understood through the example that 40–70% of murders of women are committed by their husband or boyfriend. Studies have shown that violence is not always perpetrated as a form of physical violence but can also be psychological and verbal. In unmarried relationships this is commonly called dating violence, whereas in the context of marriage it is called domestic violence. Instances of IPV tend not to be reported to police and thus many experts believe that the true magnitude of the problem is hard to estimate. Women are much more likely than men to be murdered by an intimate partner. The annual report by the New Delhi-based National Crimes Record Bureau. (NCRB) found that a “total of 228,650 incidents of crime against women were reported in the country. In the United States, in 2005, 1181 women, in comparison with 329 men, were killed by their intimate partners. In England and Wales about 100 women are killed by partners or former partners each year while 21 men were killed in 2010

Nowadays male domination is fast losing its ground because of two main reasons. Firstly, due to the change in the attitude of society, family and female themselves and secondly due to misuse of various women protection legislations. Now, in the society more freedom is granted for the female, previously where birth of a female child was not considered bliss for the family but now parents of a girl child are ready to support them even after the marriage of their daughters. This

change of attitude has made the women of today more confident and sometimes egoistic as well. Females themselves are also not ready to accept the supremacy and dominance of a husband. In ancient times wives used to consider their husband '*devta*', '*pati parmashwar*' but today's wife says '*Just husband*'. To support this view point legislation has also added its extended helping hand by several enactments for women protection like Section 498A Indian Penal Code, Section 113A of The Evidence Act, Section 125 of Code of Criminal Procedure, Dowry Prohibition Act and the latest legislation Protection of Women Against Domestic Violence, 2005. These acts play a significant role in protecting women but instances are found where these acts are even misused and there are no laws for the males in defense to protect them. This latest law of Domestic violence is witnessed to be misused by twisting and turning several times which is not a symbol of healthy judicial system. The law on domestic violence was enforced to protect the women from harassment ranging from physical beating, emotional torture, sexual abuse, denial of basic amenities, verbal insults of calling of names, maligning characters and other offences but no attention was given by the law makers to the fact that males can also be subject to such offences in the hand of women in certain circumstances and as such the time has come for a rethinking of matter of protection of males from the hands of women as well.

Violence during Pregnancy

Women who have ever been pregnant were asked about their experience of physical violence during pregnancy. The study shows overall, 7 percent of women have experienced physical violence while pregnant. Results by background characteristics reveal that the likelihood of having experienced violence during pregnancy decreases with increasing age but increases with the number of living children. For instance, 9 percent of women aged 15–19 years are likely to

have experienced violence during pregnancy compared to 5 percent of women aged 45–49 years. In contrast, 5 percent of women who have ever been pregnant and have 1–2 living children have experienced violence compared to 10 percent of women who have five or more children. This relationship is not unexpected, because women with more living children have had more pregnancies and thus greater exposure to the risk of physical violence during pregnancy. Obviously, this urban/rural experience of violence during pregnancy reflects the prevalence of ever having experienced physical violence with women in urban areas being most at risk.

Dowry Violence

Dowry is a form of property women bring with them when they marry. In Punjab and numerous other patriarchal regions of India, it is called ‘dahej’ or ‘daaj’ . Dowry often consists of money, land, animals and other gifts like jewelry or household items the bridal family is expected to present to the groom’s family.

The most common causes for women stalking and battering include dissatisfaction with the dowry and exploiting women for more of it, arguing with the partner, refusing to have sex with him, neglecting children, going out of home without telling the partner, not cooking properly or on time, indulging in extra marital affairs, not looking after in-laws etc. In some cases infertility in females also leads to their assault by the family members. The greed for dowry, desire for a male child and alcoholism of the spouse are major factors of domestic violence against women in rural areas. There have been gruesome reports of young bride being burnt alive or subjected to continuous harassment for not bringing home the amount of demanded dowry. Women in India also admit to hitting or beating because of their suspicion about the husband’s sexual

involvement with other women. The Tandoor Murder Case of Naina Sahni in New Delhi in the year 1995 is one such dreadful incident of a woman being killed and then burnt in a Tandoor by his husband. This incidence was an outcome of suspicion of extra marital affairs of Naina Sahni which led to marital discord and domestic violence against her.

Violence against Young Widows

Violence against young widows has also been on a rise in India. Most often they are cursed for their husband's death and are deprived of proper food and clothing. They are not allowed or encouraged for remarriage in most of the homes, especially in rural areas. There have been cases of molestation and rape attempts of women by other family members in nuclear families or someone in the neighborhood. At times, women are even sexually coerced by their partner themselves against their will. They are brutally beaten and tortured for not conceiving a male child. Incidents like, ripping off a woman's womb for killing the female foetus when she disagrees for abortion have also come to light especially in rural areas. Female foeticide and female infanticide continue to be a rising concern.

Physical Violence

Physical violence is represented in the 'Imagine' poster in its references to being 'being punched, slapped, hit, bitten, pinched, kicked, pushed, shoved, burnt, strangled and beaten', an illustrative but not exhaustive list. Although not specified there, it can involve the use of weapons and

objects, which may be household items like knives, belts, scissors, furniture, hot irons, cigarettes or indeed anything that comes to hand.¹

Domestic violence is violence within the private sphere generally between individuals who are related through intimacy, blood or law. Despite the apparent neutrality of the term domestic violence is nearly always a gender specific crime, perpetrated by men against women. Violence against a woman caused by an intimate partner is a common occurrence in the United States.²The July 2000 National Violence Against Women Survey by the United States Department of Justice found that violence against women is primarily intimate-partner violence: 64.0% of the surveyed women who reported being raped, physically assaulted, and/or stalked since age 18 were attacked by a current or former spouse, boyfriend, cohabiting partner, or date.³Women who generally face physical and domestic violence are in the age group of 28-40. Majority of them were married at the age of 16-24. While it can be stated that women are the usual victims of violence in the home and men are the usual perpetrators, it remains unclear which particular women and men are likely to be involved. Studies indicate that marital violence occurs in some communities in as many as in one in three marriages. There appears to be no part of the world where it is unknown. It is difficult to estimate the actual incidence of violence in the household. The problem is largely a hidden one. Communities deny the problem, fearing that an admission of its existence is an assault on the integrity of the family.

There are several causes for Physical violence.

¹ Oxford pocket English dictionary, 6th impression 2007, Oxford university press, p.513.

² David M. Zlotnik, Empowering the Battered Woman: The use of Criminal Contempt Sanctions to Enforce Civil Protection Orders. 59 Ohio St. Law Journal 1153, 1162-63, 1215 (1995). Kathleen Finley Duthu, Why Doesn't Anyone Talk about Gay and Lesbian Domestic Violence? 18 Thomas Jefferson Law Rev. 23, 24 (1996).

³ Tjaden, P. & Thoennes, N. (July 2000). *Full report of the prevalence, incidence, and consequences of violence against women*. (Publication #NCJ83781). Washington, DC: United States Department of Justice, Bureau of Justice Statistics. Available at: <http://www.ncjrs.org/pdffiles1/nij/181867.pdf>.

Some are – (i). Parents' failure to pay full amount of dowry, (ii). Refusal to bring money from parents. (iii) Parents' failure to fulfill the promises. (iv) Premarital affairs suspected v) Extra marital relations. (vi) Resistance to sexual abuse (vii) Medically unfit for conception. (viii) Female child delivery.(ix) Husband's unemployment. (x) His problems at workplace. (xi) Alcoholism Etc.

Sexual abuse

Sexual abuse is common in abusive relationships. According to the National Coalition Against Domestic Violence, between one-third and one-half of all battered women are raped by their partners at least once during their relationship. Any situation in which you are forced to participate in unwanted, unsafe, or degrading sexual activity is sexual abuse. Forced sex, even by a spouse or intimate partner with whom you also have consensual sex, is an act of aggression and violence. Furthermore, women whose partners abuse them physically *and* sexually are at a higher risk of being seriously injured or killed.

Mental Cruelty

The concept of mental cruelty is not recent and has not been defined in any dictionary. It is generally the behavior of one which causes mental tension to the other and creates situations which are humiliating, difficult and disturbs the life of other spouse. It is not always that the man is the perpetrator of cruelty it can be a women as well. It varies from couple to couple. While the majority of domestic violence victims are women, abuse of men happens far more often than you'd probably expect. Typically, men are physically stronger than women but that doesn't necessarily make it easier to escape the violence or the relationship. An abused man faces a

shortage of resources, skepticism from police, and major legal obstacles, especially when it comes to gaining custody of his children from an abusive mother.⁴ All this constitutes cruelty.

Other forms of physical abuse against women include slapping, punching, grabbing, burdening them with drudgery, public humiliation and the neglect of their health problems. Some of the other forms of psychological torment against them could be curtailment of their rights to self-expression and curbing the freedom to associate with the natal family and friends.

Effect of Domestic Violence

While it may not be possible to have a precise picture of the actual extent of violence against women in their homes, the results of this violence are fairly clear. In addition to the physical injuries ranging from bruising to death, abused women suffer from health and psychological problems. They have a significantly higher level of anxiety, depression and somatic complaints than women who have not suffered such abuse. They may often be paralyzed by terror and under stress from the ever-present threat of an attack. They are more likely to be depressed, which may lead to higher rates of suicide, than those found among women who have not been battered. The adverse consequences of violence in the family are not confined to the victim of the abuse. The abuser himself may suffer the consequences of his behavior. Research indicated that women who kill their husbands do so more often than not in response to an immediate or threat of attack. Physical violence is also hazardous for family members or others who seek to intervene, who may be hurt or killed by the abusive man. Children in families where the wife is abused run the risk being injured or killed by the abuser if they become involved in an incident of violence, either by chance or in an attempt to protect their mother. The effect on children who witness

⁴ www.helpguide.org/mental/domestic-violence-men

violence is the subject of much discussion. Some studies have established that children from homes where there is violence against them other suffer significantly more behavioral problems and lack greater social competence than children from homes where there is no such violence. For Example- A Canadian study suggests that observing parental conflict and violence during childhood was significantly predictive of serious adult personal crimes (assault, murder, rape, kidnapping,). A high proportion of street children report marital violence in their family home. More systematic research into the real effect of family violence on children is required before categorical statements of sequelae can be made.

Why women bear with this kind of violence?

For this also they have their own reasons such as- (i) they have no place to go (ii) For the sake of children (iii) Parents' pressure (iv) Reputation of the families (v) With the hope that the situation would be better after sometime. Physical violence has very serious effects on the victims and the children also. The instant reaction of the husband or the in-laws is a temporary phase. But, it will have long term impact on the victim. It will cause stress, anxiety, depression, sleep disturbance, palpitations and physical fatigue, chronic headache, psychogenic pain. Besides these, domestic violence will have long term impact on personal and social life of the victim .It spoils the intra family reactions. Mutual trust is lost between wife and husband. The maltreatment given to the mother may affect the children also. As the existing criminal had proven to be inadequate to meet the needs of women, the intelligentsia started advocating for Domestic Violence Act. In India, this category of violence is treated as any other crime, ignoring the fact that it is more a social crime, a violation of human rights, than a mere violation of property or other laws, In India, Domestic Violence comes under the purview of the criminal law- whether it be the Prevention of Dowry Act, or the Criminal Procedure Code, which lays

down procedures for the implementation of the law covering harassment. We have no provision for protection of a complainant, not even under the Prevention of Dowry Act. A woman who has complained of harassment goes back to the very people against whom she has complained. What security can she possibly feel in such a situation, and how can she continue to act on her complaint? She obviously continues to be victimized often paying the ultimate price.⁵

Need to Implement Laws

In 1983, domestic violence was recognised as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman. The main legislative measures at the national level for the children who become a victim of child labor include The Child Labor Prohibition and Regulation Act -1986 and The Factories Act -1948. The first act was categorical in prohibiting the employment of children below fourteen years of age, and identified 57 processes and 13 occupations which were considered dangerous to the health and lives of children. The factories act again prohibits the employment of children less than fourteen years of age. The Government of India passed a Domestic Violence Bill, 2001, "To protect the rights of women who are victims of violence of any kind occurring within the family and to provide for matters connected therewith or incidental thereto". An act called Protection of Women from Domestic Violence Act, 2005 [DVA, 2005] also has been passed". This Act ensures the reporting of cases of domestic violence against women to a 'Protection Officer' who then prepares a Domestic Incident Report to the Magistrate "and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction..." Unfortunately, at present there is no single law in the Indian Constitution which can strictly deal with all the different forms of 'Domestic Violence' as discussed in this essay. There is an urgent need for such a law in the country. In fact, there has also been misuse of section 498-A and DVA, 2005 because of restricted definition of cruelty subjected to married women.

Conclusion and Suggestion

The fact is, therefore, to bring the case within the purview of 'cruelty', Domestic Violence or any other violence against women committed by husband a detailed investigation and analysis of the case must be done. Matrimonial life is for homogeneity and companionship. Aim of marriage is to live together as life partners not as competitors or rivals. Court must understand their responsibility and study the behaviour of both the spouses on the basis of evidence given, pleadings done and the arguments made. Judicial approach must not be blind and one sided because judicial blindness may ruin the life of a innocent. Merely because women allege men, men must not be convicted. Allegations can be baseless or conspired. Domestic Violence Act is for the protection of women, but it must not amount to violation of human rights. Though society is maturing to accept the importance of women in the society doesn't mean it turns its back towards the importance of men. Laws must be regulated and implemented to safeguard the interests of humans without being bias towards any section of the society. What constitutes cruelty varies from case to case and must be scrutinized before finally reaching to the conclusive decision. Sensitize the youth to respect women and fast tract the police and judicial system. Stringent punishment needs to be meted out to send a strong message to violators. Family Counseling Centers should be available in all the regions to address the issues at the initial stages to avoid many fatal cases not only for males but for women as well. If proper intervention is available, the victims of domestic violence can re-think about their stand, gain confidence to fight their issues and will not go for ending their life or ruining the life of other.