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Domestic Violence

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ABSTRACT :

Domestic violence is no longer an unsung term. It is spreading like a virus in different countries on different levels but the condition in India is worth worrying about as the cases of domestic violence and violence against female is on increment the irony of this situation is that in India female as pronounced as “Devi”, is this the way you should treat a goddess. This article deals with the issue and includes its general definition, legal definition, its types and after that what are its causes, constitutional protection for women, and protection against domestic violence under the law and then concludes the whole article.

INTRODUCTION :

We live in a country where women are pronounced as “Devi” which means “goddess” the one who gave birth to us, the one who’s looking towards us. But what do you think do we really treat them as one? No, we are not. we live in a country where there are issues like dowry, male dominance and also living joint family norm that are contributing to the ill-treatment of females in society and domestic violence is one of its main forms. Domestic violence is the violence of some form of abuse including all types of mental, physical, and sexual abuse in a domestic setting like a marriage, or household. And it is a problem at the world level but in India, this condition is worst because of the overlined reasons. Ok! I am not saying that women are the only ones that are being mistreated there are so many other groups of people that are living live worth discussing and have problems worth focusing on like the transgenders even when the law has provided them with the place, they deserve but are they really getting that place in the society? I don’t think so. But that’s not the point of today's discussion. Today in this article, we will be focussing on the issue of domestic violence along with its causes and effects it left behind on the soul.

Domestic violence :

Domestic violence what does this phrase means? domestic which means something connected with home or family. But accompanying the word violence This doesn’t sound good right and not even sound this doesn’t feel good even to pronounce these two words together. As home is something very personal to us, a place where we can be ourselves, we know we’ll be safe over here but violence at that respective place is a matter of major concern.

To define, when we talk about domestic violence it is systematic violence to instil fear or subservience in an individual on a very private level or domestic level like a household, in a marriage etc. Which also included violence by the relatives or family of the spouse for dowry or other issues.¹

¹ <https://www.myadvo.in/blog/domestic-violence-against-women/amp/>

This isn't a very modern problem it persists in society for a very long time especially when talking about Indian society but the Domestic Violence Act came into force in 2005 after so many suicides, deaths, and injuries of don't know how many aggrieved women. This Act focuses primarily on domestic violence itself. The legal definition of domestic violence is also given under this Act under section 3;

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it-

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.-For the purposes of this section,

(i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a woman;

(iii) "verbal and emotional abuse" includes-

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested. (iv) "economic abuse" includes

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, Stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.-For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.²

There are several legislations that deal with the protection of women section 125 of the criminal procedure code provides for the maintenance of a destitute wife, and section 498A of IPC is related to mental cruelty inflicted on a woman by her husband and in-laws. Section 304 B of the IPC deals with cases of dowry deaths. The Dowry Prohibition Act, of 1961 was enacted to deal with cases of dowry demanded by husbands and in-laws. The Hindu Adoption and Maintenance Act, of 1956 provides to grant maintenance to a Hindu wife and now the Domestic Violence Act of 2005 deals with the compensation, protection and right to the shared residence. Both civil and criminal laws have been enacted but the situation is only deteriorating. Moreover, the stats are also not available to compare the situation and the available stats are only those cases where the victim died, commit suicide or is hospitalised after harassment by the family. Abundant cases do not even come out of the four walls because of the ill mentality, norms and social stigmas associated with what people will think. So, you cannot even rely on the stats themselves which means you have to solve the issue which isn't even properly out yet and you don't know in what number the evil persists.

Types of domestic violence :

There are several types of domestic violence physical, sexual, verbal, emotional economic abuse;

Physical abuse-Physical abuse is the most visible form of abuse in a domestic violence case.³ It has been defined in the Domestic Violence Act 2005as it includes any act that causes bodily pain or danger to the life, limb or health or development of the victim.⁴ That means it's the use of physical force against a woman in a way that causes her body hurt or pain. It also includes assault, criminal force, and criminal intimidation.

Sexual abuse-According to the Domestic Violence Act 2005, sexual abuse includes any sexual conduct that abuse, degrades or humiliates or even violates the dignity of the woman.⁵

Verbal and emotional abuse- Verbal abuse includes taunting, abusing, insulting, humiliating, and name calling especially for not having a male child and even in some cases for not having a child.⁶ Verbal abuse further leads to emotional abuse as it can appear in several forms as character assassination, comments on bringing low dowry

Economic abuse- economic abuse comes into account when an aggrieved woman is deprived of using the basic economic resources to which she is entitled by law or by her basic necessities like running the households or growing up the children⁷.

² <https://www.aaptaxlaw.com/dv-act/section-3-domestic-violence-act-definition-of-domestic-violence-sec-3-of-protection-of-women-from-domestic-violence-act-2005.html>

³ <https://ijcrt.org/papers/IJCRT2106195.pdf>

⁴ *Ibid*

⁵ *Ibid*

⁶ *Ibid*

⁷ <https://www.sociologygroup.com/domestic-violence-meaning-causes-types/>

What are the causes of this condition? :

We all can see the worsening of the situation but are we seriously looking at the problem or the root cause of the problem? Are we looking at the roots to abolish this problem in our society? Most of the answer will be a no. because the fact majority of us don't even know about the causes that result in ever-increasing cases of domestic violence and even if some know about the cause they ignore it like it doesn't even exist. There isn't a single cause for this problem and how can there be only one cause for it this major issue that's widespread in every sphere of society whether it's illiterate or literate, employed or unemployed, high class or low class. This termite is eating everything up and we have to take measures to resolve it before it eats up everything.

Let's take a look at the causes first and try reaching a solution for that;

Historical Factors: some factors are inherent in society for a very long time, like a superiority complex in men that's resulting in increasing domestic violence cases men are unable to understand that women can also be equal to them and can also cross their level of success. That's one of the reasons that they start having problems with their female companions and resulting in forcing superiority on them with the use of power and force.

Cultural factors: India is known for its rich culture and some of these cultures are eating it up, cultural factors like having a male child must be if you want your family to sustain in this world. A son will only live with his parents and will continue his family with them while the daughter will leave the home and start her new life with her in-laws and leave her parents behind. That's a thing which creates a big gap between a girl child and a boy child. The obsession to have a male child leads to increasing offences against females.

Sociological and behavioural factor:

when we talk about behavioural factors that are responsible for the increasing cases of domestic violence several different examples come into play like the constant aggression of male member because of work stress and other so-called things that he thinks is legit to vent out on the female of his house as she's the one who's sitting all day long in the house and he himself alone is working hard. Not giving proper credit that a female deserves for the work that she does is yet another cause for creating a difference of status in the same household between husband and wife. Giving all the importance to the monetary work and not giving basic recognition to a women's household work will only worsen the situation as men will no longer respect the women who will decide to not work for monetary benefits and opt for serving the home. Poverty/ economic hardships and controlling behaviours also contribute to domestic violence. Psychological instabilities also contribute a major part to domestic violence like depression, stress, bipolar etc. Neglect of conjugal rights because of extramarital affairs and lack of trust also plays a role in domestic violence.⁸

⁸ <https://www.myadvo.in/blog/domestic-violence-against-women/amp/>

Dowry: wondering why I have separated this socio-cultural problem from all the above-mentioned cases. Isn't it obvious that the evil which we are fighting is basically caused on a large scale because of this virus "The dowry virus" we should call it because of its ongoing spread on a large scale. A man gives everything he has earned in his daughter's marriage and yet some greedy people ask for more and more and their hunger never stops. This concern is recognised by the parliament also because dowry-related domestic violence has been made a separate head in the scope of abuse resulting in domestic violence under the Domestic Violence Act.⁹

Protection of women under the constitution:

Right from the independence itself, India has been trying to improve the position of its women and provide them with the safe environment that they deserve and the constitution mark the landmark for these welfare steps. There are some privileges given to women under the constitution. The preamble of the Indian constitution talks about equality that enables them to take part effectively in the administration of the country. Article 14 to 16 ensures equality before the law for women. There should be equal protection and treatment for women as given to men. Article 15(3) of the Indian constitution states that nothing can prevent the state from making special provisions for women and children. Article 23 prohibits human trafficking for sexual and economical exploitation. Article 39 of the constitution gives direction to the state to make policies towards ensuring that men and women have equal access to appropriate means of livelihood. Article 39(a) requires the state to promote justice based on equal opportunity and to promote free legal assistance by appropriate laws or schemes or in any other means to ensure that no citizen's right to justice is denied due to economic or other disadvantages. Article 39(d) states that there should be equal pay for equal work for both men and women.¹⁰

Protection against domestic violence :

There's no doubt in saying that India has a patriarchal society and women are living in a lower status than men even after so many years of independence.

So many different laws have been passed to protect the dignity of women and protection from crimes against their modesty and the Indian Penal Code, of 1860 has some of the major protection for women. Before the enactment of the Protection of women from domestic violence act 2005, the victim of domestic violence can be claimed under section 498A of the Indian Penal Code.¹¹ Section 304B of IPC deals with dowry death. And now we have a separate statute for dealing with domestic violence i.e Domestic Violence Act,2005.¹²

CONCLUSION :

⁹ <https://www.ijfcm.org/html-article/13600#R104820321776609>

¹⁰ <https://nlrd.org/constitutional-and-legal-provisions-for-women-in-india/>

¹¹ https://lawpage.in/criminal_laws/domestic-violence

¹² <https://www.vidhikarya.com/legal-blog/DOMESTIC-VIOLENCE-IN-INDIA-AND-THE-LEGAL-PROVISIONS>

A society needs to grow in every sphere to be called a developed society but when we talk about the case of women we don't want a developed society as a prime need but we as women urge for a safe society. The whole scenario and depth of this problem can be seen right in this line. It's not that the situation isn't improving the situation has been surely improved but not up to a limit that we can take a relieved breath. Not only women but also men have to take a front step to fight with this evil because women only cannot make a change in the whole scenario even if they start recognizing their rights. Women and men both are the wings of society and a bird cannot fly with a single wing.

