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Authored By: Dr. Kumkum Agarwal, Advocate,  
District & Session Court, AGRA,  
Email Id: [kumkum.bhu@gmail.com](mailto:kumkum.bhu@gmail.com).***



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### **ABSTRACT:**

Violence against women is a global social issue. It reacts not only women’s physical, mental and reproductive health but also their basic rights of dignity. Study shows that violence against women is public health problem that affects approximately one third of women globally. If we talk about *Domestic Violence*, most of women; educated or uneducated are suffered directly or indirectly by their intimate partner and by his relatives. They never plucked up courage to raise their voice, sometimes because of children, social dignity, family pressure, economic dependency & so on.

It is harsh reality that at one side women touches feet of sky and shine their and family name but on other they are suffering lots of violence, discrimination, degradation. They are not enjoying their basic human rights despite of constitutional and legal protection. No doubt, it shows that patriarchal society is still there and they are not ready to accept women at par with men. In fact, it is a barrier not only in women's health and their social upliftment but also in path of women’s empowerment.

Though, India has specifically legislated *Domestic Violence Act, 2005*, to regulate it, still it is in existence. Attitude of society to take it private, lack of awareness, economic dependency, fear of family dignity etc. are somehow considered basic causes for its emergence. Various studies reveal that wife battering is sprouting rapidly in recent time. In 21<sup>st</sup> century where we think of a civilized society, women’s liberty, empowerment, every moment the pace of violence against women is increasing. Now, it’s high time to provide them safe and healthy environment through better law enforcement agency and counseling. In this light, this study sought to evaluate and examine problems of domestic violence in multi-dimensional perspective.

***Keywords: Domestic Violence, Legal Control, Adverse Impact.***

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## **I. INTRODUCTION:**

*There was a case where woman was a Govt. teacher. She was married to an educated & reputed person. Sometimes after marriage, they lived happily and procreated children. But all of sudden, her life was drastically changed when she knew that her husband had extra marital affairs. Her husband started to neglect her and denied to perform any marital obligations. Sometimes, he physically abused her. His parents also supported him. She tried to resolve it within family but her efforts always failed. He continuously abused her both physically and mentally and she suffered it due to sake of family dignity and children. But she never plucked up courage to complaint against her husband and his relative. This is one case which shows that even well qualified woman could not take step for her self- respect. Like her, there are several other women who face domestic violence but never ever raise their voice against it. In this light, Kofi Annan, Secretary-General of the United Nations rightly stated that, “Violence against women is perhaps the most shameful human rights violation, and it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.”*

If we talk about our Indian society where Women are considered as an incarnation of Goddess and worshipped as kali, durga and sarswati but on the other side, they are abused in form of child-marriages, female infanticide, rape, murder, miscarriage, dowry, physical, psychological and sexual abuse at home or outside. Among all, Domestic violence is perhaps one of the worst forms of violence where women are denied their basic and fundamental right i.e., “the right to life” within household which she considers the safest place for herself. Violence against women is partly a result of gender relations that assumes men to be superior to women.

Given subordinate status to women, much of gender violence is considered normal and enjoys social sanction. Manifestations of violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence

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through insults, humiliation, coercion, blackmail, economic or emotional threats, control over speech and actions. Domestic violence is a global issue reaching across national boundaries. It can be understood as a situation supported and reinforced by gender norms and values that place women in a subordinate position. In fact, it is a trauma that adversely affects women, their children and their family. However, due to secrecy of domestic violence, it is often a hidden social problem. Invisibility of this problem is largely attributed to belief that it is a private family matter which should not be known to outsiders. Considering its gravity and severe nature, Domestic violence has been recognized as a criminal offence in *Indian Penal Code (s. 498-A) through Criminal Law (Amendment Act), 1983*. But it was *The Protection of Women from Domestic Violence Act 2005* which was enacted to provide an effective protection to victims of domestic violence.

Despite this Act, violence against females continues to be a great challenge and becomes threat to women’s empowerment and upliftment. Study reveals that 27% women aged 15-49 in India have experienced physical violence since age 15 and 19% have experienced physical violence in the 12 months preceding the survey. Among women who have ever been pregnant, 3% have experienced physical violence during any pregnancy<sup>1</sup>. Although female participation in public and private life is increasing and laws have been amended, India still has a long way to go to make Indian women equal citizens in their own country. In our society, many women are violently treated by their intimate partners while they suffer in silence. In some cases, domestic violence leads to their death. In fact, it is sprouting with modish factors. Only 14 percent of women who have experienced physical or sexual violence have sought help to stop violence, down from 24 percent in NFHS-3<sup>2</sup>. In 2020, between March 25-May 31, 1477 complaints of domestic violence were made by women. These 68

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<sup>1</sup> Government of India, *National Family Health Survey 4*, 561 (Ministry Of Health and Family Affairs, 2015-16).

<sup>2</sup> *Ibid.*

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days period recorded more complaints than those received between March and May in the previous 10 years<sup>3</sup>.

## **II. COMPREHENSIVE MEANING OF DOMESTIC VIOLENCE:**

Violence within home is widespread and affects women throughout lifecycle. Domestic violence refers to any act of violence within house premise. It includes differential treatment of girls, wife beating and abuse, torture of daughter-in-law and neglect of widowed women in family. Mostly, perpetrator is women’s close relative like father, husband and his relatives, sometimes even son<sup>4</sup>.

**Article 2 of the United Nations Declaration on the Elimination of Violence against Women** defined domestic violence as:

*“Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation. Domestic violence is the leading cause of injuries experienced by women.”*

**Sec. 3 of the Protection of Women from Domestic Violence Act, 2005** defines domestic violence in following words-

*“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*

<sup>3</sup> Vignesh Radhakrishnan & Sumant Sen *et.al.*(eds.), *Data | Domestic Violence Complaints at a 10-Year High During COVID-19 lockdown*, The Hindu, June 22, 2020 (March. 10, 2022, 11 AM) <https://www.thehindu.com/data/>.

<sup>4</sup> International Center For Research On Women, *Violence Against Women In India, A Review Of Trends, Patterns And Responses* (UNFPA India, April 2004).

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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.*

Thus, from the above definitions, domestic violence can be said to be a threat of physical, psychological or emotional violence or any type of force against another person with intent of inflicting harm or exercising power and control over them. The perpetrator belongs to victim’s domestic environment i.e., he may be an intimate partner, husband, family member, friend or acquaintance that includes friends or acquaintances of the family who maintain a friendly relation with victim and encounter her in a domestic setting. The term Domestic Environment is meant by closeness of relationship between perpetrator and abused victim irrespective of that victim actually lives in the same household or not.<sup>5</sup>

### **III. MANIFESTATIONS OF DOMESTIC VIOLENCE:**

Domestic Violence is an old age phenomenon. It may be caused in various forms directly or indirectly. Recent statistics by World Health Organization showed that one in every three women is vulnerable to physical and sexual violence. According to United Nation, violence against women may start prior their birth as aborted for being the female sex. The childhood of females is also full of discrimination and violation of human rights as they may be ignored in health and education aspects as compared to a male child and that followed by physical, psychological and sexual abuse by intimate partner when women enter in her marital life and continued in old age as homicide and forced-suicide<sup>6</sup>. Some forms of domestic violence are mentioned below-

- **Physical Violence:** It means any act or conduct which is of such a nature as to cause bodily pain, harm, danger to life, limb, or health or impair health or development of aggrieved person and includes assault, criminal intimidation and criminal force<sup>7</sup>. Some

<sup>5</sup> Elisabeth Nyberg & Anita Riecher-Rössler, *Domestic Violence Against Women: Definitions, Epidemiology, Risk Factors And Consequences*, 2 *The European Journal Of Medical Sciences*, 2 (2010).

<sup>6</sup> Eraj Khurram, *Factors That Contribute To the Violence Against Women: A Study From Karachi, Pakistan*, (unpublished Master thesis, Linnaeus University, Sweden).

<sup>7</sup> The Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India) s. 3, Explanation 1.



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illustrations are; Over burdening with work, Beating, Pushing, kicking, pulling hair, Slapping, Choking, Strangling, Burning, Forced abortion etc<sup>8</sup>.

- **Emotional Violence:** It includes (a) insults, ridicule, humiliation, name calling and insults or ridicule especially 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<sup>9</sup>. It may also be done by Taunting, threatening to end relationship and throw out of the house, threatening to kill and beat up, Humiliating, restricting freedom of choice (Education, Career, Friends, Marriage), Not giving equal opportunities, Indifferent/no communication, Deprivation of sexual relations<sup>10</sup>.
- **Sexual Violence:** It includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman. For e.g., Pressure to go for prostitution, forced sexual relations with other family members, Forced sexual intercourse by spouse etc. Among married women who were victims of sexual violence, over 83% reported their present husband and 9% report a former husband as the perpetrators.
- **Economic Violence:** It includes Demanding dowry, taking away belongings, Not allowing to have control over one’s income (if earning), Not providing sufficient financial resources, Not involving in financial decisions<sup>11</sup>.

#### **IV. FACTORS THAT PERPETUATE DOMESTIC VIOLENCE:**

There isn’t a single factor to account for violence perpetrated against women. Several social and cultural factors responsible to make them vulnerable to violence and all of them are manifestations of historically gender unequal relations. Factors contributing to these unequal power relations include: socio-economic forces, family institution where power relations are enforced, fear of and control over female sexuality, belief in inherent superiority of males, and legislation and cultural sanctions that have traditionally denied women and children an

<sup>8</sup> Sandeep H Shah *et.al*, *Perception and Prevalence of Domestic Violence in the Study Population*, 21 *Industrial Psychiatry Journal* 141(2012).

<sup>9</sup> *Supra* note 7.

<sup>10</sup> SANDEEP, *supra* note 8, at 141-142.

<sup>11</sup> *Id.* at 142.

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independent legal and social status<sup>12</sup>. Some factors responsible to domestic violence are listed below-

<b>CULTURAL</b>	<b>ECONOMIC</b>	<b>LEGAL</b>	<b>POLITICAL</b>
Patriarchal and paternalistic attitude of the society that denies women to have control on any resources.	Women’s economic dependence on men	Lesser legal status of women either by written law and/or by practice	Less representation of women in power, politics, media and in legal and medical professions
The Indian culture upholds the sanctity of family and simultaneously privacy within families. The duty of preserving family honor is vested in women.	Limited access to cash and credit	Discriminatory laws on property ownership, marriage, divorce and child custody <sup>13</sup> .	Problem of Domestic violence not taken seriously
Myth that only son can carry on the family name.	Discriminatory laws regarding inheritance, property rights, use of communal lands, and maintenance after divorce or widowhood	Improperness of Legal definitions of rape and domestic abuse	Notions that family being private, so family matter is beyond control of the State

<sup>12</sup> United Nations Children’s Fund Innocenti Research Centre, *Domestic Violence against Women and Girls*, (Innocenti Digest , June 6, 2000).

<sup>13</sup> World Health Organization, *Respect Women, Preventing Violence Against Women* (Feb.17, 2022, 2 PM), <http://www.who.int/reproductivehealth/publications/violence/en/index.html>.

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Belief in that son is gold and daughter means worry <sup>14</sup> .	Limited access to employment in formal and informal sectors	Low levels of legal literacy among women	Risk of challenge to status quo/religious laws
Harmful gender norms that uphold male privilege and limit women’s autonomy	Limited access to education and training for women	Insensitive treatment of women and girls by police and judiciary	Limited organization of women as a political force
Attitudes condoning or justifying violence as normal or acceptable	Availability of drugs, alcohol and weapons	Absence or lack of enforcement of laws addressing violence against women	Limited participation of women in organized political system
Customs of marriage (bride price/dowry)			

## **V. DOMESTIC VIOLENCE: LEGAL MEASURES AND POLICIES:**

Up till 2005, Indian Law does not recognize domestic violence as an issue in itself. The only specific recognition of domestic violence is the concept of ‘cruelty’ as a ground for Divorce or Judicial Separation under matrimonial proceedings. To some extent, The Indian Penal Code also provides protection to women who might be a victim of offences relating to her sexual identity, physical violence and some forms of emotional abuse i.e., threats of physical violence and demands for dowry falls within the definition of criminal conduct which could be attributed to the offence of domestic violence faced by women within four walls of home<sup>15</sup>. Moreover, India has some of the most extensive laws and large legal machineries to

<sup>14</sup> *supra* note 4, at 13.

<sup>15</sup> S. Anuja, *Rights Of Women Against Domestic Violence-The Law And Emerging Challenges* (2013) (unpublished Ph. D. thesis, School Of Legal Studies, Cochin University Of Science And Technology, Ernakulam, Kerala).

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protect rights of women. The Government of India has adopted a number of approaches to address various dimensions of violence against women. There has been a clear shift from viewing women beneficiaries of development to equal partners in the development process. The State has been forthcoming in implementing legal reforms and designing programmes aimed at the empowerment of women. However, the implementation of the same is rooted in notions of sanctity of the family.

A limited recognition of criminal nature of domestic violence was reflected in Sections 498A and 304B of the Indian Penal Code which were introduced by the Criminal Law (Amendment) Acts of 1983 and 1986 respectively but in fact, it was year 1986 in which Domestic Violence was recognized as a criminal act in form of dowry death after strong advocacy by women’s movement. ***The relevant laws that deal with domestic violence are:***

- The Criminal Law Amendment Act, 1983 enacted Sec. 498A in the Indian Penal Code addressing physical and mental cruelty by husband and his relative. It also includes harassment of woman or her relative to meet unlawful demands for property or other valuables. This new provision for the first time criminalized domestic violence.
- Sec 304B<sup>16</sup>, IPC was introduced in order to strictly deal with and punish the offence of dowry harassment and death.
- The Dowry Prohibition Act, 1961 was amended in 1984 & 1986 whereby any property, article, gifts etc. given by girls’ parents before, at or after marriage was defined as dowry. The punishment for taking and giving dowry was increased and it was made a cognizable and non-bailable offence. The burden of proof shifted on accused and made police investigation obligatory with respect to unnatural death of women<sup>17</sup>.
- Sec. 174, The Criminal Procedure Code was amended by the Criminal Law Act, 1983 providing investigation in cases of suicide committed by women or death occurring in suspicious circumstances within 7 years of her marriage.

<sup>16</sup> The Criminal Law (Amendment) Act, 1986, No.43, Acts of Parliament, 1986 (India).

<sup>17</sup> *Supra* note 4, at 9.

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- Sections 113 & 113B were inserted in the Indian Evidence Act. These provisions lay down that if a woman commits suicide within 7 years of her marriage due to cruelty by her husband or his relatives, the Court may presume that such suicide has been abetted by her husband or his relatives.

***Besides these provisions, there are other laws which somehow highlight cases of domestic violence-***

- The Prohibition of Child Marriage Act, 2006.
- The Commission of Sati Prevention Act, 1987.
- The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.
- The Indecent Representation of Women (Prohibition) Act, 1987.

Despite of several provisions to protect woman from atrocities done by her husband or his relative, there is lack of comprehensive law regarding Domestic Violence. Hence, the then Government introduced *The Protection of Women from Domestic Violence Act* in 2005 with aim to provide protection to women who face violence within a domestic relationship. This Act provides comprehensive definition of domestic violence including all forms of physical, emotional, verbal, sexual, and economic violence. In addition, it recognizes marital rape and harassment in form of unlawful dowry demands as an abuse.

The Act requires appointment of Protection officers to assist victims. Primarily, it's meant to provide protection to wives and females live-in partners. It's also extended to protect women living in a household, such as sisters, widows, or mothers. However, The Act has not attempted to create a new offence with respect to issue of domestic violence but merely provides a palliative treatment to victims of domestic violence and to prevent recurrence of the same. The only instance in which the perpetrator of violence can be punished is when he violates any order of the Court passed under the Act. The intention being clear from this that the Act protects a victim and not punishes the perpetrator<sup>18</sup>.

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<sup>18</sup> ANUJA, *supra* note 15.

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## **VI. DOMESTIC VIOLENCE: ITS ADVERSE EFFECTS:**

There are varied consequences of domestic violence depending on victims, their age group, intensity of violence and frequency of the torment they are subjected to. Domestic Violence not only leaves spot on victim but also deeply affects family, society and Nation's growth and productivity. Babur described harmful effects as: “*Violence against women narrows women's options in almost every sphere of life, public and private at home, in school, in workplace and in more community spaces. It limits their choices directly by destroying their health, disrupting their lives and constricting scope of their activity and indirectly by eroding their self-esteem and self-confidence. In all of these ways, violence hinders women's full participation in society including participation in the full spectrum of development*<sup>19</sup>.”

Evidence suggests that women who are abused by their partners suffer higher levels of depression, anxiety and phobias than non-abused women. Intimate Partner Violence may lead to a host of negative sexual and reproductive health consequences for women, including unwanted pregnancy, abortion and unsafe abortion, sexually transmitted infections including HIV, pregnancy complications, pelvic inflammatory disease, urinary tract infections and sexual dysfunction. Many studies have found an association between IPV against women and negative social and health consequences for children, including anxiety, depression, poor school performance and negative health outcomes<sup>20</sup>.

World Health Organization also reported that women and girls who experienced violence are at risk of poor health. The stress of woman may weaken their immune system and result in high blood pressure and gastrointestinal problems<sup>21</sup>. Thus, it is not only women who suffer but also their children and families. In fact, it barricades in achieving equitable and sustainable development goals jeopardizing their basic human rights.

<sup>19</sup> *Khurram, supra* note 6, at 14.

<sup>20</sup> World Health Organization, *Understanding and Addressing Violence against Women*, Pan America Health Organization.

<sup>21</sup> *Ibid*, at 14-15.

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## **VII. CONCLUSION & SUGGESTIONS:**

Above study reveals that Domestic Violence is a dark reality that leads to devastating and long lasting physical and mental consequences, sometimes leading to death and disability among women. It represents a serious abuse of power within family, trust or dependency relationships. It undermines basic human rights to safety, security and life. It is not a small problem that only occurs in some pockets of society rather is a global issue requiring urgent action. It is time for the world to take action for violence free life that every woman and girl deserves. In fact, Violence against women strongly hinders their full participation in society and maintains an oppressive and coercive pattern of control over them. They are not even considered safe at home as major form of violence called ‘domestic violence’ is very much prevalent in Indian society. A place where you call home, your refuge, is actually where you are most vulnerable. Despite that the Domestic Violence Act has been enacted in India; society still continue to view domestic violence as a private matter. Indeed, it’s a complex social problem that requires cooperation of different parties such as health, education, and law to resolve.

No doubt, Indian Government and Civil Society Organizations have gradually begun to recognize Domestic Violence as a public concern rather than merely a private family matter, it is rampant in Indian homes and is so pervasive that it forms the largest category of crimes against women. It is a complex problem and there isn’t any single strategy that will work in all situations. ***Here, some suggestions are given which together help to curb the problem of domestic violence within the society-***

- Comprehensive and extensive premarital counseling should be given to intending couples on how to manage their marital relationship.
- There should be public enlightenment through mass media on the negative effects of domestic violence against women, especially wife battering.
- Youths should be encouraged and taught to detest and not imitate brutal treatment of wives around them.

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- Medical professionals, after physical treatment should refer victims to counselors and psychotherapists.
- Punishment given to grievously offending husbands should be publicized so that it can serve as deterrence to others.
- Training for gender sensitization should be imparted within family. Since beginning, all the children should be treated equally without any gender-bias.
- Need to change attitude of friends, family members and professional by inculcating positive values – like honesty, simplicity, modesty, sense of responsibility and respect for women.
- Need to strengthen women’s civil rights related to divorce, property, child support and custody by promoting social and economic empowerment through education policy.
- Need to make issue of Domestic Violence a public concern. For this, men and women should join hands together to raise their voice boldly against this social evil including dowry, bride-burning etc.
- Speedy and time-bound justice is needed urgently. Special courts must be set up for cases of violence against women and children.
- Domestic Violence cases should be taken up promptly and completed without delay. Mobile courts can be an effective strategy to identify more and more victims from rural/urban areas
- Efforts should be done for proper and effective enforcement of existing women protection laws.
- All police stations should be equipped with special legal aid cells to provide assistance to victims of domestic violence.
- Need to sensitize Police to treat domestic violence cases as seriously as any other crime along with special training to handle these cases.
- Facilities like short stay homes for women in distress should be provided and emphasis should be laid on vocational training to rehabilitate them.
- Children of affected women should be given special care and attention to enhance their education and social functioning.



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- Need to increase more counseling centers with professionally qualified counselors at the rural/urban areas dealing more on domestic violence issues.
- Gender sensitization and awareness generation programmes on domestic violence should become a part of School and University curriculum.
- According to expert’s opinion alcoholism plays a crucial role in perpetrating violence against women as it has an influence on almost all other attributes. Therefore, efforts must be taken to address alcoholism. In many cases those who involve in violence against women are under influence of alcohol, sale of liquor should be banned within or around residential areas.

All above suggestions together will work to wipe out this curse from society because if women are not safe, Society and Nation can’t progress. The glory of women is depicted by the great saint *Guru Nanak* in the following words, ***“It is from women, the condemned one that we are conceived and it is from her that we are born. It is to woman that we are engaged, and married. It is to woman who is our lifelong friend. And it is she who keeps our race going. It is women through whom we establish our socialites. Then why denounce her from whom even kings and great men are born.”***

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