



Domestic Violence Against Women: The Issue, The Law And The Current Scenario In India

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Domestic violence occurs when a member of the victim's household commits a violent act. This includes current and former spouses, members of your direct family, extended relatives, and close family friends. When there is a close link between the offender and the victim, the phrase "domestic violence" is employed. They typically have a difference in power. The criminal depends on the victim. Abuse that is physical, sexual, or psychological can be categorized as domestic violence.

Domestic Violence against Women

- Any act of gender-based violence against women that causes or is likely to cause them physical, sexual, or emotional injury or suffering, including threats of such actions, coercion, or arbitrary deprivation of liberty, whether in public or private, is known as domestic violence.
- Physical violence includes using physical force against the partner such as slapping, hitting, kicking, and beating.
- Sexual violence, including forced sexual intercourse and other forms of sexual coercion; Emotional (psychological) abuse, such as insults, belittling, constant humiliation, intimidation (ex- destroying things), threats of harm, threats to take away children.
- Controlling behavior, including isolating a person from family and friends; monitoring their movements; and restricting access to financial resources, employment, education, or medical care..Economic violence, such as monitoring a person's access to money and keeping them financially dependent

Cardinals

According to estimates made by the WHO, around one in three (30%) women worldwide have experienced physical and/or sexual intimate relationship abuse or non-partner sexual violence at some point in their lives. Lifetime prevalence of domestic violence against women by husband or intimate partner among ten studies ranged from 20-78%.

According to National Crime Records Bureau of India, a crime against a woman in committed every three minutes. As many as 324,000 women each year experience intimate partner violence during their pregnancy.

History

Over the course of humanitarian conflicts and other disasters, women have been suppressed and cocooned, never being let out of their shells in fear of being too fragile. The fact that women are survivors and have been devalued is something that civilizations and cultures around the world refuse to recognize.

Ancient societies that gradually revoked women's rights until they were denied the ability to speak have a long history of brutality. Women hardly had any legal rights under the ancient Athens legal system. Both the assembly and court proceedings were off-limits to them. Additionally, it is alleged that women in prominent positions were forbidden from displaying themselves or discussing themselves publicly.

Domestic violence in India poses an interesting paradox: in addition to being the most ubiquitous of basic human rights violations, it is also the least reported and discussed. The tightly patriarchal norms and structure of traditional Indian culture, and the sharp distinction between public and private life, have made the question of domestic violence a complex and nuanced one, resulting in a long and tireless struggle for justice against the heinous practice. The pardha system was unknown, but polygamy was popular.

There are several examples of women taking part in feasts and festivals. The account of an instance when the widow of an Indian commander set herself after dressing herself is evidence that the sati system was practiced at the time. According to Giri (1999), Sati was suggested in the DHARMASHASTRAS after 500 A.D. and diffused throughout the nation around 1000 A.D.

Following the Buddha era, women's status actually declined since they were expected to advance their husbands' interests in life. According to Arthashastra, the monarchs isolated their womenfolk. When women of higher families appeared in public, they wore the pardha, and dowry became an institution. In this genuinely medieval era, the status of women had deteriorated to a humiliating degree.

The "woman question" dominated the nineteenth century. What women want was not the topic at hand. Instead, ask "how can they be updated?" The first time that western ideas and values started to affect our society was after the British arrived. The national movement and reform movement increased social awareness among women. Several changes to the legal system occurred throughout the second part of the nineteenth century women's status in Indian society.

Brief Legal History

In India, there are numerous laws against domestic abuse. The Dowry Prohibition Act of 1961 was the first law to criminalize the giving and receiving of dowries. Two new sections, Section 498A and Section 304B, were added to the Indian Penal Code in 1983 and 1986 in an effort to strengthen the 1961 statute. The Protection of Women from Domestic Violence Act (PWDVA) of 2005 is the most recent piece of legislation. Domestic violence is defined by the PWDVA, a civil legislation, to encompass physical, emotional, sexual, verbal, and economic abuse.

Important Cases

Ajay Kumar v. Lata @Sharuti:

The present appeal arose from a judgment of High Court of Punjab and Haryana whereby a petition against the judgment of the Additional Sessions Judge, Panipat was dismissed. An interim order for maintenance to the respondents under the provisions of the Protection of Women from Domestic Violence Act, 2005 was confirmed.

Smt. Haimanti Mal v. State of West Bengal, 2019:

The petitioner submitted a request to the court according to Sections 18, 19, 20, and 22 of the Protection of Women from Domestic Violence Act, 2005. Learned Magistrate rejected the wife's request for financial relief while partially granting the plea on the contest and ordering the opposing party to pay each of the two young children Rs. 4,000/- per month in monetary relief.

Kamlesh Devi v. Jaipal 2019:

After going over the Act's provisions, the learned Judicial Magistrate 1st Class, Narnaul, concluded that none of the witnesses on file had proven a fact to the effect that the respondents and the petitioner shared a home and that the respondents had inflicted domestic abuse upon them. The court below also ruled that no allegations of violence of any type have been made about the shared household's grounds.

Judicial Approach

Jurisprudence and customary law, which traditionally resolved the tension between the roles of husbands as heads of family and their guilt as aggressors in favor of the former, are likely to have a subtle influence on the attitudes of legal actors toward domestic violence. Despite the fact that such laws have long been outlawed, judges nonetheless report challenges and occasionally frustrations in distinguishing family and legal ties from the typical perpetrator-victim relationship. Judges' perspectives on what leads to violence do not all follow the same pattern.

Judges identify economic issues, social class identities, and transient mistakes on the side of offenders as the causes of violence, despite the fact that many judges, like the majority of other practitioners and the public, link domestic violence with substance abuse.

Although some judges place the blame on the victim, the authors of this post have not come across any evidence to back up the myth that most judges hold the victim accountable for their maltreatment. Furthermore, there isn't any dependable proof that judges view the majority of victims as unwilling or uncooperative.

According to research, for the purposes of their own decision-making, the majority of judges define domestic violence as a legal rather than a social issue. However, at the same time, many judges are not optimistic about the impact of legal actions (such as arrest and incarceration) on offenders' behaviour.

Overall, they are more optimistic about social services interventions, particularly counselling, but do not necessarily see that as part of the legal system's responsibility. Despite, being able to state with confidence that judges' perspectives on these issues vary greatly, matters, not a lot of research has looked into the causes of this variation.

Suggestions

A change of attitude is a pre-requisite between men and women to curb the violent practices against women. The long-standing basic social structure in India is the patriarchal structure in which we can see a male-dominated society. There is an uneven distribution of the power ratio which is the main cause of violent attacks.

Domestic violence in our country is still considered an "inter-family affair" and does not allow the intervention of close relatives and strangers and the state. The effective implementation of any legislation must be subject to the certainty of a strong public consensus and acceptance in democratic processes.

The sturdy prison mandate prescribed for officials and stakeholders; the officials and organizations are answerable for the extra powerful implementation of the Act. It is needed to wipe out gender discrimination, the conventional relation of patriarchal society, and male dominance.

Gender perspective training should be made mandatory by the law as it is crucial for changing the mindset of patriarchal society, police, service providers, medical practitioners, protection officers, and especially of magistrates, who often advise women to put up with the violence and refrain from complaining.

Expert counseling must be provided at the pre-litigation stage to the aggrieved person for restoring their self-esteem, providing emotional support, and assisting her in making a decision as to the initiation of legal proceedings.