DOMESTIC VIOLENCE: A SOCIOLOGICAL PERSPECTIVE

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ABSTRACT

Domestic violence may be perpetrated by spouses, lineal ascendants and descendants and the lateral branch of the family up to the four degree whether they are related by blood, marriage, fosterage or adoption, or by intimate partners or legal guardians. The spectrum of domestic violence may include psychological, physical, sexual, financial and emotional abuse which may manifest itself as physical injury, the deprivation of food, money or other resources, intimidation, humiliation and degradation, and may result in pain, exhaustion, isolation, alienation, depression, fear, and decreased levels of self-esteem, productivity and attentiveness. The present paper while examining historical perspective of domestic violence will focus on types, causes and legal aspects of domestic violence. The paper like to conclude that domestic violence against women and children occurs in virtually every corner of the globe and its prevalence does not appear to be decreasing dramatically. As we are in the 21st century, it is the responsibility of civil society and government to protect the rights of their citizens. In India government is trying to enforce the rights of the individual through various acts passed time to time. But increasing rate of crime against women and children shows that still we have not achieved that target.

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Various NGOs are also working for the welfare of women. They have done efforts for the protection of human rights of women and children. But there is need to use an integrative approach to solve the problem which has emerged as a result of domestic violence.

A SOCIOLOGICAL PERSPECTIVE ON DOMESTIC VIOLENCE

Violence is elusive, complex and multidimensional. Violence has been defined as overtly threatened or overtly accomplished application of force which results injury or destruction of person or property or reputation or the illegal appropriation of property. Domestic violence may be perpetrated by spouses, lineal ascendants and descendants and the lateral branch of the family up to the four degree whether they are related by blood, marriage, fosterage or adoption, or by intimate partners or legal guardians. Within the European Union, violence within families, right from the denigration of honour, is considered to be domestic violence and is covered under the general provisions of penal codes even if it not explicitly mentioned therein. Domestic violence is violence with in a home and dictionary meaning of violence is to infringement, to injure, or to abuse. So that which violence occur within four walls. It is called domestic violence appearing as assault, murder or child abuse. The spectrum of domestic violence may include psychological, physical,
sexual, financial and emotional abuse which may manifest itself as physical injury, the deprivation of food, money or other resources, intimidation, humiliation and degradation, and may result in pain, exhaustion, isolation, alienation, depression, fear, and decreased levels of self-esteem, productivity and attentiveness. The law forbids any kind of violence (including seemingly innocuous forms of abuse such as nagging which is, just like any other form of abuse, one of the grounds of divorce in the case of violence which occurs within a marriage). The United Nations Declaration of Human Rights and the constitutional provisions of Indian constitution have recognized the rights of everyone by ensuring equality in the eyes of law and equal treatment of without any kind of discrimination. It gave all rights to the women which are enjoyed by men. It sought to eliminate all forms of discrimination against women on the ground that was in violation of fundamental rights and worked against the human dignity. It also eliminates discrimination on the bases of gender, race, caste etc.

Meaning of Domestic Violence

According to Black’s Law Dictionary, “Domestic Violence means violence between members of a household, usually spouses, and an assault of other violent act committed by are member of a household against another”. Domestic violence is defined in the law as certain
criminal acts committed between persons of opposite sex who live together in the same household or who have lived together in the past; or persons who have a child in common or are expecting a child (regardless of whether they have resided in the same household); or persons related to one another in the following ways: spouse, child, grandparent, former spouse, brother, grandchild, parent, sister. Domestic Violence refers to a range of violent and abusive behaviour. Patterns of behaviour characterized by the misuse of power and control by one person over another who are or have been in an intimate relationship. It can occur in mixed gender relationship and has profound consequences for the lives of children, individuals, families and communities. It may be physical, sexual, emotional and or psychological. The later may include intimidation, harassment, and damage to property, threats and financial abuse. Physical includes harms or injuries 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.

In 1983, domestic violence was recognized as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code. The section deals with cruelty by a husband or his family towards a married woman. Four types of cruelty are dealt with by this law: conduct
that is likely to drive a woman to suicide, conduct which is likely to cause grave injury to the life, limb or health of the woman, harassment with the purpose of forcing the woman or her relatives to give some property, or harassment because the woman or her relatives is unable to yield to demands for more money or does not give some property. The punishment is imprisonment for up to three years and a fine. The complaint against cruelty need not be lodged by the person herself. Any relative may also make the complaint on her behalf. As per the Protection from Domestic Violence Bill, 2002, any conduct of the respondent shall constitute Domestic violence if he,—

(a) Habitually assaults or makes the life of the aggrieved person miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment; or (b) Forces the aggrieved person to lead an immoral life; or (c) Otherwise injures or harms the aggrieved person. Nothing contained in clause (c) of sub-section (1) shall amount to Domestic violence if the pursuit of course of conduct by the respondent was reasonable for own protection or for the protection of his or another’s property.
Historical Background

Wife abuse has a long history as a deep-seated social phenomenon. Several historians have documented the informal and formal sanctions by society that have encouraged wife battering. A husband was permitted to discipline his wife physically without prosecution. As a few Scottish Sociologists observed about both the United States and Great Britain: “Prior to the late 19th century, it was considered a necessary aspect of a husband’s marital obligation to control and chastise his wife through the use of physical force” (Shupe, 1987). This view can be traced as far back as the Roman Empire and medieval times in “Laws of Chastisement” found in many countries as well as in selected passages of Old and New testaments in the Bible endorsing male authority over women. For many centuries, during the Dark and middle Ages as well as the Renaissance, women were routinely subjected to physical punishment that accompanied their accepted inferior status and justified by the so called “Laws of Chastisement”. These went unquestioned and such violence was simply taken for granted as a part of the divinely ordained order of things.

Attitudes that condoned wife beating entered into the mainstream American culture via the English Law. The infamous rule of the thumb
which permitted a husband legally to beat his wife with a rod not thicker than his thumb was a formal section of British Law. Ironically, it was intended as an example of compassionate reform to limit how harshly men abused their mates. Thus, man’s right to use violence in managing their homes became an accepted pattern. It was only in the 20th century, that the law finally considered wife abuse to be a criminal offence. It was not until the women’s liberation movement in the 1970s that identified and responded to wife abuse recognizing it as a “social problem”. Prior to this time, its existence was overlooked and even denied, although it continued to exist.

Various historical circumstances led several social scientists to explain that man abused women basically because they are permitted and encouraged to do so. In Indian society, due to patriarchy, the relations between husband and wife are asymmetrical that is mainly the cause of domestic violence. The term domestic violence was popularized by feminists in 1970’s, some of whom established for battered women, and who argued that domestic violence is a reflection of gender inequalities in power and of women’s oppression (Scott & Marshal, 1994). Goode in his theory ‘A resource theory of family violence’ argues that violence is a resource which can be used to achieve desired end. Domestic violence is a maltreatment of one family member by another. Each year it is
estimated that six million men and women are the victims of severe physical attacks by family members and that nearly one quarter of the homicides in the United States are the result of intra family violence.

The police have been reluctant to intervene in the incidents involving in Domestic violence. Domestic violence was considered just as a family issue before making it offence. Now, it has been mentioned an offence in Indian Constitution under Domestic Violence Act in 2006 (Bare Act, 2007). Domestic violence does not only mean harassment or cruelty at the hands of the husband or the in-laws-it includes offences like incest, mutilation of private organs, rape, abortion of female foetus molestation, unnatural sex, assault or battering and the like rape is not merely a physical assault. It is often destructive of the whole personality of the victim. A murder destroys the physical body of his victim, a rapist degrades the vary soul of the helpless female. Wife assaults accounts for about 25 per cent of violent crimes in the U.S., while one in seven wives in the U.K. has been raped by all forms of intra family violence i.e. children parents, siblings and spouse abuse but documentary evidence indicates that wife beating is most common type of family violence.

However, this is only one side of the coin, not only the females; the extent of Domestic violence has covered males, children and parents also. Violence used researches range from any use of force in the family
setting, including siblings as well as special homicide, through, assaults on wives only. Majority of non-feminist and researches approach various forms of Domestic violence includes wife-husband assaults and elders abuse but its source in a family history of abuse, behavioral problems such as alcoholism, personality deficits or psychopathology. Although women commit only about one third of as many assaults against men as men against women, yet the number of cross-sex homicides committed by the two groups are nearly identical. The domestic violence can be studied under different aspects: Domestic violence against children; Domestic violence against married women; Domestic violence against elders; Domestic violence against men and Domestic violence in same-sex relationships.

In India, Female Infanticide has been in practice for last many centuries. Infanticide is motivated by the necessity of getting rid of an illegitimate child as well as unwelcome off springs that the parents cannot afford. Infanticide means murder of an infant or a newly born baby. Infanticide as such has not been defined in the IPC. But since it amounts to the killing of a living person, the sections dealing with murder under the penal code is applicable to the offence of infanticide. Those who kill infants or newly born babies cannot claim the benefit of the right of private defense. Similarly, within families despite incest taboos there is
practice of incest. Studies too have confirmed the growing menace of incestuous behavior in India. Incest is defined as sexual intercourse between close relative with in prohibited degree of relationship. In broader sense, it also includes real or artificial relationship which though not of blood is culturally sanctioned such as Godparents, Stepparents or Rakhi sisters. It is very unfortunate that cases of Child rape have been increasing over the years. In 1991, 3,720 cases of child rape were registered with the police, this figure jumped to 4067 in 1995. In the year 2012, 7112 cases of Child rape were reported. Murthy et al (2004) is of the view that numbers of family members, type of marriage and husband’s education besides menstrual problems have significant influence on domestic violence. Many researchers (Leonard, 1992; Rao, 1997 and Bhatt, 1998) show with their findings that lifestyle of men such as smoking, alcoholism and drugs promote men to commit domestic violence. Duvvury and Nayak, (2003) and Hamberger, et al. (1997) are of the view that masculinity and domestic violence are closely interlinked. Barnett and Hamberger (1992) found that persons with lower socialization and responsibility are found to be the enhancers of the problem. Straus et al (1980) and Martin et al (2002) found that sons of violent parents are more likely to abuse their intimate partners.
Sahu (2003) reported that gendered socialization process is mainly responsible for domestic violence. In a study among men in Uttar Pradesh, Gerstein (2000) found low educational level and poverty as important reasons for domestic violence. On the other hand, Mishra (2000), Hindin (2002) and Rao (1997) reported that marriage at younger age makes women more vulnerable to domestic violence. In addition to this sex of children, inter spousal relationship, ownership of property, dowry, working status, autonomy, religion, and caste of the person also become causal factors for domestic violence.

**Violence against married women**

We are in the fourteenth year of the new millennium, but the status of women has not improved much, and domestic violence is continuing in one or other form. It can be seen in form of wife battering, marital rape, abetment to suicide, dowry related harassment, bride burning, cruelty, adultery, etc. Wife Battering is a universal phenomenon existing through ages but shrouded in secrecy, guilt and shame on the part of the victims. It is only in the last decade that wife battering has been recognized as a social problem. Dowry deaths are an over simplification of a far more complex social phenomenon of power relationship with in the family. Most of these women are economically deprived. The violence ranges
from slap and kicks to breaking and fracturing bones, family conflict, and stress; cultural norms and sexual inequality contribute to wife beating. Marriages are made and broken for such items as cars, scooters, T.V.s, refrigerators, and washing machines. A boy who does not get any of these forces brides to bring these things that may give rise to the bride being harassed, sent to her parents place, or even burnt to death. Administering electronic-shocks, nagging, branding and battering have also been reported as method employed to future the bride. The methods adopted by brides for commission of suicide were reported as burning, hanging or taking poison. In a majority of deaths due to burn injuries the use of kerosene has been reported either for commission of suicide or murder of the bride by in laws. Persons participating in dowry related violence against the bride are found to be mostly husband, mother in laws and siblings of husband. Most of the dowry related crimes and harassment are well planned and executed within closed doors of a house by a group of members of family. There is growing acknowledgment of the extent of marital rape as more able to report and discuses its occurrence. Researches still find however, the most women are not able to address sexual abuse in their marriage because of the deep shame they experience. Heise’s report on rape (1993) includes the following empirical data. In the United States, whereas 14
per cent of all wives report being raped, the prevalence among battered, wives is at least 40 per cent in severally abusive relationship, forcible rape may occur as often as several times a month. There are numerous instances when women are driven to commit suicide due to Domestic violence. In such cases perpetrator is responsible for death. Section 306 of IPC deals with cases of abetment to Suicide provides that if any person commits suicide, who ever, abets the commission of such suicide, shall be punished with imprison and shall also be liable to five years imprisonment. If a married man has a sexual relationship with another married woman, his act amounts to Domestic violence against his legally married wife. In legal term it is called adultery which is an offence.

In domestic violence, even elder women are not spared. It encompasses abuse and neglect by children by siblings and also mental and physical assault by their male partners. Violence against females of older generation is not of the same kind as that is perpetrated on women of younger age. The family and community of large older women get isolated privately as well as publically. Both national and international studies have shown that more women than men complain of maltreatment whether physical or verbal. The fact that the whole issue of elder abuse was first discussed or “granny bashing” speaks volumes about the gender element in this type of abuse. Dependency of women,
high level of illiteracy, lack of remunerative occupation and negligible awareness about legal and economic rights create difficulties for older women.

Domestic violence against women is an endemic crime in characteristically patriarchal Indian households. Most Indian women in violent marriages stay out of fear of reprisals or ostracism by society at large. Of the 155,553 crimes committed against women registered by India's National Crime Records Bureau (NCRB) in 2005, 68,810 were domestic-violence cases. The Bureau registers a case of cruelty by husbands and relatives every nine minutes, and there is one dowry-death case every 77 minutes. In 2005, a UN Population Fund Report found that 70 percent of married women in India between ages 15 and 49 were victims of beating, rape, or forced sex. A woman subject to domestic violence is generally afraid to seek remedies to end the violence - in law or otherwise - for fear of being evicted from her household or being denied access to funds necessary to maintain herself and her children. Despite the useful provisions, challenges remain in the laws’ implementation. Activists have expressed concern that India's police force and the general public are not well-informed enough to tap the law's provisions. In widely publicized past cases, the police have ignored reports of domestic abuse. The approach has changed and now, 'the
human right to a private and family life’ is of special importance, but cannot be tolerated to condone private conduct within families in which one partner enforces dominance by violence over the other. The key human rights principle is that violence deliberately directed against any other person is never a purely private matter. Victim of domestic violence who is denied any help essentially denies her equality before the law and reinforces her subordinate social status. Men use domestic violence to diminish women’s autonomy and sense of self-worth. States that fail to prevent and prosecute domestic violence treat women as second-class citizens and send a clear message that the violence against them is of no concern to the broader society.

**Specific provisions of law dealing with domestic violence**

In 1983, domestic violence was recognized 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. Four types of cruelty are dealt with by this law: conduct that is likely to drive a woman to suicide, conduct which is likely to cause grave injury to the life, limb or health of the woman, harassment with the purpose of forcing the woman or her relatives to give some property, or harassment because the woman or her relatives is unable to yield to
demands for more money or does not give some property. The punishment is imprisonment for up to three years and a fine. The complaint against cruelty need not be lodged by the person herself. Any relative may also make the complaint on her behalf.

Different forms of "cruelty" recognized by the Courts are persistent denial of food, insisting on perverse sexual conduct, Constantly locking a woman out of the house, Denying the woman access to children, thereby causing mental torture, Physical violence, Taunting, demoralizing and putting down the woman with the intention of causing mental torture, Confining the woman at home and not allowing her normal social intercourse, Abusing children in their mother's presence with the intention of causing her mental torture, Denying the paternity of the children with the intention of inflicting mental pain upon the mother, and Threatening divorce unless dowry is given. Section 498-A of the Indian Penal Code covers dowry-related harassment. As with other provisions of criminal law, a woman can use the threat of going to court to deter this kind of harassment. The Indian Penal Code also addresses dowry deaths in section 304-B. If a woman dies of "unnatural causes" within seven years of marriage and has been harassed for dowry before her death, the Courts will assume that it is a case of dowry death. The husband or in-laws will then have to prove that their harassment was not the cause of
her death. A dowry death is punishable by imprisonment of at least seven years. When filing an FIR (First Hand Report), in a case where a woman is suspected to have been murdered after a history of torture due to dowry demands, the complaint should be filed under section 304-B rather than under section 306, which deal with abetment to suicide. Section 306 should be invoked when a woman commits suicide because of dowry-related harassment.

Section 406 prescribes imprisonment of upto three years for criminal breach of trust. This provision of IPC is supposed to be invoked by women to file cases against their husbands and in-laws for retrieval of their dowry. Furthermore, another Section 304B was added to the IPC to deal with yet another new category of crime called “dowry death”. This section states that if the death of a woman is caused by burns or bodily injury, or occurs under abnormal circumstances, within seven years of her marriage and it is shown that just prior to her death she was subjected to cruelty by her husband or any relative of her husband, in connection with any demand for dowry, such a death would be called a “dowry death”, and the husband or relative would be deemed to have caused her death. The person held guilty of a "dowry death" shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life. By inserting a new section
113B in the Indian Evidence Act, the lawmakers stipulated that in cases that get registered by the police as those of “dowry death”, the court shall presume that the accused is guilty unless he can prove otherwise.

Demand for Stringent Laws

As a result of determined campaigning and lobbying by women’s organizations, significant amendments were made to the Indian Penal Code, the Indian Evidence Act and the Dowry Prohibition Act, with the intention of protecting wives from marital violence, abuse and extortionist dowry demands. The most notable ones are sections 304B, 406 and 498A of the Indian Penal Code, and Section 113 A of the Indian Evidence Act. However, the actual implementation of these laws has left a bitter trail of disappointment, anger and resentment in its wake, among the affected families. On the one hand, many victims of domestic violence, as well as many women’s organizations feel that despite the existence of supposedly stringent laws, that enshrine the dual objective of helping the woman gain control over her stridhan and punishing abusive husbands and in-laws, in reality most victims fail to receive necessary relief. This is due to the unsympathetic attitude of the police, magnified by their propensity to protect the wrong doers, once they are adequately bribed.
The truth is that there were adequate provisions in the IPC Sections 323, 324, 325 and 326 for use against anyone who assaults a woman or causes her injury. But the police would in most cases not register a complaint against a husband under these sections, even where there was clear evidence that the wife’s life was in grave danger. This was partly because, as habitual users of violence, policemen, more than any other section of our population, find it easy to condone beatings and even murder of wives by husbands. No new principles of accountability were added to the Police Act. The only new innovation we witnessed was that special Crimes against Women Cells were created in select police stations to handle women’s complaints. And, in some places, Family Courts were put into operation. However, since the new police cells for women are run by the same police personnel, barring a few exceptional officers, the rest have had no compunction in making a mockery of the new laws by systematic under use or abuse — depending upon which offers better money-making opportunities. However, it is important to mention that some change is visible in the attitude of both sexes and the society with the setting up of all women police stations. Such a step has not only brought a change in the mind-set of people but is also giving confidence to victims to seek help. It is strongly recommended that there should be increase in the number of all women police stations.
Protection of Women from Domestic Violence Act, 2005

Now that the Protection of Women from Domestic violence Act, 2005 has come into effect, women bruised and batter physically and emotionally by their in-laws will have a protective shield at their command. Their number may run into lakhs, if not crores. According to the national Crime Record Bureau, 2005, 40 per cent of Indian women are victims of domestic violence. A crime is committed against, a woman in India every three minutes. The men who act so boorishly now face imprisonment up to one year or a fine of Rs. 20,000 or both. So far, a women could only use section 398 A of the IPC to file a complaint as against an abusive spouse. But the law was not comprehensive enough to enforce her right to stay on in her matrimonial home or to demand and maintains if throughout or seek protection from the abusive partner. That sense of helplessness is now set to change under the new Act.

It is not only physical or sexual abuse which constitutes domestic violence but also ‘verbal and emotional abuse” that includes “insults, ridicule, humiliation, name calling and insults ridicule, especially with regard to not having child or a male child”. Indeed, such barbed comments have ruined the lives of many a woman, but at the same time there is need to be wary of the tendency of some to fly off the handle at
the slightest provocation. Chapter V of the Violence Act specifically mentions that “upon the sole testimony of the, aggrieved person, the court may conclude that an offence..., has been committed by the accused”. Double-edged sword can be dangerous in the hand of pseudo-aggrieved persons out to teach their in laws a lesson in a fit or rage. Another notable feature of the Act is that under it, an “aggrieved person is not only the wife, but any women who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. The following table gives the status of cases filed by victims under Domestic Violence Act, 2005.

**Table: All India figure for Status of Cases under Domestic Violence Act, 2005**

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Registered</th>
<th>Cases charge-sheeted</th>
<th>Cases convicted</th>
<th>Persons arrested</th>
<th>Persons charge-sheeted</th>
<th>Persons convicted</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>7803</td>
<td>1641</td>
<td>236</td>
<td>641</td>
<td>695</td>
<td>9</td>
</tr>
<tr>
<td>2010</td>
<td>11718</td>
<td>4330</td>
<td>415</td>
<td>182</td>
<td>323</td>
<td>5</td>
</tr>
<tr>
<td>2011</td>
<td>9431</td>
<td>4499</td>
<td>17</td>
<td>695</td>
<td>713</td>
<td>3</td>
</tr>
</tbody>
</table>

Source: MHA,Lok Sabha Unstarred Question No. 283, 26th February, 2013
Conclusion:

From the above discussion, it can be inferred that human rights of women and their maintenance is desired for having an integrated society. Man in his endeavour to sustain group life has enumerated rights to freedom and speech, liberty and equality. But it is an unfortunate legacy of the patriarchal structures upon which human rights law has been built, that issues pertaining primarily to women, such as domestic violence, continue to struggle for recognition within global human rights bodies and agendas. However, developments over the last few decades have provided women with the basic mechanisms through which their rights under various international instruments might be enforced. Much, however, remains to be done. In spite of this there is continuous violation of these human rights even in the safest assumed place that is “Home”. It will be wrong to say only women are the victims of domestic violence there are some other categories that face the same problem, they are older person, children and even men also. Further the causes of domestic violence vary from society to society and person to person. These may be power imbalance, economic problems, awareness among the women which challenge the patriarchal structure or it may be due to drug and alcohol use. Although these causes are different from each other but shear a common affects that is exploitation of women, children etc. Domestic
violence against women and children occurs in virtually in every corner of the globe and its prevalence does not appear to be decreasing dramatically. The experience of violence undermines the empowerment of women and certainly is a barrier to the socio-economic and demographic development of the country. As we are in the 21st century, it is the responsibility of civil society and government to protect the rights of their citizens. In India government is trying to enforce the rights of the individual through various acts passed time to time as discussed above. But increasing rate of crime against women and children shows that still we have not achieved that target. Indian government has already formed various departments, commission for the protection of human rights of women and children. Various NGOs are also working for the welfare of women. They have done efforts for the protection of human rights of women and children. In view of the prevalence of the problem, it is suggested to have programs that take into account involvement of the community and especially the males for effective as well as fruitful amelioration of the issue. It can be suggested that education of the girls should be encouraged, which will undoubtedly work as deterrent to domestic violence. Again, though the present findings are silent about the legal side of the issue, stringent laws against the perpetrators of the violence, laws giving more rights to the women will always be beneficial
to curb the issue. In order to address the problem, social norms and values towards gender roles should be transformed to facilitate the implementation of appropriate and meaningful responses to domestic violence and ultimately to prevent it from happening altogether. However, there is need to use an integrative approach to solve the problem which has emerged as a result of domestic violence.

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