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A CRITICAL ANALYSIS OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005 (WITH SPECIAL REFERENCE TO REWA DISTRICT)

ABSTRACT

Domestic violence is one of the most serious violations of women's human rights in India. It affects women irrespective of age, religion, caste, education, or economic status. Domestic violence includes physical, sexual, emotional, verbal, and economic abuse committed by family members, particularly husbands or intimate partners. Such violence not only causes physical injuries but also affects the mental health, dignity, and overall well-being of women. The Protection of Women from Domestic Violence Act, 2005 was enacted to provide immediate and effective remedies to victims. This research paper examines the concept, causes, forms, and consequences of domestic violence and evaluates the effectiveness of legal mechanisms available in India. The study concludes that although legal protection exists, social stigma, lack of awareness, economic dependence, and weak implementation continue to hinder justice for victims.³

Key words- Domestic violence act 2005, articles, constitution, abuse Women rights, Gender equality, women protection.

INTRODUCTION

Domestic violence is a widespread social problem that affects millions of women worldwide. In India, violence within the family has traditionally been treated as a private matter, resulting in underreporting and lack of intervention. Domestic violence is not limited to physical assault; it also includes emotional abuse, verbal harassment, sexual exploitation, and economic deprivation.

Women are often subjected to violence by husbands, in-laws, or other family members due to factors such as patriarchal attitudes, dowry demands, financial stress, alcoholism, and gender discrimination. Domestic violence violates fundamental human rights and undermines women's dignity and equality. The enactment of the Protection of Women from Domestic Violence Act,

2005 marked a significant step towards providing civil remedies and protection to women facing abuse. However, despite legal safeguards, domestic violence remains a major challenge due to social, cultural, and economic factors.¹

OBJECTIVES OF THE STUDY

The objectives of this research paper are:

1. To understand the concept and meaning of domestic violence.
2. To explain various forms of domestic violence.
3. To identify the major causes of domestic violence.
4. To analysis the impact o domestic violence on women.
5. To study the legal framework relating to domestic violence in India.
6. To evaluate the effectiveness of existing laws.

7. To suggest measures for preventing domestic violence.

HYPOTHESES OF THE STUDY

H1. Domestic violence is a serious violation of women's human rights and dignity.

H2. Domestic violence exists in various forms, including physical, sexual, emotional, verbal, and economic abuse.

H3. Patriarchal social structures, economic dependency, lack of education, and social customs are the major causes of domestic violence in India. Domestic violence is a serious violation of women's human.

H4. Domestic violence has significant adverse effects on women's physical health, mental well-being, social status, and overall development, thereby affecting society.

H5. Although the Protection of Women from Domestic Violence Act, 2005 provides legal safeguards for women, its effectiveness is limited due to implementation challenges, lack of awareness, and social barriers.

RESEARCH METHODOLOGY

The present research is based on the doctrinal method of legal research. This method primarily involves the analysis and interpretation of existing legal principles, statutes, judicial decisions, and scholarly writings relating to domestic violence and the protection of women in India. The study is descriptive and analytical in nature, aiming to examine the legal framework governing domestic violence and evaluate its effectiveness in addressing crimes against women.²

The research relies mainly on secondary sources of data. These sources include books, legal commentaries, research articles, law journals, government reports, committee reports, statutes, case laws, and online legal databases. Special emphasis has been placed on the study

of the Protection of Women from Domestic Violence Act, 2005, along with other relevant legal provisions under Indian law.

MEANING AND CONCEPT OF DOMESTIC VIOLENCE

Domestic violence refers to any form of abuse occurring within a domestic relationship. It includes acts that harm the physical, mental, emotional, sexual, or economic well-being of a woman.

According to the Protection of Women from Domestic Violence Act, 2005, domestic violence includes physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse.

Domestic violence is not merely an individual issue, but a social problem rooted in unequal power relations between men and women. It reflects the patriarchal structure of society where women are often considered subordinate to men.

Domestic violence affects not only the victims but also children, families, and society as a whole. It results in physical injuries, mental trauma, loss of self-esteem, economic hardship, and social isolation. Therefore, addressing domestic violence requires legal protection, social awareness, education, and effective implementation of laws.

In modern society, domestic violence is recognized as a violation of fundamental human rights and an obstacle to gender equality, social justice, and human development.

TYPES OF DOMESTIC VIOLENCE

1. Physical Abuse- physical abuse refers to any act that causes bodily pain, injury, danger to life, limb, or health. It is the most visible form of domestic violence. Physical abuse involves bodily harm or injury inflicted upon a woman.

- Hitting, slapping, punching, kicking, or beating.
- Pushing, choking, or burning.
- Using weapons to threaten or injure.
- Unlawful confinement or physical restraint.

Physical abuse can result in serious injuries, disability, and even death. It violates a woman's fundamental right to live with dignity and security.

2. Sexual Abuse Sexual Abuse includes any sexual act performed without the free and informed consent of the woman. It violates her bodily autonomy and dignity.

Examples

- Marital rape
- Sexual humiliation
- Forced pornography

Sexual violence affects both physical and psychological health. Sexual abuse can cause severe physical injuries, emotional trauma, and long-term psychological consequences.

3. Emotional and Psychological Abuse- Psychological abuse damages a woman's mental well-being and self-esteem. This form of abuse is often difficult to identify because it leaves no visible scars.

Example

- Constant criticism and humiliation.
- Insulting or degrading remarks.
- Threats of divorce, abandonment, or remarriage.
- Isolating the victim from family and friends.
- Intimidation and controlling behavior.

4. Verbal abuse

Verbal abuse consists of using words to insult, threaten, or demean the victim. Though often overlooked, it can have serious emotional effects.

Example

- Name-calling and abusing language.
- Insults regarding appearance, character, or abilities.
- Repeated accusation, and threats.
- Humiliating the victim in front of others.

Repeated verbal abuse can have long-term psychological consequences. Continuous verbal abuse creates a climate of fear within the household.

5. Economic Abuse

Economic abuse occurs when a woman is deprived of financial resources, making her economically dependent.

Example

- Denying money for basic necessities.
- Preventing employment or education
- Taking away earnings or property.
- Refusing to maintenance or financial support
- Disposing of a woman's assets without consent.

Economic dependence Often prevents women from leaving abusive relationship.⁴

CAUSES OF DOMESTIC VIOLENCE

1. Patriarchal Social Structure-

one of the primary causes of domestic violence is the patriarchal nature of society. Indian society has traditionally been patriarchal, granting men authority over women. Such attitudes often justify violence as a means of control.

2. Dowry Demands-Dowry-related disputes continue to be a major cause of domestic violence. Despite legal prohibitions, the practice of dowry continues in many parts of India. Demands for additional dowry after marriage often lead to harassment, cruelty, and violence against women.

3. Alcoholism and Substance Abuse-Consumption of alcohol and drugs frequently contribute to aggressive behavior and violence. Substance abuse impairs judgment, increases aggression, and reduces self-control

4. Economic Stress-Financial difficulties often create tension within families, leading to violence. Financial dependence on husband or family members can increase a woman's vulnerability to domestic violence. Women who lack independent income often find it difficult to leave abusive relationship.

5. Lack of Education-Illiteracy and lack of awareness about rights increase women's vulnerability. Individuals with limited education may be more likely to accept traditional gender roles and discriminatory practices.

6. Gender Inequality-significantly to domestic violence gender inequality remains a significant factor contributing to domestic violence . women frequently face discrimination in education, employment, property right and decision-making within the family.⁴

IMPACT OF DOMESTIC VIOLENCE

1. Physical Impact-Victims may suffer:

- a) Fractures
- b) Bruises
- c) Internal injuries
- d) Permanent disabilities

2. Psychological Impact- Domestic violence can cause:

Psychological impact refers to the emotional, mental, and behavioral effects that an event, experience, or situation has on an individual's psychological well-being, self-esteem, and ability to cope with daily life.

3. Social Impact-Victims often face social isolation and discrimination.

4. Economic Impact-Violence affects women's ability to work and achieve financial independence.

5. Impact on Children-Children who witness domestic violence may develop emotional and behavioral problems and are likely to perpetuate violence in adulthood.

6. impact of health- continuous abuse can lead to serious health consequences, including sleep disorders, Eating disorders, Stress disorders, Substance abuse and other health complications.

7. Violation of Human Rights- Domestic violence undermines the Fundamental rights wo women, including. The right to life and dignity, The Right to equality, the right to personal liberty and security, the right to live free from violence and discrimination.²

LANDMARK JUDGMENTS

1.V.D. Bhanot v. Savita Bhanot AIR (2012) SC 965

The Supreme Court held that the Domestic Violence Act can apply even to acts committed before the enactment of the Act if the effects continue after its commencement.

Significance

This judgement court held that even if the acts of domestic violence took place before the enactment of the act ,the aggrieved woman could seek relief under the act if the effects of such violence continued after the act came into force.

2.Indra Sarma v. V.K.V. Sarma AIR (2013)15 SCC 755

The Court clarified the concept of relationships in the nature of marriage and extended protection to women in certain live-in relationships.

Significance

The judgement recognized and protected the right of women in relationship resembling married and provide legal clarity regarding live-in-relationship.

3.Hiral P. Harsora v. Kusum Narottamdas Harsora AIR(2016) 10 SCC 165

The Court expanded the scope of the Act by allowing complaints against female relatives as respondents.⁴

Significance

This expanded the scope of the act by allowing complaints against any person in a domestic relationship, including female relatives, thereby strengthening the protection of women and ensuring equality under of women and ensuing under Article 14 of the constitution of India.⁴

LEGAL FRAMEWORK IN INDIA CONSTITUTIONAL PROVISIONS

Article 14- Right to Equality-

Article 14 guarantees equality before the law and equal protection of the laws to all persons. It ensures that women enjoy the same legal rights and protections as men.

Domestic violence violates the principle of equality because it subjects women to discrimination and unequal treatment within the family.

Article 15 - Prohibition of Discrimination--

Article 15 prohibits discrimination on the grounds of sex, religion, race, caste, or place of birth. Article 15(3) further empowers the State to make special provisions for women and children. Laws protecting women from domestic violence are enacted under this constitutional mandate.

Article 21 - Right to Life and Personal Liberty--

Article 21 guarantees every person the right to life and personal liberty. The Supreme Court has interpreted this right broadly to include the right to live with dignity, safety, privacy, and freedom from violence. Domestic violence directly infringes upon these rights.

IMPORTANT RELIEFS AVAILABLE

1. Protection Orders-Courts

may prohibit the respondent from committing or aiding domestic violence.

2. Residence Orders-A woman cannot be unlawfully evicted from the shared household.

3. Monetary Relief-Compensation may be awarded for expenses, loss of earnings, and maintenance.

4. Custody Orders-Temporary custody of children may be granted to the aggrieved woman.⁵

5. Compensation Orders--

Compensation may be awarded for mental torture and emotional distress.

Other relevant Laws

1. Bharatiya Nyaya Sanhita, 2023-

Although the PWDVA provides civil remedies relating to cruelty and violence against women are addressed under the Bhartiya Nyaya Sanhita, 2023.

2. Dowry Prohibition Act, 1961-

The Dowry Prohibition Act, 1961 prohibits the giving, taking, or demanding of dowry. Since dowry demands are a major cause of domestic violence, this act plays an important role in protecting married women.

3. Hindu Marriage Act, 1955- Although the protection of women from Domestic violence act 2005 is the primary legislation dealing specifically with domestic violence, the **Hindu marriage act, 1955** also plays a significant role in protecting women who suffer cruelty within marriage.

4. Bhartiya Nagarik Suraksha Sanhita, 2023—The Bharatiya Nagarik Suraksha Sanhita, 2023 provides procedural safeguards for victims. The **BNSS** ensure that women facing domestic violence have access to the criminal justice system.¹

FINDINGS

1. Domestic violence remains highly prevalent in India.
2. Many incidents go unreported due to fear and social pressure.
3. Economic dependence is a major factor preventing women from seeking justice.
4. Awareness regarding legal rights remains inadequate.

5. Implementation of protective laws is often ineffective.

6. Social stigma discourages victims from reporting abuse.⁴

CONCLUSION

Domestic violence is a serious violation of human rights that affects the dignity, equality, and freedom of women. Although India has enacted comprehensive laws such as the Protection of Women from Domestic Violence Act, 2005, legal provisions alone cannot eliminate the problem. Effective implementation, public awareness, women's empowerment, and social change are essential for creating a society free from domestic violence. The combined efforts of government, judiciary, law enforcement agencies, and civil society are necessary to ensure that every woman can live a life of dignity, safety, and equality.⁴

SUGGESTIONS

1. Strengthen awareness programmes regarding women's rights.
2. Improve access to legal aid and counselling services.
3. Ensure effective implementation of the Domestic Violence Act.
4. Establish more shelter homes and support centers.
5. Promote women's education and economic independence.
6. Conduct gender-sensitization programmes.
7. Encourage community participation in preventing domestic violence.⁴

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