



DOMESTIC VIOLENCE AGAINST WOMEN AND PWDV ACT, 2005

ASHARANI .A

RESEARCH SCHOLAR (POLITICAL SCIENCE)

International Centre For Kerala Studies,

Kariyavattom, UNIVERSITY OF KERALA

Email-ashasaji1984@gmail.com, Phone No 9447972709

Abstract

Domestic violence is one of the most common crimes against women in India. Women are the marginalized group in the society. Violence against women in a global phenomenon. Domestic violence refers to violence against women not only in matrimonial home but also live – in relationship. The male dominant society would not give women due regard and respect and the system continues to linger in the twenty first century. Every day we hear and read about atrocities inflicted upon women by their own husbands for whom they live and die. India has specifically legislated Domestic Violence Act in 2005 to reduce the violence against women but the same has bore mixed result as of now. This seminar paper examines the domestic violence and PWDV Act 2005 to discuss in a multi – dimensional perspective.

INTRODUCTION

Status of women in different human societies of the world is different, whether it is developed, developing and underdeveloped society women occupy a unique position. In almost all the present and contemporary societies in different parties of the world are male dominated societies. The vulnerability of the women as a class has nothing to do with her economic independences. The women have been a victim irrespective of her economic background. The status of women who constitute almost half of the Indian population is not that encouraging. Gender based violence-including rape, domestic violence, mutilation, murder and sexual abuse is a profound health problem for women across the globe. Nonetheless, it is not considered as a public problem of serious concern. Violence against women, both as violence Crime (rape, sexual assault) or as domestic violence (spousal abuse, dowry death) whose effects on women's health mental health economic productivity, self-esteem and the welfare and nutrition of her children are often underestimated or ignored.

Over the last two decades domestic violence has emerged as one of the most serious problem faced by women. They are experiencing physical and psychological violence not only from their intimate partner. Gender based violence is clearly based on unequal power between men and women in India is not equal to the status of men

in terms of access participation and reward. The issue of gender discrimination manifests itself as violence in the family, community and society. It takes the form of female foeticide, female infanticide, abuse of the girl child, social harassment, mental torture, physical violence and cruelty affecting the body and mind of the women.

Domestic violence against women and girls is a grave violation of their rights so safety, dignity and liberty. It refers to any kind of violence in the house being perpetrated by the members of family itself. The violence manifests in the forms of mental, physical, economic, social, psychological and sexual sufferings. The factors of domestic violence are rooted in male dominated society where the women are not treated equal. The main cause of domestic violence is the power gap between men and women. Some factors originated to the domestic violence. Analyses of the phenomenon assume that several interrelated factor increasing the likelihood that women and girl will become victims of violence, namely;

- *Low status of women within society.
- *Imbalance of power within the family and within society.
- *Economic dependence of women.
- *Acceptance of violence as a means of settling disputes.
- *Readiness to resort to violence.

DOMESTIC VIOLENCE BILL 2005

The cabinet approval of the Protection of Women from Domestic Violence Bill 2005 is the latest effort in this regard. The current bill has been hanging fire since 2001 and has lapsed with the fall of the 13th Lok Sabha. The bill was further modified in December 2004. The present bill envisages further improvement on the earlier one. The definition of domestic violence has been extended to include not only actual abuse but also the threat of abuse that is physical, sexual, verbal, emotional, economic and what is more it covers single women in a live in relationship and women living in joint families – sister, mother, widows- often physically and emotionally abused. Harassment by way to dowry demands to the women or her relatives would also be covered by this definition. The bill seeks to protect the rights of women to live in her matrimonial home or shared accommodation, whether or not she holds any title or rights. These rights will be secured by an order passed by a magistrate.

The draft Bill also provides for appointments of protection officers and NGO's to provide assistance to the victims with regard to medical examination, legal aid, safe shelter etc. The relief also include power of the court to pass protection order that prevent the abuser from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the abused, or attempting to communicate with the abused etc.

CAUSES OF DOMESTIC VIOLENCE

There are a number of causes of domestic violence against women. These causes range from the trivial to bizarre and include mainly the following.

- (a) Not doing house –work properly
- (b) Dressing fashionably
- (c) Jealousy of Husband
- (d) Husband’s Alcoholism
- (e) Dowry Demand
- (f) High tone during dialogue
- (g) Close relations with friends
- (h) Boys friends
- (i) Doubt of love affairs before marriage
- (j) Doubt of extra – marital relations
- (k) No child bearing capacity
- (l) Husbands economically depends upon our parents
- (m) Husband has problems at work place
- (n) Sexual Difficulties
- (o) Low Job satisfaction etc.

DEFINITION OF DOMESTIC VIOLENCE

It include physical, sexual, verbal, emotional and economic abuse that can harm, cause injury to endanger the life, limb, health safety, or wellbeing either mental or physical of the aggrieved person.

FEATURES OF DOMESTIC VIOLENCES

Domestic violence is essentially violence perpetrated by persons in intimate family relationships. It is the establishment of control and fear in a relationship through violence and other forms of abuse. Some definitions of domestic violence to analysis, one comes across the following features of domestic violence are:

- 1) Domestic violence is still hidden crime
- 2) Domestic violence damages victim physically and emotionally
- 3) Now a day domestic violence more dangerous, more frequent and more violent over time.
- 4) Domestic violence can lead to fatalities

CONSEQUENCES OF DOMESTIC VIOLENCE

The impact of violence on women’s mental health leads to severe and fatal consequences. Battered women have a high incidence of stress and stress- related illnesses such as post – traumatic stress syndrome, depression, sleeping, and eating disturbances, elevated blood pressure, alcoholism, drug abuse, and low self esteem (Palliabi Saikia 2017). Domestic violence has devastating consequences for victims. It involves significant economic, health and social cost. Economic consequence

includes decreased productivity and efficiency and lower earning. The violence also affects a women's participation in labor force in variety of wage. Thus the violence against women has serious implication on family, society and the nations.

Domestic Violence leads to violation of human rights and prevents them from enjoying their fundamental freedom. Consequences of domestic violence are discussed below

Gender – Based Violence throughout the Female Life Cycle

1. Pre –natal : sex- selective
: Sex – selective abortion
2. Infancy : Female infanticide
: Unequal access to food and medical care
: Neglect
3. Childhood : Child labor and child prostitution
: Genital mutilation
4. Adolescence : Marriage involving abduction and rape
: Forced prostitution
: Denial of sexual self - determination
: Economically coerced marriage
: Economically coerced sex
5. Reproductive Age : Psychological and physical abuse by partner and relatives
: Marital rape
: Dowry – related crime and murder
6. Old Age : Abuse widows
: Neglect of older women

Domestic violence has long lasting adverse effect on women's reproductive health, including unwanted pregnancy, complication during pregnancy including miscarriage, unsafe abortion, sexually transmitted infections including HIV and maternal death. According to the World Bank, in developing countries, rape and Domestic violence together account for 5 per cent of the healthy years of life lost in a women's reproductive age. Violence against women is also on a obstacles on the socio- economic development of the nation. The non – fatal outcomes of domestic violence are disturbance in both physical and mental health. The physical health

problems steaming out of violence against women include injury from laceration to fractures and internal organs injuries, unwanted pregnancy, miscarriage, headache etc.

DOMESTIC VIOLENCE IN INDIA

Domestic violence in India includes any form of violence suffered by a person from a biological relative, but typically is the violence suffered by women by male members of her family or relatives. (Martin Sandra, 1999). According to a National Family Health Survey 2005, total life time prevalence of domestic violence was 33.5 per cent and 8.5 per cent for sexual violence among women aged 15- 49. In the Lancet reports to study about 2014 that means reported sexual violence rate in India among the lowest in the world, the large population of India means that the violence affects 27.5 million women over their lifetime. The National Crime Record Bureau report of India states a reported crime rate of 46 per cent 100,000, rape of 2 per cent 100,000, dowry homicide rate of 0.7 per cent 100,000, and the rate of domestic cruelty by husband or his relatives as 5.9 per cent 100,000. The reports rate are significantly smaller than the reported intimate partner domestic violence rates in many countries such as United States (59 per cent 100,000) and reported homicide (6.2 per cent 100,000). Crime against women has more than doubled over the past ten years according to latest data released by the N C R B. As many as 2.24 million crimes against women were reported over the past decade. 26 crimes against women were reported every hour or one complaint every two minutes, reveals an India spend analysis based on the last decade's data.

The most common forms of domestic violence reported by the majority of the respondents were slaps, beating, pushing, kicking, sexual coercion and assaults. The perpetrators of physical violence were mostly husbands of the victims. Majority of the victims of physical violence were mostly from rural areas and from lower class and lower middle class families of urban areas. Women suffer many rites of physical and emotional abuse as a result of illegal actions taken with.in the private home, and those who have experienced some form of domestic violence tends to have greater long – term mental disorders and drug dependencies than those who do n.(Roberts, Gwenneth , 2013). Another major problem is the violence against young widows. Violence against young widows has also been on a rise in India. Most often they are caused for their husband's death and are deprived of proper food and clothing. Marital rape is a common form of domestic violence. A government organization for women rights dealt with a case wherein middle aged women called up the Human Rights Commission and accused her husband of forcing sexual contact with her. Although both men and women can be abused, in most cases, the victims are women and children. The children in homes where there is domestic violence also abused.

CONSTITUTIONAL PROVISIONS IN INDIA

In our constitution, Article 14 provides Equality before law that means the states shall not deny to any person equality before law or the equal protection of the laws within the territory of India. The reservation of certain post exclusively for

women is valid under article 15 (3), article 15. The Article 15 prohibits the discrimination on grounds of caste, religion, race, sex, or place of birth. Then Article 15(3) means nothing in this article shall prevent the state from making any special provision for women and children. Sexual harassment of working women amounts to violation of rights guaranteed by article 14, 15 and 23 that means its importance to equality and dignity. Under Article 39, equal pay for equal work, no woman can be deprived or can be paid less payment for the same work. It is mentioned in the Directive Principle of state Policy.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

The Protection of Women from Domestic Violence Act 2005 is an act of the parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian government from 26 October 2006. The Act provides for the first time Indian law a definition of domestic Violence' with this definition being broad and including not only physical violence, but also other forms of violence such as emotional, verbal, sexual and economic abuse. It is a civil law meant primarily for protection order and not meant to penalize criminally. The Act does not extend to Jammu and Kashmir, which has its own laws and which enacted in 2010, the Jammu and Kashmir protection of women from Domestic Violence Act 2010. Primarily meant to provide protection to the wife or female live-in partner from domestic violence at the hands of the husband or male live-in partner or his relatives, the law also extends its protection to women living in a household such as sister, mother, or widows. Domestic violence under the act includes actual abuse or a threat of abuse whether physical, sexual, verbal, emotional and economic. (Dutta, Damayanti 2006) The Protection of Women from Domestic Violence Act 2005 defines domestic violence and provides civil remedies for women facing domestic violence in the form of protection order, residence order, custody order, monetary relief or compensation order, makes the breach of protection orders punishable under section 31 of the act. The punishment is for imprisonment up to a period of one year and fine of up to Rupees Twenty Thousand. However section 31 (3) specifies that while framing charge under section 31(1), the magistrate may also frame charge under 498A of the IPC or any other provision of IPC or the Dowry Prohibition Act, 1961 if the fact disclose the commission of an offence under those provisions.

The basic purpose of this act has been enacting the law to effectively deal with domestic violence and to provide civil remedies to the victims. The salient features of the Act include clear cut conceptualization of domestic violence, domestic relationship, women's rights and about the civil remedies. The act provides for appointment of Protection Officers and NGO's as service providers to provide assistance to the women with respect to medical examination, legal aid, safe shelter etc. The Act provides more effective protection of rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. The Act has laid down the duties of police officers, protection officers and other service providers to provide

social remedies to the victims of Domestic violence. The Act also empowers the magistrates to pass orders for grant of monetary relief to the aggrieved person from the respondent to meet the expenses incurred and losses suffered including the loss earning, medical expenses, loss of property and maintenance to the aggrieved person and her children including the maintenance.

CONCLUSION

Violence in domestic circumstances especially in Indian scenario is becoming most serious problems. Domestic violence deals in particular with female folk. The social, economic and political empowerment of women is an emerging issue and domestic violence is a stumbling block in achieving the empowerment. The government and non- government agencies are acting actively to eradicate domestic violence and implementation of Protection from Domestic Violence Act which came into force on 26th October 2006 is one of laudable Act of the government. But the domestic violence is an inhuman act which takes place at family and which is carried out by the family members it. There are many constitutional and legal protections Act for the empowerment of women framed by the Government of India, but the plight of women has still not improved. Violence against women is widespread and viewed as one of the cruelest social mechanisms to suppress women unequal power relations have led to discrimination against women. The Domestic Violence Act states that it is an act to provide more effective protection to the rights of women guaranteed under the constitution who are victims of violence of any kind occurring with the family and for matters connected there with or incidental thereto. But the phenomenon of domestic violence is widely prevalent but has remained largely invisible in the public domain presently, Where a women is subjected to certify by her husband or his relatives, it is an offence Under Section 498-A of the Indian Penal Code. The act also provides a pro-active role for the State Government in the prevention of domestic violence and for protection of women from violence. One is the creation of legal rights and remedies for the victims of domestic violence and the second is the creation of mechanisms.

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