

DOMESTIC VIOLENCE IN INDIA

Any regular reader of newspaper will know the fact that no matter which random newspaper one picks, there is bound to be reports such as “Woman tortured for dowry”, “Wife beaten to death by drunk husband” and “Harassment of women in India” from all over India. The sad thing is that these are just the cases which have been reported, but many other occurrences of such violence has gone unreported and will never see the light.

In the society we live in, violence is erupting and growing. It is present almost everywhere and the space within the four walls of the house is no exception to it. Behind the closed doors of homes, people are being beaten, tortured and killed and this is happening all over the country, irrespective of social classes, gender or economic class.

The term used to describe such an erupting issue of violence within the homes is Domestic Violence. This violence is towards someone of close relationship, be it a wife, husband, children, parents or any other family member. It can be a case of male’s atrocities against women and female’s atrocities against men. Anyone can be a victim and anyone can be a victimizer. That is the harsh nature of the evil that is Domestic violence.

The form of Domestic violence which is most common is the one against women. One of the foremost reasons why it is prevalent is due to the uninformed mindset of people that women are physically and emotionally weaker than men. Though the women of today are coming up in terms of equality there is still a huge disparity between the reports of domestic violence filed by women and men, with reports of domestic violence against women being much larger in number than reports of violence against men. According to the United Nation Population fund report¹, around two-third of married Indian Women are victims of domestic violence and as many as 70 per cent of married women between ages of 15 and 49 are subjected to beatings, rapes or torture. In India more than 55 per cent of women suffer from domestic violence, especially in the states of Uttar Pradesh, Madhya Pradesh, Bihar and other northern states.

The most common causes for violence against women include dissatisfaction with dowry, arguments with partner, refusal of sexual intercourse, indulging in extra marital affairs and not looking after the in-laws and children. The Tandoor murder case of Naina Sahini is one of the most gruesome incidents of domestic violence where a woman was killed and burnt in a Tandoor by her husband on suspicion of extra marital affairs².

Though there is no question that acts of domestic violence against women is a serious problem, domestic violence against men is also gradually increasing in India. Though the portrayal of

¹ Violence against Women in India : A Review of Trends, Patterns and Responses, UNFPA and International Centre for Research on Women (2014)

² "Tandoor Murder Case: Sushill Sharma found guilty". Express India. 3 November 2003.

supremacy by men make it seem they are invulnerable from domestic violence, beating of men by their spouse and family members has become a rising concern and the judiciary labels it as another form of domestic violence.

Men are now reporting incidences of violence against them such as pushing, slapping, beating and hitting which are intended to harm and also in some cases take their lives. Contemplating the reasons for such acts, one would find that the causes for domestic violence against men are mainly, not abiding by the instruction of wife, insufficient earning, infidelity, infertility and doubting the partner constantly.

Besides the adults, the frequently unspoken victims of domestic violence are the children and teenagers of the society. There is however a lot of difference in the form of its occurrence in rural and urban areas. In urban areas, the reasons are mostly disobeying parents, poor academic performance, debating with adults, etc. In rural areas, among the above, abuse for not following family traditions is rampant.

In India, the legal system deals with the concept of such domestic violence under two perspectives; the criminal law perspective and the civil law perspective.

In India, criminal law provisions are primarily contained in the Indian Penal Code, 1860(IPC). The IPC is supplemented by special laws which define and punish various offences. With regards to domestic violence however, there is no direct definition of the term in the code but its meaning can be extrapolated into its various provisions such as that for murder, hurt, grievous hurt, wrongful restraint and harassment. Under another special legislation however, domestic violence has been recognized in Dowry Prohibition Act, 1961, that criminalizes the act of giving and taking dowry³.

Civil law in India like its brother addresses the facets of domestic violence though it doesn't specifically define the term. The Dissolution of Muslim Marriages Act, 1939 stipulates cruelty as a ground for divorce⁴. The Hindu Marriage Act, 1955 defines the term cruelty and extends it to both physical and mental cruelty and is a ground for divorce⁵. The Special Marriages Act, the Indian Divorce Act, The Parsi Marriage and Divorce act, all allow cruelty as a ground for divorce. Though direct reference to domestic violence is not present, judicial decisions have qualified domestic violence as cruelty under these laws.

Before 2005, there was no specific definition of Domestic Violence under Indian law. A frequent perception of domestic violence against women is that it is limited to physical harm perpetrated on adult women within a marital relationship. However the Protection of Women from Domestic

³ Section 3(1), Dowry Prohibition Act 1961

⁴ Section 2, Dissolution of Muslim Marriages Act, 1939

⁵ Section 13(1)(ia), Hindu Marriage Act, 1955

Violence Act, 2005 has broadened the scope of the term to include multiple possibilities that leads to domestic violence and are more inclusive of the experiences of all women. The Act defines the term Domestic Violence to include actual abuse or threat of abuse be it physical, mental or sexual and verbal abuse.

The core of a definition of domestic violence consists of all the acts that would cause domestic violence. Some of them are narrow and focus on a specific act of violence and others are broad and incorporate the full range of acts.

Primarily meant to provide protection to the wife or female live-in partner from domestic violence at the hands of the husband or male partner, the Act also extends its protection to women living in a same household as sisters, widows and mothers.

In the case of *Nandkishor Prahlad v Mangala w/o Pratap Bansar*⁶, the Bombay High Court said that the nature of proceedings under the Domestic Violence Act is mainly of civil nature and only when there is a breach of the order of the court regarding the matter, the proceedings become criminal in nature.

The ruling in the case *Sandhya Wankhede v. Manoj Bhimra Wankhede*⁷ made it possible to include not only the husband or male partner but also the female relatives of the husband or male partner although the ruling in *Ashish Dixit v State of UP*⁸ makes it clear that the wife cannot bring up allegation against one and all in a Domestic Violence case.

In the case of *D. Veluswamy v. D. Patchaiammal*⁹ the Supreme Court held that even live in relationships also come under the purview of the domestic violence act subject to certain conditions laid down by it such as voluntarily cohabiting, must qualify to enter into marriage etc.

In conclusion it can be said that though India has adequate protection against domestic violence in the form of laws, the practical applicability of those laws are not efficient and hence domestic violence continues till date in India. The non penal nature of many of the laws contributes heavily to this.

Moreover most laws regarding domestic violence in India are female centric and domestic violence against men and children, which are also as rampant as the violence against women have no solution from the law. In order to bring a balance to the society the government must frame a uniform domestic violence law that transcends gender and age and is applicable to all the people in the society.

⁶ (2018) 3 Mah LJ 913

⁷ 2011 (3) SCC 650

⁸ 2013 (1) Crimes 216 (SC)

⁹ AIR 2011 SC 479

