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Social Dimensions of Domestic Violence against Women

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ABSTRACT

Freedom from violence is the first dimension of women's capability for survival and empowerment but violence against them is omnipresent. Women in homes are made to suffer in various ways ranging from simple repression to exploitation and subjugation from birth to death. All ancient systems acknowledged the right of husbands to chastise their wives even forcibly. Women being completely dependent on men, a role model was fixed for them and even slight deviation attracted infliction of violence. There are various factors responsible for it including social, cultural, political, economic, and legal created by family, community and also State. Various social scientists have developed many theories regarding it. There are many consequences of such violence on victims and society. Various national and international surveys show high incidence of such cases all over the world. Therefore, at the international and national levels, many initiatives have been taken regarding it but more social actions and reforms are required for eradication of this evil.

Keywords: Domestic Violence; Its International and National Perspective; Its Institutions, Factors, Theories and Impact; Suggestions for its Elimination

1. INTRODUCTION

Violence free life is the basic requirement of any woman for humanly survival and empowerment. However, violence against women (VAW) is omnipresent being a universal invisible reality and an acceptable social behavior quite often justified on various grounds. Home signifies a place where any woman feels safe and comfortable therefore, it is unacceptable to be a site of domestic violence against her. But the fact is that domestic violence

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remains concealed in the pretended notions of love and care thereby legitimated in its various manifestations from simple oppression to exploitation and suppression. Initially women led rather insecure lives in all societies of the world as all the ancient legal systems approved the right of husbands to discipline their wives even forcibly. Women were entirely dependent on men and their lives were connected with the male members of their families. They did not have any political rights because they were kept secluded and confined within their households having fixed roles.

VAW is of various types beginning before birth till death in the forms of sex-selective abortions; infanticide; systematic denial of rights; restriction on choices in the field of education, health, movement, marriage; marital violence of different types and old age violence. Various factors *viz.*, social, cultural, political, economic, and legal are responsible for infliction of domestic violence by different institutions like family, community and also State. Many theories regarding it have been developed by social scientists including psychological, social and feminist theories discussed below. There can be various consequences of such violence *viz.*, impact on health; on family and children; and on development and economy. Still there is high incidence of such cases all over the world.

The main reason can be that the family has been considered as a private realm for centuries with implication of being immune from any legal intervention by the State. This scenario is quite blissful for males as they are free to do whatever they want being in the position of power and without any scrutiny thereby they subjugate women and confine them within the four walls of the house to deprive them of all rights and liberties. The State became an overt or covert institution for perpetrating domestic violence due to its failure to recognize it as a crime but merely a family matter. However, since independence the Indian Parliament has tried to remove VAW through legal reforms by framing many laws and Acts like Dowry Prohibition Act, 1961 and by duly amending them like insertion of Sections 498A and 304B in the Indian Penal Code, 1860 mainly due to pressure build up by women's groups to make them contextual and effectual.

Unfortunately, the social legislations and diverse socioeconomic development plans do not protect women from discrimination. In most of the Indian families, women neither own any property in their own names nor get a share in parental property due to feeble enforcement of laws rather some land and property laws discriminate against them. Thus women often economically and emotionally depend on their abusers hence ill-equipped to proceed for realization of their rights. The enactment of special laws is unable to protect women against violence that is on increase and moreover, most of the laws have been extensively misused to

their detriment. Notwithstanding the enactment of laws relating to dowry, rape, violence, the ground reality is rather distressing. It is seen that the law neither always functions in the same way nor always produces steady results rather it legitimatize unequal power relations in the social order through its recognition of familial ideology, the private/public distinction, and sexual division of labour.²

2. THE CONCEPT OF VIOLENCE AGAINST WOMEN

VAW is an old concept which is also not confined to any caste/class/creed/race. Usually, VAW is a coercive mechanism to impose ones will over another in order to establish ones authority. Violence being complicated is defined in many ways and takes many forms. As per Black's Law Dictionary, "*Violence means unjust or unwarranted use of force usually accompanied by fury, vehemence, or outrage, physical force unlawfully exercised with the intent to harm.*"³ According to Encyclopedia of Crime and Justice, "*Violence is a general term referring to all types of behavior either threatened or actual that result in the damage or destruction of property or the injury or death of an individual.*"⁴

The UN Secretary General says, "*Violence against women and girls is not confined to any particular political or economic system, but it is prevalent in every society in the world. It cuts across boundaries of wealth, race and culture. It is an expression of historically and culturally specific values and standards which are today still executed through many social and political institutions that foster women's subservience and discrimination against women and girls. International and regional legal instruments have clarified the obligations of States to prevent, eradicate and punish violence against women and girls.*"⁵

3. THE CONCEPT OF DOMESTIC VIOLENCE AGAINST WOMEN

The family having a hierachal structure and sexual division of labour justifies subordination of female and uses domestic violence as a tool to maintain this composition and its continuance. India has a peculiar dimension that it is not only inflicted by husband but also by other members of his family especially his mother and sisters. It leads to the belief that women are women's enemies thereby hiding the truth that those abuser women are agents of

²Ghosh, Biswajit and Tania Choudhuri. (2011). "Legal Protection Against Domestic Violence in India: Scope and Limitations," *Journal of Family Violence*, Vol. 26 at pp. 319–330.

³Black's Law Dictionary, 7th Ed., 1999 at p. 1564.

⁴Encyclopaedia of Crime and Justice, Vol. 4, 1983 at pp. 1618-19.

⁵UN, "United Nations Secretary General's Campaign, Unite to End Violence Against Women," <http://endviolence.un.org/situation.shtml> visited on 25-06-15.

patriarchy. An important facet of this problem is the reluctance of people to recognize its existence in the family. Moreover, the societal emphasis in such cases has normally been on family reconciliation therefore, social and cultural approval of domestic violence led to non-reporting of such cases.

It appears that if woman does not retort at the first blow than man easily repeats it. Similarly, if husband knows that his wife will not depart even if he is violent and getting his desires fulfilled then he will certainly repeat it. However, decision of leaving a violent husband depends on various factors *viz.*, her emotions related to the ideals of marriage institution; availability of alternatives to her; acceptability of her decision in her social circle; her financial status; and the likelihood of stigmatization and seclusion in society. If after considering these factors, woman is unable to leave her abusive husband and perceive no alternative for change then either she has to tolerate it for whole of her life or take extreme step by committing suicide. However, woman can play and must play the greatest role in checking it.

Domestic violence is also known as domestic abuse, spousal abuse, intimate partner violence, wife battering, and family violence etc. Its definition varies according to the context in which it is used; over time; and in different parts of the world. Traditionally, it was perceived as physical violence between married spouses and did not include threats of violence, marital rape, etc. According to Black's Law Dictionary, it means "*violence between members of the households, usually spouses, an assault or other violent act committed by one member of a household against other.*"⁶ However, contemporarily it has been defined very broadly to include sexual, psychological and economic abuses and moreover, the issues of power, supremacy, and control are explained to find the intent behind it.⁷ Therefore, modern definition of domestic violence is space-neutral, multidimensional and inclusive and Laws increasingly define it as a process of exploitation, domination, and dehumanization. This extensive definition has been adopted by many countries *viz.*, USA, UK and others.⁸

4. DEFINITIONS OF VIOLENCE AND DOMESTIC VIOLENCE: INTERNATIONAL PERSPECTIVE

⁶*Supra* note 3. See also, "According to the Merriam Webster dictionary, it is the inflicting of physical injury by one family or household member on another; also a repeated/habitual pattern of such behavior," Merriam Webster dictionary, Accessed on Sep 10, 2016: <https://www.merriam-webster.com/dictionary/domestic%20violence>

⁷Bahrami, Ghasem, (2014). "Domestic Violence on Women: Evidence from Iran," *Journal of Research in Social Sciences and Humanities*, Vol. 4, No. 5, pp. 688 – 694, Downloaded From IP - 14.139.45.243 on dated 10-Jul-2014.

⁸Waldorf, L., C Arab and M Guruswamy. "CEDAW and the Human Rights-Based Approach to Programming," United Nations Development Fund for Women (UNDFW), 2007, Accessed on Oct 11, 2016: <http://www.unifem.org>

Earlier, VAW was perceived as a private/family matter and women had to suffer silently but now it is considered both as major public health problem and human rights violation. The Declaration on the Elimination of Violence against Women defined it as, “*Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.*”⁹ It expressly made a distinction between violence committed in private sphere i.e. domestic violence and violence committed in public sphere.

It further elaborates that “*violence against women shall be understood to encompass, but not be limited to, the following : (a) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, whenever it occurs.*”¹⁰ Therefore, it has defined VAW comprehensively including all spheres of a society even the State’s apathy and neglect in evolving opportunities and entitlements for women regarding employment and education etc.

During the 49th World Health Assembly, the Member States accepted that violence is a public health priority.¹¹ The World Health Organization (WHO) also defines violence as the “*intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation.*”¹² The Office on VAW of the US Department of Justice defines it as “*it is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or*

⁹Article 1, UN, “*The Declaration on the Elimination of Violence against Women,*” General Assembly Resolution No. 48/104 (1994). Accessed on Oct 10, 2016: [Un.org](http://www.un.org/documents/ga/res/48/a48r104.htm).

¹⁰Article 2, *Ibid.*

¹¹“Its Resolution WHA 49.25 endorsed recommendations made in earlier international conferences to deal with the problem of VAW and to address its health consequences.” Jakarta Declaration on Leading Health Promotion into the 21st Century, , July 1997, World Health Organization, Accessed on Sep 10, 2016: <http://www.who.int/healthpromotion/conferences/previous/jakarta/declaration/en/>

¹²*Infra* note 45.

psychological actions ... This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, coerce, threaten, blame, hurt, injure, or wound someone.”¹³ Therefore, all the International Instruments have defined these terms by covering all aspects of life.

5. VIOLENCE AGAINST WOMEN IN INDIA

India is a multicultural, multi-religious heterogeneous society therefore, addressing and documenting VAW is highly complicated. Feminists over a period of time protested against violence be it custodial rape or torture, in streets raising awareness in people against such violence. To the earliest forms of violence, with changing times many other types of violence got added like preference for male child, inadequate nutrition, health services and policies, lack of property rights, absence of any voice in family matters, all this perpetuated anti-women policies. Not only these but other nationally unrecognized forms of violence like witchcraft, practice of *devdasis*, honour killing, violence in situations of Armed Conflict, communal violence and violence against widows, aged women, and to a single women continued unabated.

6. HISTORICAL CONTEXT OF DOMESTIC VIOLENCE

6.1 Impact of Religion

Socially endorsed VAW has been persistent since primeval times. Christianity, Judaism, Hinduism, and other patriarchal religions simply avowed male-dominated family structures. Many such societies gave the patriarch of family the right to employ force against women and children¹⁴ to maintain social order. Roman civil law conferred legal guardianship of wife to husband and the concept, *patria potestas*, included the unregulated ability of husband to physically beat his wife and such rights extended to the right to sell her into slavery or to put her to death under certain circumstances.¹⁵

It is seen that religious thinking has governed political and social attitudes thus influenced concept of domestic violence. Religions have reinforced husband's right to control his wife which is expressly mentioned in religious texts hence wives were certainly in a subordinate position to husbands.¹⁶ In many religions marriage is regarded as a sacred

¹³Office of Violence Against Women, “The Fact Sheets About the Office on Violence against Women Focus Areas, 2009, 1,” Accessed on Feb 15, 2016: <http://www.usdoj.gov>

¹⁴Buzawa, Eve S. and Carl G Buzawa. (2003). “*Domestic Violence, The Criminal Justice Response*,” 3rd Ed., Sage Publications at p. 57.

¹⁵Pleck, E. (1989). “*Criminal Approaches to Family Violence*,” as quoted in *Id.* at p. 57.

¹⁶Supra note 14 at p. 58.

institution in which a wife was believed to obey her husband, remained cherished even after beaten, would not leave such marriage and maintain the home and marriage at all costs. Marital abuse was not recognized as domestic violence rather was simply a religious duty of the husband. However, for past few decades most of the denominations have tried to eliminate or address the subjugation of wives but it has not fully penetrated deep in the society resulting in quoting the scriptures like *Manu Smriti* by abusers justifying their abusive activities.¹⁷

6.2 Impact of Ancient Laws

The English common law, the predecessor of many statutes in the world, followed this well-established custom of male control over females. English feudal law reinforced male's property rights over female and their right to beat "their female" if needed. Since 17th century, common law has endorsed male dominance over female's bodies however, it began the process to introduce some limits on it. The 'concept of restraint' was evolved to control the unfettered rights of the husband hence power of "life and death" over wife was officially taken away.¹⁸ The courts began to be concerned about the reasons and extent of beating and held wives somehow responsible for it. Therefore, the concept of allowing beating for some acts and restricting infliction of physical harm in others became limitations on common law principle to chastise one's wife. Gradually, as per Buzawas, wife beating was associated with the lower class by members of the upper classes who generally disdain such domestic violence. Such rights were illustrated by the 'rule of thumb' that specifically allowed husbands to beat their wives with 'a rod/stick no thicker than their thumbs'.¹⁹

Other societies also adopted similar theories to limit the infliction of domestic violence by the husband while condoning his abusive actions as a family patriarch to promote family values e.g. a 16th century Russian ordinance clearly listed the methods by which a husband could beat his wife.²⁰ Moreover, virtually in every society there are proverbs, jokes, and laws indicating strong cultural approval of wives beating by their husbands e.g. "A wife is not a jug...she won't crack if you hit her 10 times" (Russian proverb) and 'A spaniel, a woman, and a walnut tree – the more they're beaten, the better they be' (English proverb)." The U.S. culture was also flooded with this type of messages however, there the Puritans enacted 'the Massachusetts Body of Laws and Liberties' in 1641 that were the first laws in the world to

¹⁷*Id.* at p. 59.

¹⁸*Id.* at p. 60.

¹⁹*Id.* at p. 61.

²⁰Quinn, D., 1985 as quoted in *Supra* note 14 at p. 61.

expressly make domestic violence illegal. This statute provided that “*every married woman shall be free from bodily correction or stripes [lashing] by her husband, unless it be in his own defense upon her assault.*”²¹

In 1672, the pilgrims of Plymouth Plantation also made wife beating illegal and punishable by fine or a whipping²² but they did not object to reasonable violence under religious law to enforce rules of conduct within family. However, enforcement of such laws mostly disappeared before the American Revolution because American society became more secularized²³ but the law enforcement agencies viz., the courts and prosecutors were under the influence of doctrine of family privacy thus largely ignored domestic violence cases and issues. Until 1970s, the legal notions of marriage, family, and domestic violence were mostly based on the English Common Law.²⁴

The Indian position is also similar as domestic violence was present in the ancient Indian society. Its kind, frequency, and intensity varied from time-to-time. Primeval historical precedents can finely be summarized by the notions of natural inferiority of females, both physically and intellectually barring few like *Gargi* and *Maitri* and of males’ property rights over females as they being treated as property in law. “*As men ruled in government and society, so husbands ruled in the home.*”²⁵

7. INSTITUTIONS IN PROMOTING DOMESTIC VIOLENCE

Although domestic violence is inflicted within the four walls of house but it has three institutions who play very crucial roles.²⁶ They are as follows:

7.1 The Family

The family which is a place of nurture, care and love can also be violent and discriminatory for its female members. At the time of socialization of its members at natal stages, the concept of gender discrimination is ingrained in their minds either patently or latently. There are separate norms for boys and girls in the family such as boys can go outside the house even at late hours but a girl cannot go after a reasonable time in the evening. After marriage, in marital home more restrictions are imposed on brides even in the matters of her

²¹Pleck, E. (1987). “*Domestic Tyranny,*” Oxford University Press, Oxford, UK at pp. 21-22.

²²*Ibid.*

²³*Supra* note 14 at pp. 61-62.

²⁴Shahidullah, Shahid M. and C. Nana Derby. (2009). “Criminalisation, Modernisation, and Globalisation: The US and International Perspectives on Domestic Violence,” *Global Crime*, Vol. 10, Issue 3 at pp. pages 196-223.

²⁵Lentz, S. (1999). “Revising the Rule of Thumb: An overview of the History of Wife Abuse,” In L. Feder (Ed.), “*Women and Domestic Violence: An Interdisciplinary Approach,*” at p. 10.

²⁶Lakshmi, K. Vijaya. (2007). “Women and Domestic Violence – Need Solutions Through and Beyond Law,” *Supreme Court Journal*, January, 2007, pp. 32-39 at p. 34.

sexuality and reproduction and she is subjected to all discriminations resulting in infliction of domestic violence.

7.2 *The Community*

Different rules and role models have been decided for boys and girls in the community that gets reflected in social, cultural and religious practices. The male members are seen as bread winners so they must be dominating and females have to be seen as house wives only so they are subordinate to them. Her role model as house wife continues even if she is earning handsome amount of money but she has to abide by that role and if she ever tries to deviate even slightly it will give rise to infliction of domestic violence on her. Thus she is accepted in the society as an obedient daughter, subservient wife and self-sacrificing mother only.

7.3 *The State*

It is the duty of the modern welfare State to provide and protect the human rights of all its citizens. The State has to create such environment in which every person, male or female can realize one's rights and enjoy them. But the State and its functionaries have completely failed in implementing the fundamental right of equality of women. Instead of protecting rights of females they themselves practice discrimination against them by enacting and upholding discriminatory personal laws and in the name of family as private sphere they do not want to check infliction of domestic violence due to their extreme gender insensitivity. They rather believe that women misuse the provisions of law for her ulterior motives e.g. the cases filed by women under Section 498A of the Indian Penal Code, 1860 are considered to be filed for the sake of fetching money or to get easy divorce.

8. CONTRIBUTING FACTORS TO DOMESTIC VIOLENCE

If this evil has to be eliminated completely then searching its contributory factors is an essential task. Without removing the root causes of this problem, it will never go and continue to make lives of most of the females as hell. There is no single factor that can be attributed to it however, there are various factors which contribute in the infliction of violence.²⁷ Some of them are as follows:

8.1 *Social and Cultural Factors*

The society has fixed gender roles and expects people to behave in that very manner e.g. man has been assigned the role of breadwinner and decision maker but if due to any reason he is unable to perform this role then he is put under lot of anxiety resulting in infliction of

²⁷*Id* at pp. 34 -35.

domestic violence on his wife. In 1992, Coomaraswamy points that “*women are vulnerable to various forms of violent treatment for several reasons, all based on gender.* 1) *Because of being female, a woman is subject to rape, female circumcision/genital mutilation, female infanticide and sex related crimes. This reason relates to society’s construction of female sexuality and its role in social hierarchy;* 2) *Because of her relationship to a man, a woman is vulnerable to domestic violence, dowry murder, sati. This reason relates to society’s concept of a woman as a property and dependent on the male protector, father, husband, son, etc.;* 3) *Because of the social group to which she belongs, in times of war, riots or ethnic, caste, or class violence, a woman may be raped and brutalized as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as the property of men.*”²⁸

8.2 Psychological Factors

The male ego is another important factor. It is found in many studies that husband’s education level is inversely proportional to the extent of physical abuse inflicted on his wife. Moreover, domestic violence is also posited to show power and control by using different tactics of abuse by male over female. Even women also tolerate it under the impression that maintaining a good marriage primarily rests on them. They may feel feeble, blameworthy, worthless, and ashamed of their poor quality relationships but at the same time continues to live with the violent husband. Abusers also fear the consequences of seeking help which in most of the situations results in worsening their prevailing conditions.

8.3 Economic Factors

One of the main factors to the victim of domestic violence is the lack of any alternate place to live. They may be economically dependent on their abusers thus feel better to endure in silence hoping for improvement than to leave the house, which worsen the situation. Therefore, lack of economic resources adds to women’s vulnerability to domestic violence, of course, it does not mean that economically sound women are free from any domestic violence but the only consideration is that being economically independent if they want they can try other alternatives also.

8.4 Legal Factors

In India, women have various legal measures for their protection viz., Sections 498A, 304B and many other provisions in the Indian Penal code, 1860; Provisions in Personal Laws;

²⁸As quoted in Saravanan, Sheela. (2000). “*Violence Against Women in India, A Literature Review,*” Institute of Social Studies Trust (ISST), March.

and special laws like the Dowry Prohibition Act, 1961. But the victims may be unaware of their legal rights and availability of local agencies to help. Even if she files a complaint, in the absence of any alternative place to go, complainant has to go back to abusers with whom she may not be secure and sometimes she has to pay the ultimate price. Many complainants were evicted from their marital homes without maintenance and are unable to maintain themselves and follow complaints.²⁹ Therefore, lack of satisfactory legal protections and other remedies within the home, low levels of legal literacy among them, insensitive attitudes of judiciary, police and advocates towards victims are relevant factors for perpetuation of domestic violence in India.

8.5 Political Factors

Although in the present government there are many female Ministers holding very important portfolios but overall representation of females are negligible in Parliament and State Legislative Assemblies. This underrepresentation of women in power and politics ultimately reflects in law making processes, which is male dominated lacking feminine perspective. Moreover, the notion of family being private still governs the behaviour of state functionaries involved in the governance. Country needs politicians across political parties with strong inclination to end violence and show zero tolerance to all atrocities against women whether within or outside family. Moreover, the imminent need is to allow 33% reservation for women in all legislative bodies including Parliament, State Legislatures and other local bodies to have women perspective in law making of the country.

8.6 Other Factors

Alcohol and drug abuse accentuate infliction of domestic violence. It is very surprising that in some cases women's higher education or for that matter illiteracy, both contribute to domestic violence. Other relevant factors are infidelity in men; inequality between the sexes male and female; lack of moral values in society; and state inaction against perpetrators.

9. THEORIES OF DOMESTIC VIOLENCE

There are many theories as to the causes of domestic violence but as domestic violence has no uniform definition and it varies largely so no single theory appears to explain its all causes and cases. Some of the popular theories are as follows:

9.1 Psychological Theory

²⁹Ibid.

At individual's level of analysis, some scholars asserted that domestic violence was linked with mental characteristics and personality disorders of battered women³⁰ and others asserted that of barterers.³¹ These personality disorders include abrupt bursts of anger, weak impulse control, stress, anxiety, guilt and poor self-esteem. It is suggested that these personality disorders are factors that have been instilled during child rearing which leads some people to be more aggressive as adults. The proponents of this theory have found correlation between juvenile delinquency and domestic violence in adulthood and high incidence of psychopath among them. However, the psychological theories are disputed as research findings on personality disorders of battered women on their victimization are unclear and inconclusive.

According to Gelles and Cornell,³² “*it is problematic to attribute the behaviour of battered women to their having a personality disorder because the personality of a battered woman could be a result of victimization. In addition, contradictory evidence has shown that only a small proportion of all have revealed this.*” Gelles argues that social factors are more important factors than personality traits and mental illness.³³ Therefore, it can be inferred that there is little evidence to conclude that personality disorders either in barterers or in battered cause domestic violence.

9.2 Social Learning Theory

At the sociological level of analysis, proponents of this theory consider domestic violence to be an outcome of learned patterns of aggressive communiqué to which both spouses contribute. They consider family as cradle of violence where violent behaviour is learned and transmitted across generations in a cyclical manner. They suggest that a battered child learns from observing and modeling violent behaviour of others. With positive reinforcement and no opposition from victim, this behaviour continues. However, research on the effects of family as cradle of violence also has produced contradictory results. Many studies found that barterers had been battered as children or they had seen their fathers beating their mothers³⁴ however, other studies did not find such noteworthy relationship.³⁵

9.3 Feminist Theory

The proponents of this theory consider male dominance as a key element in domestic violence³⁶ as the subordination of women is held to be institutionalized in patriarchal societies.

³⁰*Infra* note 42 at p. 967.

³¹*Ibid.*

³²*Ibid.*

³³*Ibid.*

³⁴*Ibid.*

³⁵*Ibid.*

³⁶*Ibid.*

The research also supported this assertion by demonstrating correlation between patriarchal societies and rates of domestic violence against women³⁷ and explicitly husband's patriarchal beliefs were found associated with it.³⁸ Cross cultural studies have also recommended that domestic violence was a widespread practice in many patriarchal societies in which cultural values, social traditions and religious beliefs dictated male domination in gender relationships and condoned VAW by creating separate codes of conduct for male and female.³⁹ Contrarily, women's economic power and domestic activities were considered as of low levels activities and there was non-acceptance domestic violence.⁴⁰ The theory also approves sanction against domestic violence and shelter for battered women as associated with family power and non-patriarchal society. Domestic violence was found to be rare in those societies where physical might was not idealized. In this type of society, women had personal freedom even to leave their men easily; their relatives could also intervene; offer them shelter; and legal recourse to domestic violence was available.⁴¹

9.4 Cycle of Abuse

Generally, domestic violence is defined as explicit violent incidents but when this behaviour happens in a relationship its effects continue even after these overt incidents over. Thus, domestic violence is a pattern of behaviours and moreover, once this abusive behaviour begins, it usually does not happen every day rather repeats itself in cycles.⁴² Lenore Walker presented the model of a battering Cycle which consists of three distinct phases that are as follows:

- a) Tension Building Phase: The tension building phase is characterized by poor communication, fear of causing outbursts etc. During this stage the victim notices her partner becoming tense or reacting negatively to a minor annoyance. He may cause minor and quick violent episodes and she tries to calm the abuser down to avoid any major violent confrontation.
- b) Violent Episode: The explosion phase appears when heightened tension converts into blind rage which is realized through an irrepressible severe violent incident. During this stage, abuser attempts to dominate his partner with the use of domestic violence that may involve emotional/verbal and/or physical abuse.

³⁷*Id.* at p. 968.

³⁸*Ibid.*

³⁹*Ibid.*

⁴⁰*Ibid.*

⁴¹*Ibid.*

⁴²Pillai, Suma, "Domestic Violence in New Zealand, An Asian Immigrant Perspectives," *Economic and Political Weekly* March 17, 2001, p. 965 at p. 967.

c) Honeymoon Phase: It is characterized by affection, apology and apparent ending of domestic violence. During this stage abuser has feelings of regret and sadness. Some abusers leave from the situation, whilst others shower their victims with affection and love. The abuser seeks pardon in a contrite manner as if courting victim and promises never to let it occur again.⁴³ The cycle starts again as tension rebuilds however, it is believed that the battering cycle theory is limited as it does not reflect realities of many such victims.

10. CONSEQUENCES OF DOMESTIC VIOLENCE

10.1 Violation of the Human Rights

The rights of women are accepted as human rights and the social/economic/psychological impact of domestic violence clearly depicts that it violates many rights that have been provided to women by various National and International Instruments. Domestic violence is a violation of women's human right - to identity as it reinforces subordination of women denying her very right to her separate identity; to affection; to peace and enriching personal relations; to equal protection before law; to easy and quick recourse to competent courts for remedies; to personal development by restricting her rights to free movement/mix freely with people/participate in diverse activities and curtails her prosperity in career and acquiring skills to develop her personality; to social and political participation by confining her in home thereby denying equal access to public services and public affairs including decision making; to freedom of expression as she suffers domestic violence when she asserts her opinion; to optimum standards of health as she undergoes prolonged trauma; to life due to fatal consequences sometimes; to personal liberty and security; not to be subjected to torture/cruel/inhuman and degrading treatment; to have her physical/mental/moral integrity respected; and to associate freely.⁴⁴

10.2 Impact on Health

Domestic violence has costs for individual victims as well as for society at large. Regarding individual victims the main cost is that of damage to her health. These include all types of consequences including fatal.⁴⁵ As per the WHO's Report, "*Women who are beaten by their partners are 48% more likely to be contaminated with HIV/AIDS.*"⁴⁶

⁴³Banerjee, Priya R., "Dowry in 21st Century India, the Socio-cultural Face of Exploitation," "Trauma, Violence, and Abuse," Sage Publication, January 2014, Vol. 15, No. 1 at pp. 34-40.

⁴⁴Sikri, Justice A.K., "The PWDV Act, 2005: Implementation & Enforcement," *Nyaya Deep*, NALSA, 2008, Vol. 9(1), pp. 60-73 at pp. 65-66.

⁴⁵WHO, "World Report on Violence and Health," World Health Organization, Geneva, 2002.

⁴⁶UNAIDS, UNFPA and UNIFEM (2004). *Women and HIV/AIDS: Confronting the Crisis*, Chapter 6, Accessed on June 25, 2016: <http://bit.ly/sq7eKw>. See also, UNAIDS, "Global report: UNAIDS report on the global AIDS

As per the WHO's latest factsheets “*Intimate partner and sexual violence have serious short- and long-term physical, mental, sexual and reproductive health problems for survivors and for their children, and lead to high social and economic costs. VAW can have fatal results like homicide or suicide; 42% of women who experience intimate partner violence reporting an injury as a consequence of this violence; Intimate partner violence and sexual violence can lead to unintended pregnancies, induced abortions, gynecological problems, and sexually transmitted infections, including HIV. The 2013 analysis found that women who had been physically or sexually abused were 1.5 times more likely to have a sexually transmitted infection and, in some regions, HIV, compared to women who had not experienced partner violence. They are also twice as likely to have an abortion; Intimate partner violence in pregnancy also increases the likelihood of miscarriage, stillbirth, pre-term delivery and low birth weight babies. These forms of violence can lead to depression, post-traumatic stress disorder, sleep difficulties, eating disorders, emotional distress and suicide attempts. The same study found that women who have experienced intimate partner violence were almost twice as likely to experience depression and problem drinking.*”⁴⁷

10.3 Impact on Family and Children

Domestic violence adversely affects the lives of every member of such family as it generally leads to common emotional traumas for them. It, in the long run, erodes self-worth and social skills, demolishes family intimacy, reduces parenting skills and creates strong feelings of humiliation, remorse, and seclusion. It inhibits victims from playing active roles in decision making processes in the family and restricts their participation in public activities. Women develop sense of fear and insecurity as they anticipate infliction of violence thereby curtailing their priorities and choices they make for their future. Gradually, they search out men for protection and not for companionship that makes them dependent and vulnerable resulting ultimately to conform to the same ideological norms which ensure their subordination.

Domestic violence has a profound effect on children in family. There appears to be a connection between it and child mortality. Children who observe it are at a higher risk for emotional, behavioural and psychological problems including anxiety, depression, nervous,

epidemic, 2010,” at p. 121; World Health Organization and Joint United Nations Programme on HIV/AIDS (2010). *Addressing violence against women and HIV/AIDS: What works?*, WHO Document Production Services, Geneva, Switzerland As quoted in UN, “United Nations Secretary General’s Campaign, Unite to End Violence Against Women,” Accessed on June 25, 2016: <http://endviolence.un.org/situation.shtml>

⁴⁷WHO Media Centre, “Violence against women, Intimate partner and sexual violence against women, Fact sheet N°239, November 2014,” Accessed on June 25, 2015: <http://www.who.int/mediacentre/factsheets/fs239/en/>

irritable, apprehensive, poor school performance, low self-esteem and psychiatric disorders.⁴⁸ Moreover, men who are abused as children or who were exposed to their parents' violence are far more likely to attempt suicide, consume drugs and alcohol and are twice more likely to beat their wives than sons of non-violent parents. They usually have a distorted perception of females. Daughters who have undergone and witnessed it become sexually lenient and build up hatred against men. They are also more prone to attempt suicide and may commit sexual assault crimes.⁴⁹

The WHO in its latest Report has also reaffirmed about impact of abuse on children as "*Children who grow up in families where there is violence may suffer a range of behavioural and emotional disturbances. These can also be associated with perpetrating or experiencing violence later in life; Intimate partner violence has also been associated with higher rates of infant and child mortality and morbidity (e.g. diarrheal disease, malnutrition).*"⁵⁰

10.4 Impact on Economy and Development

Domestic violence has a serious impact on the economy of the household and ultimately on the country because abused women have to spend money in hospitals. It is an obstacle in realization of women's rights, their participation in economy as workers and customers and their ability to be managers of their home. It has been postulated that it leads to decreased efficiency and productivity as such women were probably be more unemployed, experience job turnover and have negative impact on job performance as they cannot fully participate in income generating activities.⁵¹ Any projects cannot empower women if their minds and bodies are being abused and without empowerment they cannot share in the development process.

The WHO in its latest Report has also reaffirmed it as "*The social and economic costs of intimate partner and sexual violence are enormous and have ripple effects throughout society. Women may suffer isolation, inability to work, loss of wages, lack of participation in regular activities and limited ability to care for themselves and their children.*"⁵² Therefore, if the state and market want women to be productive individuals then they have to address this issue the costs of which are too high at the household level and also at macroeconomic level.⁵³

⁴⁸Coomaraswamy, Radhika, "Human Security and Gender Violence," *Economic and Political Weekly*, October 29, pp. 4729-4736 at p. 4734.

⁴⁹ *Supra* note 44 at p. 64.

⁵⁰*Supra* note 47.

⁵¹ *Supra* note 48 at p. 4734.

⁵²*Supra* note 47.

⁵³Suneetha, A. and Vasudha Nagaraj. "Dealing with Domestic Violence towards Complicating the Rights Discourse," *Indian Journal of Gender Studies* Vol. 17, 2010 at p. 455, Downloaded from ijg.sagepub.com at Delhi University Library System on December 6, 2013.

11. INTERNATIONAL AND NATIONAL REPORTS ON INCIDENCE OF DOMESTIC VIOLENCE

11.1 International Reports

There are many International Reports and studies that documented about the widespread prevalence of domestic violence in all the societies of the world.⁵⁴ In 2002, the WHO published a comprehensive world report on VAW and health with the aid of 160 experts from all over the world.⁵⁵ Another Report was also prepared by the WHO in 2005⁵⁶ that was based on interviews of 24,000 women in 10 countries (*India was not included*).⁵⁷

The UN Women, its latest Report⁵⁸ has provided shocking statistics regarding incidence of domestic violence all over the world. It says, “*According to a 2013 global review of available data, 35% women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. However, some national violence studies show that up to 70% women have experienced physical and/or sexual violence in their lifetime from an intimate partner;*⁵⁹ *It is estimated that of all women killed in 2012, almost half were killed by intimate partners or family members;*⁶⁰ *More often than not, cases of violence against women go unreported.*⁶¹ *Among ever-married girls, current and/or former intimate partners are the most commonly reported perpetrators of physical violence in all the countries with available*

⁵⁴“European Women's Lobby, *Unveiling the Hidden Data on Domestic Violence in the European Union* (Brussels: European Women's Lobby, 1999); Council of Europe, *Violence against Women in Europe* (Brussels: European Union, Parliamentary Assembly, 2000); R.W. Summers and A.M. Hoffman, *Domestic Violence: A Global View* (Westport, CT: Greenwood Press, 2002); World Health Organization, *World Report on Violence and Health* (Geneva: World Health Organization, 2002); World Health Organization, *WHO Multi-Country Study on Women's Health and Domestic Violence against Women* (Geneva: World Health Organization, 2005); and United Nations Division for the Advancement of Women, *Violence against Women in Brazil: Overview, Gaps and Challenges* (New York: United Nations, 2005).”

⁵⁵It says that “in 48 population-based surveys from around the world, between 10% to 69% of women reported being physically assaulted by an intimate male partner at some point in their lives.” *Supra* note 49 at p. 89.

⁵⁶WHO, “*World Report on Multi-Country Study on Women's Health and Domestic Violence against Women*,” World Health Organization, 2005 at p. XIII.

⁵⁷ It was found that “violence by a male intimate partner (also called ‘domestic violence’) is widespread in all of the countries included in the Study ... For ever-partnered women, the range of lifetime prevalence of physical or sexual violence, or both, by an intimate partner was 15% to 71%.” It also stated that “the proportion of women reporting either sexual or physical violence, or both, by a partner ranged from 15% (Japanese cities) to 71% (Ethiopian provinces), with most sites falling between 29% and 62%.” *Id.* at p. 28.

⁵⁸UN Women, Ending Violence Against Women, “*Facts and Figures: Ending Violence against Women, A pandemic in diverse forms,*” Accessed on Feb 02, 2016: <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

⁵⁹World Health Organization, *Global and Regional Estimates of Violence against Women*, http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf at p. 2. For individual country information, see full compilation of data in UN Women, 2012, *Violence against Women Prevalence Data: Surveys by Country*.

⁶⁰UNODC *Global Study on Homicide*, 2013, http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

⁶¹ Violence against women: an EU-wide survey, European Union, 2014, Foreword, p. 3.

data and around 120 million girls worldwide (slightly more than 1 in 10) have experienced forced intercourse or other forced sexual acts at some point in their lives.⁶²

As per the Report⁶³ of the UN Secretary General's Campaign, “*Up to 7 in 10 women around the world experience physical and/or sexual violence at some point in their lifetime; 603 million women live in countries where domestic violence is not yet considered a crime; and as many as 1 in 4 women experience physical or sexual violence during pregnancy. The most common form of violence experienced by women globally is physical violence inflicted by an intimate partner, with women beaten, coerced into sex or otherwise abused.*⁶⁴ *In Australia, Canada, and Israel 40% to 70% female murder victims were killed by their partners, according to the WHO.*⁶⁵ *In the United States, one-third of women murdered each year are killed by intimate partners. In India, 22 women were killed each day in dowry-related murders in 2007.”*⁶⁶

As per WHO Media Centre Report,⁶⁷ “*VAW - particularly intimate partner violence and sexual violence against women - are major public health problems and violations of women's human rights. On average, 30% of women who have been in a relationship report that they have experienced some form of physical or sexual violence by their partner. A more recent analysis of WHO with the London School of Hygiene and Tropical Medicine and the Medical Research Council, based on existing data from over 80 countries, found that globally 35% women have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. Most of this violence is intimate partner violence.”*

11.2 National Reports

As per Indian feminists VAW is largely underreported due to unwillingness or fear on the part of women but still there is a tremendous rise in domestic violence cases even in the Indian official documents.⁶⁸ The Ministry of Health & Family Welfare of Government of India

⁶²UNICEF, Hidden in Plain Sight: A Statistical Analysis of Violence against Children, 2014, http://www.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_Summary_EN_2_Sept_2014.pdf.

⁶³Supra note 5.

⁶⁴Supra note 46.

⁶⁵United Nations Statistics Division, (2010): *The World's Women 2010: Trends and Statistics*, p. 127 United Nations Publication ST/ESA/STAT/SER.K/19.

⁶⁶Supra note 5.

⁶⁷Supra note 47.

⁶⁸In 1999, a study was conducted by “the International Center for Research on Women and the Center for Development and Population Activities” and funded by “India and the United States Agency for International Development (USAID).” It was based on 3 empirical studies locally conducted by “the Gujarat Institute of Development Studies, the Tata Institute of Social Sciences in Mumbai, and the Research Center for Women's Studies in Mumbai.” The study observed that “physical abuse of Indian women is quite high, ranging from 22 percent to 60 percent.” International Center for Research on Women (ICRW) and the Center for Development

released the final report of National Family Health Survey (NFHS-3), 2005–06 in 2007.⁶⁹ The Ministry claimed that the report contained a complete picture of health and well-being of India's people⁷⁰ as it was based on "interviews of 2,30,000 women (between the ages 15 and 49) and men (between the ages 15 and 54) from different states of India. The study reveals that the experience of spousal violence ranges from a low of 6% in Himachal Pradesh to a high of 59% in Bihar."⁷¹ The Survey depicts that "one-third of women between 15-49 have experienced physical violence and about 1 in 10 has experienced sexual violence make it total 35%. Married women are more likely to experience physical/sexual violence by husbands than by anyone else. Slapping is the most common act of physical violence by husbands as per 34% of married women. 36% women who have experienced physical/sexual violence reported having injuries including cuts, bruises or aches. 16% married women have experienced emotional violence by their husband however, only 1% have ever initiated violence against their husband."⁷²

It further depicts that "49% women in the poorest household experienced spousal physical/sexual violence and 18% in the wealthier households. 46% illiterate married women have experienced spousal violence; similarly, 47% whose husbands are illiterate have experienced spousal violence. 12% of married women with 12 or more years of education have experienced spousal violence, compared with 21% of married women whose husbands have 12 or more years of education. It means that women's own education reduces their likelihood of experiencing spousal violence more than their husband's education."⁷³

It also depicts that "the cycle of domestic violence is repeated across generations. 60% women whose mothers were beaten by their fathers experienced violence and 30% women whose mothers were not beaten experienced it. 54% women and 51% men agree that it is justifiable for a husband to beat his wife under some circumstances e.g. when the wife disrespects her in-laws and neglect of the house or children. 16% never married women have experienced physical violence since they were 15 years of age, generally by a parent, a sibling, or a teacher. 1% of never married women report having ever been sexually abused by anyone out of which 27% say that the perpetrator was a relative."⁷⁴

and Population Activities (CEDPA), Domestic Violence in India: A Summary Report of Three Studies (Washington, DC: International Center for Research on Women, 1999).

⁶⁹The latest National Family Health Survey 2015-16 is due to be released in full.

⁷⁰Government of India, "Final Report of National Family Health Survey, 2007," Ministry of Health and Family Welfare, Delhi at p. 1.

⁷¹See Chapter 15- Domestic Violence of National Family and Health Survey, (NFHS-3), 2005-06, pp. 493-524, Accessed on Sep 10, 2016: http://pdf.usaid.gov/pdf_docs/Pnadk385.pdf

⁷²*Id.*

⁷³*Id.*

⁷⁴*Id.*

The National Crime Record Bureau, Government of India shows in its latest Report⁷⁵ that in 2015, the cases of cruelty against married women u/s 498-A have increased by 18.7%, cases of dowry death have increased by 1.3% and cases under Dowry Prohibition Act, 1961 have increased by 1.6%.⁷⁶ The Report of 2014 has included domestic violence for the first time and reported total 426 cases with rate of 0.1 during 2013. Kerala (140 cases) followed by Bihar (112 cases), Uttar Pradesh (66 cases), Madhya Pradesh (53 cases) and Rajasthan (17 cases) have reported the maximum such cases during 2014.⁷⁷ The Report of 2015 has shown 461 cases in 2014 and 468 cases in 2015 with 0.1% increase.⁷⁸ These are the two prominent official surveys in India which clearly suggest that albeit several developmental activities including enacting of stringent laws to protect women since independence, there is hardly any significant change regarding occurrences of VAW. However, it is also claimed by some that increase in domestic violence cases is actually due to increasing reportage because of various positive factors.⁷⁹

12. CONCLUSION

Violence against women is a world phenomenon and it operates as a means to maintain and reinforce women's subordination. Therefore, movements to address and remove this evil started all over the world resulting in gradual awareness about the human rights issues and pressurizing the international community especially the UN to take many initiatives in this regard.⁸⁰ These international documents emphasized that women also need to enjoy a life free from violence in both public and private spheres. They also directed all State parties to take immediate steps to control and eradicate this evil either by modifying the existing laws comprehensively to remove VAW or enact new laws in this regard. Model legislations had also been prepared and provided to all the State parties to follow it in law making process.

Many countries including India enacted legislations on that basis prohibiting domestic violence and protecting women from multiple manifestations of its occurrence.⁸¹ However, its implementation is not uniform across the country due to lack of infrastructure, requisite

⁷⁵National Crime Records Bureau of India, “*Crime in India, 2015*,” Accessed on Aug 02, 2016: <http://ncrb.gov.in>

⁷⁶*Id.* at pp. 153, 157 – 158.

⁷⁷National Crime Records Bureau of India, “*Crime in India, 2014*,” Accessed on Aug 02, 2016: <http://ncrb.gov.in>, at p. 91.

⁷⁸*Supra* note 75 at p. 158.

⁷⁹Ghosh, Biswajit, “How does the Legal Framework protect Victims of Dowry and Domestic Violence in India? A Critical Review,” *Aggression and Violent Behaviour*, Vol. 18, Issue 4, July–August 2013 at pp. 409–416.

⁸⁰Recommendation 19 issued by the Committee on Convention on the Elimination of Discrimination against Women and the UN Declaration on Elimination of Violence against Women

⁸¹The Protection of Women from Domestic Violence Act, 2005

functionaries, funds and facilities. The newly emerging international standards are still very aspiring in content but the reality on the ground has not changed significantly.⁸² Thus merely enacting laws cannot provide justice to the victims in a patriarchal orthodox society and the State has to provide all requisites to implement it. Lots of funds, personnel, and courts are required to implement the law as expected. Further, what is more important is the intention of the State to implement it.

The other important problem is the internalization of socially reinforced ideology of inferiority of women by society as well as by most women. Thus, if the State is considerate about protecting women at home, it should create appropriate institutions and mechanisms, with proper monitoring, to realize the desired aim of violence free homes. In addition, it is to generate awareness about the law and inspire people to abide by the laws apart from improving the infrastructure comprehensively for the justice delivery system. Nevertheless, it is true that the law does ensure that women are not completely at the receiving end but have at least some weapon to fight back.

Ultimately, the really significant combat against domestic violence is social rather than legal and can be fought only if proactive and holistic efforts are put in place at all levels of the social structure. It appears that prevalence of domestic violence is fewer where women are better educated and get married at a later age. Therefore, there must be a comprehensive scheme of education for females to “not only make them aware of their rights but also to pave the way for their financial independence and uproot the self-perpetuating sense of inferiority that has seeped so deep into their mindset.” In addition, gender sensitive education must be provided for the males. Further, to give them self-confidence, they should be provided with the opportunity of vocational training leading to the skill development, self-empowerment or employment.

Dissemination of information is essential as most of the women have to face domestic violence because they are unaware of available avenues, services, legal provisions and agencies working in this regard. Public awareness programmes must be very cautiously imagined, deliberated and coherently oriented to ensure maximum outreach. Moreover, engaging men and community in promoting healthy and meaningful dialogues regarding the impact of

⁸²It was observed that “while more and more states enact legislation to address D.V., many of the elements of the model framework set out in the UN Handbook, including implementation, monitoring and evaluation, prevention programs, and protection and support initiatives, are not being realized.” United Nations, “*Handbook for Legislation on Violence against Women*,” Department of Economic and Social Affairs Division for the Advancement of Women, New York, 2010, Accessed on Sep 10, 2016: <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

domestic violence would result in increased awareness and sensitivity. In the present milieu, woman who suffers domestic violence is looked at as a pitiable figure, a victim, thus there must be a shift in perception to treat her as a survivor to come forward to report the incidence and protest against it.

It is difficult in rural areas to approach the court thus to reduce prevalence of domestic violence there should be formation of Women's group to minimize seclusion. There must be strict enforcement of existing laws relating to the age of marriage. Social reforms must be encouraged and awareness at all socio-economic levels in society must be spread in order to provide holistic solution to the problem. The political and economic initiatives should be gender sensitive and the networks among organizations, activists, and state officers need to be strengthened. Gender sensitivity training through workshops and seminars must be conducted for all professionals, organizations, and agencies serving women and children. Community participation, its development schemes, and women's self-help collectives are very important in this regard. Therefore, a combination of social and legal reforms would be the ideal solution for eradication of the evil of domestic violence from our society.

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