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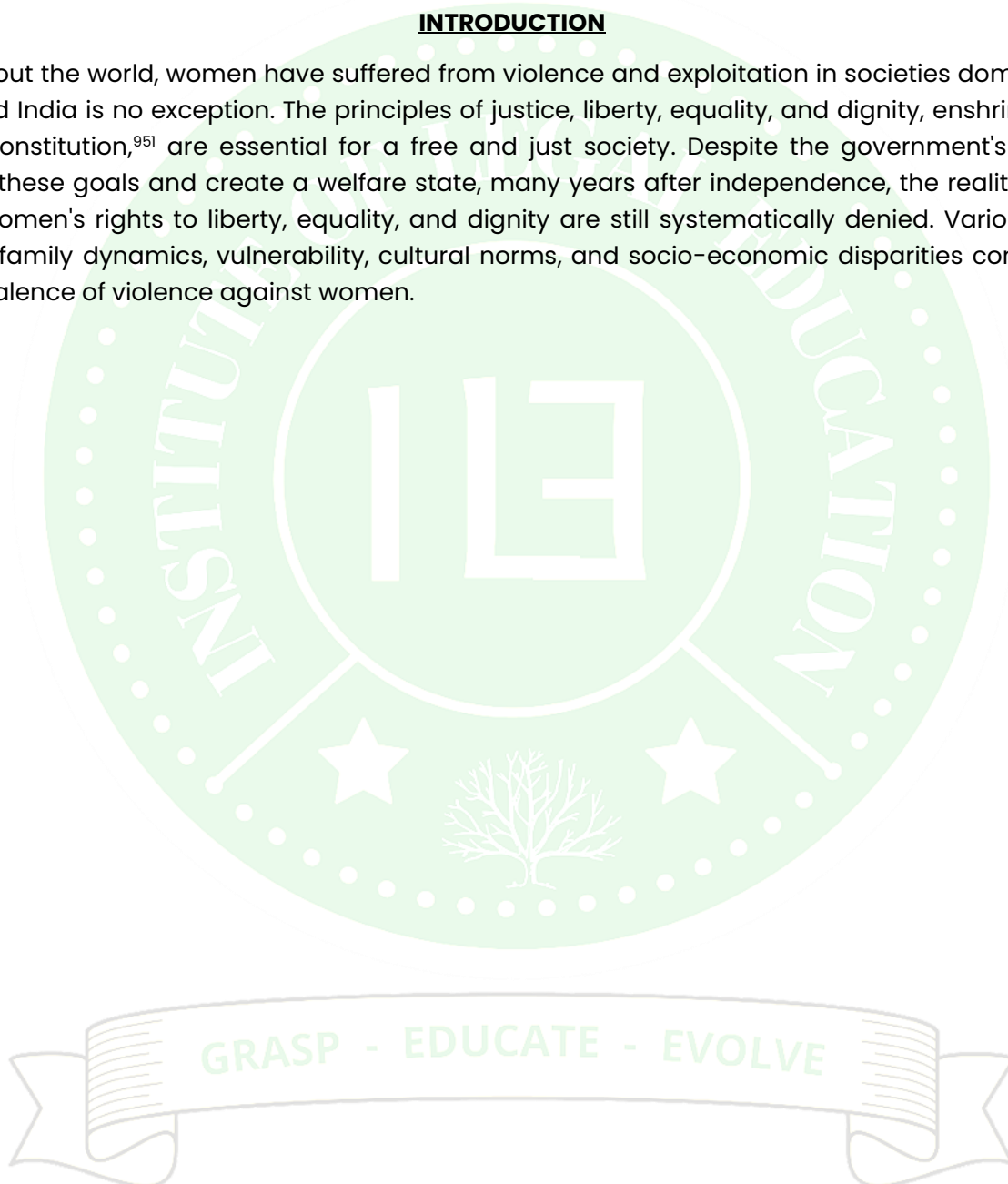
## AN OVERVIEW ON PROTECTION OF WOMEN AGAINST MATRIMONIAL OFFENCES

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### INTRODUCTION

Throughout the world, women have suffered from violence and exploitation in societies dominated by men, and India is no exception. The principles of justice, liberty, equality, and dignity, enshrined in the Indian Constitution,<sup>951</sup> are essential for a free and just society. Despite the government's efforts to achieve these goals and create a welfare state, many years after independence, the reality remains bleak. Women's rights to liberty, equality, and dignity are still systematically denied. Various factors such as family dynamics, vulnerability, cultural norms, and socio-economic disparities contribute to the prevalence of violence against women.



<sup>951</sup> See Preamble of the Indian Constitution.

Domestic violence, a particularly severe form of violence perpetrated by men against women, often occurs silently within families. This issue is not confined to any particular class or culture but affects families worldwide.<sup>952</sup> Historically, the term "domestic violence" has been associated with abuse within the supposedly protected and harmonious confines of the family. However, this idealized notion of family unity has often served to conceal the reality of abuse behind closed doors. Domestic violence is often perceived as a private matter, shielding perpetrators from public scrutiny or outside intervention. Unfortunately, many women endure such violence without resistance, influenced by family values and societal expectations. The secrecy of abuse within the home further isolates victims, preventing them from seeking legal recourse and perpetuating a cycle of victimization and societal complicity.

Violence against women within the home represents a severe breach of the principles outlined in the Constitution, and it remains pervasive in contemporary society. This violence takes various forms, ranging from physical assault and sexual coercion to psychological torment, often stemming from reasons such as dowry disputes, the reinforcement of male dominance, or defiance of authority. Such sustained oppression and mistreatment have profound detrimental effects on the physical and mental well-being of women and society as a whole.

<sup>952</sup> The violence against women by male intimates has been documented literally throughout the world. World Conference on Family Violence, Draft Declaration, Singapore, Sept 8, 1998; See Ending Violence Against Women, Population Reports (1999), available at <http://www.info/forhealth.org/pr/111/violence.pdf> (last visited Sept. 12, 2004); See Domestic Violence Against Women and Girls, Innocent Digest No.6, 2000. UNICEF; See Family Violence Prevention Fund, Domestic Violence is a serious widespread social problem in America: The Facts, at <http://endabuse.org/resources/facts> (last visited Oct 11, 2004); See Amnesty International, Broken Bodies, Shattered Minds: Torture and Ill-treatment of Women (2001X) at <http://web.amnesty.org/library/Index/engact4000/2000/> (last visited Oct 20, 2004); Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, U. N. ESCOR, 52d sess., U.N. Doc. E/CN.4/1996/53 (1996) (submitted by Ms. Radhika Coomarswamy, in accordance with Commission on Human Rights Resolution 1995/85); United Nations, Women 2000, Fact sheet No.4, Violence Against Women (2000), at <http://www.un.org/womenwatch/daw/followup/session/presskit/fs4.htm>. (last visited Nov 11,2004).

In Indian newspapers, there are frequent reports of young women either being burned alive or dying under suspicious circumstances, often attributed to insufficient dowry payments. These incidents sometimes spark public outcry and activism against dowry-related deaths.<sup>953</sup> However, these tragic deaths represent only the extreme end of a spectrum of mistreatment, psychological abuse, and physical violence that many women endure before their demise.

Regular instances of domestic violence, whether psychological or physical, often go unreported. Women rarely lodge police complaints against their ill-treatment, and those who manage to escape violence may find refuge in shelter homes. However, a significant majority choose to remain in their marital unions, enduring continued abuse.<sup>954</sup>

Domestic violence stands as a significant contributor to female injuries globally, often leading to the highest rates of hospital visits by women in certain countries.<sup>955</sup> Primarily targeting women, it serves to erode their autonomy and self-esteem. This form of violence typically includes physical harm, along with verbal threats, emotional manipulation, or property damage, all employed as tactics of control, coercion, or punishment within intimate relationships. Perpetrators often shift blame onto the victim and may utilize violence to dictate their partner's actions. Victims of domestic violence frequently find themselves isolated, lacking support from their community or family, and feeling trapped in their own homes. Over time, they may internalize a sense of failure or powerlessness, believing they deserve the abuse or are unable to escape it.<sup>956</sup>

Regrettably, Human Rights Watch investigations reveal that law enforcement officials often inadvertently aid abusers in their efforts to

<sup>953</sup> Fineman M.A., Preface, in "The Public Nature of Private Violence: The Discovery of Domestic Abuse", in Fineman M.A., and Mykitiuk R. (eds.), (New York: Rutledge, 1994), pp.xi-xviii.

<sup>954</sup> Karlekar. M., "Domestic Violence", Economic and Political Weekly, July 4,1998, pp 1741-51.

<sup>955</sup> Lori L. Heise, 1994, Violence Against Women: The Hidden Health Burden, Washington DC: World Bank, pp 6-9,14,18

<sup>956</sup> The Human Rights Watch, Global Report on Women's Human Rights, Domestic Violence, available at <http://www.hrw.org>



dominate and belittle their victims. Police and judicial authorities frequently dismiss domestic violence as a private matter rather than recognizing it as a widespread issue requiring immediate state intervention. Although criminal laws universally condemn acts such as rape, murder, assault, and battery—crimes commonly perpetrated against women within their homes—these offenses are often tolerated rather than prosecuted when they occur within intimate relationships. Even in jurisdictions with specific laws against domestic violence, enforcement is often lax, and perpetrators may receive lighter sentences compared to those who commit similar crimes against strangers. At each stage of seeking legal protection from domestic abuse, women encounter obstacles that hinder their ability to hold their abusers accountable, undermining the integrity of the justice system<sup>957</sup>

The psychological toll of domestic violence often outweighs the physical harm, profoundly damaging a woman's sense of self and dignity. While traditionally regarded as a private family matter, its pervasive impact has elevated it to a significant public health concern, comparable to issues like tobacco use, AIDS, drug abuse, and alcoholism. The consequences of violence extend to a woman's reproductive health and overall mental well-being, with abused women being twelve times more likely to attempt suicide than those who are not abused. Furthermore, domestic violence has detrimental effects on the family unit, as mothers may struggle to care for their children adequately and may inadvertently pass on feelings of low self-esteem and helplessness. Children may themselves become targets of abuse if they intervene to defend their mother, while boys witnessing their father's abuse of their mother may learn to replicate such behaviour. Importantly, domestic violence is not limited to developing countries but also occurs in developed nations, even among educated

women.<sup>958</sup> Some liken it to an epidemic due to its widespread prevalence. Many victims seek medical assistance before turning to law enforcement for help, underscoring the urgent need for comprehensive support systems.<sup>959</sup>

Domestic violence represents a deeply entrenched and serious social issue, posing a significant health concern. It flagrantly violates women's fundamental human rights, particularly their right to safety within their homes and communities, and in its most extreme form, it can lead to fatalities. Despite its devastating toll on lives, health, emotional stability, and productivity in the workplace, domestic violence has historically been shrouded in silence, perpetuating a cycle of impunity for perpetrators. The lack of comprehensive information about domestic violence hampers efforts to hold perpetrators accountable, allowing them to continue their abusive behaviour unchecked.

Domestic violence directly contradicts the principles outlined in the Universal Declaration of Human Rights, specifically Article 3 which states that "everyone has the right to life, liberty, and security of person," as well as Section 2(d) of the Protection of Human Rights Act 1993 which defines human rights as including those related to life, liberty, equality, and dignity, enforceable by the courts in India. Despite these legal provisions, domestic violence operates beyond the reach of the law, persistently undermining the universality of human rights and challenging their application in all contexts. The violation of human dignity and civilized norms inherent in domestic violence, occurring within the supposedly private sphere of the home, has historically been overlooked in human rights discourse. However, there is a growing recognition of domestic violence as a human rights violation on the international stage, as evidenced by its inclusion in discussions at forums such as the Second World

<sup>957</sup> *Ibid.*

<sup>958</sup> United Nations 1991, Women, Challenges to the Year 2000, New York: United Nations, p.67.

<sup>959</sup> R. Revathi, "Domestic violence: Need for Campaign to Break the Silence", (2000)3 Cr.L.J., p.118.

Conference on Human Rights in Vienna in 1993 and the Fourth World Conference on Women in Beijing in 1995. This recognition underscores the need for interventions by both state and voluntary agencies to address domestic violence as a fundamental infringement of human rights.

In recent years, there has been a notable improvement in addressing domestic violence in many countries, particularly in the West, where it is increasingly recognized as a form of abuse and subject to scrutiny by academia and the media. Today, numerous countries have enacted legislation specifically targeting domestic violence, reflecting the prioritization of this issue by women's rights advocates. These advocates have underscored the responsibility of the state to confront the pervasive violence occurring within the confines of the home.

Significantly, marital rape, once largely ignored, is now recognized as a criminal offense in approximately 50 countries, including nations such as Austria, Belarus, Bhutan, Cyprus, Hungary, Mexico, Nepal, and the Seychelles. Additionally, at least 45 countries have implemented specific laws aimed at combating domestic violence, with an additional 21 nations currently in the process of drafting new legislation. Moreover, many countries have amended their criminal assault laws to explicitly encompass domestic violence, reflecting a growing recognition of the need for comprehensive legal frameworks to address this issue.<sup>960</sup>

Domestic violence remains a pervasive but often overlooked issue within Indian households, constituting the largest category of crimes against women according to data from the National Crime Records Bureau (NCRB) between 1996 and 2000. In 2000 alone, national crime statistics reported a total of 141,373 crimes against women, with cruelty cases alone

contributing 32.4% of these figures.<sup>961</sup> Additionally, analysis of divorce proceedings indicates that unreasonable behaviour, which often encompasses violence, is the most common ground for divorce. One-third of all divorce petitions cite unreasonable behaviour as the cause, with women filing as petitioners in 89% of these cases.<sup>962</sup>

A comprehensive three-year survey on domestic violence conducted by the International Centre for Research on Women across seven Indian cities, encompassing both rural and urban areas, revealed that a minimum of 45% of women surveyed had experienced violence.<sup>13</sup> Similarly, various other studies conducted in India have corroborated the prevalence of domestic violence at a similar magnitude. These findings underscore the urgent need for targeted interventions and comprehensive support systems to address the scourge of domestic violence in India.

It's equally surprising to note that there's no discernible divide between the north and south of India when it comes to vulnerability to domestic violence, contrary to common perceptions. Empirical surveys indicate that incidents of marital violence transcend social barriers such as caste, class, and religion. Women from all sections of society, regardless of income, education, or socio-economic status, are susceptible to this form of violence. Contrary to popular belief, it's not confined to the economically disadvantaged; domestic violence occurs at high rates even among the affluent and well-educated. According to the Additional Commissioner of Police of the Crime against Women Cell in Delhi, nearly 7,000 complaints of domestic violence are reported annually in Delhi alone, yet only a mere 10% of these cases are translated into First Information Reports (FIRs), highlighting the underreporting

<sup>960</sup> Jacobs, Gloria (ed.), 2003, Not a Minute More, Ending Violence Against Women, New York: UNIFEM, p.39.

<sup>961</sup> For details ref. Preeti Misra, "Domestic Violence Against Women in India: An Analysis of Official Statistics" (2003), Vol.XVI Central India Law Quarterly, p.218

<sup>962</sup> *ibid* <sup>13</sup> Shireen Jejeebhoy, "Wife Beating in Rural India: A Husband's Right? Evidence from Survey Data", Economic and Political Weekly, April, 1997, pp.855-62; Mahajan, A., 'Instigators of Wife Battering' in Sood, Sushma(ed) Violence Against Women (Jaipur: Arihant Publishers, 1990.) <sup>14</sup> *Ibid*, p.95.

and challenges in addressing this issue effectively.<sup>14</sup>

The researcher concur that even if a composite figure, drawing from various sources, is compiled; it is likely to significantly underestimate the extent of the problem of domestic violence. This is primarily because domestic violence typically occurs behind closed doors, within the privacy of the home, and much of it goes unreported. Even when incidents are reported, they often remain unrecorded or are documented in a manner that makes it difficult to isolate and identify them as cases of domestic violence specifically. This inherent secrecy and underreporting contribute to the challenge of accurately gauging the true magnitude of the issue.

#### **OBJECTIVE OF THE STUDY**

1. **Primary Goal:** Assess the adequacy of laws and legal systems in protecting women from domestic violence.
2. **Historical Exploration:** Investigate the historical origins of domestic violence to understand its underlying causes and evolution into a contemporary societal issue.
3. **Analysis of Domestic Violence:** Analyze various aspects of domestic violence, including definition, nature, prevalence, causes, and consequences.
4. **International Efforts:** Examine the efforts of the international community in safeguarding women from domestic violence.
5. **Legal Measures in UK and US:** Investigate legal measures implemented in the United Kingdom and the United States to protect women from domestic violence.
6. **Evaluation of Effectiveness:** Evaluate the effectiveness of existing laws, including the Protection of Women from Domestic Violence Act of 2005 in India, in safeguarding women against domestic violence.
7. **Alternative Strategies:** Explore alternative strategies to address domestic violence and outline a comprehensive

approach for combating this pervasive problem.

#### **CONCLUSION AND SUGGESTIONS**

It's a profound tragedy that for many abused women, violence originates within their own homes, inflicted by husbands, fathers, brothers, and uncles. This reality spans across developed and developing nations, encompassing physical, sexual, and psychological abuse. Contrary to the idealized notion of the family as a haven of safety, it often serves as a breeding ground for violence, with women bearing the disproportionate burden, especially from their husbands.

For some men, violence against their wives is seen as a marital prerogative—a means to release daily frustrations without fear of repercussion. Conversely, women may resign themselves to such abuse as an inevitable aspect of married life, alongside household chores and childrearing.

This inclination towards violence against women permeates popular culture worldwide. Due to societal taboos and inadequate research, the true scale of such violence may never be fully understood. Moreover, the normalization of abuse within marital relationships perpetuates a cycle of silence and denial. The reluctance to acknowledge domestic violence stems from the fear of undermining the sanctity of the family unit.

Experts assert that domestic violence isn't merely a social issue but a grave crime requiring urgent attention. Without robust legal protections and societal support systems, women often find themselves powerless in the face of abuse from their spouses and society at large.

The suppression of women has been a global phenomenon since ancient times, and wife battering is not a recent occurrence but has been documented throughout history. Legal and cultural traditions across the world have historically granted men the authority to



physically abuse and, in certain cases, even kill their wives.

In ancient India, the status of women experienced a decline during the "Smriti period" following the "Vedic period," which is often referred to as a 'Dark Age' for women's progress. Manusmriti, attributed to the Hindu lawgiver Manu, explicitly states that women are not entitled to freedom from familial control. According to Manusmriti, a woman remains under the authority of her father during childhood, her husband during youth, and her son during old age. Furthermore, the code decrees that a wife is of lesser importance than her husband and is essentially treated as his property. She lacks autonomy, unable to own, inherit, or manage property, and has no legal standing independent of her husband.

#### **SUGGESTIONS**

1. It is imperative for the State Government to establish shelter homes at the taluka level in each district, funded by the state, to ensure easy access to protection for victims of domestic violence.
2. Preferably, women should be appointed as persons in charge of these shelter homes.
3. Proper management of shelter homes is essential, and amendments to the Protection of Women from Domestic Violence Act, 2005 should include penalties for those responsible for shelter homes who fail to fulfill their duties adequately.
4. An amendment to the Protection of Women from Domestic Violence Act, 2005 should include provisions for providing 'safe shelter' at state expense to victims of domestic violence whose husbands are unable or unwilling to provide separate accommodation.
5. A provision should be added to the Protection of Women from Domestic Violence Act, 2005, allowing the aggrieved party to be accompanied by a relative or women social worker of her choice for moral support during proceedings held in camera.
6. The Government should develop a comprehensive rehabilitation scheme for victims, incorporating both short-term and long-term processes such as treatment, education, placement, and other forms of support and empowerment. Additionally, employment opportunities should be provided to victims experiencing financial hardship.
7. Public awareness campaigns targeting both the general public and specific groups should be initiated. Women should be educated about their rights, while men should understand the legal and personal repercussions of abusive behavior. Efforts should highlight the devastating impact of domestic violence on individuals and society, emphasizing its long-lasting effects on future generations.
8. Educational programs should be redesigned to raise awareness about domestic violence and the rights of victims. Emphasis should be placed on empowering individuals through education, particularly in rural and semi-urban areas where the majority of the Indian population resides.
9. Prevention strategies and programs are crucial elements of national initiatives aimed at combating domestic violence against women. These efforts should be multifaceted, targeting women and men of all ages across various settings such as schools, workplaces, and local communities.
10. Community responses play a pivotal role in challenging traditional attitudes and norms that perpetuate domestic violence against women. Collaborative efforts involving law enforcement, social service providers, and civil society organizations are essential in creating an environment that upholds and defends women's rights against domestic violence.
11. Leadership at all levels is instrumental in driving change and fostering a culture of zero tolerance towards domestic violence against women. Individuals in positions of influence,



including local leaders, religious figures, community organizers, politicians, and public figures, have a significant impact in shaping societal attitudes and behaviours.

By faithfully implementing the aforementioned suggestions, there is a greater likelihood of achieving the overarching objective of protecting women from domestic violence effectively.

