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DOMESTIC VIOLENCE IN INDIA: A SOCIO-LEGAL ANALYSIS

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Abstract

Domestic violence remains one of the most serious violations of human rights in India. It refers to abusive behaviour within domestic relationships where one individual attempts to dominate or control another through physical, emotional, psychological, sexual, or economic means. Despite various legal measures designed to protect victims, domestic violence continues to be a widespread problem affecting individuals across different social and economic backgrounds. The enactment of the Protection of Women from Domestic Violence Act, 2005 marked an important milestone in India's legal efforts to combat domestic abuse and provide remedies to victims.

This research paper examines domestic violence from a socio-legal perspective. It analyses the concept and causes of domestic violence, the legal framework governing domestic violence in India, and the challenges associated with the implementation of these laws. The study also examines the role of courts, police authorities, protection officers, and social organisations in providing support to victims.

The research concludes that although India has established a comprehensive legal framework to address domestic violence, social stigma, lack of awareness, and institutional challenges continue to hinder effective implementation of these laws. Addressing domestic violence requires not only legal reforms but also social awareness, gender equality, and stronger institutional support systems.

Introduction

Domestic violence is one of the most pervasive forms of violence in society. It affects millions of individuals worldwide and is often deeply rooted in social structures and cultural norms. Domestic violence occurs within relationships where individuals share a domestic setting such as marriage, family relationships, or live-in partnerships.

In India, domestic violence has historically been considered a private family matter. Victims were often discouraged from reporting abuse due to fear of social stigma or family pressure. However, the increasing recognition of women's rights and human rights has led to greater

awareness about the seriousness of domestic violence.

The Indian legal system has gradually developed mechanisms to address domestic violence through various laws and policies. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) was enacted to provide civil remedies and immediate protection to women facing abuse within domestic relationships. The Act expanded the legal definition of domestic violence to include not only physical abuse but also emotional, sexual, and economic forms of abuse.

Despite these legal protections, domestic violence remains widespread. According to

national surveys, a significant percentage of women in India have experienced some form of domestic violence during their lifetime. This indicates that legal reforms alone are insufficient without broader social changes.

Domestic violence has emerged as one of the most serious human rights concerns across the world. It is not merely a private family dispute but a systemic form of gender-based violence that reflects deep-rooted inequalities within society. In India, domestic violence has historically been normalised within the framework of patriarchal family structures where women are often expected to tolerate abuse in order to preserve family honour and social reputation.

Over the past few decades, the global human rights movement has played an important role in recognising domestic violence as a violation of fundamental rights. International instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasise the responsibility of states to prevent violence against women and provide effective remedies to victims.

In the Indian context, domestic violence manifests in multiple forms including physical assault, psychological harassment, sexual coercion, and economic deprivation. The impact of such violence extends beyond the individual victim and affects children, families, and the broader social structure.

According to the National Family Health Survey (NFHS-5), a significant proportion of married women in India have reported experiencing some form of domestic violence. These statistics highlight that despite legal protections, domestic violence remains deeply embedded in social practices and cultural attitudes.

The enactment of the Protection of Women from Domestic Violence Act, 2005 marked a significant shift in India's approach to domestic abuse. Unlike earlier criminal provisions, the Act provides civil remedies and immediate

protection measures, thereby recognising the complex nature of domestic violence.

This research paper adopts a socio-legal approach to examine the causes, legal framework, judicial interpretations, and challenges related to domestic violence in India. By analysing both legal provisions and social realities, the study seeks to evaluate the effectiveness of existing laws and propose reforms aimed at strengthening the protection of victims.

Literature Review

A number of scholars have examined domestic violence from sociological, legal, and feminist perspectives. The existing literature highlights that domestic violence is not merely an individual act of aggression but a manifestation of structural inequality.

Flavia Agnes argues that domestic violence in India is closely linked with patriarchal traditions and the unequal power relations between men and women within the family. She emphasises that legal reforms alone cannot eliminate domestic violence unless broader social attitudes toward gender equality change.

Similarly, scholars such as Indira Jaising and Lotika Sarkar have examined the role of legal institutions in addressing violence against women. Their work highlights the importance of strong implementation mechanisms and judicial sensitivity in ensuring justice for victims.

International scholars have also contributed to understanding domestic violence as a global phenomenon. Research by Dobash and Dobash demonstrates that domestic violence is rooted in cultural norms that reinforce male dominance within intimate relationships.

Several empirical studies conducted in India have also examined the prevalence and causes of domestic violence. Surveys conducted by government agencies and international organisations indicate that domestic violence occurs across all socio-economic groups, although women from

economically disadvantaged backgrounds may face greater barriers in accessing legal remedies.

Despite extensive academic work, many studies point out that there remains a gap between the existence of legal protections and their effective implementation. This research paper contributes to the existing literature by examining domestic violence through a socio-legal lens that integrates legal analysis with social realities.

Meaning and Concept of Domestic Violence

Domestic violence refers to a pattern of abusive behaviour used by one person to control or dominate another within a domestic relationship. It includes physical violence, emotional abuse, sexual exploitation, and economic control.

The Protection of Women from Domestic Violence Act, 2005 defines domestic violence broadly to include:

- Physical abuse
- Sexual abuse
- Verbal and emotional abuse
- Economic abuse

This broad definition recognises that domestic violence is not limited to physical injury but also includes psychological harm and deprivation of financial resources.

Domestic violence can occur between spouses, partners in live-in relationships, parents and children, or other family members living in the same household. The law recognises that violence within the home has serious consequences for victims and therefore requires legal intervention.

Forms of Domestic Violence

Domestic violence can take several forms.

Physical Abuse

Physical abuse involves the use of force that results in bodily harm or injury. Examples include hitting, slapping, kicking, or choking.

Emotional and Psychological Abuse

Emotional abuse includes behaviour intended to humiliate, intimidate, or isolate the victim. Continuous insults, threats, and humiliation may cause severe psychological distress.

Sexual Abuse

Sexual abuse occurs when a person is forced or coerced into sexual acts without consent. This violates the bodily autonomy and dignity of the victim.

Economic Abuse

Economic abuse involves controlling the victim's financial resources. This may include preventing the victim from working or denying access to money needed for basic necessities.

Causes of Domestic Violence

Domestic violence is a complex phenomenon that arises from a combination of social, economic, psychological, and cultural factors. Understanding these causes is essential for developing effective prevention strategies.

Patriarchal Social Structure

Many scholars argue that domestic violence is closely linked to patriarchal traditions that place men in positions of authority within families. This unequal power structure can lead to situations where women are treated as subordinate members of the household.¹

Economic Stress

Financial difficulties and unemployment can increase tension within families. Economic pressure may lead to conflicts that escalate into violence.

Alcohol and Substance Abuse

Research indicates that alcohol consumption is often associated with increased aggression and domestic violence incidents.

Dowry Related Conflicts

One of the significant causes of domestic violence in India is the practice of dowry. Despite legal prohibitions under the Dowry

Prohibition Act, disputes related to dowry demands often result in harassment and violence against married women. Such violence may include physical abuse, mental cruelty, or even dowry deaths.

Gender Inequality

Deep-rooted gender inequality continues to influence family relationships in many parts of India. Traditional norms often assign women a subordinate role within the household, limiting their autonomy and decision-making power. This imbalance of power may create an environment where abusive behaviour is tolerated or justified.

Lack of Education

Limited access to education can contribute to domestic violence by reinforcing traditional gender roles and restricting awareness about legal rights. Education plays an important role in empowering individuals to challenge abusive behaviour and seek legal protection.

Intergenerational Transmission of Violence

Research indicates that individuals who grow up in households where domestic violence occurs are more likely to accept or replicate such behaviour in adulthood. This cycle of violence can perpetuate abusive relationships across generations.

Lack of Awareness

Many victims remain unaware of their legal rights and therefore do not seek protection under existing laws.

Legal Framework Addressing Domestic Violence in India

India has developed a comprehensive legal framework to address domestic violence.

Protection of Women from Domestic Violence Act, 2005

The PWDVA provides civil remedies such as:

- Protection orders
- Residence orders

- Monetary relief
- Custody orders
- Compensation for victims

The Act also recognises relationships beyond marriage, including live-in relationships.

Indian Penal Code Provisions

Section 498A IPC criminalises cruelty by a husband or his relatives toward a married woman.

Constitutional Protection

Articles 14, 15, and 21 of the Constitution guarantee equality before the law and the right to live with dignity.

Dowry Prohibition Act, 1961

This Act prohibits the giving and taking of dowry and aims to prevent harassment related to dowry demands.

Section 304B IPC – Dowry Death

This provision deals with cases where a woman dies under suspicious circumstances within seven years of marriage and has been subjected to dowry-related harassment.

Section 406 IPC – Criminal Breach of Trust

This section may apply in cases where the husband or his relatives misappropriate a woman's stridhan or property.

Family Courts Act, 1984

Family Courts provide a specialised forum for resolving disputes related to marriage, custody, and maintenance.

Important Judicial Decisions

Indian courts have played a crucial role in interpreting domestic violence laws.

Indra Sarma v. V.K.V. Sarma (2013)

The Supreme Court recognised that women in certain live-in relationships may seek protection under the Domestic Violence Act.

The supreme Court strengthened the protection available to women by clarifying that a

relationship in the nature of marriage is covered under the act.

Hiral P. Harsora v. Kusum Narottamdas Harsora (2016)

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

Removing “ adult male” limitations acceptance of cases related to against female and person connected to female who subjected to women domestic violence.

V.D. Bhanot v. Savita Bhanot (2012)

The Court held that the Domestic Violence Act could apply to acts of violence that occurred before the enactment of the law.

These decisions demonstrate the judiciary’s role in strengthening legal protections for victims.

S.R. Batra v. Taruna Batra (2007)

The Supreme Court examined the concept of the right to residence under the Domestic Violence Act and clarified the scope of a shared household.

Arnesh Kumar v. State of Bihar (2014)

This judgment addressed concerns regarding misuse of Section 498A IPC and introduced guidelines to prevent arbitrary arrests.

Shalini v. Kishor (2015)

The court emphasised the need for proper interpretation of domestic violence laws to ensure that victims receive effective remedies.

Challenges in Implementation

Despite the strong legal framework, several challenges remain.

Victims often hesitate to report domestic violence due to social stigma and family pressure. Lack of awareness about legal rights also discourages victims from approaching authorities. Additionally, delays in court proceedings and insufficient institutional resources may limit the effectiveness of legal remedies.

Although India has enacted progressive legislation, several structural barriers hinder effective implementation.

One major challenge is the lack of trained protection officers responsible for assisting victims under the Domestic Violence Act. In many states, these officers are overburdened with multiple responsibilities and lack adequate resources.

Another challenge is the slow pace of judicial proceedings, which can discourage victims from pursuing legal action. Lengthy court processes may also expose victims to continued harassment.

Social stigma remains a significant barrier as many women fear social isolation or economic dependency if they report domestic violence. Cultural expectations often pressure women to preserve family unity even in abusive situations

Suggestions and Reforms

To address domestic violence more effectively, a multi-dimensional strategy is required.

First, legal awareness programmes should be conducted at the community level to educate individuals about their rights and available legal remedies.

Second, training programmes for police officers, judges, and protection officers should be implemented to ensure sensitive handling of domestic violence cases.

Third, shelter homes and counselling centres should be expanded to provide immediate support and rehabilitation services for victims.

Fourth, educational institutions can play an important role in promoting gender equality and challenging stereotypes that contribute to domestic violence.

Finally, the government should strengthen data collection and monitoring mechanisms to evaluate the effectiveness of existing policies and identify areas requiring reform.

Conclusion

Domestic violence continues to be a serious social and legal challenge in India. While the Protection of Women from Domestic Violence Act, 2005 provides a comprehensive legal

framework, effective implementation requires greater awareness, stronger institutional mechanisms, and societal change.

Combating domestic violence requires a combined effort from the government, legal institutions, civil society, and communities. Promoting gender equality and protecting the rights and dignity of individuals are essential steps toward creating a society free from domestic violence.

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