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Domestic Violence and Way Forward

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ABSTRACT

The research paper throws light on issue pertaining to Domestic Violence and deals with the various laws which protect women from Domestic Violence. Whether Marital Rape should be considered as Domestic Violence is discussed later on, in this research paper. Statistics related to domestic violence growth in The research paper throws light on issue pertaining to Domestic Violence and deals with the various laws which protect women from Domestic Violence. Whether Marital Rape should be considered as Domestic Violence is discussed later on, in this research paper. Statistics related to domestic violence growth in whole world due to lockdown is also mention further.

Women from generations are fighting for their rights and for equal treatment. However they are never treated equally and are often exploited by men and women both. Home was considered as safest place, but it is not anymore. Women are trapped in their houses and suffer from sexual, physical violence. Not only women but children are also suffering from child abuse.

I. INTRODUCTION

Domestic violence includes physical abuse, sexual abuse, economic abuse and verbal and emotional abuse. Wives, children, parents, old age people and sometimes men also suffer from domestic violence. One out of three women suffers from domestic violence in India. Due to lockdown situation there is increase in domestic violence cases all over the world. Many new helplines and NGO are formed to help people suffering from domestic violence. Special Act is also enacted for protection of women from domestic violence in 2005. However, the cases related to domestic violence are increasing day by day.

II. DOMESTIC VIOLENCE AND INDIAN LAWS

There are several laws which protect women from domestic violence. Main laws are

1. INDIAN PENAL CODE 1860

Husband or relative of husband of a woman subjecting her to cruelty.¹According to this section harassment for dowry by husband or his relatives is a crime. Cruelty according to this

¹Indian Penal Code 1860 S 498(a)

section includes both mental and physical harassment. Punishment under this section is imprisonment which can extend up till 3 years and fine.

2. THE DOWRY PROHIBITION ACT 1961

The dowry prohibition Act is a criminal law. It prohibits the give and take of dowry. Although there is prohibition on dowry, the cases related to dowry are increasing day by day. Dowry death is common in India and most of the women suffer from domestic violence due to the demand of dowry after marriage. Most women are burnt and killed by her husband and in-laws if dowry is not paid. Although this Act was enacted in 1961 there is no much change in the situation of dowry. Punishment under this Act is imprisonment not less than 5 years [except in some situation imprisonment less than 5 years is allowed] and fine not less than fifteen thousand or amount of the value of such dowry, whichever is more.²"The greed for dowry, and indeed the dowry system as an institution, calls for the severest condemnation. It is evident that legislative measures such as the Dowry Prohibition Act have not met with a success for which they were designed."³In 2015, as many as 7,634 women died in the country due to dowry harassment. Either they were burnt alive or forced to commit suicide over dowry demand.⁴

3. THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE, 2005

Definition of domestic violence.-For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.⁵

The D.V. Act has been enacted to provide a remedy in Civil Law for protection of women

²The Dowry Prohibition Act 1961 S 3.

³ Shri Bhagwant Singh V/s Commissioner of Police, Delhi – 1983 Cri. L.J. 1081

⁴ National crime records Bureau (NCRB)

⁵ The Protection of Women from Domestic Violence 2005 S 3.

from being victims of domestic violence and to prevent occurrence of domestic violence in the society. The D.V. Act has been enacted also to provide an effective protection of the rights of women guaranteed under the Constitution, who are victims of violence of any kind occurring within the family.

III. VIOLENCE IN LIVE-IN RELATIONSHIP IS ALSO DOMESTIC VIOLENCE

Violence in live-in relationship is also considered a domestic violence but only that relationship in which a legal marriage is possible. Bombay HC opined that

“Not all the live in relationships are covered under the provision of Section 2(f) of the Domestic Violence Act. It is only those which qualify to be the relationships in the nature of marriage are governed by that provision. In order to constitute such relationship, a legal marriage between the two must be possible.”⁶

Relationship in the nature of marriages means:-

- The couple must hold themselves out to society as being akin to spouses.
- They must be of legal age of marry.
- They must be otherwise qualified to enter into a legal marriage;
- They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.⁷

IV. SHOULD MARITAL RAPE BE A PART OF DOMESTIC VIOLENCE

Rape is mention in Indian Penal Code 1860 S 375. But Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape. But this law should be amended and marital rape should be an offence. One in three men admit rapeing their wives and one Indian woman is raped by her husband every 3 seconds. However there is no law to protect women from marital rape.

V. STATISTICS RELATED TO DOMESTIC VIOLENCE IN INDIA

- In an interim report on legal aid, Justice N V Ramana said, “the highest number cases were reported from Uttarakhand (144), Haryana (79) and Delhi (63).”
- National Commission for Women received 239 complaints related to domestic violence from 23rd March, 2020 to 16th April, 2020.⁸

⁶Reshma Begum W/O. Gajanfar Kazivs The State Of Maharashtra And Anr (2018)

⁷ D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469

⁸ National Commission for women report.

- In 2020, between March 25 and May 31, 1477 complaints of Domestic Violence were made by the women. This 68-days recorded more complaints than those received in between March-May in the previous 10 years.⁹

VI. WAYS TO STOP DOMESTIC VIOLENCE

1. The laws related to Domestic Violence should be amended and the punishment should be more rigorous in nature, which would create fear in the mind of people.
2. Awareness should be spread about the law and rights to the people so that they can fight for their rights.
3. Women should be motivated to file complaint against domestic violence [there are still 80% women who don't file complaint against domestic violence].
4. There should be change in the way Family Court handle cases involving domestic violence.
5. Government should initiate remedy and support to the victims of domestic violence, and also create jobs to make women financial independent, so that more and more women raise their voice against the domestic violence.

VII. CONCLUSION

One out of three women suffers from domestic violence once in a lifetime. Domestic violence contains physical violence, emotional violence, and mental violence. 80% of victims don't fight against domestic violence as they are not aware about their rights and also they are not financial independent. Although there are so laws to prevent domestic violence the cases are increasing day by day specially in urban areas. Government should take step to prevent domestic violence and to provide jobs to women so that they can be financial independent. Awareness should also be spread among people related to domestic violence and remedies available.

⁹VigneshRadhakrishnan, SumantSen and NareshSingaraveluData / *Domestic violence complaints at a 10-year high during COVID-19 lockdown*, The Hindu, 24th June, 2020.