

## A CRITICAL ANALYSIS OF DOMESTIC VIOLENCE LAWS IN INDIA

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*“As a human rights issue, the effort to end violence  
against women becomes a government’s obligation, not  
just a good idea”. - Charlotte Bunch*

### ABSTRACT

Women constitute half of the population of the world. Yet their status and position in the society is not equal to that of men. They are exploited in many ways from home to work place. Exploitation and atrocities against women is a worldwide phenomenon irrespective of economic and social development. Even though India got freedom in 1947 but women in India are not free from violence till yet. Although nation adopted economic liberalisation policy in 1991 but social liberalisation of women seems to be a distant dream even in millennium.

The purpose of the researcher is to examine the various protective measures available in India and particularly in the state of Odisha for the protection of women from the clutches of the destructive consequence of Domestic violence .Even though there are Himalayan peaks

like laws in our country but still there is no change in the conditions of the women nor there is indication of decrease in atrocities against women. But the incidence of violence against women instead of in the midst of plethora of laws show upward trend. Through this article the researchers critically analyze various legal provisions in general and the Domestic Violence Act in particular.

**Key words:** *Atrocity, Domestic violence, Economic development, Exploitation, Liberalisation, Social Development*

### INTRDUCTION

Men and women are the two wheels of a same vehicle called society. Without one the other’s complete manifestation is not possible. Both are complementary to each other. The Constitution of India also makes no discrimination between the men and women in its various provisions like, equality, liberty, fraternity, freedom etc. But the ground reality is totally contradictory of the provisions enshrined in the Indian Constitution. On the one hand we worship goddess Laxmi, Kali, Durga and on the other hand we witnessed Nirvaya rape case (2016), Hyderabad rape case (2019), Lily Thomas case, Sabarimala case. In reality, from the cradle to grave the women face different types of violence whether, physical, sexual, mental, educational etc. Violence against the women is a global phenomenon .No country ,no state, continent left from the clutches of this giant .It is one of the pervasive violations of human rights in the world and one of the least prosecuted crime and a greatest threat to the existence of the women .It is an irony to say that even though we are at the age of digitalization and ultra-modernisation still there is no change in the situation of the women .They are still considered as the weak, vulnerable and subordinate section in the society.

### Violence and the journey of women

“Violence” the word is closely connected with the fate of the women from womb to tomb. They are exploited, harassed, humiliated by the family, friend, relatives and society at large. In her journey from the Vedic period to the modern period she only faced discrimination, hatredness,

partiality, abusedness, rape, murder, femalefoeticide, honor killings, suicide, domestic violence, cruelty etc. Even she is not safe within the four walls of her house which is considered as a paradise for other people. This violence is an omnipresent concept whether it is a developed or under developed or developing country. Simply the intention of the male dominated society is to bowing down the women to dance according to the tune of the male dominated society without uttering a single words.

### **Domestic violence and the women**

Home is considered as the safest place in this world but for the women home is turned as a place of domestic violence where she has to live with the perpetrators in the name of husband and in laws and the home changed as a hell for her. The meaning of domestic violence is the abuse of power by one adult in a close relationship to control the other and the happiness of the women measured on the basis of alcohol taken by the husband and dowry given by the parents of the women and the mood and satisfaction of the husband and in laws .Once Ban-ki-moon said violence against women and girls continues unabated in every country and culture. It takes a devastating toll on women's lives, on their families, on their children and society as a whole. Most of the societies prohibit such violence .Yet the reality is that too often, it is covered up or tacitly condoned.

### **Causes of Domestic Violence**

Various reasons are responsible for the heinous crime called domestic violence against women, such as:- lack of education ,legal unawareness, extra marital affairs ,doubts, poverty, demand of dowry ,socio cultural factors , orthodox attitude of the people, hatredness of the people towards girl child, the long continued mindset of the people in the society that women are the subordinate group of people and likeness for the male child and the major responsible factor like the ego problem of the male part of the society.

### **Consequences of Domestic Violence**

The consequences which faced by the women in the society due to domestic violence are really heart breaking.

As a result of the violence in family the women suffers a lot .the family broken into pieces due to the problem of violence, the children are abused and their life become spoiled only because of the problem among their parents, the concept of family is in danger due to the domestic violence against the women. Domestic violence against the women figures as the top category of violence in the society in 2018 and in this year 3, 78,277 cases reported. Union Territory Delhi recorded highest number of rape cases (1,217) in 2018.Uttar Pradesh recorded as a most unsafe place for women and in Madhya Pradesh most number of cases found against women. In this pandemic (COVID 19) the cases of domestic violence highly increased, almost 50% due to various reasons like unemployment, idle sitting of the husband, depression etc.(NCRB).Further the report of NCRB said that there is 96% increase in domestic violence cases in 2019.

### **Provisions related to Domestic violence**

There are so many legal provisions available in national and international level for the protection of the women and provide them equality, freedom, liberty .Constitution of India also provide various provisions for women like article 14, 15, 21 etc and section 498(A) of IPC, 113(B) of Evidence Act, But in spite of all these provisions there is no change in the condition of women. So finally by using special power the legislature of India presented the special act on 2005 known as Protection of Women Against Domestic Violence Act 2005 (enacted on oct,2006) as Diwali and Eid gift to the Indian women which have 5 chapters and 37 sections.

### **Main Features of the Domestic Violence Act**

- a. The act defines Domestic violence as any act, omission, commission or conduct of the respondent which injures or harms the aggrieved person constitutes Domestic violence (section-3).
- b. Any person who has reason to believe that such as act has been or is being committed which means that neighbours, social workers, and relatives can all take initiatives on behalf of the victims (section-4).
- c. The court can order share household (Section-17) S.R.Batra vs.Smt.Taruna Batra (2006).

- d. Allows the Magistrates to protect the women from acts of violence or even the acts that likely to harm the women (section-18).
- e. The act also empowers the Magistrates to impose monetary relief and monthly payments, medical expenses.
- f. Allows the Magistrates to make the respondent to pay compensation (Section- 22).
- g. Gives penalty up to one year imprisonment and or a fine up to rs.20, 000(Section-31).
- h. The act further ensure speedy disposal of justice that to within sixty days of the first hearing.
- i. The state is bound to provide protection officers.

With all these features the Domestic violence act enforced in this society for the protection of the women from violence in their domestic field .But this is not proved as a complete panacea for the vulnerable women due to various reasons.

#### **Criticism of the Act**

The Protection of women from Domestic violence Act 2005 is not able to tackle the problem so successfully as a result of which there is increase of domestic violence cases in India. Because the act is a piece of civil law. Secondly there is no required number of protection officer in comparison to the cases filed in a district. Further the engaged number of service providers are also not sufficient. The tragedy is that the protection officers are not only confined within the duty to solve the women issues rather they are engaged for some other purpose by the government .Another lacuna of the act is that though theoretically all the provisions are mentioned but in practical their implementation part is just missing and there is also lack of uniformity in the protocol. The condition of the swadhar gruha meant for the women is not properly managed .Further it is not possible in all situation for the women to live in the share household with the husband who is the reason for her harassment or exploitation. The time limit which mentioned in the speedy disposal of the domestic violence case is

also not maintained strictly and sometimes the compensation order is also not executed strictly.

#### **Conclusion and Suggestions**

Domestic violence is an age old phenomenon and the sad reality of the society. This can be controlled by the elimination of the Laxman Rekha which draw by the society in the way of the women in the name of orthodox attitudes and restrictions. CAMA (Change of attitude, motivation & awareness) of the society is essential for ensuring justice to the women. During the first four phases of the COVID-19 related lockdown,86% women experienced domestic violence and do not seek help in India(The Hindu.com).In early April during this period, Rekha Sharma ,Chairperson of the National Commission for women drew attention to the disturbing phenomenon of a reported increase in violence against women in India and all over the world. Almost there is 50% increase in these cases for which some contact numbers are also issued for the help of the women like: 100,181.In order to tackle the problem of domestic violence as a responsible citizen of India the researcher here suggests some measures. Such as : the problem of domestic violence should be treated as a problem of the whole society not as a problem that is specially related to women .Awareness should be created among the people without confining within the women .The legal provisions should be strictly implemented. Need of more number of gender based laws. Different NGOs should play the vital role in protecting the women by taking different measures .The special legislation like the Domestic violence act 2005 should be properly implemented and this particular act should be amended like the share household because after the mental or physical violence no victim wants to share the household with the culprit. Strict punishment should be given to the perpetrator of violence.

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