

ISSN 2277 - 5730
AN INTERNATIONAL MULTIDISCIPLINARY
QUARTERLY RESEARCH JOURNAL

AJANTA

Volume - VII

Issue - III

Part - I

July - September - 2018

Peer Reviewed Referred
and UGC Listed Journal

Journal No. 40776



ज्ञान-विज्ञान विमुक्तये

IMPACT FACTOR / INDEXING
2018 - 5.5
www.sjifactor.com

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Ajanta Prakashan

Aurangabad. (M.S.)

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14. Domestic Violence in India

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Domestic Violence has become a major issue of concern and debate at the international level since late sixties. The world conference on Human Rights in 1993 at Vienna and in 1995 at Beijing emphasized urgent need for a systematic research on the domestic violence across the countries and regions. No society can claim to be free of such violence. In India, the issue of domestic violence came into sharp focus in the eighties when the mass media gave widespread coverage to the growing incidences of torture of brides, dowry deaths etc.

Need of the Study

Women constitute half of the population and are an important segment of the population. First attempt to study the status of women was made in 1971 and a committee was appointed to understand status of women in India. Committee submitted its report titled '**Towards Equality**' in the year 1974. The report revealed the deplorable status of women India. An update of the **Towards Equality Report** was brought in 2001 entitled '**The Unfinished Agenda- the Status of Women in India, 2001**'. This report revealed that there is not much change in the condition of women over 25 years. It is now 15 years since the last report but even today Indian women suffer from violence. One ubiquitous type of violence is domestic violence. Therefore, its study from different aspects becomes imperative. The instant study is based on secondary sources.

Research Methodology

Research is undertaken in feminist paradigm. One of the widely accepted definitions of feminism is given in Encyclopedia Britannica. It defines feminism as the movement that tries to change roles of women. Feminism can be referred to as political, cultural and economic movements that aim at establishing greater, equal, or among a minority, superior rights and participation in society for women and girls. Feminists believe that gender is socially constructed that leads to distinctions between men and women, a system for the distribution of power and resources that favours men over women. While there are biological differences between men and women, but biology is only a beginning. Simone De Beauvoir insists that womanhood is a social construct. The subordination of female to male is the result of various social factors. This subordination has resulted in violence against women.

Meaning, nature and extent of Domestic Violence

The term “Domestic Violence” includes violence against women and girls by an intimate partner, whether this violence occurs within or beyond the confines of home. Males who are, or who have been, in positions of trust, intimacy and power perpetrate violence in the domestic sphere. viz.: Father, Husband, Boyfriend, Father-in-Law, Brothers, Uncles, Sons or other male relatives.

Violence against women takes place in most intimate of places – the family. Though the family is regarded as place of nurture and care, it can also be a place where male power is brutally expressed and where women are socialized to accept their inferiority and vulnerability.

According to the latest *National Crime Records Bureau* report, the largest numbers of cases of crimes against women are reported under “cruelty by husband, or his relatives”. In 2016, such cases amounted to 32.6%.

This shows how pervasive domestic violence is in India. Besides physical abuse, there are psychological, emotional, economic or sexual abuses, threats and insults.

Patriarchy and Domestic Violence

Domestic violence is rooted in Patriarchy. The word, as stated by *Kamala Bhasin* in her book “What is Patriarchy?” literally means the rule of the father or the patriarch and originally used to describe a specific type of “male dominated family” – The large household of the patriarch which included women, children, junior men, domestic servants all under the rule of a dominant male. In Indian families, the man enjoys absolute authority, power or privileges and makes every decision as the undisputed “head of the family. Patriarchy is continued by both, ideological and structural factors. The family, the class system, the economic and educational systems are the main structural factors that sustain patriarchy.

Patriarchy leads to the notion that violence against women is “normal or usual”. This normalization prevents men and sometimes women too from seeing violence as inappropriate. The patriarchal system, at times, provides legitimization of violence.

Causes of Domestic Violence in India

There are economic, legal, political, psycho-social and cultural reasons behind violence against women.

Lack of economic resources and economic dependence of women is one of the important reasons. But women’s increasing economic activity and independence also threatens men and leads to increased male violence especially when the male partner is unemployed and feels that his power is undermined in the household.

Cultural ideologies worldwide provide legitimacy for violence against women in certain circumstances. Religious and historical traditions in the past have sanctioned the chasticizing and beating of wives. Many idioms in various languages make it evident that women continue to be routinely demeaned.

The traditional norms allow honor killing of 'delinquent' daughters, sisters and wives suspected of defiling the honor of the family by indulging in forbidden sex or marrying or divorcing without the consent of the family.

Sometimes, children who have experienced violence during childhood are likely to inflict violence. .

Excessive consumption of alcohol and other drugs is also leads to violent behavior.

Lack of legal protection particularly within the sanction of home is a strong factor in perpetuating violence against women.

The legal provisions against the domestic violence

Increasing incidents of violence led to struggle for legal provisions against different types of violence. It led to successful enactment of section 498A in the Indian Penal Code in 1983, Section 304B in 1986 and changes in corresponding provisions under Evidence Act 1872.

The Section 498A reads as: 'Whoever, being husband or relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend up to three years and shall also be liable to fine.'

Though the Section was introduced to protect woman from dowry harassment, it has some drawbacks. Firstly, the section applies only to violence faced by married women at the hands of their husbands or his relatives. The definition therefore neglects and violence faced by married women at the hands of their other relatives. Unmarried women and children in their homes also face violence at the hands of male relatives as well as their fathers, brothers, uncles, boyfriends, live-in partners or other members.

Secondly, significant lacuna is in the definition of cruelty in Section 498A. It is rather vague and narrow since it does not include all forms of violence experienced by women within home.

Thirdly, definition of cruelty is subjected to interpretation by courts in ways that have not been advantageous to women. In several cases, the judges of High Courts and Supreme Court have given a narrow definition of cruelty and restricted applicability of this section.

Fourthly, one more challenge faced by lawyers, activists and survivors of domestic violence is the ability of prosecution to prove the same. It is a daunting task to prove cruelty which has taken place, within the confines of home.

Finally the attitude of police authorities is another important issue. The police refuse to register cases under this Section unless specific allegation of dowry harassment is made.

Myth of Misuse

Many cops and lawyers fall prey to myth that the women misuse the section. It is absurd to allege misuse in the background of large incidence of dowry deaths.

Section 304B of Indian Penal Code

Along with Section 498A, another remedy was introduced when second amendment to IPC was enacted in 1986 in the form of Section 304B, which reads as: 'Where the death of a woman is caused by any burns or bodily injury or occurs otherwise under normal circumstances within seven years of marriage and if it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any other relative of her husband for or any connection with any demand for dowry, such death shall be called dowry death and such husband or relative shall be 'deemed to have caused her death.'

The offence is punishable with a minimum of seven years and maximum of life imprisonment. But this section cannot be used where the violence is not linked to dowry. Since no record is maintained and no complaints are made at the time of meeting the dowry demands while the girl is alive, it is extremely difficult to prove a dowry death under this section. The section also presumes that women are harassed for dowry within first seven years of marriage. Thus, this section does not effectively benefit in cases of domestic violence.

Civil Remedy to Domestic Violence

From October 26, 2006; the Government of India has promulgated 'Protection of Women from Domestic Violence Act 2005'. Under this act, term Domestic Violence has wider connotation and it covers all forms of physical, sexual, verbal, emotional and economic abuse.

The definition of an aggrieved person is equally wide and covers, not just wife but also any woman who is the sexual partner of the male. Moreover, the law also protects mothers, sisters and daughters.

FIR regarding an act or acts of domestic violence can be lodged by neighbors, social workers, relatives etc. In this new Act, the magistrate has the powers to permit the aggrieved woman to stay in her place of abode and prohibit retaliatory eviction by the husband. The magistrate also can take several positive steps to prevent domestic violence.

There is apprehension that the Act may be misused. The other concern is about sensitization of protection officers and magistrates. They need to be educated and their duties and responsibilities in dispensing and providing information to the aggrieved person. One other drawback of the law, which needs amendment, is the inclusion of children as victims of set up.

For the Act to be implemented effectively, the activists stress that large scale awareness needs to be created. Other agencies like civil society, local communities, professional associations, mass media and international organizations have to play an important role in combatting violence.

Epilogue

At different levels, local, state, national and international levels, at legislative, judicial and executive levels, at governmental and non-governmental levels attempts are made to combat domestic violence.

But stopping violence against women and girls is not just a matter of punishing individual acts. The issue is changing the deep rooted perception that women are fundamentally of less value of men. The change of perception at individual level will alone go a long way to stop domestic violence.

Abused women should not look at themselves as helpless victims but as survivors and courageous combatants of this malady.

Flavia Agnes has transformed her adversity to advantage. Not only she managed her personal situation but today she is helping hundreds like her through proper professional institutionalized efforts. This task of fighting against domestic violence may be difficult but not impossible. Once embarked they will say, in the words of Flavia Agnes:

*Oh Yes, I am wise,
But it is wisdom born of pain.
Yes I paid the price,
But look how much I gained.
I am strong, I am invincible, I am woman!*

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