

A CRITICAL STUDY ON DOMESTIC VIOLENCE ACT ON FEMALE VICTIMS IN INDIA

¹KUMARAN. A, ²ROJA.K

¹ Student, B.A,LLB, , Saveetha School Of Law, Saveetha University, Saveetha institute of medical and technical sciences, Chennai, Tamilnadu, India

² Assistant Professor, , Saveetha School Of Law, Saveetha University, Saveetha institute of medical and technical sciences, Chennai, Tamilnadu, India

¹kumaran6jun@gmail.com,²rojak.ssl@saveetha.com

ABSTRACT

The culture and tradition of India is considered as old and great all over the world. India is a well developing country at the same time there are lot of problems were occurred in India. In olden days, women were worshiped as Shakti and respect was given for them. Even in mythology, Lord Shiva has given half of his body to Shakti viz., Arthagini. Nowadays women were well ill-treated and number of violence were increasing against women in India. Women in the Indian society generally facing many problems such as domestic violence, sex discrimination, sexual harassment,dowry death.,etc.,. In India crime against women is a ever increasing problem. Nowadays this problem has been growing more and more in India. Government implemented Act to protect women from these kind of violence. In this research the researcher explains Domestic Violence Act 2005 in India. It clearly explains about the term of domestic violence and laws related to domestic violence.

KEYWORDS: domestic violence,women, sexual harassment, crime, problem.

INTRODUCTION

Women in India face lots of social issues and problems all through the life from their beginning of life. In India they have been consider women as lower than men..Because of these kind of inferiority women have to face various problems in their life. In India Women face a lot of challenges because of the existence of patriarchal society system, male domination,etc.,.Women in India do not have equal social freedom than men. problems faced by the women are because of their responsibilities and cultural roles, etc. In some case the condition

of women is worse, when they get tortured by their family members instead of getting help. In ancient times many problems were faced by women like child marriage, sati, parda system,, etc. However, almost all the old traditional problems have been vanished from the society. but other new issues have been raised in society. Women are rapidly facing many problems even after having self-confidence, self-respect, capacity, talent,etc, Women are facing problems in their daily life even after they are having equal rights and opportunities like men by the Constitution of India. Women generally face lots of problems in society such as sexual harassment , Domestic violence, female infanticide, etc.,¹.Women are getting affected by the various violence in society. Because of increasing crimes against women Women are being victims of violence at huge level day by day.Domestic Violence is more common at homes by their husbands, family members, neighbours,,etc.,.Women have to suffer a lot in their daily life for saving their family relationships.Domestic violence is like a widespread disease affects almost 70% of Indian women in India, according to the women and child development official. It is performed by the husband, relative or other family member. Regarding the safety of women in India, Indian government made various rules,regulations, laws and acts. Domestic violence Act has implemented by Indian government to reduce the domestic violence in India.² Aim of the study:

1. To study about domestic violence Act 2005 in India.
2. To study domestic violence in India.

RESEARCH METHODOLOGY

This research is based on doctrinal type pattern. Doctrinal research is also known as traditional research. Doctrinal research is divided into different types such as analytical and descriptive method. This research is based on information which has been already available and analysed those facts to make a evolution of this research. This research involves secondary data. In this research the researcher mostly used books,articles,journals.,etc....

¹ EPandey, Geeta, et. al., *BBC News*, "100 Women 2014: Violence at home is India's 'failing'", 29 October 2014, *BBC News Everyday*

² Sorabjee, Soli (5 November 2006). "SUNDAY DEBATE: Is verbal abuse domestic violence? No". *The Times of India*. Retrieved 4 October 2013.

AN OVERVIEW ON DOMESTIC VIOLENCE

violence is almost everywhere in the world. women are being tortured, beaten and killed behind closed doors.. Violence is happening in all areas such as rural areas, towns, cities and in metropolitans. Violence crossing all social classes, genders, racial lines and age groups. Violence becoming a inheritance being passed on from one generation to another. The term used to describe this problem of violence in our homes is known as Domestic Violence. Domestic violence can be male or female's action towards another male or female . In domestic violence anyone can be a victim and victimiser. Domestic violence has a capacity to express in various forms such as physical, sexual, emotional and economically. Domestic violence means any act of omission or commission or conduct of the respondent shall constitute domestic violence, in case it cause any physical or mental harm, harasses or harm for dowry or other property issue, has the effect of threatening the aggrieved person³. There are types of domestic violence, namely ; control, physical abuse, sexual abuse, emotional abuse and intimidation, isolation, verbal abuse (coercion, threats and blame), using male privilege, economic abuse.. Domestic violence is an abuse which happens in the personal relationship. [21] Domestic violence means an offence or harass against the family members or against the wife / husband, girlfriend / boyfriend, who were in current relationship or past, to gain power and control. Domestic violence is not only a physical abuse it also affects mentally. These type of domestic violence are done to gain power and control . For example : A husband harass his wife physically or mentally to gain her property and control her and her family. The physical harass will be like death, injury, grievous hurt, sexual abuse, torture. Mental harass like using abusing words which makes depressed, avoiding or omission , mental torture. Domestic violence is severe form of abuse committed within four walls. Offence against women in any form of is violation of right to equality⁴. United Nations General Assembly adopted the Declaration on the Elimination of All forms of [22] violence against women on 20th December 1993.. Article 1 of the Declaration defined" Domestic violence means violence between family members or other violent ..act committed by one member of the household against him.

³ Finley, Laura (July 16, 2013). *Encyclopedia of Domestic Violence and Abuse*. ABC-CLIO. p. 163. ISBN 978-1610690010. Archived from the original on January 10, 2017.

⁴ Lupri, Eugene; Grandin, Elaine (2004), "Consequences of male abuse – direct and indirect", in Lupri, Eugene; Grandin, Elaine, *Intimate partner abuse against men* (PDF), Ottawa: National Clearinghouse on Family Violence, p. 6, ISBN 9780662379751, archived from the original (PDF) on January 4, 2009, retrieved June 21, 2014.

DOMESTIC VIOLENCE UNDER CIVIL AND CRIMINAL LAW PERSPECTIVE

Criminal law perspective

The Criminal law in India is contained fundamentally in the Indian Penal Code, 1860 (IPC). The IPC is supplemented by unique laws, which characterize and rebuff particular offenses.

The Indian Penal Code:

In IPC, there is no accurate definition of the term domestic violence. But domestic violence meaning can be emerge from various provision such as 'culpable homicide', Murder, dowry death, Abetment of suicide cruelty by the husband or relatives, Female infanticide, or forcing the wife to terminate her pregnancy, misappropriation of the spouse's property, hurt grievous hurt, grievous hurt by dangerous weapons and voluntarily causing hurt to extort property, wrongful confinement of the spouse within her matrimonial home, use of force and assault on the spouse, are also forms of domestic violence recognized as offences under the IPC. Marital rape is also another common form of domestic violence. 1983, wedding brutality was presented as an offense in the IPC.⁴¹

Cruelty was defined as "any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or health injury (whether mental or physical) of the woman". It includes harassment of the woman and demands property.⁵

Civil law perspective

Civil law also follows criminal law, inasmuch as it addresses problems of domestic violence without specifically mentioned domestic violence. Indeed, even references in the statutes-to parts of aggressive behavior at home are bland and it is just through legal choices that such arrangements have been given life and importance

The Dissolution of Muslim Marriages Act, 1939 (DMMA), says cruelty as a ground for divorce. Indeed, even references in the statutes-to parts of aggressive behavior at home are bland and it is just through legal choices that such arrangements have been given life and importance

⁵ *Fourth World Conference on Women 'Platform for Action', Strategic Objective D.2, No. 129(a), 1995.*

The Hindu Marriage Act, 1955 (HMA,) term cruelty has been in physical as well as mental cruelty and is a ground for divorce as well as judicial separation. The Special Marriage Act, 1954 (SMA), the Indian Divorce Act (IDA), and the Parsi Marriage and Divorce Act (PMDA), all these Acts allow 'cruelty' as a ground for divorce. However, none of the Acts elaborate the nature of cruelty. Domestic violence would certainly qualify as cruelty under these laws.⁶

DOMESTIC VIOLENCE ACT 2005

In order to protect the rights of women who are victims of violence of any kind occurring within the the Parliament enacted the Protection of Women from Domestic Violence Act, 2005 which came into effect from 26th October, 2006

The Act was passed by the Parliament in August, 2005 and approved by the President on September 13, 2005. The primary thought process of this Act is to give assurance to female from savagery on account of the spouse or male live-in accomplice or his relatives. The law likewise stretches out its assurance to women , who are sisters, mother in law or moms. Aggressive behavior at home under the Act incorporates genuine manhandle whether physical, sexual, verbal, passionate or financial. Provocation by method for unlawful settlement requests to the women are secured under this definition. The Act additionally protects the women's entitlement to secure housing.. . It has been recognized since long that forceful conduct at home is comprehensively unavoidable anyway has stayed, all things considered, imperceptible in the overall public region and Section 498A, IPC does not convey itself totally to this stunning issue since it is kept just to secure woman against mercilessness by her significant other or his relatives.

The main feature of domestic Violence Act 2005 are given below.

- Any behaviour of relative of the victim which subjects her to habitual assault, or makes her life miserable, or make any injuries or harms. or treat her to lead an unethical life would constitute domestic violence.
- The violation made by the relative, of the order made by the Magistrate would constitute an unlawful act punishable with imprisonment upto one year, or with fine, or with both.

⁶ *Violence against Women Online Resources in a co-operative project of Office of Violence Against Women and the Minnesota Center against Violence and Abuse at University of Minnesota 2008-TA-AX-KO58 awarded by office of Violence against Women and US Dept of Justice.*

- Protection Officers are appointed under the Domestic Violence Act, to help the victim of domestic violence in making application to the Magistrate and in utilize of her legal rights.
- Protection Officers shall be appointed by the State Governments and they shall have such qualifications which may be prescribed by the Central Government.
- Protection Officer shall be worked to be a public servant within the meaning of Section 21 of IPC, and if he fails or refuses to perform the duties as directed by the Magistrate, the protection officer act shall considered to be an offence punishable with imprisonment upto one year, or with fine, or with both.
- Shelter-home and medical facilities can be provided to the unhappy woman for their welfare of the life.
- Every affected woman shall have right to reside in shared household.

In exercise of the forces gave by Section 37(1) of the Protection of Women from Domestic Violence Act, 2005, the Central Government has made Rules for completing the arrangements of the Act.

The Protection of Women from Domestic Violence Act, 2005 is a welcome social legislation. Although women have made amazing progress in almost every sphere of life, one cannot be unconscious to the fact that they continue to be victims of violence of different views⁷. The national report on domestic violence says that Domestic violence Act are mostly used by married woman. However, in some cases relief has been granted to widows and daughters. As a protective tool, PWDVA seeks to provide relief against physical, economic, mental and sexual violence.

The PWDVA appointment the protection officers to record incidents of domestic violence on women even by providing them shelter in homes if necessary, but the State Governments are not able to provide these facilities .

After the implementation of Domestic violence Act the domestic violence have been decreased in India.⁸

⁷ Susan Smolen, "Violence Against Women: Consciousness and Law in Four Central European Emerging Democracies-Poland, Hungary, Slovakia, Czech Republic" 15 Tul, Eur, & Civ.L.F. 1(2000-01

⁸ 'Mandatory Arrest Law - Domestic Violence' <http://essayforum.com> 25th February 2007 at 5.00 PM.

EFFECT OF DOMESTIC VIOLENCE ACT 2005

There are different forms of violence affect the society. Violence against women may keep them locked in homes surrender to the torture they face. If they come out in open and reveal the offence happened to them for help and rescue, it influences the society both positively and negatively⁹. At one hand where it acts as an inspiration and hope for other many women who suffered from domestic violence, on the other hand it also spoils the peaceful atmosphere of the society..When something of this kind occurs in the general public, couple of families may witness the wickedness of abusive behavior at home thumping their entryway steps. A few families attempt to mirror what others enjoy independent of it being great or terrible for the family.

DOMESTIC VIOLENCE BILL

Domestic Violence Bill that provides for all women who were in the domestic relationship. They have a right to take legal action against her male partner if she feel that her male partner behaviour with her rudely. ¹⁰. If the complaint is filed, a protection officer, absolutely a female, will pass check orders and give a second chance. On the second chance that the lady whines once more, the male accomplice, be indicted with one year detainment and fine of Rs. 20,000/- with no further enquiry.. This is known as aggressive behavior at home bill.

SUGGESTION

- We should create awareness among people about this Domestic Violence Act, 2005.
- We should educate men not to illtreat women.
- Women have to be educated to stand against such Act.

CONCLUSION

Domestic violence against women it is one of the old age phenomenon and women are suffering because they are considered to be weak, unsafe and are exploited. Nowadays crimes are increasing against women .according to the report of Crime Record Bureau Woman is getting

⁹ S 54 of Part III of DVCV Act 2004.

¹⁰ *Domestic Violence Legislation and its Implementation—An Analysis for Asian countries based on International Standards and Good Practices" by Lawyers Collective Women's Rights Initiative, India at UNIFEM 2009.*

kidnapped at every 44 minutes, raped at every 47 minutes, 17 dowry deaths every day, etc. This Act gives right and protection for women in Indian society. After the implementation of Domestic Violence Act 2005 the Domestic Violence has been reduced in society. Hence alternative hypothesis is proved.

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