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Analyse the Drastic Consequences of Domestic Violence

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ABSTRACT

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women”.

The United Nations Declaration on the Elimination of Violence against Women, General Assembly Resolution, December 1993 stated that Violence against women and girls continues to be a global epidemic that kills, tortures, and maims – physically, psychologically, sexually and economically. It is one of the most pervasive of human rights violations, denying women and girls equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms. Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity and age. Women and children are often in great danger in the place where they should be safest: within their families. For many, ‘home’ is where they face a regime of terror and violence at the hands of somebody close to them – somebody they should be able to trust. Those victimized suffer physically and psychologically. They are unable to make their own decisions, voice their own opinions or protect themselves and their children for fear of further repercussions. Their human rights are denied and their lives are stolen from them by the ever-present threat of violence.

Keywords: *Women, Physically, Psychologically, Sexually, Economically, Violations Equality, Culture, Class, Education, Income.*

I. INTRODUCTION

‘Women are the only exploited group in history to have been idealized into powerless’

- Karl Marx.

Domestic violence is one of the gravest gender-specific human rights violations². The idea of domestic violence has been ingrained in the society to a dangerous extent that in many parts of the country young girls are taught that abuse is a love-language too. Consequently, even highly educated women end up being victims of domestic violence without them realizing it.

¹ Author is a student in India.

² UN Women, www.unwomen.org

Restricting a woman from working outside the family is often perceived as the husband's love and care by many. By doing so, women are forced to be financially depended. Sometimes, the income earned by the women is taken away by the husband and in-laws leaving nothing for her. Domestic violence has many facets and this is just one of them. Ubiquity of domestic violence was highlighted prominently during the Covid-19 lockdown³. Stay home to stay safe hasn't been the case for many women across the country as many were trapped with their abusers in the same household. According to the data presented by National Commission for Women, the domestic violence complaints doubled after the nationwide lockdown.⁴ Below is a comprehensive composition entailing the concept of domestic violence, its types, reasons as well as cure for domestic violence .

II. WHAT IS DOMESTIC VIOLENCE ?

The United Nations Declaration on the Elimination of Violence against women defined domestic violence as “*physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.*”

According to Section 3 of the Protection of Women from Domestic Violence Act, 2005, Domestic Violence is ‘any act, omission or commission or conduct of the respondent that 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 to and includes anything causing physical abuse, sexual abuse, verbal abuse and economic abuse. Further, any act which 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.

As apparent from the definition, domestic violence can take any one of the following forms:

- **Physical abuse:** Acts which, by its nature cause bodily injuries or impairs the health or development of a person amounts to physical abuse. It includes acts like punching, hitting, hair-pulling, use of weapons, causing miscarriage without women's consent,
- **Sexual abuse:** Any act of sexual nature which results in humiliation, degradation or violation of dignity of woman amounts to sexual abuse. It is regarded as one of the invisible forms of domestic violence. Usually, it can be in the form of marital rape or

³ Anuradha Kapoor, *An Ongoing Pandemic: Domestic Violence during COVID-19*, 56 Review of Women's Studies

⁴ Krishnakumar, Verma, *Understanding Domestic Violence in India During Covid-19*

incest. Marital rape is not an offence in India. However, a husband forcing himself upon the wife amounts to cruelty and comes under the purview of violence against women.

- **Verbal abuse:** includes insults, humiliation, name calling, ridicule especially with regard to not having a child or male child as well as repeated threats to cause physical pain to any person close to the aggrieved person.
- **Psychological and Emotional Abuse:** Acts which leave a deep negative impact on the victim's psyche.
- **Economic Abuse:** consists of exclusion of women from all financial decision-making, unequal pay and denial of property rights.⁵ As per the law, it is the deprivation of all or any economic or financial resources to which the aggrieved person is entitled to disposing or alienating assets, shares, bonds etc. in which the aggrieved person has an interest in. The interest can be by virtue of the domestic relationship, or which is required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person.
- Prohibition or restriction to access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship. It includes access to the shared household⁶.

III. CAUSES OF DOMESTIC VIOLENCE

Protecting women from domestic violence in 2005 is a groundbreaking law justifying women's right to life and infringement of their liberty. This law is in line with international obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Previously, domestic violence was primarily dealt with by the Dowry Prohibition Act. The acts of violence against women have been treated as an offence under **Section 489A of the Indian Penal Code**, since the second amendment in 1983.⁷

Protection of Women from Domestic Violence Act, 2005 is applicable to all married women, unmarried women living with their parents. It did not have a retrospective application. However, in *Lt. Col. VD Bhanot v. Savitha Bhanot*⁸, the court held that the legislation can be applied retrospectively.

The law assigns certain obligations to shelters and medical facilities. B. Obligation to provide

⁵ Sudha Jha Pathak, *Domestic Violence - An Insight into Incest*, 5 NIRMA U. L.J. 69 pp.71-72 (2016)

⁶ Protection of Women against Domestic Violence, § 3, No.43 of 2005, Act of Parliament, 2005(India)

⁷Dr. Nuzhat Parveen Khan, *Textbook on Women & Child Related Laws*, 1st ed.

⁸ Lt. Col. VD Bhanot v. Savitha Bhanot (2012) 3 SCC 183

accommodation and medical assistance to the injured at or on behalf of the injured. Resource centers that are actively functioning for domestic violence survivors in India include the Women's National Commission, Plunger India, Plunger Trust, Action Aid India and Sneharaya. It also established federal and state government obligations to ensure the protection of women. Such duties consist of giving wide publicity through public media, creating awareness and sensitization among government employees like police officers, judicial members etc., proper coordination between services provided by concerned ministries and departments dealing with law and order, health and human affairs etc.

The Domestic Violence Act is applicable only when a domestic violence exists.⁹In *Adil v. State*¹⁰, the court stated that reliefs can be provided only when a domestic relationship exists. Similarly, in *Manmohan Attavar v. Neelam Manmohan Attavar*,¹¹ the apex court held that in order to obtain a remedy u/s. 17 and 19 of the DV Act, it is necessary that two parties had lived in a domestic relationship.

In *D.Velusamy*,¹² it was held that the definition of Domestic relationship in Section 2(f) of the Act includes not only marriage by also a relationship in the nature of marriage.

The frequency of violence does not matter. Even if the act is done, for example, once every five years, it still counts as domestic violence. An example of a Hindi movie *Tappad* in which a woman was beaten only once. The woman applied for and was approved for a divorce of domestic violence. *Kamlesh Deviv. Jaipal (2019)*, the court stated that a mere allegation of domestic violence is not sufficient to bring a case within the scope of domestic violence law. *Ajay Kumar v. In Lata*, the Supreme Court said it could file domestic violence cases against a husband, a male partner, or her relatives, depending on the circumstances.

Chapter 4 of the Act contains procedures for obtaining a tax exemption order. All such proceedings are governed by the provisions of the Code of Criminal Procedure, 1973. It is not mandatory that the victim should lodge a complaint. Any person who reasonably believes that an act of domestic violence has been or is likely to be committed may inform the concerned authorities. Such persons are exempted from liabilities. Such person may present an application to the Magistrate for issuing reliefs such as an order for payment of compensation or damages for the injuries caused as a result of domestic violence.

The Magistrate shall then give a notice of the first date of hearing. He is bound to dispose of

⁹ Halsbury's Laws of India (Family Law II, Vol 20), 2 ed.

¹⁰ *Adil vs. State*, II(2010) DMC 861 (Delhi)

¹¹ *Manmohan Attavar v. Neelam Manmohan Attavar*, (2017) 8 SCC 550

¹² *D.Velusamy v. D.Patchaiammal* (2010) 10 SCC 469

every application within a period of sixty days from the date of its first hearing. If necessary, the magistrate may direct the respondent or the aggrieved person, either jointly or individually to undergo counselling. Further, considering the nature and circumstances of each case, the proceedings may or may not be held on camera. After giving both parties the opportunity to hear that domestic violence has occurred or is likely to occur and is satisfied, the Justice of the Peace will issue appropriate orders to protect the injured. These orders are intended for the defendant to prohibit:

- a. committing, abetting or aiding in any act of domestic violence,
- b. entering the place of work of the aggrieved person (school, in case of the aggrieved person being a child)
- c. attempting to communicate
- d. alienating any assets (including bank lockers, bank accounts, her stridhan etc.)
- e. causing violence to the dependents/relatives/persons who assist the aggrieved person
- f. any other act specified in the order.

Other orders include custody orders, compensation orders, interim and ex-parte orders. The magistrate may also direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person (and child, if any) due to domestic violence. Additionally, the Act expressly grants the aggrieved person the right to reside in the shared household irrespective of whether or not she has any right, title or beneficial interest in the same.

In *Abha Arora v. Angel Sharma*, the court held that an order under the Act restraining the respondent from alienating or disposing can be made only in respect of a shared household. In *S Meenavathi v. Senthamarai Selvi*, the court held that by virtue of a residence order under Section 19 of the Act, women members of the family cannot be directed to be removed from the shared household. In *Shammi Nagpal v. Sudhir Nagpal*, the court held that accommodation provided to the husband by his employer can be treated as a matrimonial home.

In *Vimalben Ajithbhai Patel v. Vatslaben Ashokbai Patel*, 2010, the apex court held that the right to residence is a part of the right to maintenance. Appeals shall lie against the orders of the Magistrate before the Court of Sessions within thirty days from the date of order. In case of breach of order by the respondent, it shall be tried as an offence and be punished with either imprisonment extending up to one year or with a fine of rupees twenty thousand rupees or with both.

(A) Scope of the problem

The family is often equated with sanctuary a place where individuals seek love, safety, security, and shelter. But the evidence shows that it is also a place that imperils lives, and breeds some of the most drastic forms of violence perpetrated against women and girls.

Violence in the domestic sphere is usually perpetrated by males who are, or who have been, in positions of trust and intimacy and power husbands, boyfriends, fathers, fathers-in-law, stepfathers, brothers, uncles, sons, or other relatives. Domestic violence is in most cases violence perpetrated by men against women. Women can also be violent, but their actions account for a small percentage of domestic violence.

Violence against women is often a cycle of abuse that manifests itself in many forms throughout their lives. Even at the very beginning of her life, a girl may be the target of sex-selective abortion or female infanticide in cultures where son preference is prevalent. During childhood, violence against girls may include enforced malnutrition, lack of access to medical care and education, incest, female genital mutilation, early marriage, and forced prostitution or bonded labour.

Examples of Violence against Women Throughout the Life Cycle

<u>Phase</u>	<u>Type of violence</u>
<u>Pre-birth</u>	Sex-selective abortion; effects of battering during pregnancy on birth outcomes
<u>Infancy</u>	Female infanticide; physical, sexual and psychological abuse.
<u>Girlhood</u>	Child marriage; female genital mutilation; physical, sexual and psychological abuse; incest; child prostitution and pornography.
<u>Adolescence and Adulthood</u>	Dating and courtship violence (e.g. acid throwing and date rape) Adulthood economically coerced sex (e.g. school girls having sex with “sugar daddies” in return for school fees); incest; sexual abuse in the workplace; rape; sexual harassment; forced prostitution and pornography; trafficking in women; partner violence; marital rape;

	dowry abuse and murders; partner homicide; psychological abuse; abuse of women with disabilities; forced pregnancy.
<u>Elderly</u>	Forced “suicide” or homicide of widows for economic reasons; sexual, physical and psychological abuse.

IV. FACTORS OF DOMESTIC VIOLENCE

There is no one single factor to account for violence perpetrated against women. Increasingly, research has focused on the inter-relatedness of various factors that should improve our understanding of the problem within different cultural contexts.

Several complex and interconnected institutionalized social and cultural factors have kept women particularly vulnerable to the violence directed at them, all of them manifestations of historically unequal power relations between men and women. Factors contributing to these unequal power relations include: socioeconomic forces, the family institution where power relations are enforced, fear of and control over female sexuality, belief in the inherent superiority of males, and legislation and cultural sanctions that have traditionally denied women and children an independent legal and social status. Lack of economic resources underpins women’s vulnerability to violence and their difficulty in extricating themselves from a violent relationship. The link between violence and lack of economic resources and dependence is circular. On the one hand, the threat and fear of violence keeps women from seeking employment, or, at best, compels them to accept low-paid, home-based exploitative labour. And on the other, without economic independence, women have no power to escape from an abusive relationship.¹³

¹³ Schuler S.R., Hashemi S.M., Riley A.P., and Akhter S., Credit Programs, Patriarchy and Men’s Violence against Women in Rural Bangladesh, Soc. Sci. Medicine Vol 43, No 12, pp 1729- 1742, 199

Factors That Perpetuate Domestic Violence

<p><u>Cultural</u></p>	<ul style="list-style-type: none"> ● Gender-specific socialization ● Cultural definitions of appropriate sex roles ● Expectations of roles within relationships ● Belief in the inherent superiority of males ● Values that give men proprietary rights over women and girls ● Notion of the family as the private sphere and under male control ● Customs of marriage (bride price/dowry) ● Acceptability of violence as a means to resolve conflict
<p><u>Economic</u></p>	<ul style="list-style-type: none"> ● Women's economic dependence on men ● Limited access to cash and credit ● Discriminatory laws regarding inheritance, property rights, use of communal lands, and maintenance after divorce or widowhood ● Limited access to employment in formal and informal sectors ● Limited access to education and training for women
<p><u>Legal</u></p>	<ul style="list-style-type: none"> ● Lesser legal status of women either by written law and/or by practice ● Laws regarding divorce, child custody, maintenance and inheritance ● Legal definitions of rape and domestic abuse ● Low levels of legal literacy among women ● Insensitive treatment of women and girls by police

	and judiciary
<u>Political</u>	<ul style="list-style-type: none"> ● Under-representation of women in power, politics, the media and in the legal and medical professions ● Domestic violence not taken seriously ● Notions of family being private and beyond control of the state ● Risk of challenge to status quo/religious laws ● Limited organization of women as a political force. ● Limited participation of women in organized political system.

V. CONSEQUENCES

Denial of fundamental rights - Perhaps the most crucial consequence of violence against women and girls is the denial of fundamental human rights to women and girls. International human rights instruments such as the Universal Declaration of Human Rights (UDHR), adopted in 1948, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, and the Convention on the Rights of the Child (CRC), adopted in 1989, affirm the principles of fundamental rights and freedoms of every human being.

Human development goals undermined - There is a growing recognition that countries cannot reach their full potential as long as women's potential to participate fully in their society is denied. Data on the social, economic and health costs of violence leave no doubt that violence against women undermines progress towards human and economic development.

Health consequences - Domestic violence against women leads to far-reaching physical and psychological consequences, some with fatal outcomes. While physical injury represents only a part of the negative health impacts on women, it is among the more visible forms of violence. The United States Department of Justice has reported that 37 per cent of all women who sought medical care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse or partner.¹⁴ Assaults result in injuries ranging from bruises and

¹⁴ US Department of Justice, 'Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends', March 1998.

fractures to chronic disabilities such as partial or total loss of hearing or vision, and burns may lead to disfigurement.

Impact on children - Children who have witnessed domestic violence or have themselves been abused, exhibit health and behaviour problems, including problems with their weight, their eating and their sleep.¹⁵ They may have difficulty at school and find it hard to develop close and positive friendships. They may try to run away or even display suicidal tendencies.

<u>Health Consequences of Violence Against Women</u>	
<u>NON-FATAL OUTCOMES</u>	
<u>Physical health outcomes</u>	<u>Mental health outcomes</u>
<ul style="list-style-type: none"> ● Injury (from lacerations to fractures and internal organs injury) ● Unwanted pregnancy ● Gynaecological problems ● STDs including HIV/AIDS ● Miscarriage ● Pelvic inflammatory disease ● Chronic pelvic pain ● Headaches ● Permanent disabilities ● Asthma ● Irritable bowel syndrome ● Self-injurious behaviours (smoking, unprotected sex) 	<ul style="list-style-type: none"> ● Depression ● Fear ● Anxiety ● Low self-esteem ● Sexual dysfunction ● Eating problems ● Obsessive-compulsive disorder ● Post traumatic stress disorder
<u>FATAL OUTCOMES</u>	
<ul style="list-style-type: none"> ● Suicide ● Homicide ● Maternal mortality ● HIV/AIDS 	

VI. DOMESTIC VIOLENCE ACT AND FUNDAMENTAL RIGHTS

¹⁵ Jaffe P.G., Wolfe D.A. and Wilson S.K. (1990) Children of Battered Women. Developmental Clinical Psychology and Psychiatry, Volume 21, Sage Publications, California.

In *Francis Coralie Mullin v. Administrator, Union Territory Delhi*,¹⁶ the Supreme Court stated that any act which damages, injures or interferes with the use of any limb or faculty of a person, either permanently or even temporarily would be a violation of article 21. In *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan*,¹⁷ the Supreme court emphasized that right to life includes right to live with human dignity, right against being subjected to humiliating sexual abuse and emotional abuse. These acts fall within the ambit of domestic violence. *Chameli Singh v. State of UP*¹⁸ holds that right to life would include right to shelter. This right has been reinforced by Sections 6 and 17 of the Domestic Violence Act. The Domestic Violence Act promotes rights of women guaranteed under Articles 14 and 15.¹⁹

VII. CONCLUSION

Domestic violence has hindered the development of the women as a class of individuals in all aspects of life. Apart from the physical injuries sustained, the domestic violence leaves a huge negative impact on the psyche and personality. Many survivors undergo multiple counselling sessions to return to normal lives. Despite having a legal framework in place to curb domestic violence, women continue to suffer. Between January and May 2021, over 2,300 domestic violence complaints were filed with the National Commission for Women. The figure is the highest since 2000.²⁰ The high numbers can be perceived from two aspects. Positively, more women are standing up against domestic violence by seeking legal help. On a negative note, the high numbers can be signaling a dangerous rise in violence considering the pandemic lockdown and work-from-homes still continuing. Therefore, it is the need of the hour to make our laws stringent to safeguard the nation's women. Last but most importantly, women should be sensitized about the importance of financial independence and the legal framework that is readily available to help them.

¹⁶ *Francis Coralie Mullin v. Administrator, Union Territory Delhi*, 1981 AIR 746

¹⁷ *Municipal Corporation v. Nawab Khan Gulab Khan*, (1997) 11 SCC 123

¹⁸ *Chameli Singh vs. State of U.P & Anr.*, (1996) 2 SCC 549

¹⁹ *Mitike Shrivastava, Domestic Violence Act vis-à-vis Right to Life*, 2012 1 MLJ Cr1 9

²⁰ *THE HINDU*, www.thehindu.com