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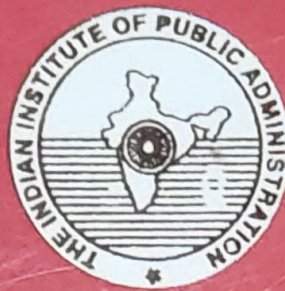
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Editor
R.K. Verma

Supplement on Family and Personal Laws

Indian Institute of Public Administration
Bihar Regional Branch, Patna

Indian Institute of Public Administration Bihar Regional Branch, Patna

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Special Supplement on Family and Personal Laws

Editor

R.K. Verma

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IMPACT OF DOMESTIC VIOLENCE ON FAMILY AND CHILDREN

Inderpreet Kaur

Abstract

Women in Indian society have been subject to domestic violence for long, having adverse impact on family and children. No doubt laws have been made to curb the practice of domestic violence, but it still continues in different forms. As such the present paper intends to define domestic violence, examine the laws to curb it and underline its adverse impact on children and family. This harms the future generations. The present study goes to suggest that despite legal provisions, the role by community itself, enabling women to get rid of it, paralegal training etc. should be seriously considered.

Keywords: Domestic Violence, Dimensions of Domestic Violence, Crime, Children, Behavior.

CONCEPTUAL ASPECTS OF DOMESTIC VIOLENCE

As we all know that domestic violence is a universal problem throughout the globe which makes a very serious result on any human's life and his development. The violence against the women is the expression of the historical reflection of unequal relationship between men and women. This response is not a natural response of biological difference. It is a constrain of mind and is not a natural or biological determinism. Due to the rapid urbanization, industrialization the violence against women has become an uncontrollable phenomenon. As we all know in India the women has always been worshipped in the images of Mahalaxmi, Saraswathi, Durga and Parvati but the current scenario has put women into a very brutal reality to face violence in the family.

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One of the evils that exist in our society includes Domestic Violence. It is such an evil which occurs in a domestic setting and involves violent abuse on one's own spouse. Domestic violence occurs in a marriage or cohabitation. It can also occur if it's done by one's parents, in-laws or other family members too. Dowry harassment, stalking are also kinds of domestic violence. If a school girl gets touched by a member of a family, teacher or any elder person then also such an act will be said to be an act of violence only. Some types of domestic violence are physical abuse, mental abuse, emotional abuse and financial abuse. By practicing domestic violence, one person puts oneself in an authoritative position and the other person on whom such evil is done is the one who is so controlled. Women have always been considered as the vulnerable part of the society and have always been exploited to prove the domination.

Domestic violence is not something new but has always been in existence since decades. Women have been treated as weaker section of our society. Earlier Sati was in practice which is a clear example of domestic violence. Women are always treated inferior to men. Also we have seen number of restrictions on women in every area since ages but no such restrictions are there on men. Even today, in 21st century where rapid changes are taking place and where recognition is being given to women at national and international level still there are many women who are still going through domestic violence and other forms of evils.

Dimensions of domestic violence are vast encompassing abuses like 'Emotional or Mental abuse', 'Physical abuse', 'Financial abuse', 'Sexual abuse' and technological abuse. Let us discuss it.

EMOTIONAL AND MENTAL ABUSES

Inflicting hurt emotionally and mentally is a grievous kind of violence. These are manifested in criticizing, embarrassing, shaming, blaming, subjugating, superimposing etc. Blaming someone for any problem in the relationships constitutes emotional abuse. These reduce their self-esteem and self-dignity. Emotional bias occurs when a person says or does something to another person in order to make another person feel worthless, useless or stupid. Further, creating fear in the mind of partner through threatening behavior such as damaging property or abusing pets, constant supervision or controlling what the victim does and who they talk to. All these make women perturbed, caught in superiority complex, anxious, distracted that choke their personality.

PHYSICAL ABUSES

This type of abuse means violence which is done physically by using one's own hands. Physical abuse involves violence of any type, starting from pushing, hitting,

✓
striking or slapping to killing or shooting. It occurs when a person uses a part of their body or an object to control a person's actions. Physical abuse is also a kind in which a person is trying to put his power and dominate the other. This kind of abuse might result in an injury which requires medical treatment. Physical abuse might also lead to one person's death. For example, biting, strangling, spitting at partner, murder, pulling hair, throwing objects at partner, using household objects as weapons, punching, kicking and scratching.

Financial Abuse

Financial abuse means an abuse in which a person is not allowing to work or have any job. Not even any access to the accounts. Using all the wages earned by the women or parents, or children or household expenses without contributing one's own salary. In this type of abuse one takes the control of the entire pension of the victim and also denying their entitlement to joint properties. Financial abuse involves the controlling by one person the financial independence of the other partner. For example, having all bank accounts in the abuser's name, controlling how, when and where money is spent, assigning a allowance, denying a partner the right to work outside the home, misusing a partner's name for financial reasons and forcing partner to sign documents against their wish.

Verbal Abuse

Verbal abuse means an abuse wherein one person uses such an offensive language, whether spoken or written, to another person in order to cause harm. It also means calling someone by name, criticizing someone, cursing someone, giving ridiculous and insulting remarks to her or to her family members who may result in mental pain and trauma. Verbal abuse also includes blaming, accusing, putting someone to fear of threat, criticizing etc. Verbal abuse indicates the usage of bad words by one person to another person, whether privately or publically. For example, abusing someone, telling victim that they are undesirable, yelling, screaming, terrorizing or refusing to talk.

Sexual Abuse

Sexual abuse is an abuse wherein the woman finds it difficult to discuss and even to identify it at times. Women are expected to go through sexual abuse as people do not consider sexual abuse as an abuse. A very sensitive kind of abuse which anyone faces in her life and even which cannot be shared easily. Some of the examples can be forcing a partner to have intercourse with other people and to be a part of human trafficking, carrying forward sexual activity where the victim is not in conscious mind and is in a state of fear to say "NO". By giving physical hurt during

the time of intercourse or forcing her to have relationship without having any proper protection constitutes sexual abuse. For example, reproductive coercion, forcing a partner to strip, to watch pornography, to become a sex worker or say a prostitute, biting or pinching or hurting a partner with objects during sex, sexually assaulting a partner and subjecting the partner to unwanted touch.

Technological Abuse

Technological abuse means an abuse wherein a person using technological means abuses another person. Through technology one person can control and stalk a partner to any extent. This type of abuse can happen to people of all age groups but it is more common with teenagers who use social media and technology much more as compared to aged people and small kids. With advancement in technology, now anyone can perform any activity, which was not possible earlier. With progress in technology we can say that along with advantages, there are disadvantages as well. For example, hacking into a partner's email and personal accounts, using tracking devices in a partner's cell phone to monitor their location, phone calls and messages, monitoring interactions via social media and demanding to know partner's passwords.

VARIOUS LAWS ON DOMESTIC VIOLENCE AND ITS LEGAL REMEDIES AVAILABLE IN INDIA

Laws have been made to protect people from all kinds of evil prevailing in our society. But there are some laws which have been made specifically made for women because of the difficulties faced by them in their day to day life. Such laws are as follows:

- Immoral Traffic (Prevention) Act, 1956
- Dowry Prohibition Act, 1961
- Indecent Representation of Women (Prohibition) Act, 1986
- Commission of Sati (Prevention) Act, 1987
- Indian Penal Code (IPC)
- Family Courts

The Immoral Traffic (Prevention) Act 1956 is an act which was enacted to suppress immoral traffic in women and children as India signed the United Nations International Convention for the "Suppression of Women in Traffic in Persons and of the Exploitation in Others" in New York on 9th May 1950. The amendments which were made later on not only changed the denomination but also the prologue of the Immoral Traffic (Prevention) Act 1956. This act plans to put an end to immoral trafficking and prostitution in India.

DOMESTIC VIOLENCE WITH REFERENCE TO DOMESTIC VIOLENCE ACT, 2005

According to the legislation domestic violence is defined as any act, omission or commission or conduct of the respondent which shall constitute or

- (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.

For the purposes of this section,

- (i) physical abuse means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
- (ii) sexual abuse includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;
- (iii) verbal and emotional abuse includes
 - (a) insults, ridicule, humiliation, name calling and insults or ridicule especially with regard to not having a child or a male child; and
 - (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
- (iv) economic abuse includes
 - (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a Court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;
 - (b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably

- required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and
- (e) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.¹

EFFECT OF DOMESTIC VIOLENCE UPON FAMILY AND CHILDREN

We have been witnessing the incidents of domestic violence quite often in the society. Whether it can be in the high society, medium society or lower groups violence is seen in any form in such groups and the most affected people from such violence to the family are the children, elderly parents, brothers, sisters that means the entire family is affected by such incidents. The fight or the quarrel between the two people becomes a curse on the family. The impact on the children is by their misbehavior by getting themselves involved in such activities which are not even made for them. Some children isolate themselves from their own parents or sometimes try to commit suicide due to the continuous and loud fights. We cannot even imagine as to what kind of consequences children might face due to the harsh behavior of the parents. Some children even get involved in drug abuse, some are sexually being exploited as they are always in need of care and love which they are missing in their life. Its only love, attention to minute details of children which can keep them in close contact with their parents and can strengthen children-parents bond.

We have observed that a child is more attached to one's own mother. Till the time mother does not reveal that she is a victim of domestic violence, only till that time the child behaves in a positive manner. But the moment the mother reveals that she is a victim of domestic violence, the child behaves in a negative manner, does not respond in a proper way and thinks about it very deeply which can be dangerous at the same time. The impact of such evil on children changes the behavior pattern, which can be tracked if noticed properly. It is obvious if the child learns such evil behavior at home, the child will behave in such evil manner only with others also and will take it as a normal behavior. And in such a way, such a kind of negative and evil behavior is carried from one generation to other and so on. The impacts of such evil is long lasting and it takes a lot of time to come out of it. Whenever domestic violence is there in society, its not only women who suffers, men also suffers throughout as sometimes women initiates fight and does not end it for a long period of time. Such problem makes children more and more practical in life and there remain no more emotional strings attached. In one of the research a report has been taken which states that:

- According to the report by United Nations Entity for Gender Equality and Empowerment of Women 2013, the cost of Violence against Women (VAW), in relation to children can be estimated in terms of
- Non-economic costs, which include the emotional cost to the victim and family, the long-term impacts on children and damage to social values.
- Social multiplier effects, which are the impact of VAW on interpersonal relations and quality of life. These include the effect on children of witnessing VAW, reduced quality of life and reduced participation in democratic processes. (UN Entity for Gender Equality, 2013).

If children witness such acts of domestic violence in any form then they might not share their own problems which they are going through due to fear that their parents might shed their anger on them. Children get so scared that they refrain from talking things out with their parents and try not to have any conversation so that by mistake also they don't tell anything which might in return make parents angry. Children must be dealt with love and care so that they can share everything with their parents freely and openly without any fear.

The children who are growing in a tensed family faces a long term or short-term developmental issues. The children who are exposed to family violence might have:

- behavior problems like aggression, lack of emotional control and disobedience
- social problems like difficulties talking to or playing with other children at any place.
- sadness and withdrawal from friends and family
- trouble in eating food
- bedwetting, nightmares and trouble sleeping.
- mood disorders like depression, anxiety and diseases at very early stage of life.
- learning difficulties in the school
- low school attendance and do not want to visit at any places.
- problems at school like bullying and developing such activities which are giving them pleasure to be away from parents.
- difficulty making friends or falling out with old friends.

It is not only the children who are affected but many times old parents are also targeted in such violence. The wife may be having issues related to the parents of the husband and husband having problem with the parents of the wife which may be one of the reason for having domestic violence resulting in beating or insulting their partners. Many times the parents without any reason fall prey to domestic violence. In many of the cases it is been that children are beating their own old parents which may be even giving worse effect on the children also. Such kind of cases is not only seen in the cases of sons but also in daughters and across all the

groups. The greed of money makes someone so cruel that they even forget that they are the parents who have given birth. The dependency of the ailing parents or if they are bed ridden upon the children and their inability to work in the family or give their support may result in the form of Domestic Violence. Such incidences cannot be seen openly unless and until they are reported. Sometimes out of societal fear parents do not report such cases and keep on facing such abuses of their own children. Such incidences takes place just for the sake of property divisions, jewelry, greed of money and none of the children are ready to keep their old parents and make them suffer and also keep them in old age homes.

Domestic Violence is not only an offence faced by spouses but also by old parents, women and children also. It is important to understand the law and the provisions which are available in such incidences. Although it is not proved but old mothers are more victims then fathers. Till the time both parents are alive it is normal for them but the moment one leaves the other they become victim of such abuses. Domestic Violence is always seen inside the close doors. The elderly people should be given love and proper care instead of that they face such humiliation from their own blood. This is the most serious problem which is faced by women and family throughout the country as well as in the world. The domestic violence not only means harassing someone or the cruelty done by husband or relatives or in-laws but also includes offences related to body parts, marital rape, molesting someone, extra marital affairs, abortion of the foetus in greed of a boy child, torture, bride burning, dealing in activities such as related to unnatural offences, etc.

The problem of domestic violence is globally seen and universally accepted that it is everywhere and male has a dominating character on women. We can see such daily updates in the daily newspapers that the incidences of domestic violence are increasing day by day. The torture of wives by husband, in-laws and the ill treatment given to wives, raping women and then killing her for hiding such crimes. In our daily life certain incidences really shake our soul reading that women is killed by her husband by kerosene, women found dead in the bathroom, women found hanged in the room are certain cases which clearly shows the pressure in the family which she was not able to bear and lead to such incidences.

In a very recent and landmark judgment on domestic violence *Satish Chandra Ahuja v/s Sneha Ahuja, 2020*² the Supreme Court explicitly laid down that a wife is entitled to a claim of right to residence in a shared household belonging to relatives of her husband. This means that the wife has a right to seek a residence order with respect to property which belongs to her in-laws if she resided in such household along with her husband, subsequent to her marriage.

The SC, therefore, held that residence rights were not limited to situations where the shared household was joint family property, or belonged to the husband.

As for the "chaos" that would seemingly ensue, the court pragmatically noted that only the last household in which the parties had lived together — and access to which was sought to be deprived — would count, a judgment that could be made on a case-to-case basis.

CONCLUSION AND SUGGESTIONS

The amendments and the judgements on such cases related to domestic violence shows that there is a hope for women that she can seek relief in the form of maintenance

The para legal training courses for law students and lawyers including clinical education should be sensitized since it is the need of the hour. Clinical supervisions, working with psychologists, need for psychological counseling etc. which will help her to decide between multitudes of conflicting loyalties in her own life. Social corporate responsibility tuned in the lines of western jurisdictions can be promoted to prevent violence within homes. Laws are the expressions of social needs and aspirations. Only a mere change in the mindset could bring about gender sensitivity in the administration of justice. Creative approaches are needed in order to move a private matter into the sphere of public concern and to translate that public concern into a widespread social consensus for action.

Domestic abuse should be addressed without any fear or prejudice in an open forum or atleast handled sensitively. A conducive environment is must for the appropriate handling and dispursal of such cases. Government should run campaigns on social media, as well as creating awareness at grass root levels that there is no stigma associated in talking about domestic violence in any forms.

NOTES & REFERENCES

- 1 <http://www.bareactslive.com/ACA/ACT169.HTM>. Accessed on 15th March 2021.
- 2 <https://www.critiqued.in/case-notes/satish-chandra-ahuja-v-sneha-ahuja/>. Accessed on 18th March,2021